

Calendar No. 480

111TH CONGRESS
2^D SESSION**S. 3638**

To establish a national safety plan for public transportation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 22, 2010

Mr. DODD, from the Committee on Banking, Housing, and Urban Affairs, reported the following original bill; which was read twice and placed on the calendar

A BILL

To establish a national safety plan for public transportation, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Public Transportation
5 Safety Act of 2010”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds the following:

1 (1) In the United States, more than
2 10,000,000,000 trips are taken on public transpor-
3 tation each year, and more than 14,000,000 trips
4 are taken on rail fixed guideway systems every week-
5 day.

6 (2) Greater investment by the Federal Govern-
7 ment in transit safety is necessary to better protect
8 public transportation passengers and keep the econ-
9 omy of the United States operating efficiently
10 through the safe movement of goods and people.

11 (3) The Federal Transit Administration lacks
12 the authority to implement and enforce national
13 public transportation safety standards.

14 (4) State safety oversight agencies often lack
15 the authority, expertise, and resources to effectively
16 monitor the safety of rail fixed guideway public
17 transportation systems.

18 (5) According to the Federal Transit Adminis-
19 tration, more than $\frac{1}{3}$ of the assets of the largest rail
20 transit systems in the United States are in either
21 marginal or poor condition, and the estimated main-
22 tenance backlog for public transportation systems is
23 nearly \$80,000,000,000, contributing to unsafe con-
24 ditions for passengers and workers.

25 (b) PURPOSES.—The purposes of this Act are—

1 (1) to establish a national public transportation
2 safety plan to improve the safety of public transpor-
3 tation systems;

4 (2) to assist States in developing, implementing,
5 and enforcing rail fixed guideway public transpor-
6 tation safety oversight programs; and

7 (3) to ensure that public transportation agen-
8 cies develop a process for prioritizing asset invest-
9 ment in order to bring their systems into a state of
10 good repair.

11 **SEC. 3. PUBLIC TRANSPORTATION SAFETY.**

12 (a) PUBLIC TRANSPORTATION SAFETY PROGRAM ES-
13 TABLISHED.—Section 5329 of title 49, United States
14 Code, is amended to read as follows:

15 **“§ 5329. Public transportation safety program**

16 “(a) DEFINITION.—In this section, the term ‘recipi-
17 ent’ means a State or local governmental authority, or any
18 other operator of a public transportation system, that re-
19 ceives financial assistance under this chapter.

20 “(b) NATIONAL PUBLIC TRANSPORTATION SAFETY
21 PLAN.—

22 “(1) IN GENERAL.—The Secretary shall create
23 and implement a national public transportation safe-
24 ty plan to improve the safety of all public transpor-

1 tation systems that receive funding under this chap-
2 ter.

3 “(2) CONTENTS OF PLAN.—The national public
4 transportation safety plan under paragraph (1) shall
5 include—

6 “(A) safety performance criteria for all
7 modes of public transportation;

8 “(B) a definition for the term ‘state of
9 good repair’ for public transportation systems,
10 including equipment, rolling stock, infrastruc-
11 ture, and facilities;

12 “(C) minimum safety performance stand-
13 ards for public transportation vehicles used in
14 revenue operations that—

15 “(i) do not apply to rolling stock oth-
16 erwise regulated by the Secretary or any
17 other Federal agency; and

18 “(ii) to the extent practicable, take
19 into consideration—

20 “(I) relevant recommendations of
21 the National Transportation Safety
22 Board; and

23 “(II) recommendations of, and
24 best practices standards developed by,

1 the public transportation industry;
2 and

3 “(D) a public transportation safety certifi-
4 cation training program, as described in sub-
5 section (c).

6 “(c) PUBLIC TRANSPORTATION SAFETY CERTIFI-
7 CATION TRAINING PROGRAM.—

8 “(1) IN GENERAL.—The Secretary shall estab-
9 lish a public transportation safety certification train-
10 ing program for Federal and State employees, or
11 other designated personnel, who conduct safety au-
12 dits and examinations of public transportation sys-
13 tems and employees of public transportation agen-
14 cies directly responsible for safety oversight.

15 “(2) INTERIM PROVISIONS.—Not later than 90
16 days after the date of enactment of the Public
17 Transportation Safety Act of 2010, the Secretary
18 shall establish interim provisions for the certification
19 and training of the personnel described in paragraph
20 (1), which shall be in effect until the effective date
21 of the final rule issued by the Secretary to imple-
22 ment this subsection.

