

REID) was added as a cosponsor of S. 1358, a bill to protect scientific integrity in Federal research and policy-making.

S. 1360

At the request of Mr. SMITH, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 1360, a bill to amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage to designated plan beneficiaries of employees, and for other purposes.

S. 1369

At the request of Mr. TALENT, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 1369, a bill to establish an Unsolved Crimes Section in the Civil Rights Division of the Department of Justice.

S.J. RES. 12

At the request of Mr. HATCH, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S.J. Res. 12, a joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

S.J. RES. 15

At the request of Mr. BROWNBACK, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S.J. Res. 15, a joint resolution to acknowledge a long history of official depredations and ill-conceived policies by the United States Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States.

S. CON. RES. 16

At the request of Mr. BINGAMAN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. Con. Res. 16, a concurrent resolution conveying the sympathy of Congress to the families of the young women murdered in the State of Chihuahua, Mexico, and encouraging increased United States involvement in bringing an end to these crimes.

S. RES. 83

At the request of Mr. SANTORUM, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. Res. 83, a resolution commemorating the 65th Anniversary of the Black Press of America.

S. RES. 184

At the request of Mr. SANTORUM, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. Res. 184, a resolution expressing the sense of the Senate regarding manifestations of anti-Semitism by United Nations member states and urging action against anti-Semitism by United Nations officials, United Nations member states, and the Government of the United States, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCAIN (for himself and Mr. DORGAN):

S. 1374. A bill to amend the Homeland Security Act of 2002 to provide for a border preparedness pilot program on Indian land; read the first time.

Mr. MCCAIN. Mr. President, I am pleased to introduce a bill that authorizes the Secretary of Homeland Security to establish a pilot program to enhance an Indian tribe's response to border activity. I am pleased to be joined by the vice chairman of the Indian Affairs Committee, Senator BYRON DORGAN, and my good friend and colleague from Arizona, Senator JON KYL, as original cosponsors of this bill.

This bill establishes a pilot program to enhance tribal first responder capabilities, provide assistance for surveillance technologies and communication capabilities and to facilitate coordination and cooperation with Federal, State, local and tribal governments along the international border. The criteria for participation in the pilot program is to be prescribed by the Secretary taking into consideration the tribes' proximity to the border and the extent to which border crossing activity impacts existing tribal resources.

This bill is substantially similar to Section 182 of S. 536, the Native American Omnibus Act of 2005, which was unanimously passed out of the Committee on Indian Affairs earlier this year. It has been modified to address several concerns including to clarify that it does not alter the original jurisdiction or traditional role of the Federal agencies responding to border crimes or any Indian tribe.

Several Indian tribes inhabit land on or easily accessible to the United States and Canada and Mexico. This bill recognizes that these tribes are exceptionally vulnerable to border crimes. And, although enforcement of our immigration laws and border security is a Federal responsibility, these tribes continue to bear extraordinary costs in responding to border crimes and almost always divert funds intended for local police and welfare services to do so. For example, a tribal police officer may see suspicious drug or immigrant smuggling activity occurring within the Indian tribes boundaries or come upon an accident scene or death involving illegal immigrants or drug smugglers. The tribal officer is required to notify Federal officials and render aid to the injured. The Federal official may be hours away and the tribal police are usually asked to detain the suspects or possibly transport them to medical aid. Meanwhile, the tribal police agency is unable to respond to community calls for service.

Additionally, tribal police are intimately familiar with their territory and are able to provide Federal agencies with information that is useful in fulfilling their responsibilities.

I recognize that Federal and State agencies play the primary role in these

efforts. However, in specific areas of this Nation, tribal government police, fire and emergency services often provide the first and often only response because of their access to the border. A tribe's proximity to the border and its responsibility for public safety and welfare of their members requires that they respond. Simply put, Indian tribes situated close to the international border are vulnerable and greatly impacted and we must acknowledge their daily role in responding to border crimes. This bill gives them added tools to do so.

I ask unanimous consent that my remarks and the full text of the bill be included in the RECORD.

S. 1374

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BORDER PREPAREDNESS ON INDIAN LAND.

Subtitle D of title IV of the Homeland Security Act of 2002 (6 U.S.C. 251 et seq.) is amended by adding at the end the following:

“SEC. 447. BORDER PREPAREDNESS PILOT PROGRAM ON INDIAN LAND.

“(a) DEFINITIONS.—In this section:

“(1) INDIAN LAND.—The term ‘Indian land’ means—

“(A) all land within the boundaries of any Indian reservation; and

“(B) any land the title to which is—

“(i) held in trust by the United States for the benefit of an Indian tribe or individual; or

“(ii) held by any Indian tribe or individual—

“(I) subject to a restriction by the United States against alienation; and

“(II) over which an Indian tribe exercises governmental authority.

“(2) INDIAN TRIBE.—The term ‘Indian tribe’ means any Indian tribe, band, nation, or other organized group or community that is recognized by the Secretary as—

“(A) eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

“(B) possessing powers of self-government.

“(3) TRIBAL GOVERNMENT.—The term ‘tribal government’ means the governing body of an Indian tribe.

“(b) PURPOSE.—The purpose of this section is to require the Secretary, acting through the Office of Domestic Preparedness, to establish a pilot program for not fewer than 6 tribal governments on Indian land located on or near the border of the United States with Canada or Mexico in order to—

“(1) facilitate the coordination of the response of an Indian tribe to a threat to the security of an international border of the United States with the responses of Federal, State, and local governments;

“(2) enhance the capability of an Indian tribe as a first responder to an illegal crossing of an immigrant over an international border of the United States;

“(3) provide training and technical assistance to Indian tribes in the use by the tribes of effective surveillance technologies, integrated communication systems and equipment, and personnel training; and

“(4) provide technical advice and assistance to Indian tribes to plan and implement strategies to detect and prevent—

“(A) any illegal entry by a person into the land of the tribes; and

“(B) the transportation of any illegal substance within or near the boundaries of the land of the tribes.

“(c) PILOT PROGRAM.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary, acting through the Office of Domestic Preparedness, shall establish a pilot program under which the Secretary provides direct grants to eligible tribal governments, as determined by the Secretary, to achieve the purposes of this section.

“(2) USE OF FUNDS AND ASSISTANCE.—

“(A) IN GENERAL.—A tribal government shall use any funds or assistance provided under paragraph (1) consistent with the purposes of this section.

