

Fallin	Lewis (CA)	Rodriguez	Wolf	Wu	Young (AK)
Farr	Lewis (GA)	Rogers (AL)	Woolsey	Wynn	Young (FL)
Fattah	Lewis (KY)	Rogers (KY)			
Feeney	Linder	Rogers (MI)			
Ferguson	Lipinski	Rohrabacher	Paul		NAYS—2
Filner	LoBiondo	Ros-Lehtinen			
Flake	Loebsack	Roskam			
Forbes	Lofgren, Zoe	Ross	Andrews	Franks (AZ)	Meehan
Fortenberry	Lowey	Rothman	Carson	Green, Gene	Millender-
Fossella	Lucas	Royal-Allard	Davis (CA)	Kanjorski	McDonald
Foxx	Lungren, Daniel	Royce	Davis, Jo Ann	Kingston	Udall (NM)
Frank (MA)	E.	Ruppertsberger	Ellsworth	Lampson	Yarmuth
Frelinghuysen	Lynch	Rush			
Gallegly	Mack	Ryan (OH)			
Garrett (NJ)	Mahoney (FL)	Ryan (WI)			
Gerlach	Maloney (NY)	Salazar			
Giffords	Manzullo	Sali			
Gilchrest	Marchant	Sánchez, Linda			
Gillibrand	Markey	T.			
Gillmor	Marshall	Sanchez, Loretta			
Gingrey	Matheson	Sarbanes			
Gohmert	Matsui	Saxton			
Gonzalez	McCarthy (CA)	Schakowsky			
Goode	McCarthy (NY)	Schiff			
Goodlatte	McCaul (TX)	Schmidt			
Gordon	McCollum (MN)	Schwartz			
Granger	McCotter	Scott (GA)			
Graves	McCrary	Scott (VA)			
Green, Al	McDermott	Sensenbrenner			
Grijalva	McGovern	Serrano			
Gutierrez	McHenry	Sessions			
Hall (NY)	McHugh	Sestak			
Hall (TX)	McIntyre	Shadegg			
Hare	McKeon	Shays			
Harman	McMorris	Shea-Porter			
Hastert	Rodgers	Sherman			
Hastings (FL)	McNerney	Shimkus			
Hastings (WA)	McNulty	Shuler			
Hayes	Meek (FL)	Shuster			
Heller	Meeks (NY)	Simpson			
Hensarling	Melancon	Sires			
Herger	Mica	Skelton			
Herseth	Michaud	Slaughter			
Higgins	Miller (FL)	Smith (NE)			
Hill	Miller (MI)	Smith (NJ)			
Hinchey	Miller (NC)	Smith (TX)			
Hinojosa	Miller, Gary	Smith (WA)			
Hirono	Miller, George	Snyder			
Hobson	Mitchell	Solis			
Hodes	Mollohan	Souder			
Hoekstra	Moore (KS)	Space			
Holden	Moore (WI)	Spratt			
Holt	Moran (KS)	Stark			
Honda	Moran (VA)	Stearns			
Hooley	Murphy (CT)	Stupak			
Hoyer	Murphy, Patrick	Sullivan			
Hulshof	Murphy, Tim	Sutton			
Hunter	Murtha	Tanner			
Inglis (SC)	Musgrave	Tauscher			
Inslee	Myrick	Taylor			
Israel	Nadler	Terry			
Issa	Napolitano	Thompson (CA)			
Jackson (IL)	Neal (MA)	Thompson (MS)			
Jackson-Lee	Neugebauer	Nunes			
(TX)	Oberstar	Thornberry			
Jefferson	Obey	Tiahrt			
Jindal	Olver	Tiberi			
Johnson (GA)	Ortiz	Tierney			
Johnson (IL)	Pallone	Towns			
Johnson, E. B.	Pascrell	Turner			
Johnson, Sam	Pastor	Udall (CO)			
Jones (NC)	Payne	Upton			
Jones (OH)	Pearce	Van Hollen			
Jordan	Pence	Velázquez			
Kagen	Perrin	Visclosky			
Kaptur	Perlmutter	Walberg			
Keller	Peterson (MN)	Walden (OR)			
Kennedy	Peterson (PA)	Petri			
Kildee	Pickering	Pitts			
Kilpatrick	Platts	Platts			
Kind	Pomeroy	Poe			
King (IA)	Porter	Schultz			
King (NY)	Price (GA)	Waterson			
Kirk	Price (NC)	Watson			
Klein (FL)	Price (OH)	Watt			
Kline (MN)	Putnam	Waxman			
Knollenberg	Radanovich	Weiner			
Kucinich	Rahall	Welch (VT)			
Kuhl (NY)	Ramstad	Weldon (FL)			
LaHood	Rangel	Westmoreland			
Lamborn	Regula	Weller			
Langevin	Rehberg	West			
Lantos	Reichert	Whitfield			
Larsen (WA)	Renzi	Wicker			
Larson (CT)	Reyes	Wilson (NM)			
Latham	Reynolds	Wilson (OH)			
LaTourette		Wilson (SC)			
Lee					
Levin					

Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—2
NOT VOTING—14

Andrews
Carson
Davis (CA)
Davis, Jo Ann
Ellsworth

Franks (AZ)
Green, Gene
Kanjorski
Kingston
Lampson

Meehan
Millender-
McDonald
Udall (NM)
Yarmuth

□ 1427

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. GENE GREEN of Texas. Mr. Speaker, on rollcall No. 193, had I been present, I would have voted "yea."

PERSONAL EXPLANATION

Mr. YARMUTH. Mr. Speaker, I was unavoidably detained during the recorded votes for rollcall Nos. 192 and 193. Had I been present I would have voted "yea" for both measures.

GENERAL LEAVE

Mr. THOMPSON of Mississippi. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and insert extraneous material into the RECORD on H.R. 1401.

The SPEAKER pro tempore (Ms. CLARKE). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

RAIL AND PUBLIC TRANSPORTATION SECURITY ACT OF 2007

The SPEAKER pro tempore. Pursuant to House Resolution 270 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 1401.

□ 1429

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 1401) to improve the security of railroads, public transportation, and over-the-road buses in the United States, and for other purposes, with Mr. BUTTERFIELD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered read the first time.

General debate shall not exceed 1 hour and 20 minutes, with 1 hour equally divided and controlled by the chairman and ranking minority member of the Committee on Homeland Security and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure.

The gentleman from Mississippi (Mr. THOMPSON) and the gentleman from New York (Mr. KING) each will control 30 minutes, and the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Florida (Mr. MICA) each will control 10 minutes.

The Chair recognizes the gentleman from Mississippi.

□ 1430

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield myself as much time as I may consume.

Three years ago this month, 10 explosions shook Madrid's commuter rail systems, killing 191 people and leaving thousands wounded. As Americans, we mourned the loss felt by Spain. We wondered whether terrorists would try the same here at home. Then we waited.

The next year, suicide bombers attacked the Tube in London. Last year, it was Mumbai. Last month, it was New Delhi. Each time we watched and waited.

Mr. Chairman, the time for wondering and waiting has come and gone. Today, we act. The Rail and Public Transportation Security Act of 2007 makes clear that America simply will not wait for terrorists to attack our trains, buses and subways. We will act now to secure them.

A bipartisan bill, H.R. 1401, was passed unanimously out of the Committee on Homeland Security. This legislation goes a long way to protect our rail and mass transit systems so that we can move freely, yet securely, through our communities.

For example, it requires rail and public transportation systems to complete vulnerability assessments and security plans. It requires the Department of Homeland Security to finally develop a strategy for rail and transportation security. It strengthens intelligence and information-sharing efforts. It ensures that hardworking rail and public transportation employees are trained and on the lookout for security violations. It requires railroads to use the most secure routes to transport hazardous materials. It provides for much-needed R&D testing and technology in the rail and public transportation arena.

I am certain that bill is not without its naysayers. There are some that have and will continue to say that we can never secure these systems. I have heard many excuses from people in the past years. They say that the systems are too expensive, that the systems are too open, that we should only worry about aviation.