23 “(d) PUBLIC TRANSPORTATION AGENCY SAFETY
24 PLAN.—

1 “(1) IN GENERAL.—Effective 1 year after the
2 effective date of a final rule issued by the Secretary
3 to carry out this subsection, each recipient shall cer-
4 tify that the recipient has established a comprehen-
5 sive agency safety plan that includes, at a min-
6 imum—

7 “(A) a requirement that the board of di-
8 rectors, or equivalent entity, of the recipient ap-
9 prove the agency safety plan and any updates
10 to the agency safety plan;

11 “(B) methods for identifying and evalu-
12 ating safety risks throughout all elements of the
13 public transportation system of the recipient;

14 “(C) strategies to minimize the exposure of
15 the public, personnel, and property to hazards
16 and unsafe conditions;

17 “(D) a process and timeline for conducting
18 an annual review and update of the safety plan
19 of the recipient;

20 “(E) assignment of an adequately trained
21 safety officer who reports directly to the general
22 manager, president, or equivalent officer of the
23 recipient; and

24 “(F) a comprehensive staff training pro-
25 gram for the operations personnel and per-

1 sonnel directly responsible for safety of the re-
2 cipient that includes—

3 “(i) the completion of a safety train-
4 ing program; and

5 “(ii) continuing safety education and
6 training.

7 “(2) INTERIM AGENCY SAFETY PLAN.—A sys-
8 tem safety plan developed pursuant to part 659 of
9 title 49, Code of Federal Regulations shall remain in
10 effect until such time as this subsection takes effect.

11 “(e) STATE SAFETY OVERSIGHT PROGRAM.—

12 “(1) DEFINITION.—In this subsection, the term
13 ‘eligible State’ means a State that has—

14 “(A) a rail fixed guideway public transpor-
15 tation system within the jurisdiction of the
16 State that is not subject to regulation by the
17 Federal Railroad Administration; or

18 “(B) a rail fixed guideway public transpor-
19 tation system in the design or construction
20 phase of development within the jurisdiction of
21 the State that will not be subject to regulation
22 by the Federal Railroad Administration.

23 “(2) IN GENERAL.—In order to obligate funds
24 apportioned under section 5338 to carry out this
25 chapter, effective 3 years after the date on which a

1 final rule under this subsection becomes effective, an
2 eligible State shall have in effect a State safety over-
3 sight program approved by the Secretary under
4 which the State—

5 “(A) assumes responsibility for overseeing
6 rail fixed guideway public transportation safety;

7 “(B) adopts and enforces Federal law on
8 rail fixed guideway public transportation safety;

9 “(C) establishes a State safety oversight
10 agency;

11 “(D) determines, in consultation with the
12 Secretary, an appropriate staffing level for the
13 State safety oversight agency that is commensu-
14 rate with the number, size and complexity of
15 the rail fixed guideway public transportation
16 systems in the eligible State;

17 “(E) requires that employees and other
18 designated personnel of the eligible State safety
19 oversight agency who are responsible for rail
20 fixed guideway public transportation safety
21 oversight are qualified to perform such func-
22 tions through appropriate training, including
23 successful completion of the public transpor-
24 tation safety certification training program es-
25 tablished under subsection (c); and

1 “(F) prohibits any public transportation
2 agency from providing funds to the State safety
3 oversight agency or an entity designated by the
4 eligible State as the State safety oversight
5 agency under paragraph (5).

6 “(3) STATE SAFETY OVERSIGHT AGENCY.—

7 “(A) IN GENERAL.—Each State safety
8 oversight program shall establish a State safety
9 oversight agency that—

10 “(i) is an independent legal entity re-
11 sponsible for the safety of rail fixed guide-
12 way public transportation systems;

13 “(ii) is financially and legally inde-
14 pendent from any public transportation en-
15 tity that the State safety oversight agency
16 oversees;

17 “(iii) does not fund, promote, or pro-
18 vide public transportation services;

19 “(iv) does not employ any individual
20 who is also responsible for the administra-
21 tion of public transportation programs;

22 “(v) has the authority to review, ap-
23 prove, oversee, and enforce the implemen-
24 tation by the rail fixed guideway public
25 transportation agency of the public trans-

1 portation agency safety plan required
2 under subsection (d);