“(B) ADMINISTRATION BY TRIBAL GOVERNMENTS.—A tribal government that receives any funds or assistance under paragraph (1) shall administer the funds or assistance in accordance with any requirement or regulation promulgated by the Secretary.

“(3) SELECTION CRITERIA.—In selecting a tribal government to receive funds or assistance under paragraph (1), the Secretary may take into consideration—

“(A) the distance between the Indian land in the jurisdiction of the tribal government and an international border of the United States;

“(B) the extent to which the resources of the Indian tribe are affected by—

- “(i) a border enforcement effort; or
- “(ii) the threat of illegal immigration; and

“(C) the interests of the Indian tribe.

“(D) REPORTS.—

“(1) TRIBAL GOVERNMENTS.—

“(A) IN GENERAL.—Not later than 1 year after receiving funds or assistance under subsection (c) and annually thereafter, a tribal government shall submit to the Secretary a report in such a manner and containing such information as the Secretary may require.

“(B) INCLUSION.—A report under subparagraph (A) shall include a description of—

“(i) any funds or assistance received by the tribal government under this section;

“(ii) the use of the funds or assistance by the tribal government;

“(iii) any obstacle encountered by the tribal government in administering the funds or assistance; and

“(iv) any accomplishment made or obstacle encountered by the tribal government in developing a cooperative effort with another Indian tribe, the Federal Government, or a State or local government, and the effect of the accomplishment or obstacle on the tribe.

“(2) SECRETARY.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report describing—

“(A) the information contained in the reports under paragraph (1);

“(B) the degree of success of—

“(i) the Secretary in implementing the pilot program; and

“(ii) each project under the pilot program under subsection (c) in achieving the goals of the pilot program; and

“(C) any recommendation, including a legislative recommendation, of the Secretary relating to the pilot program.

“(e) EFFECT OF SECTION.—Nothing in this section affects—

“(1) the authority of the Commissioner of the Bureau of Customs and Border Protection; or

“(2) any authority of an Indian tribe, tribal organization, or tribal government participating in a program under this section.

“(f) EFFECT OF FUND ALLOCATION.—Any funds allocated under this section shall be in addition to, and not in lieu of, any funds available to an Indian tribe, tribal organization, or tribal government under this Act.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$3,500,000 for each of fiscal years 2006 through 2008.”.

S. RES. 194

Relative to the death of Gaylord A. Nelson, former United States Senator for the State of Wisconsin.

Whereas Gaylord A. Nelson served in the United States Army from 1942–1946;

Whereas Gaylord A. Nelson served as Governor of the State of Wisconsin from 1959–1963;

Whereas Gaylord A. Nelson served the people of Wisconsin with distinction for 18 years in the United States Senate;

Whereas Gaylord A. Nelson served the Senate as Chairman of the Select Committee on Small Business from the Ninety-Third through the Ninety-Sixth Congresses and as Chairman of the Special Committee on Official Conduct in the Ninety-Fifth Congress;

Whereas Gaylord A. Nelson received the Presidential Medal of Freedom in 1995;

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Gaylord A. Nelson, former member of the United States Senate.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of the Honorable Gaylord A. Nelson.

By Mr. McCAIN (for himself, Mr. DORGAN, and Mr. KYL):

S. 1375. A bill to amend the Indian Arts and Crafts Act of 1990 to modify provisions relating to criminal proceedings and civil actions, and for other purposes; read the first time.

Mr. McCAIN. Mr. President, today I rise to introduce a much needed amendment to the Indian Arts and Crafts Act. I am pleased to be joined by the vice chairman of the Indian Affairs Committee, Senator BYRON DORGAN, and my good friend and colleague from Arizona, Senator JON KYL as original cosponsors of this bill.

This bill expands the existing Federal investigative authority by authorizing other Federal investigative bodies, such as the BIA Office of Law Enforcement, in addition to the FBI, to investigate cases of misrepresentation of Indian arts and crafts. This bill is substantially the same as Section 111 of the Native American Omnibus Act, S. 536, which passed out of the Committee on Indian Affairs earlier this year. This bill also addresses concerns that were raised by the administration.

A major source of tribal and individual Indian income is derived from the sale of handmade Indian arts and crafts. Yet, today, millions of dollars are diverted each year from these original artists and Indian tribes by those who reproduce and sell counterfeit Indian goods. However, it is my understanding that few, if any, criminal prosecutions have been brought in Federal court for such violations. It is understandable that enforcing the criminal law that prohibits the sale of Indian arts and crafts misrepresented as an Indian product is often stalled by the other responsibilities of the FBI including investigating terrorism activity and violent crimes in Indian country. Therefore, expanding the investi-

tigative authority to include other Federal agencies is intended to promote the active investigation of alleged misconduct. It is my hope that with this much needed change will deter those who dare to violate the act.

I ask unanimous consent that text of the bill be printed in the RECORD.

S. 1375

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Indian Arts and Crafts Amendments Act of 2005”.

SEC. 2. INDIAN ARTS AND CRAFTS.

(a) CRIMINAL PROCEEDINGS; CIVIL ACTIONS; MISREPRESENTATIONS.—Section 5 of the Act entitled “An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes” (25 U.S.C. 305d) is amended to read as follows:

“SEC. 5. CRIMINAL PROCEEDINGS; CIVIL ACTIONS.

“(a) DEFINITION OF FEDERAL LAW ENFORCEMENT OFFICER.—In this section, the term ‘Federal law enforcement officer’ includes—

“(1) a Federal law enforcement officer (as defined in section 115(c) of title 18, United States Code); and

“(2) with respect to a violation of this Act that occurs outside Indian country (as defined in section 1151 of title 18, United States Code), an officer that has authority under section 3 of the Indian Law Enforcement Reform Act (25 U.S.C. 2802), acting in coordination with a Federal law enforcement agency that has jurisdiction over the violation.

“(b) CRIMINAL PROCEEDINGS.—

“(1) REFERRAL.—On receiving a complaint of a violation of section 1159 of title 18, United States Code, the Board may refer the complaint to any Federal law enforcement officer for appropriate investigation.

“(2) FINDINGS.—The findings of an investigation under paragraph (1) shall be submitted to—

“(A) the Attorney General; and

“(B) the Board.

“(3) RECOMMENDATIONS.—On receiving the findings of an investigation in accordance with paragraph (2), the Board may—

“(A) recommend to the Attorney General that criminal proceedings be initiated under section 1159 of that title; and

“(B) provide such support to the Attorney General relating to the criminal proceedings as the Attorney General determines appropriate.