I say in response, if Congress does nothing and America is attacked, it will be our responsibility. We will deserve to be judged harshly for our inaction. Instead of waiting, let's do something right and protect the people we are here to serve.

I urge all of my colleagues to support this bill.

Mr. Chairman, I submit these two letters, correspondence between myself and Mr. WAXMAN, chairman of the Committee on Oversight

and Government Reform, regarding H.R. 1401, the Rail and Public Transportation Security Act of 2007.

HOUSE OF REPRESENTATIVES, COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,

Washington, DC, March 26, 2007.

Hon. BENNIE G. THOMPSON,
Chairman, House Committee on Homeland Security, Washington, DC.

DEAR BENNIE: The Committee on Homeland Security reported H.R. 1401, the “Rail and Public Transportation Security Act of 2007,” on March 22, 2007. As you know, H.R. 1401 contains provisions within the jurisdiction of the Committee on Oversight and Government Reform, specifically section 112 dealing with whistle-blower protections for various federal employees and contractors.

Because of your desire to move this legislation expeditiously, I have agreed to waive consideration of the bill by the Committee on Oversight and Government Reform. I appreciate your responsiveness after our discussions including, in a manager’s amendment, a number of changes to the Committee reported bill.

By agreeing to waive consideration of the bill, the Committee does not waive jurisdiction over H.R. 1401. In addition, the Committee reserves its authority to seek conferees on any provisions of the bill that are within its jurisdiction during any House-Senate conference that may be convened on this or similar legislation.

Finally, I ask that you please include this letter and your response in the Congressional Record during consideration of the legislation on the House floor. Thank you for your attention to these matters.

Sincerely,

HENRY A. WAXMAN,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
Washington, DC, March 26, 2007.
Chairman HENRY WAXMAN,
Committee on Oversight and Government Reform, Washington, DC.

DEAR HENRY: Thank you for your recent letter expressing the Committee on Oversight and Government Reform’s jurisdictional interest in H.R. 1401, the “Rail and Public Transportation Security Act of 2007.” The Committee on Homeland Security appreciates your willingness to work cooperatively on this important legislation.

The Committee on Homeland Security recognizes your jurisdictional interest over provisions contained in this bill, as amended, and appreciates your agreement not to request a sequential referral. The Committee on Homeland Security acknowledges that your decision to forgo a sequential referral on this legislation does not waive, reduce or otherwise affect the jurisdiction of the Committee on Oversight and Government Reform. Accordingly, the Committee on Homeland Security will support your efforts to participate as conferees in any House-Senate conference on this legislation or in any other legislation that includes this legislation.

A copy of this letter, together with the letter you sent on this matter, will be included in the Committee’s report on the bill and the Congressional Record when the bill is considered on the House floor.

Thank you for your continued cooperation, and I look forward to working with you as H.R. 1401 proceeds through the legislative process.

Sincerely,

BENNIE G. THOMPSON,
Chairman, Committee on Homeland Security.

Mr. Chairman, I reserve the balance of my time.

Mr. KING of New York. Mr. Chairman, I yield myself such time as I may consume.

At the outset, let me thank Chairman THOMPSON not only for his work on this bill in particular but for the spirit of cooperation that prevailed throughout this entire period leading up to today.

I also want to commend Mr. LUNGRÉN, who was chairman of the subcommittee in the previous Congress which did much of the groundwork for this legislation and for the dedication that he has shown and continued in his efforts as subcommittee ranking member.

Mr. THOMPSON had pledged, upon becoming chairman of the full committee, that will be a main priority for him, and he has delivered. There are certain parts of the bill that I would have problems with. But having said that, I certainly commend him for the effort he has put into this and, again, for level of cooperation not only between him and me but between other members of the committee, between majority staff and the minority staff.

Mr. Chairman, September 11 changed all our worlds, and we have attempted in various ways to meet the threat that is presented to us by international Islamic terrorism. Much work has been done at the airports. Last year, we adopted very extensive and expansive port security legislation, chemical plant security legislation.

Some strides have been made towards rail and transit security. But today’s bill, today’s legislation is very much needed to take a more significant step down that road.

We saw from the attacks on March 11, 2004, in Madrid; the attacks of July 7 in London in 2005; and the attacks in India on commuter lines, that terrorists certainly are targeting our rail and transit for terrorist attack, one of the reasons being that it is so much more difficult to secure transit than it is airports.

Certainly, looking at it very parochially, from my own perspective in New York, the New York City subway system, it has more than 400 subway stations. It has over 1,500 exits and entrances to those stations. In addition to that, we have many, many tens of thousands of commuters coming in from the suburbs of Long Island, upstate New York and New Jersey every day.

It is not just a New York issue, by any means. This is an issue which affects rail and transit throughout the country, but it is an issue that must be addressed.

We have to look at the possibility that the next terrorist attack, like London, Madrid and India, will be launched from the suburbs. It is not just the inner city subways, big city commuter systems, but it is all of them. All of them have to be protected to the extent that we can.

We also have to support those systems which we believe can work, such

as the VIPER system, which I believe is essential.

We have to have training for the security personnel. I wish that the legislation had also provided that the funding could go directly to the police, who provide security. It won’t be you will have to go through the intermediary carriers, which I think is not a step in the right direction, but I also understand the realities of what has to be done. I think that certainly the police and the transit workers are the front line of defense when it comes to securing our mass transit, and it is essential that they receive the training that they need.

It is also essential that there be capital improvements, that, for instance, the tunnels leading into main terminals be reinforced, that the escape precautions be improved upon, that the first responders have access to tunnels and terminals in times of terrorist attack.

So these are all issues which I believe are addressed to a significant extent in the legislation.

As we said during the previous debate on the rule, there are parts of the legislation, though, which would have been very, very essential, I think, to have had amendments ruled in order. Mr. LUNGRÉN, I am sure, will be addressing some of these issues, but I am concerned about the whole issue on the whistleblowers as to what we do to protect national security secrets and top secret materials and why the government will be, in effect, precluded from asserting the State secret defense. That is, to me, a very, very significant issue, and it is one where I believe the legislation does not give us adequate protection.

Also, on the issue of Freedom of Information, which Ms. GINNY BROWN-WAITE will discuss as to how we can protect top secret and classified information, all of this to me is important.

But, having said that, this legislation is a very, very significant step forward. It is a major step forward, and it is an area where, again, we realize in a bipartisan way that more had to be done. While significant, more has to be done in the future, because we have an enemy which is constantly adapting, an enemy which is vicious and deadly. As has been proven on 9/11, they can use any number of means at their disposal.

We have to think outside the box. We have to try to anticipate what they are going to do. If, God forbid, there is an attack, we want to make sure our people are able to respond as quickly and as effectively as possible. I believe that this legislation addresses much of that.

I want to thank the chairman for, again, the open-mindedness that he has had on this in accepting many of our suggestions and also negotiating and working with us and, again, just developing and showing a spirit of bipartisanship, which I think is really essential.

Homeland Security should not be a partisan issue. We will and we do have

honest differences, but I think the overwhelming majority of the issues affecting Homeland Security can and should be addressed in a bipartisan way.

On those issues that we cannot resolve, we can have honest, intelligent differences on them without in any way questioning the motives of either side and also realizing that sometimes very pragmatic decisions have to be made. We can't allow the perfect to be the enemy of the good.

I thank Chairman THOMPSON. I certainly thank Ranking Member LUNGREN both for his efforts in the last Congress and in this Congress for all that he has done and also the gentlelady from Texas (Ms. JACKSON-LEE).

Mr. Chairman, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Colorado (Mr. PERLMUTTER).

Mr. PERLMUTTER. Thank you, Mr. THOMPSON.

Mr. Chairman, I rise today in strong support of H.R. 1401, the Rail and Public Transportation Security Act. This bill finally addresses the security of our Nation's rail and mass transit industries, and it has been put together in a bipartisan fashion.

The bill includes commonsense provisions that require transportation providers to conduct thorough risk assessment and threat mitigation plans. It also develops security training guidelines for front-line workers who are the eyes and ears on the ground.