3 “(vi) has investigative and enforce-
4 ment authority with respect to the safety
5 of rail fixed guideway public transportation
6 systems of the eligible State;

7 “(vii) audits, at least once triennially,
8 the compliance of the rail fixed guideway
9 public transportation systems in the eligi-
10 ble State subject to this subsection with
11 the public transportation agency safety
12 plan required under subsection (d); and

13 “(viii) provides, at least once annu-
14 ally, a status report on the safety of the
15 rail fixed guideway public transportation
16 systems the State safety oversight agency
17 oversees to—

18 “(I) the Federal Transit Admin-
19 istration;

20 “(II) the Governor of the eligible
21 State or States; and

22 “(III) the board of directors, or
23 equivalent entity, of any rail fixed
24 guideway public transportation system

1 that the State safety oversight agency
2 oversees.

3 “(B) WAIVER.—At the request of an eligi-
4 ble State, the Secretary may waive clauses (i)
5 and (iii) of subparagraph (A) for eligible States
6 with 1 or more rail fixed guideway systems in
7 revenue operations, design, or construction,
8 that—

9 “(i) have fewer than 1,000,000 com-
10 bined actual and projected rail fixed guide-
11 way revenue miles per year; or

12 “(ii) provide fewer than 10,000,000
13 combined actual and projected unlinked
14 passenger trips per year.

15 “(4) ENFORCEMENT.—Each State safety over-
16 sight agency shall have the authority to request the
17 Secretary take enforcement actions available under
18 subsection (g) against a rail fixed guideway public
19 transportation system that is not in compliance with
20 Federal safety laws.

21 “(5) PROGRAMS FOR MULTI-STATE RAIL FIXED
22 GUIDEWAY PUBLIC TRANSPORTATION SYSTEMS.—An
23 eligible State that has within the jurisdiction of the
24 eligible State a rail fixed guideway public transpor-

1 tation system that operates in more than 1 eligible
2 State shall—

3 “(A) jointly with all other eligible States in
4 which the rail fixed guideway public transpor-
5 tation system operates, to ensure uniform safe-
6 ty standards and enforcement procedures that
7 shall be in compliance with this section, estab-
8 lish and implement a State safety oversight pro-
9 gram approved by the Secretary; or

10 “(B) jointly with all other eligible States in
11 which the rail fixed guideway public transpor-
12 tation system operates, designate an entity hav-
13 ing characteristics consistent with the charac-
14 teristics described in paragraph (3) to carry out
15 the State safety oversight program approved by
16 the Secretary.

17 “(6) GRANTS.—

18 “(A) IN GENERAL.—The Secretary may
19 make a grant to an eligible State to develop or
20 carry out a State safety oversight program, if
21 the eligible State submits—

22 “(i) a proposal for the establishment
23 of a State safety oversight program to the
24 Secretary for review and written approval

1 before implementing a State safety over-
2 sight program; and

3 “(ii) any amendment to the State
4 safety oversight program of the eligible
5 State to the Secretary for review not later
6 than 60 days before the effective date of
7 the amendment.

8 “(B) DETERMINATION BY SECRETARY.—

9 “(i) IN GENERAL.—The Secretary
10 shall transmit written approval to an eligi-
11 ble State that submits a State safety over-
12 sight program, if the Secretary determines
13 the State safety oversight program meets
14 the requirements of this subsection and the
15 State safety oversight program is adequate
16 to promote the purposes of this section.

17 “(ii) AMENDMENT.—The Secretary
18 shall transmit to an eligible State that sub-
19 mits an amendment under subparagraph
20 (A)(ii) a written determination with re-
21 spect to the amendment.

22 “(iii) NO WRITTEN DECISION.—If an
23 eligible State does not receive a written de-
24 cision from the Secretary with respect to
25 an amendment submitted under subpara-

1 graph (A)(ii) before the end of the 60-day
2 period beginning on the date on which the
3 eligible State submits the amendment, the
4 amendment shall be deemed to be ap-
5 proved.

6 “(iv) DISAPPROVAL.—If the Secretary
7 determines that a State safety oversight
8 program does not meet the requirements of
9 this subsection, the Secretary shall trans-
10 mit to the eligible State a written expla-
11 nation and allow the eligible State to mod-
12 ify and resubmit the State safety oversight
13 program for approval.