“(c) CIVIL ACTIONS.—In lieu of, or in addition to, any criminal proceeding under subsection (a), the Board may recommend that the Attorney General initiate a civil action pursuant to section 6.”.

(b) CAUSE OF ACTION FOR MISREPRESENTATION.—Section 6 of the Act entitled “An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes” (25 U.S.C. 305e) is amended—

(1) by striking subsection (d);

(2) by redesignating subsections (a) through (c) as subsections (b) through (d), respectively;

(3) by inserting before subsection (b) (as redesignated by paragraph (2)) the following:

“(a) DEFINITIONS.—In this section:

“(1) INDIAN.—The term ‘Indian’ means an individual that—

“(A) is a member of an Indian tribe; or

“(B) is certified as an Indian artisan by an Indian tribe.

“(2) INDIAN PRODUCT.—The term ‘Indian product’ has the meaning given the term in any regulation promulgated by the Secretary.

“(3) INDIAN TRIBE.—

“(A) IN GENERAL.—The term ‘Indian tribe’ has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

“(B) INCLUSION.—The term ‘Indian tribe’ includes an Indian group that has been formally recognized as an Indian tribe by—

“(i) a State legislature;

“(ii) a State commission; or

“(iii) another similar organization vested with State legislative tribal recognition authority.

“(4) SECRETARY.—The term ‘Secretary’ means the Secretary of the Interior.”;

(4) in subsection (b) (as redesignated by paragraph (2)), by striking “subsection (c)” and inserting “subsection (d)”;

(5) in subsection (c) (as redesignated by paragraph (2))—

(A) by striking “subsection (a)” and inserting “subsection (b)”;

(B) by striking “suit” and inserting “the civil action”;

(6) by striking subsection (d) (as redesignated by paragraph (2)) and inserting the following:

“(d) PERSONS THAT MAY INITIATE CIVIL ACTIONS.—

“(1) IN GENERAL.—A civil action under subsection (b) may be initiated by—

“(A) the Attorney General, at the request of the Secretary acting on behalf of—

“(i) an Indian tribe;

“(ii) an Indian; or

“(iii) an Indian arts and crafts organization;

“(B) an Indian tribe, acting on behalf of—

“(i) the tribe;

“(ii) a member of that tribe; or

“(iii) an Indian arts and crafts organization;

“(C) an Indian; or

“(D) an Indian arts and crafts organization.

“(2) DISPOSITION OF AMOUNTS RECOVERED.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), an amount recovered in a civil action under this section shall be paid to the Indian tribe, the Indian, or the Indian arts and crafts organization on the behalf of which the civil action was initiated.

“(B) EXCEPTIONS.—

“(i) ATTORNEY GENERAL.—In the case of a civil action initiated under paragraph (1)(A), the Attorney General may deduct from the amount—

“(I) the amount of the cost of the civil action and reasonable attorney’s fees awarded under subsection (c), to be deposited in the Treasury and credited to appropriations available to the Attorney General on the date on which the amount is recovered; and

“(II) the amount of the costs of investigation awarded under subsection (c), to reimburse the Board for the activities of the Board relating to the civil action.

“(ii) INDIAN TRIBE.—In the case of a civil action initiated under paragraph (1)(B), the Indian tribe may deduct from the amount—

“(I) the amount of the cost of the civil action; and

“(II) reasonable attorney’s fees.”; and

(7) in subsection (e), by striking “(e) In the event that” and inserting the following:

“(e) SAVINGS PROVISION.—If.

(c) CONFORMING AMENDMENT.—Section 1159(c) of title 18, United States Code, is amended by striking paragraph (3) and inserting the following:

“(3) the term ‘Indian tribe’—

“(A) has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b); and

“(B) includes an Indian group that has been formally recognized as an Indian tribe by—

“(i) a State legislature;

“(ii) a State commission; or

“(iii) another similar organization vested with State legislative tribal recognition authority; and”.

Mr. KYL. Mr. President, today I am pleased to join with Senator MCCAIN to introduce the Indian Arts and Crafts Amendments Act of 2005. This legislation strengthens the investigative and enforcement authorities of the underlying Indian Arts and Crafts Act of 1990.

Native arts and crafts are the only indigenous art of America. Unauthentic reproductions and mass produced knock offs undercut sales of genuine articles, discouraging young Native Americans from learning traditional artisans’ techniques and their decisions to pursue jobs in other industries. The end result is that if less Native people are practicing their arts, those traditions risk extinction. It would be a tremendous loss to the entire country’s cultural heritage to lose these traditions.

The Indian Arts and Crafts Act of 1990, which I coauthored with now retired Senator Ben Nighthorse Campbell when we were both Members of the House of Representatives, was enacted in response to growing sales of arts and crafts products misrepresented as being produced by Indians. It is a truth-in-advertising law, with civil and criminal provisions, that prohibits the marketing of products as “Indian made” when such products are not made by Indians as defined by the act. It is intended to protect Indian artists and craftspeople, businesses, tribes, consumers and our cultural heritage.

Since the passage of the 1990 Act, we have had an opportunity to assess its effectiveness and make changes as necessary through the legislative process. Last year, now retired Senator Campbell and I, on the recommendation of the Indian Arts and Crafts Board, agreed to consider amending the act to strengthen its investigative authority and enforcement provisions. The Board was becoming concerned that the Federal Bureau of Investigation, charged with investigating violations of the act, needed some help. Fewer complaints that had been referred for investigation were receiving the attention they deserved and meritorious cases were not making it to the Attorney General for prosecution. During the last Congress, we proposed amending the act to strengthen the investigative and enforcement authorities, but these amendments were not enacted prior to adjournment.

I am happy to say, the new Indian Affairs Committee chairman, Senator MCCAIN, recognized these concerns still existed, and we agreed to work together to address them. The Amendments we are introducing today build upon the work in the last Congress. When enacted, they will make the act even more effective. The amendments expand the investigative authority under the act to include all Federal law

enforcement officers as defined in 18 U.S.C. Section 115 (c)(1). Expanding the investigative authority to include other Federal law enforcement beyond the Federal Bureau of Investigation will permit agencies with expertise in Indian issues and cultural resources, such as the Bureau of Indian Affairs law enforcement and the Department of Interior Cultural Resources, to thoroughly investigate complaints and work with Department of Justice attorneys to enforce these cases. The FBI will still have the ability to conduct such investigations should it choose to do so. I hope it will.