Finally, it gives over \$1 billion in Federal grants for first responder training, for purchasing of emergency response equipment, interoperable communications systems and cargo and passenger screening equipment. These steps identify where we are vulnerable and give the right people the training and equipment to make us less so.

I also commend the committee for adopting the two amendments I introduced.

The first, which I introduced with the help of Congressman JOHN SALAZAR from Colorado, adds Transportation Technology Center, Inc., in Colorado to the National Domestic Preparedness Consortium so that it can bring its expertise in providing additional security to rail and mass transit systems. As the Nation's premier rail training facility, this will give greater ability to respond to rail disasters.

My other amendment is one that I worked on with my friend from California, and it clarifies Department of Homeland Security rules on what crimes constitute security risks for employees during a background check, and it provides a redress process for individuals who feel they were unfairly fired or terminated.

Mr. Chairman, the security of America's railroad and public transit systems are too important to ignore any

longer. This bipartisan, commonsense bill will drastically improve our security.

I urge an "aye" vote.

Mr. KING of New York. Mr. Chairman, I yield such time as he may consume to the gentleman from California, Mr. LUNGREN.

Mr. DANIEL E. LUNGREN of California. I thank the ranking member for that and at the outset if I could ask the gentleman from Colorado if he would engage in a colloquy to clarify a section of the bill with me.

Mr. PERLMUTTER. I certainly would, sir.

Mr. DANIEL E. LUNGREN of California. At committee, the gentleman and I worked to clarify language in section 120, which he just referred to, regarding background checks on employees. We included language that specified that nothing in this section of the bill was intended to preempt State and local governments from enacting or enforcing requirements regarding criminal background checks.

Further, we agreed, and the committee agreed in report language, that this section was not intended to prohibit an employer, including State and local governments, from making any employment decisions otherwise permissible under Federal, State or local law.

I would also like to clarify my understanding that this section is intended to impact employers who are complying with the Department of Homeland Security requirements, regulation or guidance, but does not apply to employers who conduct background checks for other reasons.

I would ask the gentleman and yield to him whether this is his understanding of the intent of the section.

Mr. PERLMUTTER. Yes, I concur with your description of my amendment. I thank you for the question.

First, I would like to thank the committee and my friend from California, because we worked out language that would prevent preemption of Federal, State or local laws for security background checks.

Furthermore, these requirements only apply to Department of Homeland Security guidelines. Private employers may conduct subsequent or alternative security background checks, looking for other crimes, based on their employment agreements or other applicable laws.

However, if a person is adversely affected by that security check with regard to his or her employment, the employer may not use Homeland Security as the impetus for that adverse decision.

This section addresses the concerns brought to our attention at a hearing on the impacts of background checks on the transportation workforce. Additionally, it provides a redress process modeled after the transportation worker identification card program that carefully balances the importance of background checks while protecting the Nation's critical infrastructure.

Mr. DANIEL E. LUNGREN of California. I thank the gentleman for working with me on this bill and for clarifying this section.

Mr. Chairman, I rise in support of the bill. This is a bill which we have worked on for some time. We started in the last Congress, holding hearings on this in a bipartisan basis. We attempted to get information from the public and private sector in these areas of our economy.

I congratulate the chairman of the full committee and the chairperson of the subcommittee for moving forward with dispatch on this issue.

□ 1445

We did work on other sectors of our economy with respect to the issue of security against terrorist threats. We did very good work in the area of port security. We did very good work in the area of chemical facility security. I hope that we will continue to do work in the area of the trucking industry.

Where we are talking about the rail system and mass transit systems there is a demonstrated need for us to act, for us to have guidance from the Federal Government to State and local governments in cooperation with State and local governments, and for us to have guidance for the private sector and to work with the private sector in dealing with this threat that threatens all of us, public and private sector combined.

At the same time, I would suggest that there are a couple of concerns that I have about what form this bill may take. One of the areas that I tried, by way of presenting a suggested amendment to the Rules Committee to improve this legislation, was in the area of whistleblower. I mentioned this earlier in the debate on the rule, but let me just stress why this is important. We are dealing with an area in which we are requiring and requesting that other entities work with the Federal Government in coming up with security measures. And as a result of that, there will be information that we do not want shared with the outside world, that we certainly do not want shared in a public venue such that those who would do us harm would have an opportunity to be effective in their intent.

And that is why I was concerned, and other Members on my side of the aisle were concerned, about the whistleblower provisions here, which, frankly, do not carve out an exception for that area of the law dealing with security-sensitive information.

This is of such concern that I understand the administration would recommend a veto of this bill, not on the substance of it, but on the whistleblower provision, and there is no reason for us to run into that difficulty.

Secondly, in the area that will be discussed by the gentlelady from Florida, Ms. BROWN-WAITE, we have the concern about allowing this information out, not in a whistleblower setting, but just

allowing this information out as a result of requests under the Freedom of Information Act.

And remember, prior to 9/11 we used to have all sorts of information about nuclear facilities and other entities dealing with power, such that someone could go on an Internet search and find out exactly what the vulnerabilities of those particular facilities happened to be. We realized after 9/11 that in our effort to get everything out to the public we had probably damaged ourselves in terms of our vulnerability.

Here is another area where we are not, in my judgment, giving enough concern about the possible ill effects of our effort to get everything out in the public. And what we have said, and Ms. BROWN-WAITE's amendment attempted to do, was to try and say, in those areas where we have security-sensitive information, there ought to be an exception from the provisions of the Freedom of Information Act. We did this on a bipartisan basis in the Maritime Security Bill a couple of Congresses ago. Why we are not doing the same thing here, I do not understand. And if we had had our amendment to bring forward, we could have debated that. And I hope we will take care of that problem on the Senate side or in conference.

The last thing I would suggest is I understand there is going to be an amendment presented on the floor about alternative material sources. This deals with toxic inhalation materials. We worked very closely, I worked personally with the gentleman from Massachusetts (Mr. MARKEY) in this specific area, and we managed to come up with a bipartisan, balanced approach to that. And I just hope when we have the short time allowed for debate on that amendment, we will debate it in the context of the bipartisan, balanced approach that we developed in our committee and brought forth to this floor.

If you are going to present an amendment which basically is going to have the effect, whether intended or otherwise, to remove these materials from rail to our highways, how can we say we are any safer? And, frankly, that is what that amendment will do.

So I hope Members will look at this, not as a partisan issue, and not saying, well, it was offered by the majority side or the minority side, therefore I am going to vote for it or defeat it on that basis, but look at the actual words in there and look at what the impact will be.

We have made some mistakes in the past in our effort to do things that we have done in the past without the knowledge of the threat of terrorism that came upon us in 9/11. Let us not complete action on this bill as if we were dealing with it on 9/10. This is a bill that ought to be debated, considered, and voted on in the full light of the events that took place on 9/11 and thereafter.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2 minutes to the

gentlelady from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Chairman, I rise in strong support of H.R. 1401, the Rail and Public Transportation Security Act of 2007. I want to thank Chairman THOMPSON and Ranking Member KING for moving this bill to the floor in a bipartisan manner.

The President's budget request for fiscal year 2008 includes only \$41 million for TSA for surface transportation, less than 1 percent of the TSA budget. From fiscal year 2003 to fiscal year 2006, DHS distributed approximately \$387 million for rail and mass transit security grants. On average, that is only one penny of Federal homeland security funding spent for each of the 9.5 billion transit passenger trips each year. This number is minuscule compared with the average Federal security investment of \$9 per airline passenger trip.

This legislation represents the first step in closing the enormous gap between Federal spending on aviation security and spending on security for rail and public transportation.

As we saw in the uncovered plot to bomb the Herald Square subway station in New York City, as well as the horrific attacks in Madrid, London and Mumbai, terrorists are targeting mass transit systems, and we must do what it takes to protect and secure our transportation networks.

This bill, for the first time, authorizes dedicated risk-based funding for the security of railroad carriers, public transportation systems, and over-the-road bus systems.

It also provides for fire and line-safety improvements to be made at Amtrak tunnels throughout the critically important Northeast corridor, including six tunnels in the New York City area.

