

110TH CONGRESS  
1ST SESSION

# H. R. 1401

---

IN THE SENATE OF THE UNITED STATES

MARCH 28, 2007

Received; read twice and referred to the Committee on Commerce, Science,  
and Transportation

---

## AN ACT

To improve the security of railroads, public transportation,  
and over-the-road buses 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,*

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

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

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. No preemption of State law.

**TITLE I—RAIL AND PUBLIC TRANSPORTATION SECURITY**

- Sec. 101. National strategy for rail and public transportation security.
- Sec. 102. Assignment of providers of covered transportation to risk-based tiers.
- Sec. 103. Rail and public transportation assessments and plans.
- Sec. 104. Information sharing plan.
- Sec. 105. Rail security assistance.
- Sec. 106. Public transportation security assistance.
- Sec. 107. Over-the-road bus security assistance.
- Sec. 108. Fire and life safety improvements.
- Sec. 109. Security training program.
- Sec. 110. Security exercises.
- Sec. 111. Security research and development.
- Sec. 112. Whistleblower protections.
- Sec. 113. Increase in surface transportation security inspectors.
- Sec. 114. National domestic preparedness consortium.
- Sec. 115. Authorization of Visible Intermodal Protection Response Teams.
- Sec. 116. National Transportation Security Center of Excellence.
- Sec. 117. TSA personnel limitations.
- Sec. 118. Homeland security grants.
- Sec. 119. Threat assessment screening.
- Sec. 120. Background checks for covered individuals.
- Sec. 121. Task force on disqualifying crimes.
- Sec. 122. Penalties.
- Sec. 123. School bus transportation security.
- Sec. 124. Enhanced security measures for shipments of security sensitive materials.
- Sec. 125. Technology standards and clearinghouse to improve security of covered transportation.
- Sec. 126. Rail tank car security testing.
- Sec. 127. Rail radiological and nuclear detection.
- Sec. 128. Requirement to provide preference to qualified anti-terrorism technologies.
- Sec. 129. Promoting liability protections for providers of covered transportation and related technologies.
- Sec. 130. International rail security program.
- Sec. 131. Terrorist watchlist and immigration status review at high-risk transportation sites.
- Sec. 132. Review of grant-making efficiency.
- Sec. 133. Roles of the Department of Homeland Security and the Department of Transportation.

Sec. 134. Assessment and report.

Sec. 135. Study of foreign rail security practices.

Sec. 136. Alternative material sources.

Sec. 137. Immunity for reporting suspicious activities and mitigating terrorist threats relating to transportation security.

## TITLE II—SECURE TRANSPORTATION THROUGH INCREASED USE OF CANINE DETECTION TEAMS

Sec. 201. Increasing the number of canine detection teams for transportation security.

Sec. 202. National explosives detection canine team program increase.

Sec. 203. Transportation security administration breeding program increase.

### 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 railroad, public transportation, or  
3 over-the-road bus workers;

4 (D) shippers of hazardous material;

5 (E) manufacturers of railroad cars, public  
6 transportation cars and buses, and over-the-  
7 road buses;

8 (F) State departments of transportation,  
9 regional agencies, and metropolitan planning  
10 organizations;

11 (G) public safety officials;

12 (H) law enforcement and fire service offi-  
13 cials; and

14 (I) other relevant persons.

15 (3) COVERED TRANSPORTATION.—The term  
16 “covered transportation” means transportation pro-  
17 vided by a railroad carrier, a provider of public  
18 transportation, or an over-the-road bus.

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

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

1           (6) PROVIDER OF COVERED TRANSPOR-  
2           TATION.—The term “provider of covered transpor-  
3           tation” means—

4                   (A) with respect to transportation provided  
5                   by a railroad carrier, the railroad carrier;

6                   (B) with respect to public transportation,  
7                   the designated recipient; and

8                   (C) with respect to transportation provided  
9                   by an over-the-road bus, the private operator.

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

13          (8) PUBLIC TRANSPORTATION.—The term  
14          “public transportation” has the meaning that term  
15          has in section 5302(a) of title 49, United States  
16          Code.

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

20          (10) RAILROAD CARRIER.—The term “railroad  
21          carrier” has the meaning that term has in section  
22          20102 of title 49, United States Code.

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

1           (12) STATE.—The term “State” means any one  
2           of the 50 States, the District of Columbia, Puerto  
3           Rico, the Northern Mariana Islands, the Virgin Is-  
4           lands, Guam, American Samoa, and any other terri-  
5           tory or possession of the United States.

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

9           (14) TRANSPORTATION.—The term “transpor-  
10          tation”, as used with respect to an over-the-road-  
11          bus, means the movement of passengers or property  
12          by an over-the-road-bus—

13                 (A) in the jurisdiction of the United States  
14                 between a place in a State and a place outside  
15                 the State (including a place outside the United  
16                 States); or

17                 (B) in a State that affects trade, traffic,  
18                 and transportation described in subparagraph  
19                 (A).

20          (15) UNITED STATES.—The term “United  
21          States” means the 50 States, the District of Colum-  
22          bia, Puerto Rico, the Northern Mariana Islands, the  
23          Virgin Islands, Guam, American Samoa, and any  
24          other territory or possession of the United States.

1 **SEC. 3. NO PREEMPTION OF STATE LAW.**

2 (a) NO PREEMPTION OF STATE LAW.—Nothing in  
 3 section 20106 of title 49, United States Code, preempts  
 4 a State cause of action, or any damages recoverable in  
 5 such an action, including negligence, recklessness, and in-  
 6 tentional misconduct claims, unless compliance with State  
 7 law would make compliance with Federal requirements im-  
 8 possible. Nothing in section 20106 of title 49, United  
 9 States Code, confers Federal jurisdiction of a question for  
 10 such a cause of action.

11 (b) SECRETARIAL POWER.—Section 20106 of title  
 12 49, United States Code, preempts only positive laws, regu-  
 13 lations, or orders by executive or legislative branch offi-  
 14 cials that expressly address railroad safety or security.  
 15 The Secretary and the Secretary of Transportation have  
 16 the power to preempt such positive enactments by sub-  
 17 stantially subsuming the same subject matter, pursuant  
 18 to proper administrative procedures.

19 **TITLE I—RAIL AND PUBLIC**  
 20 **TRANSPORTATION SECURITY**

21 **SEC. 101. NATIONAL STRATEGY FOR RAIL AND PUBLIC**  
 22 **TRANSPORTATION SECURITY.**

23 (a) MODAL PLAN.—Not later than 6 months after  
 24 the date of enactment of this Act, the Secretary shall de-  
 25 velop and implement the modal plan for covered transpor-  
 26 tation as required by section 114(t)(1)(B) of title 49,

1 United States Code. The modal plan shall be entitled the  
2 “National Strategy for Rail and Public Transportation Se-  
3 curity” and shall include, at a minimum—

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

8 (2) identification of, and a plan to address,  
9 gaps and unnecessary overlaps in the roles, respon-  
10 sibilities, and authorities described in paragraph (1);

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

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

19 (5) a description of—

20 (A) how the Department has reviewed ter-  
21 rorist attacks on covered transportation  
22 throughout the world in the last 25 years;

23 (B) the lessons learned from those reviews;

24 and



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

4 (6) a strategy and timeline for the Department,  
5 the Department of Transportation, other appro-  
6 priate Federal agencies and private entities to re-  
7 search and develop new technologies for securing  
8 covered transportation;

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

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

16 (9) a description of current and future public  
17 outreach and educational initiatives designed to in-  
18 form the public on how to prevent, prepare for, re-  
19 spond to, and recover from a terrorist attack on cov-  
20 ered transportation; and

21 (10) a process for coordinating covered trans-  
22 portation security strategies and plans, including the  
23 National Infrastructure Protection Plan required by  
24 Homeland Security Presidential Directive 7; Execu-  
25 tive Order: Strengthening Surface Transportation

1 Security dated December 5, 2006; the Memorandum  
2 of Understanding between the Department and the  
3 Department of Transportation on Roles and Respon-  
4 sibilities dated September 28, 2004; the Annex to  
5 the Memorandum of Understanding between the De-  
6 partment and the Department of Transportation on  
7 Roles and Responsibilities concerning railroad secu-  
8 rity dated September 28, 2006, and the Annex to  
9 the Memorandum of Understanding between the De-  
10 partment and the Department of Transportation on  
11 Roles and Responsibilities concerning Public Trans-  
12 portation Security dated September 8, 2005.

13 (b) ADEQUACY OF EXISTING PLANS AND STRATE-  
14 GIES.—Nothing in this section shall prevent the Secretary  
15 from using existing plans and strategies, including those  
16 developed or implemented pursuant to section 114(t) of  
17 title 49, United States Code, or Homeland Security Presi-  
18 dential Directive–7, in meeting the requirements of sub-  
19 section (a).

20 **SEC. 102. ASSIGNMENT OF PROVIDERS OF COVERED**  
21 **TRANSPORTATION TO RISK-BASED TIERS.**

22 (a) ASSIGNMENT.—The Secretary shall assign each  
23 provider of covered transportation to one of the not less  
24 than three risk-based tiers established by the Secretary.

1 (b) PROVISION OF INFORMATION.—The Secretary  
2 may request, and the provider of covered transportation  
3 shall provide, information necessary for the Secretary to  
4 assign a provider of covered transportation to the appro-  
5 priate tier under subsection (a).

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

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

15 **SEC. 103. RAIL AND PUBLIC TRANSPORTATION ASSESS-**  
16 **MENTS AND PLANS.**

17 (a) IN GENERAL.—Not later than 12 months after  
18 the date of enactment of this Act, the Secretary shall issue  
19 regulations that—

20 (1) require each provider of covered transpor-  
21 tation assigned to a high- or medium-risk tier under  
22 section 102—

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

1 (B) to prepare, submit to the Secretary for  
2 approval, and implement a security plan in ac-  
3 cordance with this section that addresses secu-  
4 rity performance requirements under subsection  
5 (f); and

6 (2) establish standards, and guidelines for vul-  
7 nerability assessments under subsection (c) and se-  
8 curity plans under subsection (d) and for developing  
9 and implementing such security plans.

10 (3) establish a security program for providers of  
11 covered transportation not assigned to a high or me-  
12 dium-risk tier under section 102, including a process  
13 for providers to conduct vulnerability assessments  
14 and prepare and implement security plans, as deter-  
15 mined appropriate by the Secretary.

16 (b) DEADLINE FOR SUBMISSION.—Not later than 6  
17 months after the date of issuance of the regulations under  
18 subsection (a), the vulnerability assessments and security  
19 plans required by such regulations for a provider of cov-  
20 ered transportation assigned to a high- or medium-risk  
21 tier shall be completed and submitted to the Secretary for  
22 review and approval.

23 (c) VULNERABILITY ASSESSMENTS.—

24 (1) REQUIREMENTS.—The Secretary shall pro-  
25 vide technical assistance and guidance to providers

1 of covered transportation in conducting vulnerability  
2 assessments under this section and shall require that  
3 each vulnerability assessment of a provider of cov-  
4 ered transportation assigned to a high- or medium-  
5 risk tier under section 102 include, at a minimum—

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

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

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

16 (i) physical security;

17 (ii) passenger and cargo security;

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

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

24 (v) communications systems, including  
25 dispatching services and mobile service

1 equipment systems, to provide access to  
2 emergency services in underground fixed  
3 guideway systems;

4 (vi) utilities;

5 (vii) emergency response planning;

6 (viii) employee training; and

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

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

15 (2) THREAT INFORMATION.—A provider of cov-  
16 ered transportation conducting a vulnerability as-  
17 sessment under this section shall incorporate in the  
18 assessment any threat information provided by the  
19 Secretary and other sources.

20 (d) SECURITY PLANS.—

21 (1) REQUIREMENTS.—The Secretary shall pro-  
22 vide technical assistance and guidance to providers  
23 of covered transportation in preparing and imple-  
24 menting security plans under this section and shall  
25 require that each security plan of each provider of

1 covered transportation assigned a high- or medium-  
2 risk under section 102 include, at a minimum—

3 (A) identification of a security coordinator  
4 having authority—

5 (i) to implement security actions  
6 under the plan;

7 (ii) to coordinate security improve-  
8 ments described in sections 105, 106, and  
9 107; and

10 (iii) to receive immediate communica-  
11 tions from appropriate Federal officials re-  
12 garding covered transportation security;

13 (B) plans for periodic exercises under sec-  
14 tion 110 that include participation by local law  
15 enforcement agencies and emergency responders  
16 as appropriate;

17 (C) a list of needed capital and operational  
18 improvements such as those described in sec-  
19 tions 105, 106, and 107;

20 (D) procedures to be implemented or used  
21 by the provider in response to a terrorist at-  
22 tack, including evacuation and passenger com-  
23 munication plans that include individuals with  
24 disabilities;

1 (E) identification of steps taken with State  
2 and local law enforcement agencies, emergency  
3 responders, and Federal officials to coordinate  
4 security measures and plans for response to a  
5 terrorist attack;

6 (F) a strategy and timeline for conducting  
7 training under section 109, including recurrent  
8 training and periodic unannounced exercises for  
9 employees of the provider to be carried out  
10 under the plan to prevent, prepare for, or re-  
11 spond to a terrorist attack;

12 (G) enhanced security measures to be  
13 taken by the provider when the Secretary de-  
14 clares a period of heightened security risk;

15 (H) plans for redundant and backup sys-  
16 tems required to ensure the continued operation  
17 of critical covered transportation elements of  
18 the provider in the event of a terrorist attack  
19 or other incident;

20 (I) plans for locating, including by covert  
21 electronic devices, shipments of railroad cars  
22 transporting security sensitive materials or nu-  
23 clear waste so that, if the assets are lost or sto-  
24 len, the provider or law enforcement authorities  
25 may locate, track, and recover the assets;



1           (J) a strategy for implementing enhanced  
2 security for shipments of security sensitive ma-  
3 terials under section 124; and

4           (K) such other actions or procedures as  
5 the Secretary determines are appropriate to ad-  
6 dress the covered transportation security of the  
7 provider to a terrorist attack.

8           (2) SECURITY COORDINATOR REQUIREMENTS.—

9       The Secretary shall require that the individual serv-  
10 ing as the security coordinator identified in para-  
11 graph (1)(A) is a citizen of the United States. The  
12 Secretary may waive this requirement with respect  
13 to an individual if the Secretary determines that it  
14 is appropriate to do so based on a background check  
15 of the individual and a review of terrorist watch lists  
16 to ensure that the individual is not identified on any  
17 such terrorist watch list.

18           (3) 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 101.

23           (e) PROVIDED BY SECRETARY.—The Secretary shall  
24 provide, in a timely manner to the maximum extent prac-  
25 ticable under applicable authority and in the interest of

1 national security, to the provider of the covered transpor-  
2 tation threat information that is relevant to the provider  
3 when preparing and submitting a vulnerability assessment  
4 and security plan, including an assessment of the most  
5 likely method that could be used by terrorists to exploit  
6 weaknesses in the covered transportation security and the  
7 likelihood of success by such terrorists.