These amendments also recognize the important role of the Attorney General in enforcement. The amendments require the transmission of all investigation reports from Federal investigators to the Attorney General. The Attorney General can work directly with the investigators, and prosecute cases that warrant prosecution without waiting for the report to be referred by the Indian Arts and Crafts Board. This is an efficiency measure and is not designed to take away any authority the Board has to refer cases to the Attorney General. The Board will continue to receive all investigative reports and make referrals.

I believe these amendments to the act will strengthen the investigative and enforcement authority under the act and increase the number of complaints that are investigated and prosecuted. These violations are serious, and we need to provide the necessary federal resources to put an end to these crimes and preserve the cultural heritage of our Native people. I look forward to swift passage of these amendments.

By Mr. COCHRAN (for himself, Mr. STEVENS, Mr. WARNER, Mr. DODD, Mr. AKAKA, and Mr. BURNS):

S. 1376. A bill to improve and expand geographic literacy among kindergarten through grade 12 students in the United States by improving professional development programs for kindergarten through grade 12 teachers offered through institutions of higher education; to the Committee on Health, Education, Labor, and Pensions.

Mr. COCHRAN. Mr. President, today, I am introducing the Teaching Geography is Fundamental Act. I am pleased to be joined by Senators STEVENS, DODD, WARNER, BURNS, and AKAKA. The Act’s purpose is to improve geographic literacy among K-12 students in the United States by improving professional development programs for K-12 teachers offered through institutions of higher education. The bill also assists States in measuring the impact of education in geography.

To begin to understand other people, we need to understand ourselves. Eudora Welty said that understanding begins with a sense of place. When we understand our own environment, we can better understand the differences in other places, and the people who live

in them. The diversity of cultures, land, and distances between states within our nation is the first evidence we have that a good understanding of geography is necessary. According to the National Geographic Society, home is where the knowledge of geography begins.

The 2005 publication, *What Works in Geography*, reported that elementary school geography instruction significantly improves student achievement. And, the 2002 National Geographic-Roper Global Geographic Literacy Survey shows that more than half of American adults best able to read a map had taken a high school geography course. That's the good news. Unfortunately, other recent studies show us that nearly one third of our elementary schools have reduced the number of geography courses in the last few years, and only 7 percent of our Nation's fourth graders are taught by teachers with specific undergraduate or graduate experience in geography. Geography is taught by less than 9 percent of K-12 social studies teachers and not even one quarter of high school students graduate with a geography class.

To expect that Americans will be able to work economically and diplomatically with the other people in this world, we need to be able to communicate and understand each other. It is a fact that we have a global marketplace, and that will continue to be the case. We need to be preparing our younger generations for global competition and ensuring that they have a strong base to be able to participate in future industry. Geography knowledge improves those job opportunities.

Approximately 20 percent of the U.S. GDP, that's \$2.3 trillion annually, results from international trade. According to the CIA World Factbook of 2005, many U.S. workers need geographic knowledge for this global economy. Geographic knowledge is increasingly needed for U.S. businesses in international markets. For example, the inadvertent placing of Kashmir outside of Indian territory on a time zone map in a widely used computer operating system forced a costly recall, fix, and reissue of the software.

A comprehensive geography education provides training in geospatial technologies, such as remote sensing and geographic information systems. This high-growth industry is expected to reach \$30 billion in annual revenues by the end of 2005, up from \$5 billion in 2002. Geospatial technologies are one of the three biggest emerging fields identified by the Department of Labor, and they are providing 75,000 new jobs annually. A strong geographic education system is a necessity for this industry's continuing advancement.

Geography literacy is essential to a well prepared citizenry in the 21st Century. Last year, then Secretary of State Colin Powell said, "To solve most of the major problems facing our country today—from wiping out ter-

rorism, to minimizing global environmental problems, to eliminating the scourge of AIDS—will require every young person to learn more about other regions, cultures, and languages."

We need to do more to ensure that the teachers responsible for the education of our students, from kindergarten through high school graduation, are prepared to participate constructively in solving those problems. Over the last 15 years, the National Geographic Society has awarded more than \$100 million in grants to educators, universities, geography alliances, and others for the purposes of advancing and improving the teaching of geography. Their models are successful and research shows that students who have benefitted from this teaching out perform other students. State geography alliances exist in 19 States, including Mississippi, endowed by grants from the society. It is clear that their efforts alone are not enough. My bill establishes a Federal commitment to enhance the education of our teachers, focus on geography education research, and develop reliable, advanced technology based classroom materials.

I hope the Senate will consider the seriousness of the need to invest in geography and I invite other Senators to cosponsor the *Teaching Geography is Fundamental Act*.

By Mr. McCAIN:

S. 1379. A bill to provide increased rail transportation security; to the Committee on Commerce, Science, and Transportation.

Mr. McCAIN. Mr. President, we are all deeply saddened by the tragic loss of life caused by the terrorist attacks in London last week. Those incidents are a painful reminder of the cruel nature of our enemies in this war, and of what we must do to fight and win against those who wish to eradicate our way of life.

I have said on many occasions that we cannot just play defense in this war, that instead we must take the fight to the enemy. Still, we must do what is possible to protect Americans at home. To that end, the Senate passed by unanimous consent last year the Rail Security Act of 2004, rail security legislation that, unfortunately, was not approved by the House of Representatives. The London bombings and the attacks on Madrid's commuter rail system last year demonstrate all too vividly the continuing need for this legislation.

Our Nation's transit system, Amtrak, and the freight railroads, I am sad to say, remain vulnerable to terrorist attacks. Though we have increased dramatically our security capabilities since 9/11, we have more to do. For example, since 9/11, only modest resources have been dedicated to rail security, and efforts to address rail security remain fragmented despite the constant and tragic reminders abroad that we are in desperate need of delib-

erate action. In fact, the Department of Homeland Security has not yet completed a vulnerability assessment for the rail system, nor is there an integrated security plan that reflects the unique characteristics of passenger and freight rail operations.

The legislation I am introducing today, which is nearly identical to the Rail Security Act of 2004, would authorize resources to ensure rail transportation security receives a high priority in our efforts to secure our country from terrorism. The legislation directs DHS to complete a vulnerability assessment for the rail system and make recommendations for addressing security weaknesses within 180 days of enactment. It would also authorize funding to address long-standing fire and life-safety needs for several tunnels along the Northeast Corridor, and would authorize appropriations to meet immediate security needs for intercity and freight rail transportation. Further, as recommended by the Government Accountability Office, the bill would require DHS to sign a memorandum of agreement with the Department of Transportation to add clarity to each department's roles and responsibilities with respect to rail security. It is my expectation that this memorandum would supplement and add detail to the memorandum of understanding between the two departments signed on September 28, 2004.