14 “(C) FEDERAL SHARE.—

15 “(i) IN GENERAL.—The Federal share
16 of the reasonable cost of a State safety
17 oversight program developed or carried out
18 using a grant under this paragraph shall
19 be 80 percent.

20 “(ii) IN-KIND CONTRIBUTIONS.—Any
21 calculation of the non-Federal share of a
22 State safety oversight program shall in-
23 clude in-kind contributions by an eligible
24 State.

1 “(iii) NON-FEDERAL SHARE.—The
2 non-Federal share of the cost of a State
3 safety oversight program developed or car-
4 ried out using a grant under this para-
5 graph may not be met by—

6 “(I) any Federal funds;

7 “(II) any funds received from a
8 public transportation agency; or

9 “(III) any revenues earned by a
10 public transportation agency.

11 “(iv) SAFETY TRAINING PROGRAM.—
12 The Secretary may reimburse an eligible
13 State or a recipient for the full costs of
14 participation in the public transportation
15 safety certification training program estab-
16 lished under subsection (c) by an employee
17 of a State safety oversight agency or a re-
18 cipient who is directly responsible for safe-
19 ty oversight.

20 “(7) CONTINUAL EVALUATION OF PROGRAM.—
21 The Secretary shall continually evaluate the imple-
22 mentation of a State safety oversight program by a
23 State safety oversight agency, on the basis of—

1 “(A) reports submitted by the State safety
2 oversight agency under paragraph (3)(A)(viii);
3 and

4 “(B) audits carried out by the Secretary.

5 “(8) INADEQUATE PROGRAM.—

6 “(A) IN GENERAL.—If the Secretary finds
7 that a State safety oversight program approved
8 by the Secretary is not being carried out in ac-
9 cordance with this section or has become inad-
10 equate to ensure the enforcement of Federal
11 safety regulations, the Secretary shall—

12 “(i) transmit to the eligible State a
13 written explanation of the reason the pro-
14 gram has become inadequate and inform
15 the State of the intention to withhold
16 funds, including the amount of funds pro-
17 posed to be withheld under this section, or
18 withdraw approval of the State safety over-
19 sight program; and

20 “(ii) allow the eligible State a reason-
21 able period of time to modify the State
22 safety oversight program or implementa-
23 tion of the program and submit an up-
24 dated proposal for the State safety over-

1 sight program to the Secretary for ap-
2 proval.

3 “(B) FAILURE TO CORRECT.—If the Sec-
4 retary determines that a modification by an eli-
5 gible State of the State safety oversight pro-
6 gram is not sufficient to ensure the enforcement
7 of Federal safety regulations, the Secretary
8 may—

9 “(i) withhold funds available under
10 this section in an amount determined by
11 the Secretary; or

12 “(ii) provide written notice of with-
13 drawal of State safety oversight program
14 approval.

15 “(C) TEMPORARY OVERSIGHT.—In the
16 event the Secretary takes action under subpara-
17 graph (B)(ii), the Secretary shall provide over-
18 sight of the rail fixed guideway systems in an
19 eligible State until the State submits a State
20 safety oversight program approved by the Sec-
21 retary.

22 “(D) RESTORATION.—

23 “(i) CORRECTION.—The eligible State
24 shall address any inadequacy to the satis-
25 faction of the Secretary prior to the Sec-

1 retary restoring funds withheld under this
2 paragraph.

3 “(ii) AVAILABILITY AND REALLOCA-
4 TION.—Any funds withheld under this
5 paragraph shall remain available for res-
6 toration to the eligible State until the end
7 of the first fiscal year after the fiscal year
8 in which the funds were withheld, after
9 which time the funds shall be available to
10 the Secretary for allocation to other eligi-
11 ble States under this section.

12 “(9) FEDERAL OVERSIGHT.—The Secretary
13 shall—

14 “(A) oversee the implementation of each
15 State safety oversight program under this sub-
16 section;

17 “(B) audit the operations of each State
18 safety oversight agency at least once triennially;
19 and

20 “(C) issue regulations to carry out this
21 subsection.