Every day, thousands of my constituents join more than 7 million riders traveling on Metropolitan Transit Authority trains and buses throughout the New York metro area. They expect and deserve to know that the Federal Government is just as committed to rail security as it is to other homeland security priorities.

I urge my colleagues to support this legislation.

Mr. KING of New York. Mr. Chairman, I yield such time as he may consume to the former sheriff of King County in Washington State and current ranking member of the Intelligence Subcommittee, Mr. REICHERT.

Mr. REICHERT. Mr. Chairman, I thank the gentleman for allowing me time to speak this afternoon. I also want to take a moment to congratulate Chairman THOMPSON on bringing this legislation forward.

And I do rise, Mr. Chairman, in support of H.R. 1401. A number of the speakers already have touched upon how the world has changed since September 11, but sometimes we say those words and, really, the heart and the meat of those words don't really touch

our hearts. And if I could just take a moment to share a story with you.

As I was traveling through my district a few months ago along the freeways just south of the city of Seattle, I looked up at one of the traffic advisory boards. Usually what you see on those advisory boards are traffic alerts: take a different route; traffic accident ahead; severe hazard is ahead; exit freeway; blocked freeway ahead. Those are the things that we are used to seeing on our traffic advisory boards in the Seattle area.

But on this day, as I looked up at the traffic advisory board, what it said was, SEA-TAC Airport security alert. No gels, no liquids allowed on planes in carry-on luggage.

That, to me, just struck for a moment at, really, the true change that has happened since September 11. Freedom has been impacted by the attack on the United States of America. And as we look at protecting our homeland, it is so important for our protection to be coordinated by law enforcement, by local law enforcement, for grant money to be directed toward local law enforcement and partnering with the Federal system, partnering with the Department of Transportation, partnering with the airport and the rail and security people who protect our railways, highways and airports. All of those have to be brought together and in conjunction with the private sector. That is the duty of local law enforcement to bring people together, to make our neighborhoods and communities safe.

But, as I support H.R. 1401, as reported unanimously by the Committee on Homeland Security, I am in strong opposition to the manager's amendment that is up for consideration today.

Under the version of this legislation, Mr. Chairman, approved by the Committee on Homeland Security, the Department of Homeland Security would be responsible for distributing rail and public transportation security grants. Unfortunately, good policy has given way to politics. And in the manager's amendment, we see the responsibility for administering these grants has shifted from the Department of Homeland Security to the Department of Transportation.

In a statement by the National Sheriffs' Association on this legislation, the association writes: "Specifically, the National Sheriffs' Association, sheriffs and law enforcement officials have a vested interest in protecting national and homeland security and, in order to do so, it is paramount that an obvious and central entity exist to which sheriffs can turn to for support and assistance. Thus, the National Sheriffs' Association believes that allowing the Department of Homeland Security to maintain the primary role in the assessment and the distribution of grant monies concerning rail security will help maintain such a necessary and efficient Homeland Security infrastructure."

Let me repeat that last part, please: "Allowing the Department of Homeland Security to maintain the primary role in the assessment and distribution of grant monies concerning security will help maintain such a necessary and efficient Homeland Security infrastructure."

In addition to this ill-conceived move, the manager's amendment makes another critical error in determining who is eligible for the \$2.4 billion of funds for rail security. Again, the version of this legislation reported out of the Committee on Homeland Security allowed State, local and tribal government entities, as well as railroad carriers, to apply for these grants. Risk-based, threat-based. The manager's amendment allows eligible railroad carriers only to apply for these grants.

Mr. Chairman, as a former sheriff of a major metropolitan area, I understand local law enforcement plays an important role in protecting our Nation's transit and rail systems. A cynical person might say that the manager's amendment serves as nothing more than a \$2.4 billion earmark for Amtrak, though I am sure that that is not the overt intent of its author.

While the manager's amendment has made some improvements to this legislation, specifically, the whistleblower provisions, I remain in strong opposition to the dangerous changes the amendment makes to the grant portion of this bill.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2 minutes to the gentleman from Rhode Island (Mr. LANGEVIN), the chairman of the Emerging Threats Subcommittee.

(Mr. LANGEVIN asked and was given permission to revise and extend his remarks.)

Mr. LANGEVIN. Mr. Chairman, I thank the chairman for yielding, and I want to commend him on his outstanding leadership in bringing this bill to the floor.

Mr. Chairman, I rise today in strong support of the Rail and Public Transportation Security Act, H.R. 1401, which will significantly strengthen the safety of our Nation's rail and mass transit systems.

Mass transit systems worldwide have long been terrorist targets.

□ 1500

Within the past few years, terrorists have exploited security vulnerabilities to carry out attacks on mass transit systems in London, Madrid, and Mumbai. We are fortunate to have escaped attack here in the United States, but make no mistake about it, the threat continues to be very real.

Each day, over 11.3 million Americans utilize our Nation's rail and public transit systems. Therefore, we must strike a delicate balance between tightening security and allowing for the free flow of passengers heading to school, work, and recreational activities.

One of the ways we can make a difference is in training our mass transit and railway personnel. Rail and mass transit security workers are our first line of defense in identifying abnormal activity and protecting passengers from potentially harmful situations. It is therefore vital that we equip them with the training that they need to be effective. Now, this legislation will create mandatory security training programs to prepare all front-line railroad and public transportation workers for potential threat conditions.

I am also pleased that this bill finally authorizes additional funding for enhanced security efforts. On average, Mr. Chairman, we spend \$9 per air passenger annually on security but only 1 penny per rail and mass transit passenger. This is clearly an unbalanced approach to our transportation security.

Now, while we should continue to allocate sufficient funding to secure our aviation sector, we must also increase the resources we dedicate to rail and mass transit. I am confident that H.R. 1401 will bring us another step closer to achieving this goal.

Mr. Chairman, we have certainly come a long way in making our Nation safer since September 11, but we are still not yet safe. This bill, combined with other homeland security measures passed in recent months, will close many of the existing gaps and make our Nation safer.

I urge my colleagues to join me in supporting this important piece of legislation. Again, I commend the chairman for his leadership in bringing this important bill to the floor.

Mr. KING of New York. Mr. Chairman, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2½ minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Chairman, I thank Mr. THOMPSON and the ranking member, Mr. OBERSTAR, and his ranking member as well for this very important legislation that has come forward today.

Perhaps you, too, can hear the collective sighs of the American people now that we are doing something about rail and mass transit. They have wondered, and how could they not, whether the bombs that were planted in Madrid and in London would somehow find their way into their own subways or whether the Hazmat accidents could be more than that here in this country.

I was moved by these vulnerabilities to be the lead sponsor first of the Safe TRAINS Act, then the Secure TRAINS Act. After all, 800,000 Federal workers use our Metro daily. That did not inspire the Federal Government to move forward. Finally, we have a bipartisan bill to relieve the national anxiety of the average American about the forms of transportation she uses most.

They watched as we poured billions into air travel security. We had to do it, it was after the fact. But we left huge vulnerabilities.

Union Station, for example, the hub of the entire region, you have beneath it the trains running underneath a hall where Members every other day come to celebrate in the evening one or the other kind of event. The District of Columbia was driven by the vacuum to actually pass its own rerouting legislation that has not even been dismissed ever yet. That shows you how vulnerable we are.

The bill finally instructs the Department of Homeland Security to exercise leadership, to use its expertise so that transit systems are not working on security on a case-by-case basis. We can't protect the country by shoring up one mode of transportation alone—a virtual invitation to then move elsewhere.

I think there is an important lesson here. I am on the Aviation Subcommittee, so I have wanted to shore up air travel. But by shoring up one mode of transportation, we may be offering a virtual invitation for terrorists to go to the next most vulnerable target. That turns out to be rail and mass transit, where we could least afford terrorist events. That is where the American people are. I thank both sides of the aisle for coming together on this bill to go precisely where they are to protect the public at last.

Mr. KING of New York. Mr. Chairman, I continue to reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2½ minutes to the gentleman from North Carolina (Mr. ETHERIDGE).