The freight railroads, individual commuter authorities, and Amtrak have, on their own initiative, completed risk assessments and taken steps to safeguard passengers, facilities, and cargo. These efforts, accomplished at a very small cost to the Federal Government, have helped make our rail system safer. The legislation introduced today will augment these efforts and bring these individual initiatives together in a coordinated rail security program.

I trust that the Senate will move quickly to once again pass this essential legislation. We owe at least that much to the American people as we continue our struggle against an enemy that wants nothing less than to destroy everything we stand for and believe in.

I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 1379

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the "Rail Security Act of 2005".

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Rail transportation security risk assessment.
- Sec. 3. Rail security.
- Sec. 4. Study of foreign rail transport security programs.
- Sec. 5. Passenger, baggage, and cargo screening.
- Sec. 6. Certain personnel limitations not to apply.

Sec. 7. Fire and life-safety improvements.
 Sec. 8. Memorandum of agreement.
 Sec. 9. Amtrak plan to assist families of passengers involved in rail passenger accidents.
 Sec. 10. Systemwide Amtrak security upgrades.
 Sec. 11. Freight and passenger rail security upgrades.
 Sec. 12. Oversight and grant procedures.
 Sec. 13. Rail security research and development.
 Sec. 14. Welded rail and tank car safety improvements.
 Sec. 15. Northern Border rail passenger report.
 Sec. 16. Report regarding impact on security of train travel in communities without grade separation.
 Sec. 17. Whistleblower protection program.

SEC. 2. RAIL TRANSPORTATION SECURITY RISK ASSESSMENT.

(a) IN GENERAL.—

(1) VULNERABILITY ASSESSMENT.—The Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Secretary of Transportation, shall complete a vulnerability assessment of freight and passenger rail transportation (encompassing railroads, as that term is defined in section 20102(1) of title 49, United States Code). The assessment shall include—

(A) identification and evaluation of critical assets and infrastructures;
 (B) identification of threats to those assets and infrastructures;

(C) identification of vulnerabilities that are specific to the transportation of hazardous materials via railroad; and

(D) identification of security weaknesses in passenger and cargo security, transportation infrastructure, protection systems, procedural policies, communications systems, employee training, emergency response planning, and any other area identified by the assessment.

(2) EXISTING PRIVATE AND PUBLIC SECTOR EFFORTS.—The assessment shall take into account actions taken or planned by both public and private entities to address identified security issues and assess the effective integration of such actions.

(3) RECOMMENDATIONS.—Based on the assessment conducted under paragraph (1), the Under Secretary, in consultation with the Secretary of Transportation, shall develop prioritized recommendations for improving rail security, including any recommendations the Under Secretary has for—

(A) improving the security of rail tunnels, rail bridges, rail switching and car storage areas, other rail infrastructure and facilities, information systems, and other areas identified by the Under Secretary as posing significant rail-related risks to public safety and the movement of interstate commerce, taking into account the impact that any proposed security measure might have on the provision of rail service;

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

(C) training employees in terrorism prevention, passenger evacuation, and response activities;

(D) conducting public outreach campaigns on passenger railroads;

(E) deploying surveillance equipment; and
 (F) identifying the immediate and long-term costs of measures that may be required to address those risks.

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

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

government to provide increased security support at high or severe threat levels of alert; and

(B) a plan for coordinating rail security initiatives undertaken by the public and private sectors.

(b) CONSULTATION; USE OF EXISTING RESOURCES.—In carrying out the assessment required by subsection (a), the Under Secretary of Homeland Security for Border and Transportation Security shall consult with rail management, rail labor, owners or lessors of rail cars used to transport hazardous materials, first responders, shippers of hazardous materials, public safety officials (including those within other agencies and offices within the Department of Homeland Security), and other relevant parties.

(c) REPORT.—

(1) CONTENTS.—Within 180 days after the date of enactment of this Act, the Under Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report containing the assessment and prioritized recommendations required by subsection (a) and an estimate of the cost to implement such recommendations.

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

(d) 2-YEAR UPDATES.—The Under Secretary, in consultation with the Secretary of Transportation, shall update the assessment and recommendations every 2 years and transmit a report, which may be submitted in both classified and redacted formats, to the Committees named in subsection (c)(1), containing the updated assessment and recommendations.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security \$5,000,000 for fiscal year 2006 for the purpose of carrying out this section.

SEC. 3. RAIL SECURITY.

(a) RAIL POLICE OFFICERS.—Section 28101 of title 49, United States Code, is amended by striking “the rail carrier” each place it appears and inserting “any rail carrier”.

(b) REVIEW OF RAIL REGULATIONS.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Under Secretary of Homeland Security for Border and Transportation Security, shall review existing rail regulations of the Department of Transportation for the purpose of identifying areas in which those regulations need to be revised to improve rail security.

SEC. 4. STUDY OF FOREIGN RAIL TRANSPORT SECURITY PROGRAMS.

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

(b) PURPOSE.—The purpose of the study shall be to identify effective rail transportation security measures that are in use in foreign rail transportation systems, including innovative measures and screening procedures determined effective.

(c) REPORT.—The Comptroller General shall submit a report on the results of the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. The report shall include the Comptroller General's

assessment regarding whether it is feasible to implement within the United States any of the same or similar security measures that are determined effective under the study.

SEC. 5. PASSENGER, BAGGAGE, AND CARGO SCREENING.

(a) REQUIREMENT FOR STUDY AND REPORT.—The Under Secretary of Homeland Security for Border and Transportation Security, in cooperation with the Secretary of Transportation, shall—

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

(2) report the results of the study, together with any recommendations that the Under Secretary may have for implementing a rail security screening program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act.

(b) PILOT PROGRAM.—As part of the study under subsection (a), the Under Secretary shall complete a pilot program of random security screening of passengers and baggage at 5 passenger rail stations served by Amtrak selected by the Under Secretary. In conducting the pilot program, the Under Secretary shall—

(1) test a wide range of explosives detection technologies, devices and methods;

(2) require that intercity rail passengers produce government-issued photographic identification which matches the name on the passenger's tickets prior to boarding trains; and

(3) attempt to give preference to locations at the highest risk of terrorist attack and achieve a distribution of participating train stations in terms of geographic location, size, passenger volume, and whether the station is used by commuter rail passengers as well as Amtrak passengers.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security to carry out this section \$5,000,000 for fiscal year 2006.