22 “(f) AUTHORITY OF SECRETARY.—In carrying out
23 this section, the Secretary may—

24 “(1) conduct inspections, investigations, audits,
25 examinations, and testing of the equipment, facili-

1 ties, rolling stock, and operations of the public
2 transportation system of a recipient;

3 “(2) make reports and issue directives with re-
4 spect to the safety of the public transportation sys-
5 tem of a recipient;

6 “(3) issue subpoenas to, and take depositions
7 of, any employee of a recipient or a State safety
8 oversight agency;

9 “(4) require the production of documents by,
10 and prescribe recordkeeping and reporting require-
11 ments for, a recipient or a State safety oversight
12 agency;

13 “(5) investigate public transportation accidents
14 and incidents and provide guidance to recipients re-
15 garding prevention of accidents and incidents;

16 “(6) at reasonable times and in a reasonable
17 manner, enter and inspect equipment, facilities, roll-
18 ing stock, operations, and relevant records of the
19 public transportation system of a recipient; and

20 “(7) issue regulations to carry out this section.

21 “(g) ENFORCEMENT ACTIONS.—

22 “(1) TYPES OF ENFORCEMENT ACTIONS.—The
23 Secretary may take enforcement action against a re-
24 cipient that does not comply with Federal law with

1 respect to the safety of the public transportation
2 system, including—

3 “(A) issuing directives;

4 “(B) requiring more frequent oversight of
5 the recipient by a State safety oversight agency
6 or the Secretary;

7 “(C) imposing more frequent reporting re-
8 quirements;

9 “(D) requiring that Federal transit for-
10 mula grant funds be spent on correcting safety
11 deficiencies identified by the Secretary or the
12 State safety oversight agency before such funds
13 are spent on other projects;

14 “(E) subject to paragraph (2), withholding
15 Federal financial assistance, in an amount to be
16 determined by the Secretary, from the recipient,
17 until such time as the recipient comes into com-
18 pliance with this section; and

19 “(F) subject to paragraph (3), imposing a
20 civil penalty, in an amount to be determined by
21 the Secretary.

22 “(2) USE OR WITHHOLDING OF FUNDS.—

23 “(A) IN GENERAL.—The Secretary may re-
24 quire the use of funds in accordance with para-
25 graph (1)(D), or withhold funds under para-

1 graph (1)(E), only if the Secretary finds that a
2 recipient is engaged in a pattern or practice of
3 serious safety violations or has otherwise re-
4 fused to comply with Federal law relating to the
5 safety of the public transportation system.

6 “(B) NOTICE.—Before withholding funds
7 from a recipient under paragraph (1)(E), the
8 Secretary shall provide to the recipient—

9 “(i) written notice of a violation and
10 the amount proposed to be withheld; and

11 “(ii) a reasonable period of time with-
12 in which the recipient may address the vio-
13 lation or propose and initiate an alter-
14 native means of compliance that the Sec-
15 retary determines is acceptable.

16 “(C) FAILURE TO ADDRESS.—If the recipi-
17 ent does not address the violation or propose an
18 alternative means of compliance that the Sec-
19 retary determines is acceptable within the pe-
20 riod of time specified in the written notice, the
21 Secretary may withhold funds under paragraph
22 (1)(E).

23 “(D) RESTORATION.—

24 “(i) CORRECTION.—The recipient
25 shall address any violation to the satisfac-

1 tion of the Secretary prior to the Secretary
2 restoring funds withheld under paragraph
3 (1)(E).

4 “(ii) AVAILABILITY AND REALLOCA-
5 TION.—Any funds withheld under para-
6 graph (1)(E) shall remain available for res-
7 toration to the recipient until the end of
8 the first fiscal year after the fiscal year in
9 which the funds were withheld, after which
10 time the funds shall be available to the
11 Secretary for allocation to other eligible re-
12 cipients.

13 “(E) NOTIFICATION.—Not later than 3
14 days before taking any action under subpara-
15 graph (C), the Secretary shall notify the Com-
16 mittee on Banking, Housing, and Urban Affairs
17 of the Senate and the Committee on Transpor-
18 tation and Infrastructure of the House of Rep-
19 resentatives of such action.

20 “(3) CIVIL PENALTIES.—

21 “(A) IMPOSITION OF CIVIL PENALTIES.—

22 “(i) IN GENERAL.—The Secretary
23 may impose a civil penalty under para-
24 graph (1)(F), only if—

1 “(I) the Secretary has exhausted
2 the enforcement actions available
3 under subparagraphs (A) through (E)
4 of paragraph (1); and

5 “(II) the recipient continues to
6 be in violation of Federal safety law.