8 (f) SECURITY PERFORMANCE REQUIREMENTS.—The  
9 Secretary shall, by regulation, establish security perform-  
10 ance requirements for the security plans required for pro-  
11 viders of covered transportation. The regulations shall—

12 (1) require separate and increasingly stringent  
13 security performance requirements for security plans  
14 as the level of risk associated with the tier increases;  
15 and

16 (2) permit each provider of covered transpor-  
17 tation submitting a security plan to select a com-  
18 bination of security measures that satisfy the secu-  
19 rity performance requirements established by the  
20 Secretary under this subsection.

21 (g) DEADLINE FOR REVIEW PROCESS.—Not later  
22 than 12 months after the date of the issuance of the regu-  
23 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          (h) 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 required to submit a security plan under  
17          subsection (b) to implement any necessary interim security  
18          measures to deter, mitigate, and respond to, to the max-  
19          imum extent practicable, a transportation security inci-  
20          dent with respect to the covered transportation or a sub-  
21          stantive threat of such an incident until the security plan  
22          of the provider is approved.

23          (i) NONDISCLOSURE OF INFORMATION.—

24                (1) IN GENERAL.—Nothing in this Act shall be  
25                construed to require the disclosure of a vulnerability

1 assessment or a security plan of a provider of cov-  
2 ered transportation to the extent that such informa-  
3 tion is exempted from mandatory disclosure under  
4 section 552 of title 5, United States Code.

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

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

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

23 (j) PENALTIES.—

24 (1) ADMINISTRATIVE PENALTIES.—

1 (A) IN GENERAL.—The Secretary may im-  
2 pose an administrative penalty of not more than  
3 \$100,000 for failure to comply with this sec-  
4 tion, including regulations issued under sub-  
5 section (a).

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

11 (i) written notice of the proposed pen-  
12 alty; and

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

17 (C) REGULATIONS.—The Secretary may  
18 issue regulations establishing the procedures for  
19 administrative hearings and appropriate review  
20 of penalties imposed under this Act, including  
21 deadlines.

22 (2) CIVIL PENALTIES.—

23 (A) IN GENERAL.—The Secretary may  
24 bring an action in a United States district court  
25 against any provider of covered transportation

1           that violates or fails to comply with this Act, in-  
2           cluding regulations issued under subsection (a),  
3           or a security plan approved by the Secretary  
4           under this section.

5           (B) RELIEF.—In any action under this  
6           Act, a court may issue an order for injunctive  
7           relief and may impose a civil penalty of not  
8           more than \$75,000 for each day on which a vio-  
9           lation occurs or a failure to comply continues.

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

16       (k) EXISTING PROCEDURES, PROTOCOLS AND  
17       STANDARDS.—

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

1 issued under subsection (a), regarding vulnerability  
2 assessments and security plans.

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

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

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

1 under subsection (a), the Secretary shall provide to  
2 such provider a written notification that includes an  
3 explanation of the reasons why the determination  
4 could not be made.

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

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

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

12 (I) PERIODIC REVIEW BY PROVIDER OF COVERED  
13 TRANSPORTATION REQUIRED.—

14 (1) SUBMISSION OF REVIEW.—Not later than 3  
15 years after the date on which a vulnerability assess-  
16 ment or security plan required to be submitted to  
17 the Secretary under subsection (b) is submitted, and  
18 at least once every 5 years thereafter (or on such a  
19 schedule as the Secretary may establish by regula-  
20 tion), the provider of covered transportation who  
21 submitted the vulnerability assessment or security  
22 plan shall also submit to the Secretary a review of  
23 the adequacy of the vulnerability assessment or secu-  
24 rity plan that includes a description of any material



1 changes made to the vulnerability assessment or se-  
2 curity plan.

3 (2) REVIEW OF REVIEW.—Not later than 180  
4 days after the date on which a review is submitted,  
5 the Secretary shall review the review and notify the  
6 provider of covered transportation submitting the re-  
7 view of the Secretary’s approval or disapproval of  
8 such review.

9 (m) SHARED FACILITIES.—The Secretary may per-  
10 mit under this section the development and implementa-  
11 tion of coordinated vulnerability assessments and security  
12 plans to the extent 2 or more providers of covered trans-  
13 portation have shared facilities (such as tunnels, bridges,  
14 or stations, or facilities) that are geographically close or  
15 otherwise co-located.

16 (n) FERRY EXEMPTION.—This section does not apply  
17 to any ferry system for which a vulnerability assessment  
18 and security plan is required pursuant to chapter 701 of  
19 title 46, United States Code.

20 (o) REPORT.—Not later than 180 days after the date  
21 of enactment of this Act, the Secretary, in consultation  
22 with the Secretary of Transportation, shall submit a re-  
23 port to the appropriate congressional committees regard-  
24 ing the feasibility of implementing name-based checks

1 against terrorist watch lists for all National Railroad Pas-  
2 senger Corporation passengers.

3 **SEC. 104. INFORMATION SHARING PLAN.**

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

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

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

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

23 (3) a description of resource needs for fulfilling  
24 the plan.

25 (c) UPDATES.—

1           (1) CERTIFICATION OF IMPLEMENTATION.—

2       After the plan is submitted under subsection (a), the  
3       Secretary shall certify to the appropriate congressional  
4       committees when the plan has been implemented.  
5       mented.

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

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

15           (B) The classification of each report as  
16           tactical or strategic.

17           (C) The numbers of different government,  
18           law enforcement, and public or private sector  
19           partners who the Department provided with  
20           each intelligence product.

21      (d) ANNUAL SURVEYS.—The Secretary shall conduct  
22      an annual survey of the satisfaction of each of the recipi-  
23      ents of railroad, public transportation, and over-the-road  
24      bus intelligence reports created and disseminated under  
25      the plan and include the results of the survey as part of

1 the corresponding annual report provided under sub-  
2 section (c)(2).

3 (e) CLASSIFICATION OF MATERIAL.—To the greatest  
4 extent possible, the Department shall provide appropriate  
5 stakeholders with information in an unclassified format.

6 (f) SECURITY CLEARANCES.—The Department shall  
7 assist the appropriate Federal, State, regional, local, and  
8 tribal authorities, in addition to appropriate stakeholders,  
9 in obtaining the security clearances needed to receive clas-  
10 sified covered transportation security information as nec-  
11 essary if this information cannot be disseminated in an  
12 unclassified format.

13 **SEC. 105. RAIL SECURITY ASSISTANCE.**

14 (a) IN GENERAL.—The Secretary shall establish a  
15 program for making grants to eligible entities for security  
16 improvements described in subsection (b).

17 (b) USES OF FUNDS.—A recipient of a grant under  
18 this section shall use the grant funds for one or more of  
19 the following:

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

23 (2) Technologies to reduce the vulnerability of  
24 railroad cars.

1           (3) Passenger railroad station security capital  
2           improvement projects that the Secretary determines  
3           enhance rail station security.

4           (4) Security improvements to passenger rail-  
5           road stations and other railroad transportation in-  
6           frastructure, including stations and other railroad  
7           transportation infrastructure owned by State or local  
8           governments.

9           (5) Tunnel protection systems.

10          (6) Evacuation improvements.

11          (7) Inspection technologies, including verified  
12          visual inspection technologies using hand-held read-  
13          ers and discs.

14          (8) Communications equipment, including  
15          equipment that is interoperable with Federal, State,  
16          and local agencies and tribal governments.

17          (9) Chemical, biological, radiological, or explo-  
18          sive detection, including canine patrols for such de-  
19          tection.

20          (10) Surveillance equipment.

21          (11) Cargo or passenger screening equipment.

22          (12) Railroad security inspection facilities and  
23          related infrastructure at United States international  
24          borders, including additional side railroad track nec-

1        essary for passenger and freight train security in-  
2        spection.

3            (13) Emergency response equipment, including  
4        fire suppression and decontamination equipment,  
5        personal protective equipment, and defibrillators.

6            (14) Global positioning or tracking and recovery  
7        equipment.

8            (15) Redundant critical operations control sys-  
9        tems.

10           (16) Operating and capital costs associated  
11        with security awareness, preparedness, and response  
12        training, including training under section 109 and  
13        training developed by universities and institutions of  
14        higher education and by nonprofit employee labor  
15        organizations, for railroad employees, including  
16        front-line employees.

17           (17) Live or simulated exercises described in  
18        section 110.

19           (18) Overtime reimbursement for additional se-  
20        curity personnel during periods of heightened secu-  
21        rity as determined by the Secretary.

22           (19) Public awareness campaigns for enhanced  
23        rail security.

1           (20) Operational costs for personnel assigned to  
2           full-time security or counterterrorism duties related  
3           to rail transportation.

4           (21) Such other security improvements as the  
5           Secretary considers appropriate.

6           (c) DEPARTMENT OF HOMELAND SECURITY RE-  
7           SPONSIBILITIES.—In carrying out the responsibilities  
8           under subsection (a), the Secretary shall—

9           (1) determine the requirements for recipients of  
10          grants under this section, including application re-  
11          quirements;

12          (2) pursuant to subsection (f), determine who  
13          are the recipients of grants under this section;

14          (3) pursuant to subsection (b), determine the  
15          uses for which grant funds may be used under this  
16          section;

17          (4) establish priorities for uses of funds for  
18          grant recipients under this section; and

19          (5) not later than 5 business days after making  
20          determinations under paragraphs (1) through (4),  
21          transfer grant funds under this section to the Sec-  
22          retary of Transportation for distribution to the re-  
23          cipients of grants determined by the Secretary under  
24          paragraph (2).

1       (d) DEPARTMENT OF TRANSPORTATION RESPON-  
2       SIBILITIES.—The Secretary of Transportation shall dis-  
3       tribute grant funds under this section to the recipients of  
4       grants determined by the Secretary under subsection (f).

5       (e) MONITORING AND AUDITING.—The Department  
6       of Homeland Security and the Department of Transpor-  
7       tation jointly shall monitor and audit the use of funds  
8       under this section.

9       (f) ELIGIBILITY.—A railroad carrier is eligible for a  
10      grant under this section if the carrier has completed a vul-  
11      nerability assessment and developed a security plan that  
12      the Secretary has approved under section 103. Grant  
13      funds may only be used for permissible uses under sub-  
14      section (b) to further a rail security plan.

15      (g) MULTIYEAR AWARDS.—Pursuant to this section,  
16      the Secretary may issue multi-year grants for not longer  
17      than a 5-year period.

18      (h) LETTERS OF INTENT.—

19           (1) ISSUANCE.—The Secretary may issue a let-  
20      ter of intent to a recipient of a grant under this sec-  
21      tion, to commit funding from future budget author-  
22      ity of an amount, not more than the Federal Gov-  
23      ernment's share of the project's cost, for a capital  
24      improvement project.



1           (2) SCHEDULE.—The letter of intent under this  
2           subsection shall establish a schedule under which the  
3           Secretary will reimburse the recipient for the Fed-  
4           eral Government’s share of the project’s costs, as  
5           amounts become available, if the recipient, after the  
6           Secretary issues that letter, carries out the project  
7           without receiving amounts under a grant issued  
8           under this section.

9           (3) NOTICE TO SECRETARY.—A recipient that  
10          has been issued a letter of intent under this section  
11          shall notify the Secretary of the recipient’s intent to  
12          carry out a project before the project begins.

13          (4) NOTICE TO CONGRESS.—The Secretary  
14          shall transmit to the appropriate congressional com-  
15          mittees a written notification at least 3 days before  
16          the issuance of a letter of intent under this sub-  
17          section.

18          (5) LIMITATIONS.—A letter of intent issued  
19          under this subsection is not an obligation of the  
20          Federal Government under section 1501 of title 31,  
21          United States Code, and the letter is not deemed to  
22          be an administrative commitment for financing. An  
23          obligation or administrative commitment may be  
24          made only as amounts are provided in authorization  
25          and appropriations laws.

1           (6) STATUTORY CONSTRUCTION.—Nothing in  
2           this section shall be construed to prohibit the obliga-  
3           tion of amounts pursuant to a letter of intent under  
4           this section in the same fiscal year as the letter of  
5           intent is issued.

6           (i) FEDERAL SHARE.—

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

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

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

23          (4) APPLICABILITY.—This subsection shall only  
24          apply to freight railroad carriers.

1       (j) SUBJECT TO CERTAIN STANDARDS.—A recipient  
2 of a grant under this section and section 108 shall be re-  
3 quired to comply with the standards of section 24312 of  
4 title 49, United States Code, as in effect on January 1,  
5 2007, with respect to the project in the same manner as  
6 the National Railroad Passenger Corporation is required  
7 to comply with such standards for construction work fi-  
8 nanced under an agreement made under section 24308(a)  
9 of that title.

10       (k) LIMITATION ON USES OF FUNDS.—A grant made  
11 under this section may not be used—

12               (1) to supplant State or local funds; and

13               (2) to make any State or local government cost-  
14 sharing contribution under any other law.

15       (l) ANNUAL REPORTS.—Each recipient of a grant  
16 under this section shall report annually to the Secretary  
17 on the use of grant funds.

18       (m) GUIDELINES.—Before distribution of funds to  
19 recipients of grants under this section, the Secretary, shall  
20 issue guidelines to ensure that, to the extent that recipi-  
21 ents of grants under this section use contractors or sub-  
22 contractors, such recipients use small, minority, women-  
23 owned, or disadvantaged businesses as contractors or sub-  
24 contractors to the extent practicable.

25       (n) AUTHORIZATION OF APPROPRIATIONS.—

1           (1) IN GENERAL.—There are authorized to be  
2           appropriated to the Secretary \$600,000,000 for each  
3           of fiscal years 2008 through 2011 for making grants  
4           under this section.

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

8   **SEC. 106. PUBLIC TRANSPORTATION SECURITY ASSIST-**  
9                           **ANCE.**

10          (a) IN GENERAL.—The Secretary shall establish a  
11          program for making grants to an eligible public transpor-  
12          tation designated recipient for security improvements de-  
13          scribed in subsection (b).

14          (b) USES OF FUNDS.—A recipient of a grant under  
15          subsection (a) shall use the grant funds for one or more  
16          of the following:

17               (1) Perimeter protection systems, including ac-  
18               cess control, installation of improved lighting, fenc-  
19               ing, and barricades.

20               (2) Security improvements to stations and other  
21               public transportation infrastructure, including sta-  
22               tions and other public transportation infrastructure  
23               owned by State or local governments.

24               (3) Tunnel protection systems.

25               (4) Evacuation improvements.

1           (5) Inspection technologies, including verified  
2       visual inspection technologies using hand-held read-  
3       ers and discs.

4           (6) Communications equipment, including mo-  
5       bile service equipment to provide access to emer-  
6       gency services in an underground fixed guideway  
7       system.

8           (7) Chemical, biological, or radiological or ex-  
9       plosive detection, including canine patrols for such  
10      detection.

11          (8) Surveillance equipment.

12          (9) Emergency response equipment, including  
13      fire suppression and decontamination equipment,  
14      personal protective equipment, and defibrillators.

15          (10) Purchase and placement of bomb-resistant  
16      trash cans throughout public transportation facili-  
17      ties, including subway exits, entrances, and tunnels.

18          (11) Global positioning or tracking and recovery  
19      equipment.

20          (12) Redundant critical operations control sys-  
21      tems.

22          (13) Live or simulated exercises described in  
23      section 110.

24          (14) Public awareness campaigns for enhanced  
25      public transportation security.