SEC. 6. CERTAIN PERSONNEL LIMITATIONS NOT TO APPLY.

Any statutory limitation on the number of employees in the Transportation Security Administration of the Department of Transportation, before or after its transfer to the Department of Homeland Security, does not apply to the extent that any such employees are responsible for implementing the provisions of this Act.

SEC. 7. FIRE AND LIFE-SAFETY IMPROVEMENTS.

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

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the purposes of carrying out subsection (a) the following amounts:

(1) For the 6 New York tunnels to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers—
 (A) \$100,000,000 for fiscal year 2006;
 (B) \$100,000,000 for fiscal year 2007;
 (C) \$100,000,000 for fiscal year 2008;
 (D) \$100,000,000 for fiscal year 2009; and
 (E) \$170,000,000 for fiscal year 2010.

(2) For the Baltimore & Potomac tunnel and the Union tunnel, together, to provide

adequate drainage, ventilation, communication, lighting, and passenger egress upgrades—

- (A) \$10,000,000 for fiscal year 2006;
- (B) \$10,000,000 for fiscal year 2007;
- (C) \$10,000,000 for fiscal year 2008;
- (D) \$10,000,000 for fiscal year 2009; and
- (E) \$17,000,000 for fiscal year 2010.

(3) For the Washington, DC Union Station tunnels to improve ventilation, communication, lighting, and passenger egress upgrades—

- (A) \$8,000,000 for fiscal year 2006;
- (B) \$8,000,000 for fiscal year 2007;
- (C) \$8,000,000 for fiscal year 2008;
- (D) \$8,000,000 for fiscal year 2009; and
- (E) \$8,000,000 for fiscal year 2010.

(c) INFRASTRUCTURE UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation for fiscal year 2006 \$3,000,000 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(d) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated pursuant to this section shall remain available until expended.

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

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

(2) unless, for each project funded pursuant to this section, the Secretary has approved a project management plan prepared by Amtrak addressing appropriate project budget, construction schedule, recipient staff organization, document control and record keeping, change order procedure, quality control and assurance, periodic plan updates, periodic status reports, and such other matters the Secretary deems appropriate.

(f) REVIEW OF PLANS.—The Secretary of Transportation shall complete the review of the plans required by paragraphs (1) and (2) of subsection (e) and approve or disapprove the plans within 45 days after the date on which each such plan is submitted by Amtrak. If the Secretary determines that a plan is incomplete or deficient, the Secretary shall notify Amtrak of the incomplete items or deficiencies and Amtrak shall, within 30 days after receiving the Secretary's notification, submit a modified plan for the Secretary's review. Within 15 days after receiving additional information on items previously included in the plan, and within 45 days after receiving items newly included in a modified plan, the Secretary shall either approve the modified plan, or, if the Secretary finds the plan is still incomplete or deficient, the Secretary shall identify in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure the portions of the plan the Secretary finds incomplete or deficient, approve all other portions of the plan, obligate the funds associated with those other portions, and execute an agreement with Amtrak within 15 days thereafter on a process for resolving the remaining portions of the plan.

(g) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary shall, taking into account the need for the timely completion of all portions of the tunnel projects described in subsection (a)—

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

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

(3) obtain financial contributions or commitments from such other rail carriers at

levels reflecting the extent of their use of the tunnels, if feasible.

SEC. 8. MEMORANDUM OF AGREEMENT.

(a) MEMORANDUM OF AGREEMENT.—Within 60 days after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Homeland Security shall execute a memorandum of agreement governing the roles and responsibilities of the Department of Transportation and the Department of Homeland Security, respectively, in addressing railroad transportation security matters, including the processes the departments will follow to promote communications, efficiency, and nonduplication of effort.

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

SEC. 9. AMTRAK PLAN TO ASSIST FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) IN GENERAL.—Chapter 243 of title 49, United States Code, is amended by adding at the end the following:

“§ 24316. Plans to address needs of families of passengers involved in rail passenger accidents

“(a) SUBMISSION OF PLAN.—Not later than 6 months after the date of the enactment of the Rail Security Act of 2005, Amtrak shall submit to the Chairman of the National Transportation Safety Board and the Secretary of Transportation a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving an Amtrak intercity train and resulting in a loss of life.

“(b) CONTENTS OF PLANS.—The plan to be submitted by Amtrak under subsection (a) shall include, at a minimum, the following:

“(1) A process by which Amtrak will maintain and provide to the National Transportation Safety Board and the Secretary of Transportation, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for Amtrak to use reasonable efforts to ascertain the number and names of passengers aboard a train involved in an accident.

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

“(3) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, by suitably trained individuals.

“(4) A process for providing the notice described in paragraph (2) to the family of a passenger as soon as Amtrak has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified).

“(5) A process by which the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within Amtrak's control; that any possession of the passenger within Amtrak's control will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation; and that any unclaimed possession of a passenger within Amtrak's control will be retained by the rail passenger carrier for at least 18 months.

“(6) A process by which the treatment of the families of nonrevenue passengers will be

the same as the treatment of the families of revenue passengers.

“(7) An assurance that Amtrak will provide adequate training to its employees and agents to meet the needs of survivors and family members following an accident.

“(c) USE OF INFORMATION.—The National Transportation Safety Board, the Secretary of Transportation, and Amtrak may not release to any person information on a list obtained under subsection (b)(1) but may provide information on the list about a passenger to the family of the passenger to the extent that the Board or Amtrak considers appropriate.

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

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

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak \$500,000 for fiscal year 2006 to carry out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.”

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 of title 49, United States Code, is amended by adding at the end the following:

“Sec.

“24316. Plan to assist families of passengers involved in rail passenger accidents.”

SEC. 10. SYSTEMWIDE AMTRAK SECURITY UPDATES.

(a) IN GENERAL.—Subject to subsection (c), the Under Secretary of Homeland Security for Border and Transportation Security is authorized to make grants, through the Secretary of Transportation, to Amtrak—

(1) to secure major tunnel access points and ensure tunnel integrity in New York, Baltimore, and Washington, DC;

(2) to secure Amtrak trains;

(3) to secure Amtrak stations;

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

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

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

(7) to expand emergency preparedness efforts.

(b) CONDITIONS.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless the projects are contained in a systemwide security plan approved by the Under Secretary, in consultation with the Secretary of Transportation, and, for capital projects, meet the requirements of section 7(e)(2). The plan shall include appropriate measures to address security awareness, emergency response, and passenger evacuation training.