Mr. ETHERIDGE. I thank the chairman for yielding, and I commend him and the ranking member for their hard work on this piece of legislation.

For too long, the Department of Homeland Security has ignored threats to rail and public transportation and buses; and I am pleased to help cosponsor this legislation to correct this problem.

In the face of recent attacks in London and Madrid and with our own subways and buses still vulnerable, I am hopeful that this legislation will make sure that the Department addresses this critical work.

In addition to closing security gaps in rail and mass transit safety efforts and providing support and guidance for training, security planning and research and development, this bill contains language that I proposed requiring the Department of Homeland Security to assess threats to our Nation's children posed by security risks to school bus transportation.

School buses have been targets of terrorists throughout the world, including here in the United States. Just last month, the FBI said that members of extremist groups have purchased school buses and obtained licenses to operate them, while adding that "parents and children have nothing to fear." I do not believe we can take these assessments at face value without a comprehensive threat assessment of school bus transportation.

School transportation is a patchwork of systems including public entities, privately owned school bus companies, contractors who provide school transportation, individual owner-operators of school buses who contract with school districts or school systems. The risks are poorly understood, as the FBI's muddled message indicates.

An attack on our school buses would be devastating not only in the lives harmed but also in the psychological and symbolic impact. As a former superintendent of schools for the State of North Carolina, I know that children, parents, and schools deserve our school buses to get children to school as safely and as securely as possible. We owe our children no less than to be able to confidently say that our transportation system is secure.

The bill requires DHS to perform a comprehensive threat assessment for school transportation and make recommendations on how to respond to these threats. The bill requires vulnerability assessments and security plans for other modes of transportation in the public trust, and it should be the same for our children.

I urge everyone to vote for it.

I thank you, Mr. Chairman, for yielding the time and to the ranking member for all your hard work.

Mr. KING of New York. Mr. Chairman, I continue to reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2 minutes to the gentleman from South Texas (Mr. CUELLAR).

Mr. CUELLAR. I thank the gentleman for yielding, and I also thank Chairman THOMPSON for the strong leadership that he has shown on this bill. I also thank Mr. KING for the bipartisan support that he has shown on this bill and with the committee.

I rise in support of H.R. 1401, the Rail and Public Transportation Security Act of 2007. H.R. 1401 is an important piece of legislation that takes steps to secure our Nation's railroads, over-the-road bus networks, and the public transportation systems. In addition, the Rail and Public Transportation Security Act includes provisions that take strides in enhancing the security of transportation systems at our critically important international land borders.

My hometown of Laredo, Texas, is one of the busiest ports of entry into the United States and a hub of international commerce. Approximately 1,600 railcars cross the border daily in Laredo. Additionally, 163,000 cars cross annually that are loaded with freight and headed to destinations throughout the United States.

To meet the challenge of securing our Nation's border rail ports of entry, I worked with my chairman and my colleagues on the Homeland Security Committee to include two important additions to H.R. 1401. The first one supports the development and emergency response and recovery tech-

niques that can be used at our international borders. The second gives rail inspection facilities at our international borders a priority to receive critically important rail security grant funding authorized by this legislation.

I am proud to support this legislation that will make our Nation's rail, transit, and bus systems more secure and that will ensure that the safety of citizens living across the Nation are secure as they use these systems.

Mr. Chairman, I again thank our chairman for the leadership that he has shown on this piece of legislation and for leading our committee.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 3 minutes to a former member, stellar member, of the House Homeland Security Committee, Mr. PASCRELL of New Jersey, who has moved on, but he still has an interest.

Mr. PASCRELL. Mr. Chairman, I rise in strong support of the Rail and Public Transportation Security Act of 2007. This is critical legislation designed to focus on a long-time vulnerability that exists within our Nation.

This bill is a real product of bipartisan cooperation. So I want to commend our leader, Chairman BENNIE THOMPSON, as well as Ranking Member PETER KING, both of whom I enjoyed working with and continue to work with, even though I am not officially on the committee. You have performed a tremendous service to this country, and we are indebted to you. Your sagacity is seconded by no one.

We know that rail and public transportation represent a very tempting target for those who wish to do us harm. London and Madrid are just two recent examples of the mass transit systems that are plagued by terrorism. Last year, in fact, the committee went to Madrid, to Rome, and to London, and we saw the evil deeds of terrorists, and we learned much, and they learned much from us. Thankfully, H.R. 1401 will make needed and long-overdue investments in America's public transportation to ensure that we are safer and more secure.

The bill provides for comprehensive, mandatory training for front-line workers. That is so critical for us to understand. These are folks that are on the job every day. Transit employees must know how to identify risks and respond in case of a threat or attack.

And you know, Mr. Chairman, I felt very strongly about this, discussed it with both of you, that we need to get more retired law enforcement into these positions of security. They know how to detect the threats that are on the line.

The bill also enhances whistleblower protections so that workers can be free to report security concerns. This is critical, Mr. Chairman. This has been so critical in exposing the security gaps at airports throughout the United States of America. If people are not free to tell us what they see day to day and are fearful that there will be reaction against them, that is not good.

Most importantly, this bill provides \$7.3 billion to public transit agencies, Amtrak, bus operators, and other providers of rail and public transportation. We want people to feel as safe on the trains as they are in the air.

We know full well that rail and mass transit have been negligently underfunded in terms of security since 9/11, and it is long past time that we do this.

□ 1515

Today we do that. I applaud the chairman and I applaud the entire committee for their hard work.

Mr. KING of New York. Mr. Chairman, I reserve my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2 minutes to the gentleman from Houston, Texas (Mr. AL GREEN).

Mr. AL GREEN of Texas. Mr. Chairman, I especially want to thank the chairman for his outstanding leadership. It is an honor and really a pre-eminent privilege to serve with him on this committee. I also thank the ranking member. I would thank also the subcommittee Chair, SHEILA JACKSON-LEE, from the great State of Texas. She and I have districts that are juxtaposed right next to each other.

Mr. Chairman, I am supporting this legislation because it authorizes \$140 million to Amtrak to improve tunnels in the Northeast corridor. It requires programs that will cause our transit employees to be trained on how to prevent, prepare for, and respond to terrorist attacks. Our first line of defense will be prepared to defend as a result of this bill.

This bill requires that we look forward, and it authorizes \$200 million over the next 4 years to find solutions to security threats.

This bill protects those who would protect us in that the whistleblowers will be protected. I trust that while it may not be a perfect provision, it is better than what we had, and I assure the public that this is going to help us.

This bill will help us to get the additional inspectors that we need. We will move from 100 inspectors to 600 by 2010.

This bill helps us to protect America's future, our children, in that it provides for school bus transportation security assessments.

This bill provides for enhanced security for shipments of sensitive materials.

Finally, of the many things I can say, I want to remind us that this bill provides that violators of the act will be punished. There are both civil and criminal penalties for violators.

I think this is a good bill. I am honored to have my name associated with it as an original cosponsor.

Mr. KING of New York. Mr. Chairman, I continue to reserve my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2½ minutes to the gentlelady from New York (Ms. CLARKE).

Ms. CLARKE. Mr. Chairman, I wish to thank Chairman THOMPSON, Ranking Member KING and Chairwoman

JACKSON-LEE for their vigilance on this issue.

Mr. Chairman, I rise in support of the Rail and Public Transportation Security Act of 2007, H.R. 1401. In the past, Congress has passed laws to improve air and maritime security. With this bill, Congress is finally taking the very important step of securing America's vast ground transportation systems.

It is particularly important for my home city of New York, which has spent far more of its own treasury than any other city on securing its citizens. Along with providing much-needed funding for security improvements to mass transit, bridges and tunnels, this bill will also help fund police and counterterrorism task forces to patrol the areas and react to emergencies.

Further, this bill provides \$100 million over the next 4 years to bring about long-anticipated safety and security renovations at Penn Station, which sees thousands of New Yorkers and tourists from across America each day.

I am particularly proud of the language included in the bill that ensures labor unions will play an integral role in the solution. Unions will now be eligible to receive a portion of the grant funding, allowing them to work hand-in-hand with transportation carriers on how to improve the safety of the workers and passengers alike.