1           (15) Operating and capital costs associated  
2           with security awareness, preparedness, and response  
3           training, including training under section 109 and  
4           training developed by universities and institutions of  
5           higher education and by nonprofit employee labor  
6           organizations, for public transportation employees,  
7           including front-line employees.

8           (16) Overtime reimbursement, including reim-  
9           bursement of State, local, and tribal governments for  
10          costs, for additional security personnel during peri-  
11          ods of heightened security as determined by the Sec-  
12          retary.

13          (17) Operational costs, including reimburse-  
14          ment of State, local, and tribal governments for  
15          costs for personnel assigned to full-time security or  
16          counterterrorism duties related to public transpor-  
17          tation.

18          (18) Such other security improvements as the  
19          Secretary considers appropriate, including security  
20          improvements for newly completed public transpor-  
21          tation systems that are not yet operable for pas-  
22          senger use.

23          (c) DEPARTMENT OF HOMELAND SECURITY RE-  
24          SPONSIBILITIES.—In carrying out the responsibilities  
25          under subsection (a), the Secretary shall—

1           (1) determine the requirements for recipients of  
2       grants under this section, including application re-  
3       quirements;

4           (2) pursuant to subsection (f), determine who  
5       are the recipients of grants under this section;

6           (3) pursuant to subsection (b), determine the  
7       uses for which grant funds may be used under this  
8       section;

9           (4) establish priorities for uses of funds for  
10      grant recipients under this section; and

11          (5) not later than 5 business days after making  
12      determinations under paragraphs (1) through (4),  
13      transfer grant funds under this section to the Sec-  
14      retary of Transportation for distribution to the re-  
15      cipients of grants determined by the Secretary under  
16      paragraph (2).

17      (d) DEPARTMENT OF TRANSPORTATION RESPON-  
18      SIBILITIES.—The Secretary of Transportation shall dis-  
19      tribute grant funds under this section to the recipients of  
20      grants determined by the Secretary under subsection (f).

21      (e) MONITORING AND AUDITING.—The Department  
22      of Homeland Security and the Department of Transpor-  
23      tation shall jointly monitor and audit the use of funds  
24      under this section.

1       (f) ELIGIBILITY.—A designated recipient is eligible  
2 for a grant under this section if the recipient has com-  
3 pleted a vulnerability assessment and developed a security  
4 plan that the Secretary has approved under section 103.  
5 Grant funds may only be used for permissible uses under  
6 subsection (b) to further a public transportation security  
7 plan.

8       (g) SUBJECT TO CERTAIN TERMS AND CONDI-  
9 TIONS.—Except as otherwise specifically provided in this  
10 section, a grant provided under this section shall be sub-  
11 ject to the terms and conditions applicable to a grant  
12 made under section 5307 of title 49, United States Code,  
13 as in effect on January 1, 2007, and such other terms  
14 and conditions as are determined necessary by the Sec-  
15 retary.

16       (h) LIMITATION ON USES OF FUNDS.—Grants made  
17 under this section may not be used—

- 18               (1) to supplant State or local funds; and  
19               (2) to 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 on the use of the grant funds.

24       (j) GUIDELINES.—Before distribution of funds to re-  
25 cipients of grants under this section, the Secretary shall



1 issue guidelines to ensure that, to the extent that recipi-  
 2 ents of grants under this section use contractors or sub-  
 3 contractors, such recipients shall use small, minority,  
 4 women-owned, or disadvantaged businesses as contractors  
 5 or subcontractors to the extent practicable.

6 (k) AUTHORIZATION OF APPROPRIATIONS.—

7 (1) IN GENERAL.—There are authorized to be  
 8 appropriated to the Secretary to make grants under  
 9 this section—

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

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

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

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

14 (2) PERIOD OF AVAILABILITY.—Sums appro-  
 15 priated to carry out this section shall remain avail-  
 16 able until expended.

17 **SEC. 107. OVER-THE-ROAD BUS SECURITY ASSISTANCE.**

18 (a) IN GENERAL.—The Secretary shall establish a  
 19 program for making grants for eligible private operators  
 20 providing transportation by an over-the-road bus for secu-  
 21 rity improvements described in subsection (b).

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

1           (1) Constructing and modifying terminals, ga-  
2           rages, facilities, or over-the-road buses to increase  
3           their security, including terminals and other over-  
4           the-road bus facilities owned by State or local gov-  
5           ernments.

6           (2) Protecting or isolating the driver of an over-  
7           the-road bus.

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

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

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

22          (6) Implementing and operating passenger  
23          screening programs for weapons and explosives.

24          (7) Public awareness campaigns for enhanced  
25          over-the-road bus security.

1           (8) Operating and capital costs associated with  
2       security awareness, preparedness, and response  
3       training, including training under section 109 and  
4       training developed by universities and institutions of  
5       higher education and by nonprofit employee labor  
6       organizations, for over-the-road bus employees, in-  
7       cluding front-line employees.

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

11          (10) Overtime reimbursement, including reim-  
12      bursement of State, local, and tribal governments for  
13      costs, for additional security personnel during peri-  
14      ods of heightened security as determined by the Sec-  
15      retary.

16          (11) Live or simulated exercises described in  
17      section 110.

18          (12) Operational costs, including reimburse-  
19      ment of State, local, and tribal governments for such  
20      costs, for personnel assigned to full-time security or  
21      counterterrorism duties related to over-the-road bus  
22      transportation.

23          (13) Such other improvements as the Secretary  
24      considers appropriate.

1       (c) DEPARTMENT OF HOMELAND SECURITY RE-  
2 SPONSIBILITIES.—In carrying out the responsibilities  
3 under subsection (a), the Secretary shall—

4           (1) determine the requirements for recipients of  
5 grants under this section, including application re-  
6 quirements;

7           (2) pursuant to subsection (f), determine who  
8 are the recipients of grants under this section;

9           (3) pursuant to subsection (b), determine the  
10 uses for which grant funds may be used under this  
11 section;

12          (4) establish priorities for uses of funds for  
13 grant recipients under this section; and

14          (5) not later than 5 business days of making  
15 determinations under paragraphs (1) through (4),  
16 transfer grant funds under this section to the Sec-  
17 retary of Transportation for distribution to the re-  
18 cipients of grants determined by the Secretary under  
19 paragraph (2).

20       (d) DEPARTMENT OF TRANSPORTATION RESPON-  
21 SIBILITIES.—The Secretary of Transportation shall dis-  
22 tribute grant funds under this section to the recipients of  
23 grants determined by the Secretary under subsection (f).

24       (e) MONITORING AND AUDITING.—The Department  
25 of Homeland Security and the Department of Transpor-

1 tation shall jointly monitor and audit the use of funds  
2 under this section.

3 (f) ELIGIBILITY.—A private operator providing  
4 transportation by an over-the-road bus is eligible for a  
5 grant under this section if the operator has completed a  
6 vulnerability assessment and developed a security plan  
7 that the Secretary has approved under section 103. Grant  
8 funds may only be used for permissible uses under sub-  
9 section (b) to further an over-the-road bus security plan.

10 (g) SUBJECT TO CERTAIN TERMS AND CONDI-  
11 TIONS.—Except as otherwise specifically provided in this  
12 section, a grant made under this section shall be subject  
13 to the terms and conditions applicable to subrecipients  
14 who provide intercity bus transportation under section  
15 5311(f) of title 49, United States Code, and such other  
16 terms and conditions as are determined necessary by the  
17 Secretary.

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

20 (1) supplant State or local funds for activities;

21 and

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

24 (i) ANNUAL REPORTS.—Each recipient of a grant  
25 under this section shall report annually to the Secretary

1 and the Secretary of Transportation on the use of such  
2 grant funds.

3 (j) GUIDELINES.—Before distribution of funds to re-  
4 cipients of grants under this section, the Secretary shall  
5 issue guidelines to ensure that to the extent that recipients  
6 of grants under this section use contractors or subcontrac-  
7 tors, such recipients shall use small, minority, women-  
8 owned, and disadvantaged businesses as contractors or  
9 subcontractors to the extent practicable.

10 (k) AUTHORIZATION.—

11 (1) IN GENERAL.—There is authorized to be  
12 appropriated to the Secretary to make grants under  
13 this section—

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

15 (B) \$25,000,000 for each of fiscal years  
16 2009 through 2011.

17 (2) PERIOD OF AVAILABILITY.—Sums appro-  
18 priated to carry out this section shall remain avail-  
19 able until expended.

20 **SEC. 108. FIRE AND LIFE SAFETY IMPROVEMENTS.**

21 (a) AUTHORIZATION OF APPROPRIATIONS.—There  
22 are authorized to be appropriated to the Secretary of  
23 Transportation for making grants to the National Rail-  
24 road Passenger Corporation, for the purpose of carrying  
25 out projects to make fire and life safety improvements to

1 Amtrak tunnels on the Northeast Corridor the following  
2 amounts:

3 (1) For the 6 tunnels in New York City, New  
4 York, to provide ventilation, electrical, and fire safe-  
5 ty technology improvements, emergency communica-  
6 tion and lighting systems, and emergency access and  
7 egress for passengers—

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

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

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

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

12 (2) For the Baltimore & Potomac Tunnel and  
13 the Union Tunnel in Baltimore, Maryland, to pro-  
14 vide adequate drainage and ventilation, communica-  
15 tion, lighting, standpipe, and passenger egress im-  
16 provements—

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

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

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

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

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

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

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

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

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

3 (b) AVAILABILITY OF AMOUNTS.—Amounts appro-  
4 priated pursuant to this section shall remain available  
5 until expended.

6 (c) GUIDELINES.—Before distribution of funds to re-  
7 cipients of grants under this section, the Secretary of  
8 Transportation shall issue guidelines to ensure that, to the  
9 extent that recipients of grants under this section use con-  
10 tractors or subcontractors, such recipients shall use small,  
11 minority, women-owned, or disadvantaged businesses as  
12 the contractors or subcontractors to the extent practicable.

13 **SEC. 109. SECURITY TRAINING PROGRAM.**

14 (a) IN GENERAL.—Not later than 90 days after the  
15 date of enactment of this Act, the Secretary shall—

16 (1) develop security training programs to pre-  
17 pare all railroad, public transportation, and over-the-  
18 road bus workers, including front-line employees, for  
19 potential threat conditions; and

20 (2) issue detailed guidance for the program.

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

23 (1) appropriate law enforcement, fire service,  
24 security, and terrorism experts;



1           (2) representatives of providers of covered  
2       transportation; and

3           (3) nonprofit employee labor organizations rep-  
4       resenting railroad, public transportation, over-the-  
5       road bus workers, or emergency response personnel.

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

10           (1) Determination of the seriousness of any oc-  
11       currence or threat.

12           (2) Crew and passenger communication and co-  
13       ordination.

14           (3) Appropriate responses to defend oneself, in-  
15       cluding using nonlethal defense devices.

16           (4) Evacuation procedures for passengers and  
17       workers, including individuals with disabilities.

18           (5) Live situational training exercises regarding  
19       various threat conditions, including tunnel evacu-  
20       ation procedures.

21           (6) Recognition and reporting of dangerous  
22       substances and suspicious packages, persons, and  
23       situations.

24           (7) Understanding security incident procedures,  
25       including procedures for communicating with gov-

1       ernmental and nongovernmental emergency response  
2       providers and for on-scene interaction with such  
3       emergency response providers.

4           (8) Operation and maintenance of security  
5       equipment and systems.

6           (9) Other security training activities that the  
7       Secretary considers appropriate.

8       (d) REQUIRED PROGRAMS.—

9           (1) DEVELOPMENT AND SUBMISSION TO SEC-  
10      RETARY.—Not later than 60 days after the Sec-  
11      retary issues guidance under subsection (a)(2), each  
12      provider of covered transportation shall develop a se-  
13      curity training program in accordance with the guid-  
14      ance developed under subsection (2) and submit the  
15      program to the Secretary for approval.

16          (2) APPROVAL.—Not later than 60 days after  
17      receiving a security training program proposal under  
18      this subsection, the Secretary shall approve the pro-  
19      gram or require the provider of covered transpor-  
20      tation that developed the program to make any revi-  
21      sions to the program that the Secretary considers  
22      necessary for the program to meet the guidance re-  
23      quirements.

24          (3) TRAINING.—Not later than 1 year after the  
25      Secretary approves a security training program pro-

1       positional under this subsection, the provider of covered  
2       transportation that developed the program shall  
3       complete the training of all workers covered under  
4       the program.

5           (4) UPDATES.—The Secretary shall periodically  
6       review and update as appropriate the training guid-  
7       ance issued under subsection (a)(2) to reflect new or  
8       changing security threats and require providers of  
9       covered transportation to revise their programs ac-  
10      cordingly and provide additional training to their  
11      workers as necessary.

12       (e) NATIONAL TRAINING PROGRAM.—The Secretary  
13      shall ensure that the training program developed under  
14      subsection (a) is a component of the National Training  
15      Program established under section 648 of the Department  
16      of Homeland Security Appropriations Act of 2007 (6  
17      U.S.C. 748).

18       (f) FERRY EXEMPTION.—This section does not apply  
19      to any ferry system for which training is required to be  
20      conducted pursuant to section 70103 of title 46, United  
21      States Code.

22       (g) REPORTING REQUIREMENTS.—Not later than  
23      one year after the issuance of guidelines under subsection  
24      (a)(2), the Secretary shall conduct a survey regarding the  
25      satisfaction of workers regarding the effectiveness and

1 adequacy of the training programs. In addition, the Sec-  
2 retary shall submit a report to the appropriate congres-  
3 sional committees regarding the results of the survey and  
4 the progress of providers of covered transportation in  
5 meeting the requirements of paragraphs (1) and (3) of  
6 subsection (d).

7 **SEC. 110. SECURITY EXERCISES.**

8 (a) IN GENERAL.—The Secretary shall establish a  
9 program for conducting security exercises for covered  
10 transportation for the purpose of assessing and improving  
11 the capabilities of entities described in subsection (b) to  
12 prevent, prepare for, mitigate against, respond to, and re-  
13 cover from acts of terrorism involving covered transpor-  
14 tation.

15 (b) COVERED ENTITIES.—Entities to be assessed  
16 under the program shall include—

17 (1) Federal, State, and local agencies and tribal  
18 governments;

19 (2) employees and managers of providers of  
20 covered transportation;

21 (3) governmental and nongovernmental emer-  
22 gency response providers and law enforcement per-  
23 sonnel, including railroad and transit police; and

24 (4) any other organization or entity that the  
25 Secretary determines appropriate.