(c) EQUITABLE GEOGRAPHIC ALLOCATION.—The Under Secretary shall ensure that, subject to meeting the highest security needs on Amtrak's entire system, stations and facilities located outside of the Northeast Corridor receive an equitable share of the security funds authorized by this section.

(d) AVAILABILITY OF FUNDS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and

Transportation Security \$63,500,000 for fiscal year 2006 for the purposes of carrying out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 11. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.

(a) **SECURITY IMPROVEMENT GRANTS.**—The Under Secretary of Homeland Security for Border and Transportation Security is authorized to make grants to freight railroads, the Alaska Railroad, hazardous materials shippers, owners of rail cars used in the transportation of hazardous materials, universities, colleges and research centers, State and local governments (for passenger facilities and infrastructure not owned by Amtrak), and, through the Secretary of Transportation, to Amtrak, for full or partial reimbursement of costs incurred in the conduct of activities to prevent or respond to acts of terrorism, sabotage, or other intercity passenger rail and freight rail security threats, including—

- (1) security and redundancy for critical communications, computer, and train control systems essential for secure rail operations;
- (2) accommodation of cargo or passenger screening equipment at the United States-Mexico border or the United States-Canada border;
- (3) the security of hazardous material transportation by rail;
- (4) secure intercity passenger rail stations, trains, and infrastructure;
- (5) structural modification or replacement of rail cars transporting high hazard materials to improve their resistance to acts of terrorism;
- (6) employee security awareness, preparedness, passenger evacuation, and emergency response training;
- (7) public security awareness campaigns for passenger train operations;
- (8) the sharing of intelligence and information about security threats;
- (9) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;
- (10) to hire additional police and security officers, including canine units; and
- (11) other improvements recommended by the report required by section 2, including infrastructure, facilities, and equipment upgrades.

(b) **ACCOUNTABILITY.**—The Under Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this Act and the priorities and other criteria developed by the Under Secretary.

(c) **EQUITABLE ALLOCATION.**—The Under Secretary shall equitably distribute the funds authorized by this section, taking into account geographic location, and shall encourage non-Federal financial participation in awarding grants. With respect to grants for passenger rail security, the Under Secretary shall also take into account passenger volume and whether a station is used by commuter rail passengers as well as intercity rail passengers.

(d) **CONDITIONS.**—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless Amtrak meets the conditions set forth in section 10(b) of this Act.

(e) **ALLOCATION BETWEEN RAILROADS AND OTHERS.**—Unless as a result of the assessment required by section 2 the Under Secretary of Homeland Security for Border and Transportation Security determines that critical rail transportation security needs require reimbursement in greater amounts to any eligible entity, no grants under this section may be made—

- (1) in excess of \$65,000,000 to Amtrak; or
- (2) in excess of \$100,000,000 for the purposes described in paragraphs (3) and (5) of subsection (a).

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security \$350,000,000 for fiscal year 2006 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

(g) **HIGH HAZARD MATERIALS DEFINED.**—In this section, the term “high hazard materials” means poison inhalation hazard materials, Class 2.3 gases, Class 6.1 materials, and anhydrous ammonia.

SEC. 12. OVERSIGHT AND GRANT PROCEDURES.

(a) **SECRETARIAL OVERSIGHT.**—The Secretary of Transportation may use up to 0.5 percent of amounts made available to Amtrak for capital projects under the Rail Security Act of 2005 to enter into contracts for the review of proposed capital projects and related program management plans and to oversee construction of such projects.

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

(c) **PROCEDURES FOR GRANT AWARD.**—The Under Secretary shall prescribe procedures and schedules for the awarding of grants under this Act, including application and qualification procedures (including a requirement that the applicant have a security plan), and a record of decision on applicant eligibility. The procedures shall include the execution of a grant agreement between the grant recipient and the Under Secretary. The Under Secretary shall issue a final rule establishing the procedures not later than 90 days after the date of enactment of this Act.

SEC. 13. RAIL SECURITY RESEARCH AND DEVELOPMENT.

(a) **ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM.**—The Under Secretary of Homeland Security for Border and Transportation Security, in conjunction with the Secretary of Transportation, shall carry out a research and development program for the purpose of improving freight and intercity passenger rail security that may include research and development projects to—

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

(2) test new emergency response techniques and technologies;

(3) develop improved freight technologies, including—

- (A) technologies for sealing rail cars;
- (B) automatic inspection of rail cars;
- (C) communication-based train controls;

and

(D) emergency response training;

(4) test wayside detectors that can detect tampering with railroad equipment; and

(5) support enhanced security for the transportation of hazardous materials by rail, including—

(A) technologies to detect a breach in a tank car and transmit information about the integrity of tank cars to the train crew;

(B) research to improve tank car integrity, with a focus on tank cars that carry high hazard materials (as defined in section 11(g) of this Act);

(C) techniques to transfer hazardous materials from rail cars that are damaged or otherwise represent an unreasonable risk to human life or public safety;

(6) other projects recommended in the report required by section 2.

(b) **COORDINATION WITH OTHER RESEARCH INITIATIVES.**—The Under Secretary of Homeland Security for Border and Transportation Security shall ensure that the research and development program authorized by this section is coordinated with other research and development initiatives at the Department and the Department of Transportation. The Under Secretary of Homeland Security for Border and Transportation Security shall carry out any research and development project authorized by this section through a reimbursable agreement with the Secretary of Transportation if the Secretary of Transportation—

(1) is already sponsoring a research and development project in a similar area; or

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

(c) **ACCOUNTABILITY.**—The Under Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this Act and the priorities and other criteria developed by the Under Secretary.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security \$50,000,000 in each of fiscal years 2006 and 2007 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 14. WELDED RAIL AND TANK CAR SAFETY IMPROVEMENTS.

(a) **TRACK STANDARDS.**—Within 90 days after the date of enactment of this Act, the Federal Railroad Administration shall—

(1) require each track owner using continuous welded rail track to include procedures (in its procedures filed with the Administration pursuant to section 213.119 of title 49, Code of Federal Regulations) to improve the identification of cracks in rail joint bars;

(2) instruct Administration track inspectors to obtain copies of the most recent continuous welded rail programs of each railroad within the inspectors' areas of responsibility and require that inspectors use those programs when conducting track inspections; and

(3) establish a program to periodically review continuous welded rail joint bar inspection data from railroads and Administration track inspectors and, whenever the Administration determines that it is necessary or appropriate, require railroads to increase the frequency or improve the methods of inspection of joint bars in continuous welded rail.