Also, for some time, many local governments and agencies have been concerned about their lack of involvement with the Federal side of the transportation security process. For years, Federal security inspectors have refused to consult with transit agencies about how best to patrol their facilities. This new bill will force DHS and DOT to work together with State and local governments when deciding how the Federal Government will interact with local agencies.

H.R. 1401, the Rail and Public Transportation Security Act of 2007, is an excellent bill that will revolutionize transportation security in America, and I wholeheartedly recommend that my colleagues join me in voting "yes" for this bill.

Mr. KING of New York. Mr. Chairman, I continue to reserve my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 1½ minutes to the gentleman from Colorado (Mr. SALAZAR).

Mr. SALAZAR. I thank the gentleman from Mississippi for yielding, and I want to recognize the chairman and the ranking member for their exceptional leadership on this critical issue.

Mr. Chairman, I rise today in support of H.R. 1401, the Rail and Public Transportation Security Act of 2007, and urge its swift passage.

Horrific terrorist events around the world have forced us to focus on rail security. This bill is an important and necessary step towards protecting our Nation's rail and surface transportation safety.

My district is home to the world-renowned Transportation Technology Center in Pueblo, Colorado. TTCI's Emergency Response Training Center conducts hands-on hazmat training for first responders and is known in the field as the premier graduate school for surface transportation hazmat training.

My good friend and fellow Coloradan, Mr. PERLMUTTER, highlighted in committee the critical role that TTCI plays in advancing rail security, research and development and hazmat training.

By making TTCI the sixth member of the National Domestic Preparedness Consortium, it will add a critical component to the consortium that is now missing. TTCI is the only facility in the Nation that has the experience and assets necessary to test new emergency response and recovery techniques. Adding TTCI to the consortium will help fulfill the goals of this bill, making our rail lines safer from homeland security threats by enabling the facility to accelerate its already outstanding work in the field of rail security.

Mr. Chairman, I urge my colleagues to support the investment in rail and public transportation security and passage of this much-needed bill.

Mr. KING of New York. Mr. Chairman, I reserve my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 1 minute to the gentleman from Chicago, Illinois (Mr. DAVIS).

(Mr. DAVIS of Illinois asked and was given permission to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Chairman, I rise in strong support of H.R. 1401, the Rail and Public Transportation Security Act of 2007, and I commend the Committees on Homeland Security and Transportation for such an outstanding piece of work. But I also want to just take this opportunity to pay serious appreciation to the chairman of Homeland Security, to the chairman of Transportation, Representative OBERSTAR, and to the chairman of Judiciary, Representative JOHN CONYERS.

I was involved in a situation with an issue that we brought to them, and, as a result of their humaneness, their serious understanding and their recognition of the need to protect the rights of individuals throughout America, I think we ended up with a bill that I am strongly in support of, urge its passage and, again, commend all of these gentleman for their tremendous sensitivity and hard work.

Mr. KING of New York. Mr. Chairman, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 3 minutes to the gentlelady from Texas, Ms. SHEILA JACKSON-LEE.

Ms. JACKSON-LEE of Texas. Mr. Chairman, let me thank the distinguished chairman of the committee and thank the ranking member and the members of the committee who worked so diligently. Let me specifically thank

the members of the Subcommittee on Transportation Security and Critical Infrastructure. Each and every one of them worked tirelessly to contribute to this bill, along with members of the full committee.

This has been a very tough mountain to climb. We waited for 4 years to travel through a number of legislative initiatives, and finally we reached a point where we are able to bring to the floor the Rail and Public Transportation Security Act of 2007.

Let me thank the chairperson, Mr. THOMPSON, for his vigorous leadership and his concern, so much so that he organized and made sure that the full Homeland Security Committee was organized to have a subcommittee that would focus on transit systems which would include over-the-road buses, trucking and a number of other important transit systems or transportation systems that heretofore had not been covered.

Let me also thank him for the inclusion of the aspect of critical infrastructure because, interestingly enough, when you look at transportation systems, critical infrastructure plays into the holistic approach to security. So this bill I think has a holistic approach to ensuring that we have security, and it has as a backdrop the tragedies of Madrid and the tragedies, of course, of London.

So what we do is, how do we fix the problems. I think we have a hands-on approach, but a balanced approach, between the Departments of Transportation and Homeland Security. We increase the number of inspectors to 600. We require a national rail and public transportation security plan. For the first time in the history of this Nation, we will clarify the roles and responsibilities of Federal, State and local agencies, so that if you have a local transit agency, they will have the opportunity to develop a transit security system. I would encourage my colleagues as this bill makes its way that we focus on local jurisdictions having security plans.

It will strengthen intelligence sharing. One of the Achilles heels of 9/11 was that we did not share intelligence. We will do that as relates to transportation systems.

Then we will lay out plans for public outreach and public education initiatives. It will include strategies and time lines for research and develop. We have expanded, of course, this whole idea of security to diverse groups that have not heretofore had the opportunity, minority institutions, minority contractors and women-owned businesses that can become engaged.

And, yes, our committee had a hearing on the tension, but also the separation, between the hiring of individuals and the requirements of railroad companies versus the requirements of the Department of Homeland Security, so we wouldn't use security as a reason for terminating individuals.

This bill has a positive end to it. We will bring rail security to America, Mr.

Chairman, I am proud to have been the subcommittee Chair on this and proud of this committee. I ask my colleagues to support this bill.

Mr. Chairman, I rise in support of this bill.

As the Chairwoman for the Homeland Security's Subcommittee on Transportation Security and Infrastructure Protection, we have held numerous vital hearings on the topic of transportation security. These hearings were attended by the Subcommittee's Ranking Member, Mr. LUNGREN from California, and other Committee Members from both parties.

Over the past couple of months, the Committee on Homeland Security has heard testimony on the important issue of rail, mass transit, and over-the-road bus security. After hearing the experts' testimony, I, like many Americans, am appalled by the failure to provide ongoing and continuous oversight in transportation security—specifically, in the areas of rail and mass transit.

Throughout the world, mass transit systems have long been targets of terrorist attacks. Algerian extremists set off bombs on the subways of Paris in 1995 and 1996; the Irish Republican Army waged a long-running terrorist campaign against the London Underground; Palestinian terrorists have carried out suicide bombings on Israel's buses; Chechyan terrorists killed 40 people by bombing the Moscow subway in 2004; and, in the first terrorist use of a chemical weapon, a Japanese cult—Aum Shinrykyo—released sarin gas on a Tokyo subway in 1995.

Recent events make it clear that the threat continues. On the morning of March 11th, 2004, ten explosions occurred at the height of the Madrid rush hour aboard four commuter trains. On July 7, 2005, during the morning peak travel hours, three separate explosions ripped through the London Underground and a fourth explosion occurred on a double-decker bus. These four explosions, the result of co-ordinated suicide-bombings by British-born Islamic extremists, claimed the lives of 56 people and seriously injured hundreds more. Two weeks later, on July 21, 2005, another group of terrorists unsuccessfully attempted to attack London's mass transit system again. On July 11th, 2006 a series of seven bomb blasts against the Suburban Railway in Mumbai (formerly known as Bombay), capital city of the Indian state of Maharashtra and India's financial capital resulted in 207 lost lives and over 700 injured.

The recent attacks serve as a harsh reminder of mass transit and rail security vulnerabilities. Both mass transit and rail systems are public and used by millions of people daily. Because of their size, openness, and highly networked character, there are no obvious checkpoints, like those at airports, to inspect passengers and parcels. Passengers are strangers, promising attackers anonymity and easy escape.

And attacks on mass transit—the circulatory systems of urban areas—can cause widespread fear, severely disrupt economic activity, kill or injure large numbers of people, and alter our way of life. An attack on our freight rail, either the material being transported (such as hazardous materials, or vital commodities), or merely the system itself, could severely impact our national economy.

As a result, both mass transit and rail systems are attractive targets. Since September 11, 2001, according to the Memorial Institute

for the Prevention of Terrorism, mass transit systems have been the target of more than 145 terrorist attacks.