1       (c) REQUIREMENTS.—The Secretary shall ensure  
2 that the program—

3           (1) working jointly with the Secretary of Trans-  
4 portation, consolidates all existing security exercises  
5 for covered transportation administered by the De-  
6 partment and the Department of Transportation;

7           (2) requires, on a periodic basis, at the facilities  
8 a provider of covered transportation, exercises to be  
9 conducted that are—

10           (A) scaled and tailored to the needs of the  
11 facilities, including individuals with disabilities;

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

14           (C) coordinated with appropriate officials  
15 of covered transportation providers;

16           (D) as realistic as practicable and based on  
17 current risk assessments, including credible  
18 threats, vulnerabilities, and consequences; and

19           (E) consistent with the National Incident  
20 Management System, the National Response  
21 Plan, the National Infrastructure Protection  
22 Plan, the National Preparedness Guidance, the  
23 National Preparedness Goal, and other such na-  
24 tional initiatives;

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

3           (A) evaluated against clear and consistent  
4 performance measures;

5           (B) assessed to learn best practices, which  
6 shall be shared with appropriate Federal, State,  
7 local, and tribal officials, governmental and  
8 nongovernmental emergency response providers,  
9 law enforcement personnel, including railroad  
10 and transit police, and appropriate stake-  
11 holders; and

12           (C) followed by remedial action in response  
13 to lessons learned;

14           (4) includes exercises involving covered trans-  
15 portation at or near the international land borders  
16 of the United States and in coordination with inter-  
17 national stakeholders;

18           (5) involves individuals in neighborhoods  
19 around the infrastructure of a provider of covered  
20 transportation; and

21           (6) assists State, local, and tribal governments  
22 and providers of covered transportation in designing,  
23 implementing, and evaluating exercises that conform  
24 to the requirements of paragraph (2).

1 (d) REMEDIAL ACTION MANAGEMENT PROGRAM.—

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

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

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

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

13 (4) conduct remedial action tracking and long-  
14 term trend analysis.

15 (f) NATIONAL TRAINING PROGRAM.—The Secretary  
16 shall ensure that the training program developed under  
17 subsection (a) is a component of the National Training  
18 Program established under section 648 of the Department  
19 of Homeland Security Appropriations Act of 2007 (6  
20 U.S.C. 748).

21 (g) FERRY SYSTEM EXEMPTION.—This section does  
22 not apply to any ferry for which drills are required to be  
23 conducted pursuant to section 70103 of title 46, United  
24 States Code.

1 **SEC. 111. SECURITY RESEARCH AND DEVELOPMENT.**

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

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

8 (1) to reduce the vulnerability of passenger  
9 trains, stations, and equipment to explosives and  
10 hazardous chemical, biological, and radioactive sub-  
11 stances including the development of technology to  
12 screen passengers in large numbers at peak com-  
13 muting times with minimal interference and disrup-  
14 tion;

15 (2) to test new emergency response and recov-  
16 ery techniques and technologies, including those  
17 used at international borders;

18 (3) to develop improved railroad technologies,  
19 including—

20 (A) technologies for sealing or modifying  
21 railroad tank cars;

22 (B) automatic inspection of railroad cars;

23 (C) communication-based train controls;

24 (D) signal system integrity at switches;

25 (E) emergency response training, including  
26 training in a tunnel environment;



1 (F) security and redundancy for critical  
2 communications, electrical power, computer,  
3 and train control systems; and

4 (G) technologies for securing bridges and  
5 tunnels;

6 (4) to test wayside detectors that can detect  
7 tampering;

8 (5) to support enhanced security for the trans-  
9 portation of security sensitive materials by railroad;

10 (6) to mitigate damages in the event of a  
11 cyberattack;

12 (7) to assess the vulnerabilities and risks asso-  
13 ciated with new rail and public transportation con-  
14 struction projects prior to their completion; and

15 (8) to address other vulnerabilities and risks  
16 identified by the Secretary.

17 (c) COORDINATION WITH OTHER RESEARCH INITIA-  
18 TIVES.—The Secretary shall—

19 (1) ensure that the research and development  
20 program is consistent with the National Strategy for  
21 Rail and Public Transportation Security developed  
22 under section 101; and

23 (2) to the greatest extent practicable, coordi-  
24 nate the research and development activities of the  
25 Department with other ongoing research and devel-

1        opment security related initiatives, including re-  
2        search being conducted by—

3                (A) the National Academy of Sciences;

4                (B) the Department of Transportation, in-  
5        cluding University Transportation Centers and  
6        other institutes, centers, and simulators funded  
7        by the Department of Transportation;

8                (C) the Technical Support Working Group;

9                (D) other Federal departments and agen-  
10        cies; and

11                (E) other Federal and private research lab-  
12        oratories, research entities, and universities and  
13        institutions of higher education, including His-  
14        torically Black Colleges or Universities, and  
15        Hispanic Serving Institutions or Tribal Univer-  
16        sities, with the capability to conduct both prac-  
17        tical and theoretical research and technical sys-  
18        tems analysis on subjects that include bridge,  
19        tunnel, blast, and infrastructure protection;

20                (3) carry out any research and development  
21        project authorized by this section through a reim-  
22        bursable agreement with the appropriate agency or  
23        entity official, if the agency or entity—

24                (A) is currently sponsoring a research and  
25        development project in a similar area; or

1 (B) has a unique facility or capability that  
2 would be useful in carrying out the project;

3 (4) award grants, cooperative agreements, con-  
4 tracts, other transactions, or reimbursable agree-  
5 ments to the entities described in subsection (c)(2)  
6 and shall adopt necessary procedures, including au-  
7 dits, to ensure that awards made under this section  
8 are expended in accordance with the purposes of this  
9 title and the priorities and other criteria developed  
10 by the Secretary; and

11 (5) make reasonable efforts to enter into memo-  
12 randa of understanding, contracts, grants, coopera-  
13 tive agreements, or other transactions with owners  
14 and operators of freight and intercity passenger rail  
15 and over-the-road bus facilities willing to contribute  
16 both physical space and other resources.

17 (d) PRIVACY AND CIVIL RIGHTS AND CIVIL LIB-  
18 ARTIES ISSUES.—

19 (1) CONSULTATION.—In carrying out research  
20 and development projects under this section, the  
21 Secretary shall consult with the Chief Privacy Offi-  
22 cer of the Department and the Officer for Civil  
23 Rights and Civil Liberties of the Department as ap-  
24 propriate and in accordance with section 222 of the  
25 Homeland Security Act of 2002 (6 U.S.C. 142).

1           (2) PRIVACY IMPACT ASSESSMENTS.—In ac-  
2           cordance with sections 222 and 705 of the Home-  
3           land Security Act of 2002 (6 U.S.C. 142; 345), the  
4           Chief Privacy Officer shall conduct privacy impact  
5           assessments and the Officer for Civil Rights and  
6           Civil Liberties shall conduct reviews, as appropriate,  
7           for research and development initiatives developed  
8           under this section.

9           (e) AUTHORIZATION OF APPROPRIATIONS.—There is  
10          authorized to be appropriated to the Secretary to carry  
11          out this section—

- 12                 (1) \$50,000,000 for fiscal year 2008;  
13                 (2) \$50,000,000 for fiscal year 2009;  
14                 (3) \$50,000,000 for fiscal year 2010; and  
15                 (4) \$50,000,000 for fiscal year 2011.

16          Such sums shall remain available until expended.

17          **SEC. 112. WHISTLEBLOWER PROTECTIONS.**

18           (a) IN GENERAL.—No covered individual may be dis-  
19          charged, demoted, suspended, threatened, harassed, rep-  
20          rimanded, investigated, or in any other manner discrimi-  
21          nated against, including by a denial, suspension, or rev-  
22          ocation of a security clearance or by any other security  
23          access determination, if such discrimination is due, in  
24          whole or in part, to any lawful act done, perceived to have

1 been done, or intended to be done by the covered indi-  
2 vidual—

3           (1) to provide information, cause information to  
4 be provided, or otherwise assist in an investigation  
5 regarding any conduct which the covered individual  
6 reasonably believes constitutes a violation of any  
7 law, rule, or regulation relating to rail, public trans-  
8 portation, or over-the-road-bus security, which the  
9 covered individual reasonably believes constitutes a  
10 threat to rail, public transportation, or over-the-  
11 road-bus security, or which the covered individual  
12 reasonably believes constitutes fraud, waste, or mis-  
13 management of Government funds intended to be  
14 used for rail, public transportation, or over-the-road-  
15 bus security, if the information or assistance is pro-  
16 vided to or the investigation is conducted by—

17           (A) by a Federal, State, or local regulatory  
18 or law enforcement agency (including an office  
19 of the Inspector General under the Inspector  
20 General Act of 1978 (5 U.S.C. App.; Public  
21 Law 95–452);

22           (B) any Member of Congress, any com-  
23 mittee of Congress, or the Government Ac-  
24 countability Office; or

1 (C) a person with supervisory authority  
2 over the covered individual (or such other per-  
3 son who has the authority to investigate, dis-  
4 cover, or terminate);

5 (2) to file, cause to be filed, testify, participate  
6 in, or otherwise assist in a proceeding or action filed  
7 or about to be filed relating to an alleged violation  
8 of any law, rule, or regulation relating to rail, public  
9 transportation, or over-the-road bus security; or

10 (3) to refuse to violate or assist in the violation  
11 of any law, rule, or regulation relating to rail public  
12 transportation, or over-the-road bus security.

13 (b) ENFORCEMENT ACTION.—

14 (1) IN GENERAL.—A covered individual who al-  
15 leges discharge or other discrimination by any per-  
16 son in violation of subsection (a) may—

17 (A) in the case of a covered individual who  
18 is employed by the Department or the Depart-  
19 ment of Transportation, seek relief in accord-  
20 ance with—

21 (i) the provisions of title 5, United  
22 States Code, to the same extent and in the  
23 same manner as if such individual were  
24 seeking relief from a prohibited personnel

1 practice described in section 2302(b)(8) of  
2 such title; and

3 (ii) the amendments made by section  
4 112A;

5 except that, if the disclosure involved consists in  
6 whole or in part of classified or sensitive infor-  
7 mation, clauses (i) and (ii) shall not apply, and  
8 such individual may seek relief in the same  
9 manner as provided by section 112B;

10 (B) in the case of a covered individual who  
11 is a contractor or subcontractor of the Depart-  
12 ment or the Department of Transportation,  
13 seek relief in accordance with section 112B;  
14 and

15 (C) in the case of any other covered indi-  
16 vidual, seek relief in accordance with the provi-  
17 sions of this section, with any petition or other  
18 request for relief under this section to be initi-  
19 ated by filing a complaint with the Secretary of  
20 Labor.

21 (2) PROCEDURE.—

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

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

5 (C) BURDENS OF PROOF.—An action  
6 brought under paragraph (1)(C) shall be gov-  
7 erned by the legal burdens of proof set forth in  
8 section 42121(b) of title 49, United States  
9 Code.

10 (D) STATUTE OF LIMITATIONS.—An action  
11 under paragraph (1)(C) shall be commenced not  
12 later than 1 year after the date on which the  
13 violation occurs.

14 (3) DE NOVO REVIEW.—With respect to a com-  
15 plaint under paragraph (1)(C), if the Secretary of  
16 Labor has not issued a final decision within 180  
17 days after the filing of the complaint (or, in the  
18 event that a final order or decision is issued by the  
19 Secretary of Labor, whether within the 180-day pe-  
20 riod or thereafter, then, not later than 90 days after  
21 such an order or decision is issued), the covered in-  
22 dividual may bring an original action at law or eq-  
23 uity for de novo review in the appropriate district  
24 court of the United States, which shall have jurisdic-  
25 tion over such an action without regard to the



1 amount in controversy, and which action shall, at  
2 the request of either party to such action, be tried  
3 by the court with a jury.

4 (c) REMEDIES.—

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

9 (2) DAMAGES.—Relief in an action under sub-  
10 section (b)(1)(C) (including an action described in  
11 subsection (b)(3)) shall include—

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

15 (B) the amount of any back pay, with in-  
16 terest; and

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

21 (3) POSSIBLE RELIEF.—Relief in an action  
22 under subsection (b)(1)(C) may include punitive  
23 damages in an amount not to exceed the greater of  
24 3 times the amount of any compensatory damages  
25 awarded under this section or \$5,000,000.

1 (d) USE OF STATE SECRETS PRIVILEGE.—

2 (1) If, in any action for relief sought by a cov-  
3 ered individual in accordance with the provisions of  
4 subsection (b)(1)(A), (B), or (C), the Government  
5 agency moves to withhold information from dis-  
6 covery based on a claim that disclosure would be in-  
7 imical to national security by asserting the privilege  
8 commonly referred to as the “state secrets privi-  
9 lege”, and if the assertion of such privilege prevents  
10 the covered individual from establishing an element  
11 in support of the covered individual’s claim, the  
12 court shall resolve the disputed issue of fact or law  
13 in favor of the covered individual, provided that, in  
14 an action brought by a covered individual in accord-  
15 ance with the provisions of subsection (b)(1)(A) or  
16 (B), an Inspector General investigation under sec-  
17 tion 112B has resulted in substantial confirmation  
18 of that element, or those elements, of the covered in-  
19 dividual’s claim.

20 (2) In any case in which the Government agen-  
21 cy asserts the privilege commonly referred to as the  
22 “state secrets privilege”, whether or not an Inspec-  
23 tor General has conducted an investigation with re-  
24 spect to the alleged discrimination, the head of the  
25 Government agency involved shall, at the same time

1 it asserts the privilege, issue a report to authorized  
2 Members of Congress, accompanied by a classified  
3 annex if necessary, describing the reasons for the as-  
4 sertion, explaining why the court hearing the matter  
5 does not have the ability to maintain the protection  
6 of classified information related to the assertion, de-  
7 tailing the steps the agency has taken to arrive at  
8 a mutually agreeable settlement with the covered in-  
9 dividual, setting forth the date on which the classi-  
10 fied information at issue will be declassified, and  
11 providing all relevant information about the under-  
12 lying substantive matter.

13 (e) CRIMINAL PENALTIES.—

14 (1) IN GENERAL.—It shall be unlawful for any  
15 person employing a covered individual described in  
16 subsection (b)(1)(C) to commit an act prohibited by  
17 subsection (a). Any person who willfully violates this  
18 section by terminating or retaliating against any  
19 such covered individual who makes a claim under  
20 this section shall be fined under title 18, United  
21 States Code, imprisoned not more than 1 year, or  
22 both.

23 (2) REPORTING REQUIREMENT.—

24 (A) IN GENERAL.—The Attorney General  
25 shall submit to the appropriate congressional

1 committees an annual report on the enforce-  
2 ment of paragraph (1).

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

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

6 (ii) describe the status or disposition  
7 of each such case; and

8 (iii) in any actions under subsection  
9 (b)(1)(C) in which the covered individual  
10 was the prevailing party or the substan-  
11 tially prevailing party, indicate whether or  
12 not any formal charges under paragraph  
13 (1) have been brought and, if not, the rea-  
14 sons therefor.

15 (f) NO PREEMPTION.—Nothing in this section, sec-  
16 tion 112A, or section 112B preempts or diminishes any  
17 other safeguards against discrimination, demotion, dis-  
18 charge, suspension, threats, harassment, reprimand, retal-  
19 iation, or any other manner of discrimination provided by  
20 Federal or State law.

21 (g) RIGHTS RETAINED BY COVERED INDIVIDUAL.—  
22 Nothing in this section, section 112A, or section 112B  
23 shall be deemed to diminish the rights, privileges, or rem-  
24 edies of any covered individual under any Federal or State  
25 law or under any collective bargaining agreement. The

1 rights and remedies in this section, section 112A and sec-  
2 tion 112B may not be waived by any agreement, policy,  
3 form, or condition of employment.