7 “(ii) EXCEPTION.—The Secretary
8 may waive the requirement under clause
9 (i)(I), if the Secretary determines that
10 such a waiver is in the public interest.

11 “(B) NOTICE.—Before imposing a civil
12 penalty on a recipient under paragraph (1)(F),
13 the Secretary shall provide to the recipient—

14 “(i) written notice of any violation
15 and the penalty proposed to be imposed;
16 and

17 “(ii) a reasonable period of time with-
18 in which the recipient may address the vio-
19 lation or propose and initiate an alter-
20 native means of compliance that the Sec-
21 retary determines is acceptable.

22 “(C) FAILURE TO ADDRESS.—If the recipi-
23 ent does not address the violation or propose an
24 alternative means of compliance that the Sec-
25 retary determines is acceptable within the pe-

1 riod of time specified in the written notice, the
2 Secretary may impose a civil penalty under
3 paragraph (1)(F).

4 “(D) NOTIFICATION.—Not later than 3
5 days before taking any action under subpara-
6 graph (C), the Secretary shall notify the Com-
7 mittee on Banking, Housing, and Urban Affairs
8 of the Senate and the Committee on Transpor-
9 tation and Infrastructure of the House of Rep-
10 representatives of such action.

11 “(E) DEPOSIT OF CIVIL PENALTIES.—Any
12 amounts collected by the Secretary under this
13 paragraph shall be deposited into the Mass
14 Transit Account of the Highway Trust Fund.

15 “(4) ENFORCEMENT BY THE ATTORNEY GEN-
16 ERAL.—At the request of the Secretary, the Attor-
17 ney General may bring a civil action—

18 “(A) for appropriate injunctive relief to en-
19 sure compliance with this section;

20 “(B) to collect a civil penalty imposed
21 under paragraph (1)(F); and

22 “(C) to enforce a subpoena, request for ad-
23 missions, request for production of documents
24 or other tangible things, or request for testi-

1 mony by deposition issued by the Secretary
2 under this section.

3 “(h) COST-BENEFIT ANALYSIS.—

4 “(1) ANALYSIS REQUIRED.—In carrying out
5 this section, the Secretary shall take into consider-
6 ation the costs and benefits of each action the Sec-
7 retary proposes to take under this section.

8 “(2) WAIVER.—The Secretary may waive the
9 requirement under this subsection, if the Secretary
10 determines that such a waiver is in the public inter-
11 est.

12 “(i) CONSULTATION BY THE SECRETARY OF HOME-
13 LAND SECURITY.—The Secretary of Homeland Security
14 shall consult with the Secretary of Transportation before
15 the Secretary of Homeland Security prescribes a regula-
16 tion or issues an order that the Secretary of Transpor-
17 tation determines affects the safety of public transpor-
18 tation design, construction, or operations.

19 “(j) PREEMPTION OF STATE LAW.—

20 “(1) NATIONAL UNIFORMITY OF REGULA-
21 TION.—Laws, regulations, and orders related to pub-
22 lic transportation safety shall be nationally uniform
23 to the extent practicable.

24 “(2) IN GENERAL.—A State may adopt or con-
25 tinue in force a law, regulation, or order related to

1 the safety of public transportation until the Sec-
2 retary promulgates a regulation or issues an order
3 covering the subject matter of the State require-
4 ment.

5 “(3) MORE STRINGENT LAW.—A State may
6 adopt or continue in force a law, regulation, or order
7 related to the safety of public transportation that is
8 consistent with, in addition to or more stringent
9 than a regulation or order of the Secretary, if the
10 Secretary determines that the law, regulation, or
11 order—

12 “(A) has a safety benefit;

13 “(B) is not incompatible with a law, regu-
14 lation, or order, or the terms and conditions of
15 a financial assistance agreement of the United
16 States Government; and

17 “(C) does not unreasonably burden inter-
18 state commerce.

19 “(4) ACTIONS UNDER STATE LAW.—

20 “(A) RULE OF CONSTRUCTION.—Nothing
21 in this section shall be construed to preempt an
22 action under State law seeking damages for
23 personal injury, death, or property damage al-
24 leging that a party has failed to comply with—

1 “(i) a Federal standard of care estab-
2 lished by a regulation or order issued by
3 the Secretary under this section;

4 “(ii) its own program, rule, or stand-
5 ard that it created pursuant to a regula-
6 tion or order issued by the Secretary; or

7 “(iii) a State law, regulation, or order
8 that is not incompatible with paragraph
9 (2).