Due to their existence in high-population, high-risk urban areas, mass transit systems are also inevitably affected by any terrorist attack that may occur within that jurisdiction—regardless of whether the transit system was the target of the attack. For example, during September 11, 2001, two of New York City's busiest transit stations were lost and considerable damage occurred to the tunnel structures, endangering hundreds of lives underground. Great care was required to evacuate passengers, locate and rescue trapped transit cars, and communicate instructions. The damage in New York City was so great that in the immediate aftermath of 9/11, Congress appropriated \$1.8 billion to rebuild the subway infrastructure that was damaged in the attacks. I am hopeful that through this legislation we can prevent such attacks rather than face the tragic consequences of 9/11 again.

I refuse to sit idly by and allow another 9/11 or Madrid, London, or Mumbai bombing to disrupt our Nation and its critical infrastructure—it is with that conviction that I seek to address these issues. The recent world events should serve as a wake-up call that we must do more to secure our transportation systems and we must act quickly and responsibly. I firmly believe that the legislation before us today will take an important step in securing our transportation systems.

Pursuant to the Aviation and Transportation Security Act of 2001 (ATSA), the Transportation Security Administration (TSA) is responsible for the security of all modes of transportation including rail and mass transit. TSA, however, has focused the majority of its resources and assets on aviation security in the past five years.

Congress, recognizing TSA's lack of progress in developing a security strategy for all modes of transportation, mandated the development of a National Strategy for Transportation Security in the Intelligence Reform and Terrorism Prevention Act of 2004 ("9/11 Act"). This strategy, although due April 1, 2005, was not finalized by TSA until September 2005. Moreover, the document provided by the Department of Homeland Security (DHS) did not meet the requirements set out by Congress, especially with regards to rail and mass transit security. Furthermore, subsequent congressionally mandated updates were also not met by TSA, resulting in the 9/11 Discourse Project giving the TSA a C— for its efforts.

TSA's failure to assume a leadership position on surface transportation security is plainly evident. It is time that we take action and leadership to help protect the more than 11.3 million passengers in 35 metropolitan areas and 22 states who use commuter, heavy, or light rail each weekday. There must be substantial penalties for those who do not follow the security plans, vulnerability assessments, and regulations set out in this legislation.

This bill provides the framework by which to create an ongoing and constant oversight process for our overlooked modes of transportation. Working with other federal government agencies, the Department of Homeland Security will monitor and assess the progress made by transportation providers and their workforces in implementing the security training mandated for transportation workers in this bill. I am also pleased that I was able to en-

sure in this bill that DHS would leverage its work in regards to security training with the safety training which has already been developed in universities and institutions of higher learning.

These institutions with existing transportation programs will also have an opportunity to participate in the National Transportation Center of Excellence Consortium. These programs have spent numerous years developing solutions for transportation vulnerabilities and this knowledge should be employed. I am especially pleased that minority serving institutions will play an active role in contributing to improving our transportation security.

Furthermore, neighborhood and local participation through programs such as Citizen Corps exercises is also critically important in facilitating security exercises. The millions of men and women who live next to railroad tracks and subway stations will be directly impacted if there is an attack, and they should be active and knowledgeable participants in preparing for such a tragic incident.

Furthermore, I am pleased that I was able to work with Chairman THOMPSON and Chairman OBERSTAR on the issue of rail security grants for security improvements to new start rail projects and systems. New start rail projects throughout the country will be more secure because we were able to incorporate language ensuring that rail security grants are used for security plans for new start rail projects which have not become operational yet.

Mr. Chairman, I also worked to ensure that this bill will authorize some much needed human resources to the Transportation Security Administration in the form of 600 additional rail security officers and inspectors. TSA will need additional manpower to meet the mandates set out in this legislation, such as approving of security plans and implementing training programs for covered transportation workers. The 100 additional officers I was able to secure will ensure that TSA is equipped to live up to its new mission.

This bill also authorizes more than \$5.1 billion for the next four years, for rail, mass transit, and bus security. The funds called for in this bill should be based on risk and the priorities established by DHS. With this bill—for the first time—we will have comprehensive vulnerability assessments and security plans for rail, mass transit and buses.

I find it completely appalling that this Administration seems to be unwilling to act on rail and mass transit security until we are faced with another disaster. I shudder to think that if the Washington, DC or New York subway systems were attacked, and mass casualties resulted, that we would be thinking that more could have been done to prevent such a tragedy. We will be desperately trying to figure out how to prepare for a disaster that has already happened and holding hearing after hearing to find out where we dropped the ball. The time to prepare is now, and I am committed to securing our nation's rail and mass transit system expeditiously. We have been blessed thus far that our rail and public transportation systems have not been attacked. We should make our best efforts to ensure that we do not overlook this blessing.

From the terrorist attacks that have occurred around the world, we know that terrorists will

target our rail and public transportation systems. Despite this admonition, the agency created and funded by Congress to address the issue of transportation security has consistently dropped the ball when it comes to rail and public transportation. We cannot let the lessons of Madrid, London, and Mumbai go unheeded. For the sake of the millions of Americans who use our rail and mass transit systems every day to go to work, school, and visit friends and family, we have to take charge on this security risk.

What we are witnessing with the Transportation Security Administration is a lack of complete accountability. The Transportation Security Administration is not being held fully accountable for protecting our transportation systems and this must change. I acknowledge and appreciate the time that TSA Administrator Kip Hawley has taken to participate in this important hearing. However, we cannot tolerate the TSA's past inaction on this issue to continue for a moment longer.

While it is understandable that we would put focus on the safety of air travel, given the events of 9/11, what cannot be justified is the completely lopsided attention by the Department to aviation security at the expense of rail and mass transit security. I am pleased that this Congress and Chairman THOMPSON have decided to do what this Administration has thus far proved unwilling to do. That is, to provide a comprehensive framework to secure this nation's rail and public transportation systems.

We owe it to the public to safeguard the modes of transportation that allow them to carry on with their lives and drive this economy. Millions of men and women ride our nation's rail and public transportation systems every day; we owe it to them to ensure that they can do so safely and securely. I hope that through today's hearing and our continued efforts on the issue of rail and mass transit security, we can resolve the asymmetric way in which we treat aviation versus rail security and resolve the substantial threat posed by inadequate security on our rail and mass transit system.

I want to thank my colleagues for all of their hard work and dedication to these important issues, but I also want to emphasize that our job is not complete until we pass this bill and send it to the President. I eagerly look forward to the expeditious enactment of this critical legislation.

Mr. KING of New York. Mr. Chairman, let me again commend Chairman THOMPSON for his very high level of cooperation, for the dedication he has shown to this, and again thank Mr. LUNGREN, the ranking member of the subcommittee, for his efforts in the previous Congress and this Congress, and also the gentlewoman from Texas (Ms. JACKSON-LEE) for her efforts.

Mr. Chairman, the country was caught unaware on September 11. We could perhaps say that we did not anticipate the ferocity of the attack or the nature of the attack or the nature of our enemy, but we no longer have that excuse. September 11 certainly made us fully aware of how deadly our enemy is. Since then, whether it be intelligence reports or whether it be the attacks in London, Madrid or Mumbai, we realize also that mass transit is a favorite target of Islamic terrorists.

So we have no excuses. We have to move forward, and that is what this legislation does. It sets a coordinated national policy toward dealing with attacks on our public transportation system. It coordinates at the national level with the State and local officials what has to be done. It provides a level of training to our transit workers and to our police.

As I mentioned before, in New York, as Ms. CLARKE knows well, there are more than 5 million riders on our mass transit system every day.

As the gentleman from New Jersey (Mr. PASCRELL) mentioned, he and I and a number of other members of the committee last year visited London and we visited Madrid. We saw the extent of the carnage and the destruction that was caused. We full well realize that the next terrorist attack may very well be launched from the suburbs. It could be brought in on a commuter train to our cities. The subway systems themselves, the mass transit systems themselves are extremely vulnerable to attack.

We can never be 100 percent secure. We can probably never reach the same level of protection on a subway system or mass transit system, for instance, that we can at our airports.