4 (h) DEFINITIONS.—In this section, section 112A and  
5 section 112B, the following definitions apply:

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

8 (A) the Department;

9 (B) the Department of Transportation;

10 (C) a contractor or subcontractor; and

11 (D) an employer within the meaning of  
12 section 701(b) of the Civil Rights Act of 1964  
13 (42 U.S.C. 2000e(b)) and who is a provider of  
14 covered transportation.

15 (2) LAWFUL.—The term “lawful” means not  
16 specifically prohibited by law, except that, in the  
17 case of any information the disclosure of which is  
18 specifically prohibited by law or specifically required  
19 by Executive order to be kept classified in the inter-  
20 est of national defense or the conduct of foreign af-  
21 fairs, any disclosure of such information to any  
22 Member of Congress, committee of Congress, or  
23 other recipient authorized to receive such informa-  
24 tion, shall be deemed lawful.

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

5           (4) EMPLOYEE.—The term “employee”  
6 means—

7                 (A) with respect to an employer referred to  
8 in paragraph (1)(A) or (1)(B), an employee as  
9 defined by section 2105 of title 5, United States  
10 Code; and

11                (B) with respect to an employer referred to  
12 in paragraph (1)(C) or (1)(D), any officer,  
13 partner, employee, or agent.

14           (5) SUBCONTRACTOR.—The term “subcon-  
15 tractor”—

16                 (A) means any person, other than the con-  
17 tractor, who offers to furnish or furnishes any  
18 supplies, materials, equipment, or services of  
19 any kind under a contract with the Depart-  
20 ment, the Department of Transportation, or a  
21 provider of covered transportation; and

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

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

5   **SEC. 113. INCREASE IN SURFACE TRANSPORTATION SECU-**  
6                           **RITY INSPECTORS.**

7           (a) IN GENERAL.—The Secretary shall increase the  
8           total number of positions for full-time surface transpor-  
9           tation security inspectors of the Department so that by  
10          December 31, 2010, the total number of such positions  
11          is at least 600.

12          (b) QUALIFICATIONS.—Surface transportation secu-  
13          rity inspectors hired by the Secretary shall have at least  
14          1 year or equivalent experience in conducting inspections  
15          and investigations and engaging in testing security sys-  
16          tems and any other qualifications that the Secretary deter-  
17          mines appropriate.

18          (c) ROLES AND RESPONSIBILITIES.—The Secretary,  
19          in consultation with appropriate State, local, and tribal of-  
20          ficials, shall develop a standard operating procedure clear-  
21          ly defining the relationship between—

22                 (1) surface transportation security inspectors of  
23                 the Department and safety inspectors of the Depart-  
24                 ment of Transportation; and

1           (2) State, local, and tribal law enforcement offi-  
2           cers and other law enforcement personnel, including  
3           railroad and public transportation police.

4           (d) AUTHORIZATION OF APPROPRIATIONS.—There  
5           are authorized to be appropriated to the Secretary to carry  
6           out subsection (a) such sums as may be necessary. Such  
7           sums shall remain available until expended.

8   **SEC. 114. NATIONAL DOMESTIC PREPAREDNESS CONSOR-**  
9                                   **TIUM.**

10          (a) IN GENERAL.—There is in the Department of  
11          Homeland Security a National Domestic Preparedness  
12          Consortium.

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

20                 (1) the Center for Domestic Preparedness;

21                 (2) the National Energetic Materials Research  
22                 and Testing Center, New Mexico Institute of Mining  
23                 and Technology;

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



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

3 (5) the National Exercise, Test, and Training  
4 Center, Nevada Test Site; and

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

7 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
8 are authorized to be appropriated such sums as may be  
9 necessary—

10 (1) to at least maintain the funding level of fis-  
11 cal year 2007 for each member of the National Do-  
12 mestic Preparedness Consortium listed in subsection

13 (b) in existence prior to the inclusion of the Trans-  
14 portation Technology Center in the Consortium; and

15 (2) in fiscal years 2008 through 2011, increase  
16 the funding level for each member of the National  
17 Domestic Preparedness Consortium to not less than  
18 3 percent of the amount made available for the pre-  
19 ceding fiscal year.

20 **SEC. 115. AUTHORIZATION OF VISIBLE INTERMODAL PRO-**  
21 **TECTION RESPONSE TEAMS.**

22 The Secretary, acting through the Administrator of  
23 the Transportation Security Administration, is authorized  
24 to develop Visible Intermodal Protection Response (re-  
25 ferred to in this section as “VIPR”) teams designed to

1 augment security for any mode of transportation at any  
2 location within the United States. In forming a VIPR  
3 team, the Secretary—

4 (1) may use any asset of the Department, in-  
5 cluding Federal air marshals, surface transportation  
6 security inspectors, canine detection teams, and ad-  
7 vanced screening technology;

8 (2) has the discretion to determine, consistent  
9 with ongoing security threats, when a VIPR should  
10 be deployed, as well as the duration of the deploy-  
11 ment in coordination with local security and law en-  
12 forcement officials; and

13 (3) prior to deployments, shall consult with  
14 local security and law enforcement officials in the ju-  
15 risdiction where the VIPR Team is planned to de-  
16 ploy, to develop and agree upon the appropriate op-  
17 erating protocols and in order to educate those offi-  
18 cials regarding the mission of the VIPR teams.

19 **SEC. 116. NATIONAL TRANSPORTATION SECURITY CENTER**  
20 **OF EXCELLENCE.**

21 (a) ESTABLISHMENT.—The Secretary shall establish  
22 a National Transportation Security Center of Excellence  
23 at an institution of higher education to conduct research  
24 and education activities, and to develop or provide profes-  
25 sional security training, including the training of rail and

1 public transportation employees and rail and public trans-  
2 portation-related professionals, with emphasis on utiliza-  
3 tion of intelligent transportation systems, technologies,  
4 and architectures.

5 (b) CRITERIA.—The Secretary shall select an institu-  
6 tion of higher education to operate the National Transpor-  
7 tation Security Center of Excellence according to the fol-  
8 lowing selection criteria:

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

11 (2) The use of and experience with partnerships  
12 with other institutions of higher education, Federal  
13 laboratories, or other nonprofit laboratories.

14 (3) Capability to conduct both practical and  
15 theoretical research and technical systems analysis.

16 (4) Utilization of intelligent transportation sys-  
17 tem technologies and architectures.

18 (5) Ability to develop professional security  
19 training programs.

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

22 (7) Such other criteria as the Secretary may  
23 designate.

24 (c) CONSORTIUM.—

1           (1) CONSORTIUM.—The institution of higher  
2 education selected under subsection (b) shall execute  
3 agreements with other institutions of higher edu-  
4 cation to develop a consortium to assist in accom-  
5 plishing the goals of the Center.

6           (2) EXPERIENCE.—The consortium shall in-  
7 clude universities and institutions of higher edu-  
8 cation that have existing transportation programs.

9           (3) CERTAIN INCLUSIONS.—At least two of the  
10 consortium colleges and universities associated with  
11 the National Transportation Security Center of Ex-  
12 cellence shall be an Historically Black College or  
13 University, an Hispanic Serving Institution, or Trib-  
14 al University, even if the primary institution is one  
15 of the aforementioned institutions of higher edu-  
16 cation.

17           (4) DEGREE PROGRAM.—Of the universities se-  
18 lected under paragraph (2), at least one shall have  
19 an established degree and an advanced degree pro-  
20 gram in transportation studies.

21           (d) TRAINING.—If the consortium does not include  
22 the National Transit Institute, the consortium shall work  
23 with the National Transit Institute on training programs.

24           (e) FUNDING.—The Secretary shall provide such  
25 funding as is necessary to the National Transportation Se-

1 curity Center of Excellence established under subsection  
2 (a) to carry out this section.

3 **SEC. 117. TSA PERSONNEL LIMITATIONS.**

4 Any statutory limitation on the number of employees  
5 in the Transportation Security Administration does not  
6 apply to employees carrying out this Act.

7 **SEC. 118. HOMELAND SECURITY GRANTS.**

8 Notwithstanding any provision of this Act, all grants  
9 distributed for security-related purposes pursuant to this  
10 Act, shall be administered on the basis of risk.

11 **SEC. 119. THREAT ASSESSMENT SCREENING.**

12 Not later than 180 days after the date of the enact-  
13 ment of this Act, the Secretary shall implement a threat  
14 assessment screening program, including name-based  
15 checks against terrorist watch lists and immigration sta-  
16 tus check, for all employees of covered transportation, that  
17 is the same as the threat assessment screening program  
18 required for facility employees and longshoremen by the  
19 Commandant of the Coast Guard under Coast Guard No-  
20 tice USCG–2006–24189 (71 Fed. Reg. 25066 (Friday,  
21 April 28, 2006)).

22 **SEC. 120. BACKGROUND CHECKS FOR COVERED INDIVID-**  
23 **UALS.**

24 (a) DEFINITIONS.—In this section, the following defi-  
25 nitions apply:

1           (1) BACKGROUND CHECKS.—The term “back-  
2       ground check” means a check of the following:

3                   (A) Relevant criminal history databases.

4                   (B) In the case of an alien (as defined in  
5       the Immigration and Nationality Act (8 U.S.C.  
6       1101(a)(3)), the relevant databases to deter-  
7       mine the status of the alien under the immigra-  
8       tion laws of the United States.

9           (2) COVERED INDIVIDUALS.—The term “cov-  
10      ered individual” means an employee of—

11                   (A) an employer, within the meaning of  
12      section 701(b) of the Civil Rights Act of 1964  
13      (42 U.S.C. 2000e(b)), who is a provider of cov-  
14      ered transportation; or

15                   (B) a contractor or subcontractor of such  
16      an employer.

17      (b) REDRESS PROCESS.—If a provider of covered  
18      transportation conducts background checks in order to  
19      satisfy any rules, regulations, directives, or other guidance  
20      issued by the Secretary to protect covered transportation  
21      from the threat of terrorism, the provider of covered trans-  
22      portation shall provide an adequate redress process.

23      (c) STANDARDS FOR REDRESS PROCESS.—

24                   (1) IN GENERAL.—The Secretary shall ensure  
25      that each provider of covered transportation imple-

1       ments a redress process in accordance with sub-  
2       section (b) for covered individuals adversely im-  
3       pacted by a background check described in sub-  
4       section (b).

5           (2) STANDARDS.—The redress process shall be  
6       modeled after the appeals and waiver process estab-  
7       lished for hazmat drivers and transportation workers  
8       at ports, as required by section 1515 of title 49,  
9       Code of Federal Regulations.

10          (3) COMPONENTS.—The redress process shall  
11       include the following:

12           (A) A waiver process that will allow a cov-  
13       ered individual to demonstrate, through reha-  
14       bilitation, or facts surrounding the conviction or  
15       other mitigating factors, that the individual is  
16       not a security risk.

17           (B) An appeal process during which a cov-  
18       ered individual will have an opportunity to dem-  
19       onstrate that the individual does not have a dis-  
20       qualifying conviction either by—

21           (i) correcting outdated underlying  
22       court records;

23           (ii) proving mistaken identity; or

24           (iii) establishing that the conviction  
25       cannot serve as the basis for an adverse

1 employment decision in accordance with  
2 the limitations contained in subsection (d).

3 (C) A proceeding providing an independent  
4 review.

5 (D) A process to ensure compliance with  
6 the requirements of this section.

7 (4) PROCEEDINGS PROVIDING AN INDE-  
8 PENDENT REVIEW.—A covered individual who re-  
9 quests a proceeding under paragraph (3)(C) shall  
10 have the right to have waiver and appeal decisions  
11 heard by an independent decisionmaker with the  
12 ability to order reinstatement expeditiously or pro-  
13 vide other remedy.

14 (5) PREVIOUS BACKGROUND CHECKS.—A cov-  
15 ered individual subjected to and adversely affected  
16 by a background check conducted by a provider of  
17 covered transportation (or a contractor or subcon-  
18 tractor of such a provider), in the period beginning  
19 on June 23, 2006, and ending on the date of enact-  
20 ment of this Act, to satisfy any rules, regulations,  
21 directives, or other guidance issued by the Secretary  
22 to protect covered transportation from the threat of  
23 terrorism shall have an immediate right to a pro-  
24 ceeding with an independent decisionmaker to deter-  
25 mine if the adverse action was in compliance with



1 this section and shall have a right to immediate rein-  
2 statement or other remedy if the background check  
3 fails to comply with this section.

4 (d) LIMITATIONS.—

5 (1) IN GENERAL.—Subject to paragraph (2), if  
6 an employer performs background checks to satisfy  
7 any rule, regulation, directive, or other guidance  
8 issued by the Secretary regarding background checks  
9 of covered individuals, the employer shall be prohib-  
10 ited from making an adverse employment decision,  
11 including removal or suspension, with respect to a  
12 covered individual based on—

13 (A) a felony conviction that occurred 7 or  
14 more years ago;

15 (B) a conviction of any offense for which  
16 the individual was released from incarceration 5  
17 or more years ago; or

18 (C) any felony not listed in section  
19 1572.103 of title 49, Code of Federal Regula-  
20 tions.

21 (2) EXCEPTIONS.—The limitations contained in  
22 paragraph (1) shall not apply to a covered individual  
23 who has been convicted of any of the following:

24 (A) Treason (or conspiracy to commit trea-  
25 son).

1 (B) Espionage (or conspiracy to commit  
2 espionage).

3 (C) Sedition (or conspiracy to commit sedi-  
4 tion).

5 (D) Any crime listed in chapter 113B of  
6 title 18, United States Code (or conspiracy to  
7 commit such a crime).

8 (e) NO PREEMPTION OF FEDERAL OR STATE LAW.—  
9 Nothing in this section shall be construed as preempting  
10 a Federal, State, or local law that requires criminal his-  
11 tory background checks of covered employees.

12 (f) STATUTORY CONSTRUCTION.—Nothing in this  
13 section shall be construed to affect the process for review  
14 established under section 70105(c) of title 46, United  
15 States Code, including regulations issued pursuant to such  
16 section.

17 **SEC. 121. TASK FORCE ON DISQUALIFYING CRIMES.**

18 (a) ESTABLISHMENT.—The Secretary shall establish  
19 a task force to review the lists of crimes that disqualify  
20 individuals from certain transportation-related employ-  
21 ment under current regulations of the Transportation Se-  
22 curity Administration and assess whether such lists of  
23 crimes are accurate indicators of a terrorism security risk.

24 (b) MEMBERSHIP.—The task force shall be composed  
25 of representatives of appropriate industries, including rep-

1 representatives of nonprofit employee labor organizations,  
2 and Federal agencies.

3 (c) REPORT.—Not later than 180 days after the date  
4 of enactment of this Act, the task force shall transmit to  
5 the Secretary and Congress a report containing the results  
6 of the review, including recommendations for a common  
7 list of disqualifying crimes and the rationale for the inclu-  
8 sion of each crime on the list.