(b) **TANK CAR STANDARDS.**—The Federal Railroad Administration shall—

(1) within 1 year after the date of enactment of this Act, validate the predictive model it is developing to quantify the relevant dynamic forces acting on railroad tank cars under accident conditions; and

(2) within 18 months after the date of enactment of this Act, initiate a rulemaking to develop and implement appropriate design standards for pressurized tank cars.

(c) **OLDER TANK CAR IMPACT RESISTANCE ANALYSIS AND REPORT.**—Within 2 years after the date of enactment of this Act, the Federal Railroad Administration shall—

(1) conduct a comprehensive analysis to determine the impact resistance of the steels in the shells of pressure tank cars constructed before 1989; and

(2) transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure with recommendations for measures to eliminate or mitigate the risk of catastrophic failure.

SEC. 15. NORTHERN BORDER RAIL PASSENGER REPORT.

Within 180 days after the date of enactment of this Act, the Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the heads of other appropriate Federal departments and agencies and the National Railroad Passenger Corporation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that contains—

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

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

(3) an assessment of the current program to provide preclearance of freight railroad traffic between the United States and Canada as outlined in the “Declaration of Principle for the Improved Security of Rail Shipments by Canadian National Railway and Canadian Pacific Railway from Canada to the United States”, dated April 2, 2003;

(4) information on progress by the Department of Homeland Security and other Federal agencies towards finalizing a bilateral protocol with Canada that would provide for preclearance of passengers on trains operating between the United States and Canada;

(5) a description of legislative, regulatory, budgetary, or policy barriers within the United States Government to providing pre-screened passenger lists for rail passengers travelling between the United States and Canada to the Department of Homeland Security;

(6) a description of the position of the Government of Canada and relevant Canadian agencies with respect to preclearance of such passengers; and

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

SEC. 16. REPORT REGARDING IMPACT ON SECURITY OF TRAIN TRAVEL IN COMMUNITIES WITHOUT GRADE SEPARATION.

(a) STUDY.—The Secretary of Homeland Security shall, in consultation with State and local government officials, conduct a study on the impact of blocked highway-railroad grade crossings on the ability of emergency responders, including ambulances and police, fire, and other emergency vehicles, to perform public safety and security duties in the event of a terrorist attack.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the findings of the study conducted under subsection (a) and recommendations for reducing the impact of blocked crossings on emergency response.

SEC. 17. WHISTLEBLOWER PROTECTION PROGRAM.

(a) IN GENERAL.—Subchapter A of chapter 201 of title 49, United States Code, is amended by inserting after section 20115 the following:

§ 20116. Whistleblower protection for rail security matters

“(a) DISCRIMINATION AGAINST EMPLOYEE.—No rail carrier engaged in interstate or for-

ign commerce may discharge a railroad employee or otherwise discriminate against a railroad employee because the employee (or any person acting pursuant to a request of the employee)—

“(1) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to a perceived threat to security; or

“(2) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding a perceived threat to security; or

“(3) refused to violate or assist in the violation of any law, rule or regulation related to rail security.

“(b) DISPUTE RESOLUTION.—A dispute, grievance, or claim arising under this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153). In a proceeding by the National Railroad Adjustment Board, a division or delegate of the Board, or another board of adjustment established under section 3 to resolve the dispute, grievance, or claim the proceeding shall be expedited and the dispute, grievance, or claim shall be resolved not later than 180 days after it is filed. If the violation is a form of discrimination that does not involve discharge, suspension, or another action affecting pay, and no other remedy is available under this subsection, the Board, division, delegate, or other board of adjustment may award the employee reasonable damages, including punitive damages, of not more than \$20,000.

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

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

“(e) DISCLOSURE OF IDENTITY.—

“(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this section.

“(2) The Secretary shall disclose to the Attorney General the name of an employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement.”.

“(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 of title 49, United States Code, is amended by inserting after the item relating to section 20115 the following:

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

SUBMITTED RESOLUTIONS**SENATE RESOLUTION 192—AFFIRMING THAT THE FIRST AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES GUARANTEES BY THE FREEDOM OF THE PRESS AND ASSERTING THAT NO PURPOSE IS SERVED BY SENTENCING JOURNALISTS JUDITH MILLER AND MATTHEW COOPER, NOR ANY SIMILARLY SITUATED JOURNALISTS, TO PRISON FOR MAINTAINING THE ANONYMITY OF CONFIDENTIAL SOURCES**

Mr. LAUTENBERG (for himself, Mr. LUGAR, and Mr. DODD) submitted the following resolution; which was referred to the Committee on the Judiciary:

Whereas the First Amendment of the Constitution of the United States guarantees the freedom of the press;

Whereas it is essential to the democracy of the United States that journalists may report important information to the public without fear of intimidation or imprisonment;

Whereas a majority of the States and the District of Columbia have enacted media shield laws to protect the right of journalists to maintain the anonymity of confidential sources;

Whereas Robert Novak, the columnist first to publish the identity of a covert Central Intelligence Agency officer by name, stated that the Government should not imprison journalists for maintaining the anonymity of confidential sources;

Whereas a United States district court judge may soon sentence Matthew Cooper, the White House correspondent for Time Magazine, and Judith Miller, a journalist for the New York Times, to prison for contempt for refusing to disclose confidential sources;

Whereas that United States district court judge will hold a hearing to consider arguments against imprisonment of those journalists; and

Whereas it is the responsibility of the United States Senate to make its views known in areas of national and legal importance: Now, therefore, be it

Resolved, That the Senate—

(1) affirms that the First Amendment of the Constitution of the United States guarantees the freedom of the press; and

(2) proclaims that no purpose is served by imprisoning journalists Judith Miller and Matthew Cooper.

SENATE RESOLUTION 193—EXPRESSING SYMPATHY FOR THE PEOPLE OF THE UNITED KINGDOM IN THE AFTERMATH OF THE DEADLY TERRORIST ATTACKS ON LONDON ON JULY 7, 2005

Mr. FRIST (for himself, Mr. REID, Mr. LUGAR, Mr. BIDEN, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWNEBACK, Mr. BUNNING, Mr. BURNS, Mr. BURR, Mr. BYRD, Ms. CANTWELL, Mr. CARPER, Mr. CHAFEE, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COBURN, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CONRAD, Mr. CORNYN, Mr. CORZINE, Mr. CRAIG, Mr. CRAPO, Mr.