10 “(B) EFFECTIVE DATE.—This paragraph
11 shall apply to any cause of action under State
12 law arising from an event or activity occurring
13 on or after the date of enactment of the Public
14 Transportation Safety Act of 2010.

15 “(5) JURISDICTION.—Nothing in this section
16 may be construed to create a cause of action under
17 Federal law on behalf of an injured party or confers
18 Federal question jurisdiction for such State law
19 causes of action.

20 “(k) ANNUAL REPORT.—The Secretary shall submit
21 to the Committee on Banking, Housing, and Urban Af-
22 fairs of the Senate and the Committee on Transportation
23 and Infrastructure of the House of Representatives an an-
24 nual report that—

1 “(1) analyzes public transportation safety
2 trends among the States and documents the most ef-
3 fective safety programs implemented using grants
4 under this section; and

5 “(2) describes the effect on public transpor-
6 tation safety of activities carried out using grants
7 under this section.

8 “(1) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated to carry out this sec-
10 tion—

11 “(1) \$10,000,000 for fiscal year 2011;

12 “(2) \$20,000,000 for fiscal year 2012; and

13 “(3) \$30,000,000 for fiscal year 2013.”.

14 (b) REVIEWS AND REPORTS BY THE COMPTROLLER
15 GENERAL.—

16 (1) REVIEW OF IMPLEMENTATION OF THIS
17 ACT.—

18 (A) REVIEW.—The Comptroller General of
19 the United States shall conduct a review of the
20 status of the implementation of this Act.

21 (B) REPORT.—Not later than 2 years after
22 the date of enactment of this Act, the Comp-
23 troller General shall submit to the Committee
24 on Banking, Housing, and Urban Affairs of the
25 Senate and the Committee on Transportation

1 and Infrastructure of the House of Representa-
2 tives a report on the results of the review under
3 subparagraph (A).

4 (2) REVIEW OF IMPLEMENTATION OF STATE
5 SAFETY OVERSIGHT PROGRAMS.—

6 (A) REVIEW.—The Comptroller General of
7 the United States shall conduct a review of the
8 status of the implementation of section 5329(e)
9 of title 49, United States Code, as added by
10 this Act.

11 (B) REPORT.—Not later than 1 year after
12 section 5330 of title 49, United States Code, is
13 repealed under section 6(f) of this Act, the
14 Comptroller General shall submit to the Com-
15 mittee on Banking, Housing, and Urban Affairs
16 of the Senate and the Committee on Transpor-
17 tation and Infrastructure of the House of Rep-
18 resentatives a report on the results of the re-
19 view under subparagraph (A).

20 **SEC. 4. TRANSIT ASSET MANAGEMENT.**

21 Section 5326 of title 49, United States Code, is
22 amended to read as follows:

23 **“§ 5326. Transit asset management**

24 “(a) DEFINITIONS.—In this section the following
25 definitions shall apply:

1 “(1) CAPITAL ASSET.—The term ‘capital asset’
2 includes equipment, rolling stock, infrastructure, and
3 facilities for use in public transportation and owned
4 or leased by a recipient or subrecipient of Federal fi-
5 nancial assistance under this chapter.

6 “(2) TRANSIT ASSET MANAGEMENT SYSTEM.—
7 The term ‘transit asset management system’ means
8 a strategic and systematic process of operating,
9 maintaining, and improving public transportation
10 capital assets effectively throughout the life cycle of
11 such assets.

12 “(b) TRANSIT ASSET MANAGEMENT SYSTEM.—The
13 Secretary shall establish and implement a national transit
14 asset management system, which shall include—

15 “(1) a definition of the term ‘state of good re-
16 pair’ that includes objective standards for measuring
17 the condition of capital assets of recipients;

18 “(2) a requirement that recipients and sub-
19 recipients of funds under this chapter develop capital
20 asset inventories and condition assessments;

21 “(3) a requirement that each recipient of fund-
22 ing under this chapter report on the condition of the
23 system of the recipient and provide a description of
24 the change in condition since the last report;

1 “(4) an analytical process or decision support
2 tool for use by public transportation systems that—

3 “(A) allows for the estimation of capital
4 investment needs of such systems over time;
5 and

6 “(B) assists with asset investment
7 prioritization by such systems; and

8 “(5) technical assistance to recipients of finan-
9 cial assistance under this chapter.