9 **SEC. 122. PENALTIES.**

10 (a) REGULATIONS AND ORDERS OF THE SEC-  
11 RETARY.—Section 114 of title 49, United States Code, is  
12 amended by adding at the end the following:

13 “(u) GENERAL CIVIL PENALTIES AND ENFORCE-  
14 MENT OF REGULATIONS AND ORDERS OF THE SEC-  
15 RETARY OF HOMELAND SECURITY.—

16 “(1) APPLICATION.—This subsection applies to  
17 the enforcement of regulations prescribed, and or-  
18 ders issued, by the Secretary of Homeland Security  
19 under a provision of chapter 701 of title 46 and this  
20 title (other than chapter 449) (in this subsection re-  
21 ferred to as an ‘applicable provision of this title’).  
22 Penalties for violation of regulations prescribed, and  
23 orders issued, by the Secretary of Homeland Secu-  
24 rity under a provision of chapter 449 are provided  
25 under chapter 463.

1           “(2) GENERAL CIVIL PENALTIES.—

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

8                   “(B) SEPARATE VIOLATIONS.—A separate  
9           violation occurs under this paragraph for each  
10          day the violation continues.

11           “(3) ADMINISTRATIVE IMPOSITION OF CIVIL  
12          PENALTIES.—

13                   “(A) IN GENERAL.—The Secretary of  
14          Homeland Security may impose a civil penalty  
15          for a violation of a regulation prescribed, or  
16          order issued, under an applicable provision of  
17          this title. The Secretary of Homeland Security  
18          shall give written notice of the finding of a vio-  
19          lation and the penalty.

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

1           “(C) EXCLUSIVE JURISDICTION OF DIS-  
2           TRICT COURTS.—Notwithstanding subpara-  
3           graph (A) of this paragraph, the district courts  
4           of the United States have exclusive jurisdiction  
5           of a civil action involving a penalty that the  
6           Secretary initiates if—

7                   “(i) the amount in controversy is  
8                   more than—

9                           “(I) \$400,000 if the violation  
10                          was committed by a person other than  
11                          an individual or small business con-  
12                          cern; or

13                           “(II) \$50,000 if the violation was  
14                          committed by an individual or small  
15                          business concern;

16                          “(ii) the action is in rem or another  
17                          action in rem based on the same violation  
18                          has been brought; or

19                           “(iii) another action has been brought  
20                          for an injunction based on the same viola-  
21                          tion.

22           “(D) MAXIMUM CIVIL PENALTIES IMPOSED  
23           BY THE SECRETARY.—The maximum civil pen-  
24           alty the Secretary may impose under this para-  
25           graph is—

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

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

7 “(E) NOTICE AND OPPORTUNITY TO RE-  
8 QUEST HEARING.—Before imposing a penalty  
9 under this section the Secretary shall provide to  
10 the person against whom the penalty is to be  
11 imposed—

12 “(i) written notice of the proposed  
13 penalty; and

14 “(ii) the opportunity to request, not  
15 later than 30 days after the date on which  
16 the person receives the notice, a hearing on  
17 the proposed penalty.

18 “(4) COMPROMISE AND SETOFF.—

19 “(A) COMPROMISE.—The Secretary may  
20 compromise the amount of a civil penalty im-  
21 posed under this subsection.

22 “(B) SETOFF.—The Government may de-  
23 duct the amount of a civil penalty imposed or  
24 compromised under this subsection from

1 amounts it owes the person liable for the pen-  
2 alty.

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

10 “(6) NONAPPLICATION.—

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

18 “(i) The transportation of personnel  
19 or shipments of materials by contractors  
20 where the Department of Defense has as-  
21 sumed control and responsibility.

22 “(ii) A member of the Armed Forces  
23 of the United States when performing offi-  
24 cial duties.

1                   “(iii) A civilian employee of the De-  
 2                   partment of Defense when performing offi-  
 3                   cial duties.

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

7                   “(i) the United States Postal Service;  
 8                   or

9                   “(ii) the Department of Defense.

10                  “(7) SMALL BUSINESS CONCERN DEFINED.—  
 11                  The term ‘small business concern’ has the meaning  
 12                  given that term in section 3 of the Small Business  
 13                  Act (15 U.S.C. 632).”.

14                  (b)           CONFORMING           AMENDMENT.—Section  
 15                  46301(a)(4) of title 49, United States Code, is amended  
 16                  by striking “or another requirement under this title ad-  
 17                  ministered by the Under Secretary of Transportation for  
 18                  Security”.

19   **SEC. 123. SCHOOL BUS TRANSPORTATION SECURITY.**

20                  (a) SCHOOL BUS SECURITY THREAT ASSESSMENT.—  
 21                  Not later than 1 year after the date of enactment of this  
 22                  Act, the Secretary shall transmit to the appropriate con-  
 23                  gressional committees, a report, including a classified re-  
 24                  port, as appropriate, containing a comprehensive threat  
 25                  assessment of the threat of a terrorist attack on the Na-



1 tion's school bus transportation system in accordance with  
2 the requirements of this section.

3 (b) CONTENTS OF THREAT ASSESSMENT.—The as-  
4 sessment shall include—

5 (1) an assessment of the Nation's school bus  
6 transportation system, including publicly and pri-  
7 vately operated systems;

8 (2) the security threats to the assets and sys-  
9 tems;

10 (3) an assessment of actions already taken by  
11 operators to address identified security  
12 vulnerabilities by both private and publicly operated  
13 systems;

14 (4) an assessment of additional actions and in-  
15 vestments necessary to improve the security of the  
16 Nation's school children traveling on school buses;

17 (5) an assessment of whether additional legisla-  
18 tion or Federal programs are needed to provide for  
19 the security of children traveling on school buses;  
20 and

21 (6) an assessment of the psychological and eco-  
22 nomic impacts of an attack on school buses.

23 (c) CONSULTATION.—In conducting the threat as-  
24 sessment, the Secretary shall consult with administrators  
25 and officials of school systems, representatives of the

1 school bus industry, including both public and privately  
2 operated systems, public safety and law enforcement offi-  
3 cials, and nonprofit employee labor organizations rep-  
4 resenting school bus drivers.

5 **SEC. 124. ENHANCED SECURITY MEASURES FOR SHIP-**  
6 **MENTS OF SECURITY SENSITIVE MATERIALS.**

7 (a) IN GENERAL.—Not later than 90 days after the  
8 date of enactment of this Act, the Secretary, in consulta-  
9 tion with the Secretary of Transportation, shall issue reg-  
10 ulations to require enhanced security measures for ship-  
11 ments of security sensitive materials.

12 (b) DEFINITIONS.—

13 (1) SECURITY SENSITIVE MATERIAL.—The Sec-  
14 retary shall designate a material, or a group or class  
15 of material, in a particular amount and form as se-  
16 curity sensitive when the Secretary determines that  
17 transporting the material in commerce poses a sig-  
18 nificant risk to national security due to the potential  
19 use of the material in an act of terrorism. In making  
20 such a designation, the Secretary shall consider the  
21 following:

22 (A) A highway route-controlled quantity of  
23 a Class 7 (radioactive) material, as defined in  
24 section 173.403 of title 49, Code of Federal

1 Regulations, in a motor vehicle, railroad car, or  
2 freight container.

3 (B) More than 25 kilograms (55 pounds)  
4 of a division 1.1, 1.2, or 1.3 explosive, as de-  
5 fined in section 173.50 of title 49, Code of Fed-  
6 eral Regulations, in a motor vehicle, rail car, or  
7 freight container.

8 (C) More than one liter (1.06 quart) per  
9 package of a material poisonous by inhalation,  
10 as defined in section 171.8 of title 49, Code of  
11 Federal Regulations, that meets the criteria for  
12 hazard zone A, as specified in section  
13 173.116(a) or section 173.133(a) of title 49,  
14 Code of Federal Regulations.

15 (D) A shipment of a quantity of hazardous  
16 materials in a bulk packaging having a capacity  
17 equal to or greater than 13,248 liters (3,500  
18 gallons) for liquids or gases or more than 13.24  
19 cubic meters (68 cubic feet) for solids.

20 (E) A shipment in other than a bulk pack-  
21 aging of 2,268 kilograms (5,000 pounds) gross  
22 weight or more of one class of hazardous mate-  
23 rials for which placarding of a vehicle, rail car,  
24 or freight container is required for that class

1 under the provisions of section 172.521B of  
2 title 49, Code of Federal Regulations.

3 (F) A select agent or toxin regulated by  
4 the Centers for Disease Control and Prevention  
5 under part 73 of title 42, Code of Federal Reg-  
6 ulations.

7 (G) A quantity of hazardous material that  
8 requires placarding under the provisions of sub-  
9 part F of part 172 of title 49, Code of Federal  
10 Regulations.

11 (2) AREA OF CONCERN.—For purposes of this  
12 section, the term “area of concern” means a geo-  
13 graphic region designated by the Secretary as com-  
14 manding special consideration with respect to the se-  
15 curity of the transportation of security sensitive ma-  
16 terials, which shall include high threat urban areas  
17 as determined by the Secretary.

18 (3) STORAGE PATTERN.—The term “storage  
19 pattern” is defined as the conditions of storage, in-  
20 cluding—

21 (A) location of cars in railroad yards or on  
22 railroad-controlled leased tracks;

23 (B) type of storage (such as bulk transfer  
24 or not);

1 (C) typical types and numbers of security  
2 sensitive material cars stored in close proximity  
3 (in ranges);

4 (D) population density;

5 (E) average length of time cars are stored,  
6 attended or unattended; and

7 (F) security measures present, including  
8 physical security measures, secure handoffs and  
9 nearest available safe havens for storage in case  
10 of heightened threat conditions.

11 (4) MOST SECURE.—The term “most secure  
12 route or storage pattern” means the route or storage  
13 pattern that best reduces the risk, including con-  
14 sequences, of a terrorist attack on a shipment of se-  
15 curity sensitive material that is transported through  
16 or near an area of concern.

17 (c) COMPILATION OF ROUTE AND STORAGE PAT-  
18 TERN INFORMATION FOR RAILROAD CARRIERS TRANS-  
19 PORTING SECURITY SENSITIVE MATERIALS.—Not later  
20 than 90 days after the end of each calendar year, a rail-  
21 road carrier shall compile commodity data by route and  
22 storage pattern, a line segment or series of line segments  
23 as aggregated by the railroad carrier. Within the railroad  
24 carrier selected route, the commodity data shall identify  
25 the geographic location of the route and storage pattern

1 and the total number of shipments by United Nations  
2 identification number for security sensitive materials and  
3 storage patterns along the routes.

4 (d) RAIL TRANSPORTATION ROUTE AND STORAGE  
5 PATTERN ANALYSIS FOR SECURITY SENSITIVE MATE-  
6 RIALS.—For each calendar year, a railroad carrier shall  
7 provide a written analysis of the security risks for the  
8 transportation routes and storage patterns, identified in  
9 the commodity data collected as required by subsection  
10 (c). The security risks present shall be analyzed for the  
11 route, railroad facilities, railroad storage facilities, private  
12 storage facilities, and areas of concern along or in prox-  
13 imity to the route.

14 (e) ALTERNATIVE ROUTE AND STORAGE PATTERN  
15 ANALYSIS FOR SECURITY SENSITIVE MATERIALS.—

16 (1) By the end of each calendar year, a railroad  
17 carrier shall—

18 (A) identify to the Department practical  
19 alternative routes and storage patterns that will  
20 avoid areas of concern for each of the transpor-  
21 tation routes or facilities it used to ship or store  
22 security sensitive materials through or near  
23 areas of concern in the last calendar year; and

24 (B) perform a security risk assessment of  
25 the alternative route or storage pattern for

1 comparison to the route and storage pattern  
2 analysis specified in subsection (d).

3 (2) The analysis shall include the following:

4 (A) Identification of security risks for al-  
5 ternative route or storage pattern.

6 (B) Comparison of those risks identified in  
7 subparagraph (A) to the primary rail transpor-  
8 tation route or storage pattern.

9 (3) railroad carriers transporting security sen-  
10 sitive materials must consider the availability of  
11 interchange agreements or systems of tracks and fa-  
12 cilities owned by other operators when determining  
13 whether an alternate route for transporting the secu-  
14 rity sensitive materials to avoid areas of concern is  
15 practical.

16 (4) An alternate route or storage facility that  
17 will avoid an area of concern may be considered by  
18 the railroad carrier to be impractical if the shipment  
19 originates in or is destined for the area of concern,  
20 or if there would be no harm beyond the property  
21 of the railroad carrier transporting the shipment or  
22 storage facility storing the shipment in the event of  
23 a successful terrorist attack on the shipment.

24 (f) ALTERNATIVE ROUTE AND STORAGE PATTERN  
25 SELECTION FOR SECURITY SENSITIVE MATERIALS.—A

1 railroad carrier shall use the analysis required by sub-  
2 sections (d) and (e) to select the most secure route and  
3 storage pattern to be used in moving the materials speci-  
4 fied in subsection (b).

5 (g) REVIEW.—Not less than once every 5 years, the  
6 analyses route and storage pattern selection determina-  
7 tions required under subsections (c), (d), (e), and (f) shall  
8 include a comprehensive, system-wide review of all oper-  
9 ational changes, infrastructure modifications, traffic ad-  
10 justments, changes in the nature of the areas of concern  
11 located along or in proximity to the route, or other  
12 changes affecting the security of the movements of the ma-  
13 terials specified in subsection (b) of this section that were  
14 implemented during the 5-year period.

15 **SEC. 125. TECHNOLOGY STANDARDS AND CLEARINGHOUSE**  
16 **TO IMPROVE SECURITY OF COVERED TRANS-**  
17 **PORTATION.**

18 (a) IN GENERAL.—The Secretary, acting through the  
19 Under Secretary for Science and Technology and the Di-  
20 rector of the Domestic Nuclear Detection Office (for radi-  
21 ological and nuclear detection technologies and training),  
22 in consultation with the Director of the National Institute  
23 of Standards and Technology and other appropriate Fed-  
24 eral agencies, as appropriate, shall establish a standards  
25 program to support the development, promulgation, and



1 updating as necessary of national voluntary consensus  
2 standards for performance, testing, use, and training with  
3 respect to technologies that will improve the security of  
4 covered transportation in order to meet the security plan  
5 requirements under section 103(d)(1) and the security  
6 performance requirements under section 103(f).

7 (b) EQUIPMENT STANDARDS.—

8 (1) REQUIREMENTS.—The standards for the  
9 performance, use, and validation of equipment devel-  
10 oped under subsection (a) shall be designed to assist  
11 Federal, State, local, and tribal government and  
12 nongovernment emergency response providers, other  
13 components of the Department, providers of covered  
14 transportation, shippers of hazardous material, man-  
15 ufacturers of railroad and transit cars, transpor-  
16 tation and public safety officials, and other relevant  
17 stakeholders in acquiring and implementing tech-  
18 nologies to prevent, prepare for, mitigate against,  
19 and respond to acts of terrorism on covered trans-  
20 portation. Such standards—

21 (A) shall be, to the maximum extent prac-  
22 ticable, consistent with any existing voluntary  
23 consensus standards;

24 (B) shall take into account, as appropriate,  
25 new types of terrorism threats which may tar-

1 get covered transportation and responsibilities  
2 of the Department that may not have been con-  
3 templated when such existing standards were  
4 developed;

5 (C) shall focus on maximizing interoper-  
6 ability, interchangeability, durability, flexibility,  
7 efficiency, efficacy, portability, sustainability,  
8 and safety;

9 (D) shall facilitate deployment of the sys-  
10 tems to the field and include concept of oper-  
11 ations;

12 (E) shall consider human factors science;  
13 and

14 (F) shall cover all appropriate uses of the  
15 equipment.