10 “(c) RULEMAKING.—Not later than 240 days after
11 the date of enactment of the Public Transportation Safety
12 Act of 2010, the Secretary shall issue a notice of proposed
13 rulemaking to implement the transit asset management
14 system described in subsection (b), and shall issue a final
15 rule within a reasonable amount of time.

16 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated to carry out this sec-
18 tion—

19 “(1) \$2,000,000 for fiscal year 2011;

20 “(2) \$2,000,000 for fiscal year 2012; and

21 “(3) \$2,000,000 for fiscal year 2013.”.

22 **SEC. 5. NATIONAL TRANSIT DATABASE.**

23 (a) REPORTING REQUIREMENTS.—

1 (1) AMENDMENT.—Section 5335 of title 49,
2 United States Code, is amended by adding at the
3 end the following:

4 “(c) DATA REQUIRED TO BE REPORTED.—The Sec-
5 retary may award a grant under this chapter only if the
6 recipient of the grant reports to the Secretary, for inclu-
7 sion in the National Transit Database, any information
8 relating to—

9 “(1) the causes of reportable incidents, as de-
10 fined by the Secretary; and

11 “(2) transit asset inventories and condition as-
12 sessments conducted by the recipient.”.

13 (2) EFFECTIVE DATE.—The amendment made
14 by this subsection shall take effect 2 years after the
15 effective date of the final rule issued under section
16 5326(e) of title 49, United States Code, as amended
17 by this Act.

18 (b) CONDITIONS AND PERFORMANCE REPORTING.—
19 Section 308(e) of title 49, United States Code, is amended
20 by adding at the end the following:

21 “(3) In reporting to Congress under this subsection,
22 the Secretary shall use data reported to the National
23 Transit Database under section 5335.”.

1 **SEC. 6. ADDITIONAL SAFETY PROVISIONS.**

2 (a) OFFICE OF SAFETY AND SECURITY.—There is es-
3 tablished within the Federal Transit Administration the
4 Office of Safety and Security. The head of the Office of
5 Safety and Security shall be the Associate Administrator
6 of Safety and Security.

7 (b) PROHIBITIONS AGAINST REGULATING OPER-
8 ATIONS AND CHARGES.—Section 5334(b)(1) of title 49,
9 United States Code, is amended by inserting “or for pur-
10 poses of establishing and enforcing a program to improve
11 the safety of public transportation systems in the United
12 States,” after “emergency,”.

13 (c) GRANT RECIPIENT REQUIREMENTS.—

14 (1) AMENDMENTS.—Section 5307(d)(1) of title
15 49, United States Code, is amended—

16 (A) in subparagraph (K)(ii), by striking
17 “and” at the end; and

18 (B) by adding at the end the following:

19 “(L) will comply with section 5329(d);
20 and”.

21 (2) EFFECTIVE DATE.—The amendments made
22 by this subsection shall take effect 1 year after the
23 effective date of final regulations issued by the Sec-
24 retary to carry out section 5329(d) of title 49,
25 United States Code, as amended by this Act.

1 (d) ALCOHOL AND CONTROLLED SUBSTANCES TEST-
2 ING.—Section 5331(b)(2) of title 49, United States Code,
3 is amended—

4 (1) by redesignating subparagraphs (A) and
5 (B) as subparagraphs (B) and (C), respectively; and

6 (2) by inserting before subparagraph (B), as so
7 redesignated, the following:

8 “(A) shall establish and implement an enforce-
9 ment program that includes the imposition of pen-
10 alties for failure to comply with this section;”.

11 (e) CONFORMING AMENDMENT.—The analysis for
12 chapter 53 of title 49, United States Code, is amended—

13 (1) by striking the item relating to section 5326
14 and inserting the following:

“5326. Transit asset management.”; and

15 (2) by striking the item relating to section 5329
16 and inserting the following:

“5329. Public transportation safety program.”.

17 (f) REPEAL.—Effective 3 years after the effective
18 date of final regulations issued by the Secretary under sec-
19 tion 5329(e) of title 49, United States Code, as amended
20 by this Act, section 5330 of title 49, United States Code,
21 is repealed.

Calendar No. 480

11TH CONGRESS
2^D Session

S. 3638

A BILL

To establish a national safety plan for public transportation, and for other purposes.

JULY 22, 2010

Read twice and placed on the calendar