16 (2) CATEGORIES OF EQUIPMENT.—In carrying  
17 out paragraph (1), the Secretary shall specifically  
18 consider national voluntary consensus standards for  
19 the performance, use, and validation of the following  
20 categories of equipment:

21 (A) Physical security equipment, including  
22 surveillance cameras, alarm systems, access/in-  
23 trusion control, motion detection, barriers such  
24 as fences, impact resistant doors, bomb-resist-

1 ant trash receptacles, and personnel and vehicle  
2 identification systems.

3 (B) Interoperable communications equip-  
4 ment, including wireless and wireline voice,  
5 video, and data networks.

6 (C) Information technology, including posi-  
7 tion locating and tracking systems.

8 (D) Cybersecurity equipment, including bi-  
9 ometric authentication systems, network and  
10 personal firewalls and other authentication  
11 technologies.

12 (E) Personal protective equipment, includ-  
13 ing garments, boots, gloves, and hoods and  
14 other protective clothing.

15 (F) Operational and search and rescue  
16 equipment, including canines and scene control  
17 and safety equipment such as first aid kits.

18 (G) Explosive mitigation devices and explo-  
19 sive detection and analysis equipment.

20 (H) Chemical, biological, radiological, and  
21 nuclear detection equipment.

22 (I) Decontamination equipment.

23 (J) Noninvasive inspection and screening  
24 systems.

25 (K) Medical and pharmaceutical supplies.

1 (L) Other terrorism incident prevention  
2 equipment.

3 (M) Such other equipment for which the  
4 Secretary determines that national voluntary  
5 consensus standards would be appropriate to  
6 improve the security of covered transportation.

7 (3) CERTIFICATION AND ACCREDITATION.—The  
8 Secretary, in carrying out this subsection, and in co-  
9 ordination with the Director of the National Insti-  
10 tute of Standards and Technology, may support the  
11 certification of equipment and the accreditation of  
12 laboratories to conduct testing and evaluation.

13 (c) TRAINING STANDARDS.—

14 (1) REQUIREMENTS.—The standards for the  
15 training developed under subsection (a) shall be de-  
16 signed to enable Federal, State, local, and tribal gov-  
17 ernment and nongovernment emergency response  
18 providers, other Department personnel, providers of  
19 covered transportation, shippers of hazardous mate-  
20 rial, manufacturers of railroad and transit cars,  
21 transportation and public safety officials, and other  
22 relevant stakeholders to use equipment effectively  
23 and appropriately in carrying out their responsibil-  
24 ities to secure covered transportation. Such stand-  
25 ards shall prioritize—

1           (A) enabling appropriate stakeholders to  
2           prevent, prepare for, respond to, mitigate  
3           against, and recover from terrorist threats on  
4           covered transportation, including threats from  
5           chemical, biological, radiological, and nuclear  
6           weapons and explosive devices capable of inflict-  
7           ing significant human casualties, and other po-  
8           tentially catastrophic emergencies; and

9           (B) familiarizing appropriate stakeholders  
10          with the proper use of equipment, including the  
11          capabilities and limitations of equipment and  
12          conditions in which the equipment is expected  
13          to operate.

14          (2) CATEGORIES OF ACTIVITIES.—In carrying  
15          out paragraph (1), the Secretary specifically shall in-  
16          clude the following categories of activities:

17               (A) Regional planning.

18               (B) Joint exercises.

19               (C) Information analysis and sharing.

20               (D) Decision making protocols for incident  
21          response and alarms.

22               (E) Emergency notification of affected  
23          populations.

1 (F) Detection of biological, nuclear, radio-  
2 logical, and chemical weapons of mass destruc-  
3 tion.

4 (G) Screening and patrolling procedures.

5 (H) Such other activities for which the  
6 Secretary determines that national voluntary  
7 consensus training standards would be appro-  
8 priate.

9 (3) CONSISTENCY.—In carrying out this sub-  
10 section, the Secretary shall ensure that training  
11 standards are consistent with the principles of all  
12 hazards emergency preparedness.

13 (d) CONSULTATION WITH STANDARDS ORGANIZA-  
14 TIONS.—In establishing national voluntary consensus  
15 standards for equipment and training under this section,  
16 the Secretary shall consult with relevant public and private  
17 sector groups, including—

18 (1) the National Institute of Standards and  
19 Technology;

20 (2) the American Public Transportation Asso-  
21 ciation;

22 (3) the National Fire Protection Association;

23 (4) the National Association of County and City  
24 Health Officials;

25 (5) the Association of American Railroads;

1 (6) the American Bus Association;

2 (7) the Association of State and Territorial  
3 Health Officials;

4 (8) the American National Standards Institute;

5 (9) the National Institute of Justice;

6 (10) the Inter-Agency Board for Equipment  
7 Standardization and Interoperability;

8 (11) the National Public Health Performance  
9 Standards Program;

10 (12) the National Institute for Occupational  
11 Safety and Health;

12 (13) ASTM International;

13 (14) the International Safety Equipment Asso-  
14 ciation;

15 (15) the Emergency Management Accreditation  
16 Program;

17 (16) nonprofit employee labor organizations;  
18 and

19 (17) to the extent the Secretary considers ap-  
20 propriate, other national voluntary consensus stand-  
21 ards development organizations, other interested  
22 Federal, State, and local agencies, and other inter-  
23 ested persons.

24 (e) TECHNOLOGY CLEARINGHOUSE TO ENHANCE  
25 THE SECURITY OF COVERED TRANSPORTATION.—

1           (1) IN GENERAL.—The Secretary shall utilize  
2           the Technology Clearinghouse established under sec-  
3           tion 313 of the Homeland Security Act of 2002 (6  
4           U.S.C. 193) to facilitate the identification, acquisi-  
5           tion, and deployment of technology, equipment, and  
6           training for use by Federal, State, local, and tribal  
7           agencies, emergency response providers, other com-  
8           ponents of the Department, providers of covered  
9           transportation, shippers of hazardous material, man-  
10          ufacturers of railroad and transit cars, transpor-  
11          tation and public safety officials, and other relevant  
12          stakeholders to prevent, prepare for, mitigate  
13          against, respond to, or recover from acts of ter-  
14          rorism on covered transportation.

15          (2) ELEMENTS OF THE TECHNOLOGY CLEAR-  
16          INGHOUSE.—Activities in carrying out paragraph (1)  
17          shall include—

18                (A) identifying available technologies that  
19                have been, or are in the process of being, devel-  
20                oped, tested, evaluated, or demonstrated by the  
21                Department, other Federal agencies, the private  
22                sector, or foreign governments and international  
23                organizations, and reviewing whether such tech-  
24                nologies may be useful in assisting appropriate  
25                stakeholders to prevent, prepare for, mitigate



1 against, respond to, or recover from acts of ter-  
2 rorism on covered transportation; and

3 (B) communicating to Federal, State,  
4 local, and tribal agencies, emergency response  
5 providers, other components of the Department,  
6 providers of covered transportation, shippers of  
7 hazardous material, manufacturers of railroad  
8 and transit cars, transportation and public safe-  
9 ty officials, and other relevant stakeholders the  
10 availability of such technologies, as well as—

11 (i) the technology's specifications and  
12 concept of operations;

13 (ii) satisfaction of appropriate equip-  
14 ment and training standards developed  
15 under subsections (a) and (b);

16 (iii) relevant grants available from the  
17 Department to purchase or train with such  
18 technologies; and

19 (iv) whether the Secretary has des-  
20 ignated a product, equipment, service, de-  
21 vice, or technology under subparagraph (A)  
22 as a qualified antiterrorism technology  
23 pursuant to the Support Anti-terrorism by  
24 Fostering Effective Technologies Act of  
25 2002 (6 U.S.C. 441 et seq.).

1           (3) COORDINATION.—The Secretary shall en-  
2       sure that the technology clearinghouse activities con-  
3       ducted through the Under Secretary for Science and  
4       Technology are coordinated with appropriate compo-  
5       nents of the Department including the Domestic Nu-  
6       clear Detection Office, the Transportation Security  
7       Administration, the Office of Infrastructure Protec-  
8       tion, the Office of Grants and Training, and the  
9       Federal Emergency Management Agency.

10          (4) AGREEMENTS.—The Secretary may enter  
11       into memoranda of understandings or agreements  
12       with other Federal agencies, foreign governments,  
13       and national and international organizations as ap-  
14       propriate, in order to maximize the availability of  
15       such technologies and information through the Tech-  
16       nology Clearinghouse.

17       (f) SAVINGS PROVISION.—An action of the Secretary  
18       or the Secretary of Transportation under this Act is not  
19       an exercise, under section 4(b)(1) of the Occupational  
20       Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), of  
21       statutory authority to prescribe or enforce standards or  
22       regulations affecting occupational safety or health.

23       **SEC. 126. RAIL TANK CAR SECURITY TESTING.**

24       (a) RAIL TANK CAR VULNERABILITY ASSESS-  
25       MENT.—

1           (1) ASSESSMENT.—The Secretary and the Sec-  
2       retary of Transportation shall jointly assess the like-  
3       ly methods of a deliberate attack against a rail tank  
4       car used to transport toxic-inhalation-hazard mate-  
5       rials, and for each method assessed, the degree to  
6       which it may be successful in causing death, injury,  
7       or serious adverse effects to human health, the envi-  
8       ronment, critical infrastructure, national security,  
9       the national economy, or public welfare.

10          (2) THREATS.—In carrying out paragraph (1),  
11       the Secretary and the Secretary of Transportation  
12       shall jointly consider the most current threat infor-  
13       mation as to likely methods of a successful attack on  
14       a rail tank car transporting toxic-inhalation-hazard  
15       materials, and may consider the following:

16                (A) An improvised explosive device placed  
17                along the tracks.

18                (B) An improvised explosive device at-  
19                tached to the rail car.

20                (C) The use of shoulder-fired missiles.

21                (D) The use of rocket propelled grenades.

22                (E) The use of mortars or high-caliber  
23                weapons.

24          (3) PHYSICAL TESTING.—In developing the as-  
25       sessment required under paragraph (1), the Sec-

1       retary and the Secretary of Transportation shall  
2       conduct physical testing of the vulnerability of rail  
3       tank cars used to transport toxic-inhalation-hazard  
4       materials to different methods of a deliberate attack,  
5       using technical information and criteria to evaluate  
6       the structural integrity of railroad tank cars.

7           (4) REPORT.—Not later than 30 days after the  
8       completion of the assessment under paragraph (1),  
9       the Secretary shall provide to the appropriate con-  
10      gressional committees a report, in the appropriate  
11      format, on such assessment.

12      (b) RAIL TANK CAR DISPERSION MODELING.—

13           (1) IN GENERAL.—The Secretary, acting  
14      through the National Infrastructure Simulation and  
15      Analysis Center, shall conduct air dispersion mod-  
16      eling analysis of a release of the contents of a single  
17      rail tank car of toxic-inhalation-hazard materials in  
18      at least three high-threat urban areas in the United  
19      States.

20           (2) CONSIDERATIONS.—The analysis under this  
21      subsection shall take into account the following con-  
22      siderations:

23           (A) A deliberate attack on a rail tank car  
24      transporting toxic-inhalation-hazard materials,

1 including the most likely means of attack and  
2 the resulting dispersal rate.

3 (B) Different times of day, to account for  
4 differences in population size and density in the  
5 urban area, as well as differences in cloud cov-  
6 erage over the affected regions.

7 (C) Historically accurate wind speeds, tem-  
8 peratures and directions.

9 (D) The difference between a rail tank car  
10 in motion and a stationary rail tank car.

11 (E) Emergency response procedures by  
12 local officials, including the availability of med-  
13 ical countermeasures to treat exposures to  
14 toxic-inhalation-hazard materials.

15 (F) Any other considerations the Secretary  
16 believes would develop an accurate, plausible  
17 dispersion model for toxic-inhalation-hazard  
18 materials released from a rail tank car as a re-  
19 sult of a terrorist act.

20 (3) CONSULTATION.—In conducting the disper-  
21 sion modeling under paragraph (1), the Secretary  
22 and the Secretary of Transportation shall consult  
23 with the appropriate State, local, and tribal officials  
24 of the high-threat urban area selected, and with  
25 other Federal agencies as appropriate.

1           (4) INFORMATION SHARING.—Upon completion  
2       of the analysis required under paragraph (1), the  
3       Secretary shall share the information developed with  
4       the appropriate stakeholders within each high-threat  
5       urban area selected, given appropriate information  
6       protection provisions as may be required by the Sec-  
7       retary.

8           (5) REPORT.—Not later than 30 days after  
9       completion of all dispersion analyses under para-  
10      graph (1), the Secretary shall submit to the appro-  
11      priate congressional committees a report detailing  
12      the Secretary’s conclusions and findings in an appro-  
13      priate format.

14   **SEC. 127. RAIL RADIOLOGICAL AND NUCLEAR DETECTION.**

15      (a) PROTOTYPE.—Not later than one year after the  
16      date of enactment of this Act, the Domestic Nuclear De-  
17      tection Office shall begin testing and evaluation of proto-  
18      type systems to detect nuclear or radiological materials in  
19      rail security venues, including spectroscopic technologies.

20      (b) STRATEGY.—Upon successful developmental test-  
21      ing and evaluation of such radiation detection technologies  
22      at Domestic Nuclear Detection Office test facilities, as  
23      well as extensive testing and evaluation in operational en-  
24      vironments, the Domestic Nuclear Detection Office shall,  
25      in coordination with Customs and Border Protection and

1 the Transportation Security Administration, ensure ap-  
2 propriate training, operations, and response protocols are  
3 established and, shall develop a deployment strategy to de-  
4 tect nuclear or radiological materials arriving in or trans-  
5 porting through the United States by rail. Such strategy  
6 shall consider the integration of radiation detection tech-  
7 nologies with other nonintrusive inspection technologies,  
8 including imagery and density scanning, in order to utilize  
9 existing rail examination facilities and further strengthen  
10 border security.

11 (c) REPORT TO CONGRESS.—Not later than Sep-  
12 tember 30, 2008, the Domestic Nuclear Detection Office  
13 shall transmit to Congress a report. Such report shall—

14 (1) describe the progress of testing and evalua-  
15 tion under subsection (a); and

16 (2) in coordination with U.S. Customs and Bor-  
17 der Protection and the Transportation Security Ad-  
18 ministration, describe the development of a strategy  
19 under subsection (b).

20 (d) IMPLEMENTATION.—The Domestic Nuclear De-  
21 tection Office, U.S. Customs and Border Protection, and  
22 the Transportation Security Administration shall begin  
23 implementation of the strategy developed under subsection  
24 (b) after verification of systems performance.

1 **SEC. 128. REQUIREMENT TO PROVIDE PREFERENCE TO**  
2 **QUALIFIED ANTI-TERRORISM TECH-**  
3 **NOLOGIES.**

4 (a) PREFERENCE.—In using grant funds provided  
5 under this Act to purchase products, equipment, services,  
6 devices, or technologies to be employed in the implementa-  
7 tion of any security plan required under this Act, a grant  
8 recipient should, to the extent practicable, give preference  
9 to products, equipment, services, devices, and technologies  
10 that the Secretary has designated as qualified anti-ter-  
11 rorism technologies under the Support Anti-terrorism by  
12 Fostering Effective Technologies Act of 2002 (subtitle G  
13 of title VIII of the Homeland Security Act of 2002; 6  
14 U.S.C. 441 et seq.), if the grant recipient determines that  
15 such a product, equipment, service, device, or technology  
16 meets or exceeds the requirements of the security plan.

17 (b) SAVINGS PROVISION.—Nothing in this section  
18 shall affect grant recipient requirements pursuant to sec-  
19 tion 5323(j) of title 49, United States Code, section  
20 24305(f) of title 49, United States Code, and the Buy  
21 American Act (41 U.S.C. 10).

22 **SEC. 129. PROMOTING LIABILITY PROTECTIONS FOR PRO-**  
23 **VIDERS OF COVERED TRANSPORTATION AND**  
24 **RELATED TECHNOLOGIES.**

25 The Secretary shall work with providers of covered  
26 transportation to identify for procurement products,



1 equipment, services, devices, and technologies to be em-  
2 ployed in the implementation of security plans required  
3 under this Act, that are designated by the Secretary as  
4 qualified anti-terrorism technologies under the Support  
5 Anti-terrorism by Fostering Effective Technologies Act of  
6 2002 (subtitle G of title VIII of the Homeland Security  
7 Act of 2002; 6 U.S.C. 441 et seq.) or may otherwise be  
8 eligible for liability protections.

9 **SEC. 130. INTERNATIONAL RAIL SECURITY PROGRAM.**

10 (a) NON-INTRUSIVE INSPECTION EQUIPMENT.—For  
11 the purpose of checking in-bound rail shipments to the  
12 United States for terrorists or weapons, including weapons  
13 of mass destruction, the Secretary shall—

14 (1) deploy, where practicable, non-intrusive in-  
15 spection imaging equipment at locations where rail  
16 shipments cross an international border to enter the  
17 United States; or

18 (2) implement alternative procedures to check  
19 such rail shipments at locations where the deploy-  
20 ment of non-intrusive inspection imaging equipment  
21 is determined to not be practicable.

22 (b) ADVANCED FILING OF SECURITY DATA.—

23 (1) IN GENERAL.—The Secretary shall—

24 (A) identify and seek the submission of ad-  
25 ditional data elements for improved high-risk

1           targeting related to the movement of cargo  
2           through the international supply chain utilizing  
3           a railroad prior to importation into the United  
4           States; and

5           (B) analyze the data provided pursuant to  
6           in paragraph (1) to identify high-risk cargo for  
7           inspection.

8           (2) INTERNATIONAL SUPPLY CHAIN DE-  
9           FINED.—For purposes of this subsection, the term  
10          “international supply chain” means the end-to-end  
11          process for shipping goods to or from the United  
12          States beginning at the point of origin (including  
13          manufacturer, supplier, or vendor) through a point  
14          of distribution to the destination.

15          (c) USE OF TRANSPORTATION DATA.—In carrying  
16          out this subsection, the Secretary shall make use of data  
17          collected and maintained by the Secretary of Transpor-  
18          tation.

19      **SEC. 131. TERRORIST WATCHLIST AND IMMIGRATION STA-**  
20                      **TUS REVIEW AT HIGH-RISK TRANSPOR-**  
21                      **TATION SITES.**

22          In carrying out section 119, the Secretary shall re-  
23          quire each provider of covered transportation, including  
24          contractors and subcontractors, assigned to a high-risk  
25          tier under section 102 to submit the names of their em-

1 ployees to the Secretary to conduct checks of their employ-  
2 ees against available terrorist watchlists and immigration  
3 status databases.

4 **SEC. 132. REVIEW OF GRANT-MAKING EFFICIENCY.**

5 (a) ANNUAL STUDY.—The Comptroller General of  
6 the United States shall conduct an annual study for each  
7 of the first 3 years after the enactment of this title regard-  
8 ing the administration and use of the grants awarded  
9 under sections 105, 106, and 107 of this title, including—

10 (1) the efficiency of the division of the grant-  
11 making process, including whether the Department  
12 of Transportation’s role in distributing, auditing,  
13 and monitoring the grant funds produces efficiency  
14 compared to the consolidation of these responsibil-  
15 ities in the Department of Homeland Security;

16 (2) whether the roles of the Department of  
17 Homeland Security and the Department of Trans-  
18 portation in the administration of the grants permit  
19 the grants to be awarded and used in a timely and  
20 efficient manner and according to their intended  
21 purposes;

22 (3) the use of grant funds, including whether  
23 grant funds are used for authorized purposes.

24 (b) REPORT.—The Comptroller General of the  
25 United States shall submit an annual report to the appro-

1 priate congressional committees on the results of the study  
2 for each of the first 3 years after enactment of this title,  
3 including any recommendations for improving the admin-  
4 istration and use of the grant funds awarded under sec-  
5 tions 105, 106, and 107.

6 **SEC. 133. ROLES OF THE DEPARTMENT OF HOMELAND SE-**  
7 **CURITY AND THE DEPARTMENT OF TRANS-**  
8 **PORTATION.**

9       The Secretary of Homeland Security is the principal  
10 Federal official responsible for transportation security.  
11 The roles and responsibilities of the Department of Home-  
12 land Security and the Department of Transportation in  
13 carrying out sections 101, 103, 104, 105, 106, 107, 109,  
14 110, 111, 113, 123, 124, 125, 126, 127, 128, 129, 130,  
15 131, and 201 of this Act are the roles and responsibilities  
16 of such Departments pursuant to the Aviation and Trans-  
17 portation Security Act (Public Law 107–71); the Intel-  
18 ligence Reform and Terrorism Prevention Act of 2004  
19 (Public Law 108–458); the National Infrastructure Pro-  
20 tection Plan required by Homeland Security Presidential  
21 Directive 7; Executive Order 13416: Strengthening Sur-  
22 face Transportation Security, dated December 5, 2006;  
23 the Memorandum of Understanding between the Depart-  
24 ment and the Department of Transportation on Roles and  
25 Responsibilities, dated September 28, 2004; the Annex to

1 the Memorandum of Understanding between the Depart-  
2 ment and the Department of Transportation on Roles and  
3 Responsibilities concerning Railroad Security, dated Sep-  
4 tember 28, 2006; the Annex to the Memorandum of Un-  
5 derstanding between the Department and the Department  
6 of Transportation on Roles and Responsibilities con-  
7 cerning Public Transportation Security, dated September  
8 8, 2005; and any subsequent agreements between the De-  
9 partment of Homeland Security and the Department of  
10 Transportation.

11 **SEC. 134. ASSESSMENT AND REPORT.**

12 (a) STUDY.—The Secretary, in coordination with the  
13 Secretary of Transportation, shall assess the safety and  
14 security vulnerabilities of placing high voltage direct cur-  
15 rent electric transmission lines along active railroad  
16 rights-of-way. In conducting the assessment, the Secretary  
17 shall, at a minimum, evaluate the risks to local inhabitants  
18 and to consumers of electric power transmitted by those  
19 lines, associated with a train collision or derailment that  
20 damages such electric transmission lines.

21 (b) REPORT.—Not later than 6 months after the date  
22 of enactment of this Act, the Secretary shall transmit the  
23 results of the assessment in subsection (a) to the appro-  
24 priate congressional committees as defined in this Act.

1 **SEC. 135. STUDY OF FOREIGN RAIL SECURITY PRACTICES.**

2 The Secretary shall—

3 (1) study select foreign rail security practices,  
4 and the cost and feasibility of implementing selected  
5 best practices that are not currently used in the  
6 United States, including—

7 (A) implementing covert testing processes  
8 to evaluate the effectiveness of rail system secu-  
9 rity personnel;

10 (B) implementing practices used by foreign  
11 rail operators that integrate security into infra-  
12 structure design;

13 (C) implementing random searches or  
14 screening of passengers and their baggage; and

15 (D) establishing and maintaining an infor-  
16 mation clearinghouse on existing and emergency  
17 security technologies and security best practices  
18 used in the passenger rail industry both in the  
19 United States and abroad; and

20 (2) report the results of the study, together  
21 with any recommendations that the Secretary may  
22 have for implementing covert testing, practices for  
23 integrating security in infrastructure design, random  
24 searches or screenings, and an information clearing-  
25 house to the Committee on Homeland Security and  
26 Governmental Affairs of the Senate, the Committee

1 on Homeland Security of the House of Representa-  
2 tives, the Committee on Commerce, Science, and  
3 Transportation of the Senate, and the Committee on  
4 Transportation and Infrastructure of the House of  
5 Representatives not later than 1 year after the date  
6 of enactment of this Act.

7 **SEC. 136. ALTERNATIVE MATERIAL SOURCES.**

8 The Secretary of Transportation, in consultation with  
9 the Secretary, shall establish a program to coordinate with  
10 State and local governments to minimize the need for  
11 transportation of toxic inhalation hazardous materials by  
12 rail.

13 **SEC. 137. IMMUNITY FOR REPORTING SUSPICIOUS ACTIVI-**  
14 **TIES AND MITIGATING TERRORIST THREATS**  
15 **RELATING TO TRANSPORTATION SECURITY.**

16 (a) IMMUNITY FOR REPORTING SUSPICIOUS BEHAV-  
17 IOR.—Any person who makes or causes to be made a vol-  
18 untary disclosure of any suspicious transaction, activity or  
19 occurrence indicating that an individual may be engaging  
20 or preparing to engage in a matter described in subsection  
21 (b) to any employee or agent of the Department of Home-  
22 land Security, the Department of Transportation, the De-  
23 partment of Justice, any Federal, State, or local law en-  
24 forcement officer, any transportation security officer, or  
25 to any employee or agent of a transportation system shall

1 be immune from civil liability to any person under any  
2 law or regulation of the United States, any constitution,  
3 law, or regulation of any State or political subdivision of  
4 any State, for such disclosure.

5 (b) COVERED DISCLOSURES.—The matter referred to  
6 in subsection (a) is a possible violation or attempted viola-  
7 tion of law or regulation relating—

8 (1) to a threat to transportation systems or  
9 passenger safety or security; or

10 (2) to an act of terrorism, as defined in section  
11 3077 of title 18, United States Code, that involves  
12 or is directed against transportation systems or pas-  
13 sengers.

14 (c) IMMUNITY FOR MITIGATION OF THREATS.—Any  
15 person, including an owner, operator or employee of a  
16 transportation system, who takes reasonable action to  
17 mitigate a suspicious matter described in subsection (b)  
18 shall be immune from civil liability to any person under  
19 any law or regulation of the United States, any constitu-  
20 tion, law, or regulation of any State or political subdivision  
21 of any State, for such action.

22 (d) LIMITATION ON APPLICATION.—Subsection (a)  
23 shall not apply to a statement or disclosure by a person  
24 that, at the time it is made, is known by the person to  
25 be false.



1 (e) ATTORNEY FEES AND COSTS.—If a person is  
2 named as a defendant in a civil lawsuit for making vol-  
3 untary disclosures of any suspicious transaction or taking  
4 actions to mitigate a suspicious matter described in sub-  
5 section (b), and the person is found to be immune from  
6 civil liability under this section, the person shall be entitled  
7 to recover from the plaintiff all reasonable costs and attor-  
8 ney’s fees as allowed by the court.

9 (f) RETROACTIVE APPLICATION.—This section shall  
10 apply to activities and claims occurring on or after Novem-  
11 ber 20, 2006.

12 **TITLE II—SECURE TRANSPORTATION THROUGH IN-**  
13 **CREASED USE OF CANINE DETECTION TEAMS**

16 **SEC. 201. INCREASING THE NUMBER OF CANINE DETEC-**  
17 **TION TEAMS FOR TRANSPORTATION SECU-**  
18 **RITY.**

19 (a) MINIMUM REQUIREMENT.—The Secretary shall  
20 coordinate with owners and providers of covered transpor-  
21 tation systems to encourage the deployment of canine de-  
22 tection teams at each high-risk transportation system to  
23 provide continuous coverage if the Secretary considers it  
24 necessary. Each canine detection team—

1           (1) shall be trained to detect explosives, and, to  
2           the greatest extent possible, chemical and biological  
3           weapons; and

4           (2) may be deployed to alternate sites to pro-  
5           vide additional coverage during times of increased  
6           risk or due to specific threat information, as deter-  
7           mined by the Secretary.

8           (b) INCREASE.—The Secretary shall coordinate with  
9           owners and providers of covered transportation systems to  
10          encourage an increase in the number of trained canine de-  
11          tection teams deployed at the Nation’s high-risk rail and  
12          mass transit systems by not less than 10 percent each fis-  
13          cal year for fiscal years 2008 through 2012. Each canine  
14          detection team shall be trained to detect explosives, and,  
15          to the greatest extent possible, chemical and biological  
16          weapons.

17   **SEC. 202. NATIONAL EXPLOSIVES DETECTION CANINE**  
18                           **TEAM PROGRAM INCREASE.**

19          (a) INCREASE IN TEAMS.—The National Explosives  
20          Detection Canine Team Program of the Transportation  
21          Security Administration may train up to an additional 100  
22          canine detection teams per year but shall train at least  
23          the following numbers of additional teams:

24                  (1) 50 in fiscal year 2008.

25                  (2) 55 in fiscal year 2009.

1 (3) 60 in fiscal year 2010.

2 (4) 66 in fiscal year 2011.

3 (5) 73 in fiscal year 2012.

4 (b) DEPLOYED THROUGHOUT COUNTRY.—The ca-  
5 nine detection teams authorized under this section shall  
6 be deployed across the country to strengthen the security  
7 of covered transportation systems, including buses, sub-  
8 way systems, ferries, and passenger railroad carriers.

9 (c) REPORT.—Not later than 90 days after the date  
10 of the enactment of this section, the Administrator of the  
11 Transportation Security Administration shall submit to  
12 the Committee on Homeland Security of the House of  
13 Representatives and the Committee on Homeland Security  
14 and Governmental Affairs of the Senate a report on the  
15 personnel and resource needs to fulfill the requirements  
16 of this section.

17 (d) AUTHORIZATION.—There are authorized to be ap-  
18 propriated such sums as may be necessary to carry out  
19 this section.

20 **SEC. 203. TRANSPORTATION SECURITY ADMINISTRATION**  
21 **BREEDING PROGRAM INCREASE.**

22 (a) TSA PUPPY PROGRAM.—The Transportation Se-  
23 curity Administration Puppy Program shall work to in-  
24 crease the number of domestically bred canines to help  
25 meet the increase in demand for canine detection teams

1 authorized in section 202 while preserving the current  
2 quality of canines provided for training.

3 (b) REPORT REQUIRED.—Not later than 90 days  
4 after the date of the enactment of this section, the Admin-  
5 istrator of the Transportation Security Administration  
6 shall submit to the Committee on Homeland Security of  
7 the House and the Committee on Homeland Security and  
8 Governmental Affairs of the Senate a report on the per-  
9 sonnel and resource needs to fulfill the requirements of  
10 this section.

11 (c) AUTHORIZATION.—There are authorized to be ap-  
12 propriated such sums as may be necessary to carry out  
13 this section.

Passed the House of Representatives March 27,  
2007.

Attest: LORRAINE C. MILLER,  
*Clerk.*