□ 1530

We do a great deal. And that is what this bill does, it moves us forward. It provides levels of protection that we do not currently have. And it is going to be an ongoing work in progress. It is going to be something that requires our continued dedication, our continued effort. It is going to require continued bipartisan effort, bipartisan support.

So I look forward to working with the chairman at least for the next 21 months in his role as chairman and, whatever happens after that, continue to work with him. Because this is, again, an issue, it is a threat that goes far beyond any type of partisan divide. It is something that should bring us all together as Americans. There is so much that we have in common where our values and principles are shared, are in common that, as Democrats and Republicans and, most importantly, as Americans, we can work together. This bill goes very far in that direction.

Again, I commend the chairman. I commend all of the members of the committee on both sides for their efforts.

Mr. Chairman, I yield back the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, let me, at the close, thank my ranking member of the committee.

Our committee, as you know, has a reputation of being one of the more bipartisan committees here on the Hill; and I look forward to continuing that. Mr. KING has done a wonderful job.

Clearly, this legislation helps close the gap in terms of vulnerability. Those people who fly have been reasonably safe since 9/11. However, we clearly

have vulnerabilities that we need to fix on the rail and public transit systems. So what this bill does is move us in that direction.

Mr. Chairman, I urge my colleagues to vote "aye" on H.R. 1401.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mr. SNYDER). All time has expired on this section of general debate which has been controlled by the gentleman from Mississippi (Mr. THOMPSON) and the gentleman from New York (Mr. KING).

Pursuant to the rule, the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Florida (Mr. MICA) each will control 10 minutes of general debate.

The Chair recognizes the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I yield myself 2 minutes.

This legislation is vitally important. It is long-standing. Actually, transportation security legislation in the aftermath of September 11 originated in the Committee on Transportation and Infrastructure, where the gentleman from Alaska, then the chairman, and I worked on a wide range of transportation issues. The gentleman from Florida (Mr. MICA), then the Chair of the Aviation Subcommittee, and I worked on what became the Transportation Security Administration, the TSA, the aviation portion of it.

So we have a long-standing interest and involvement and in-depth engagement in this issue of transportation security. And now that the Homeland Security Committee has been created, we share aspects of this jurisdiction with that committee under the able leadership of the gentleman from Mississippi (Mr. THOMPSON), the able chairman of the committee. We are very grateful for the opportunity we have had to work together to align our interests and achieve a memorandum of understanding that has been incorporated into the Rules of the House on the shared jurisdiction.

Over a decade before September 11, 40-plus percent of terrorist incidents were carried out against rail systems and transit buses; and events of recent note show that those kinds of attacks continue.

The transportation systems covered under this legislation cover over 11 billion passengers. In the United States, every day 14 million people use public transportation for some 10 billion plus transit trips annually.

This legislation gives us new authority and new funding to address the needs of those transit systems, to protect them against attacks, reduce their vulnerability and improve the security of passengers.

Mr. Chairman, I reserve the balance of my time.

Mr. MICA. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I would have liked to have come to the floor and supported this bill. However, the more I learn

about some of the provisions of the manager's amendment that will be offered, the more I learn about some of the special interest provisions that have been put in this bill in the name of some special interest, as opposed to national security, I find myself inclined to vote against the measure and final passage, if it continues as it is now crafted.

First of all, I truly believe that the security grants that are provided for under the provisions of this legislation will not prevent terrorist attacks. This isn't always a question, as I said earlier on the rule, of how much money we spend. I have no problem as a Member of Congress spending money on rail and transit security. It is how we effectively spend that money.

This bill is not going to prevent a Madrid, where cell phones and backpacks were used. This is not going to prevent a London, where clean, unknown suicide bombers exercised their will and slaughtered many people, both aboveground and underground.

I was there just weeks before and saw some of the measures that they put in place. Now they were nice surveillance measures, but we can't make the same mistakes. If we want to stop terrorism, we are going to have to penetrate the organizations, the finances and the communications of individuals that are willing to take their own lives and others. This bill is not going to, as it is crafted, provide that.

The other thing that was prohibited from both the Homeland Security Committee and the T&I Committee was the ability to amend this. As we saw this product developing, we did not put in a needs assessment or risk assessment, which has never been done for rail or transit security, so we don't know where to spend the money.

We heard some of the Members saying we are going to have 600 inspectors. Do we need those 600 inspectors? Someone else said we are going to make these grants available to unions. Is that the best interest or is that serving some special interest?

So I have grown to have some very serious concerns about the provisions of this legislation. And the American Association of Railroads has said that, in fact, this is going to dismantle safety and security as we know it under existing law with the preemption clause that has been provided here.

So from State to State under the provisions of the way this manager's amendment is crafted, the regulations will vary. Can you imagine a train going from jurisdiction to jurisdiction under those circumstances?

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield 4 minutes to the gentlelady from Florida, the Chair of the Rail Subcommittee.

Ms. CORRINE BROWN of Florida. I want to thank Chairmen OBERSTAR and THOMPSON for working together to bring this important legislation to the floor.

For too long, we have neglected the security of our rail and transit system, and this legislation will go a long way to make up for this.

March 11 marked the third anniversary of the train bombing in Madrid, where 191 people were killed and 2,050 were injured. Since that terrible terrorist attack, additional bombings have occurred in London and India, killing hundreds more people. It is obvious that we must be ready for a similar attack here in our own country, but, sadly, we are not.

Mr. Chairman, each year more Americans ride on rail and transit systems than they do on planes, yet the money we are putting in security is a mere fraction of what we devote to aviation security. In 2006, the Federal Government spent \$4.7 billion for airline security, yet only \$136 million for rail and transit systems. Five times more people take trains over planes each day, yet we spend 35 times more on aviation security than we do on rail and transit security. This is not acceptable.

Chairman DEFAZIO and I recently held a hearing on rail and transit security, and what we found was discouraging. Since 9/11, the Department of Homeland Security has failed to issue a strategy to secure our rail and transit infrastructure, and the Transportation Security Administration has not completed a risk assessment of these systems.

Additionally, the rash of international terrorist bombings means that terrorists are getting smarter. Their future attacks will be harder to prevent. The window to secure our rail and transit infrastructure is closing quickly, and we need to act. While the Department of Transportation has done the most work of all agencies to secure this segment, it is obvious that much more work needs to be done.

I am glad that the manager's amendment will require DHS to work with the DOT to improve our Nation's rail and transit security system. It is hard to believe that almost 6 years after 9/11 we still have not addressed the rail and transit security. But election brings changes, and I am glad that we, the new congressional leadership, have common sense to take steps to protect the millions of people who use our Nation's many rail and transit systems.

The legislation on the floor today takes important steps to address our Nation's rail and transit security. This bill requires comprehensive security plans, strengthens whistleblower protection for workers, mandates security training, improves communications and intelligence sharing, authorizes a high level of grant funding for Amtrak, the freight railroads and public transit providers, and provides funding for safety improvements to the tunnels in New York, Baltimore and Washington, D.C.

Most importantly, it ensures our communities, first responders, transit and rail workers have the resources they need to keep their systems safe

and secure; and it does it through a coordinated effort between the Homeland Security and the Department of Transportation.

While we may lag behind other countries' efforts to protect transit and rail workers, I am glad that our new congressional leadership is taking steps to correct this problem.

H.R. 1401 will go a long way to protect our Nation's millions of transit and rail passengers, while protecting the communities they travel through and keeping the trains running on time.

I encourage my colleagues to safeguard their constituents and support this long-overdue rail and security legislation.

Mr. MICA. Mr. Chairman, I am pleased to yield 3 minutes to the Republican leader on the Railroads, Pipelines and Hazardous Materials Subcommittee, the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. I appreciate the gentleman yielding me time.

Mr. Chairman, I rise with great concern and in opposition to H.R. 1401.

I think there are many provisions in this bill that are positive, that will enhance security, but I am concerned about the strategy as we move forward. Do we have one to move forward, spending billions of dollars?

In addition, there are a couple of provisions in this bill, section 124, which would require carriers to ship along the most secure routes. That sounds good, but when you put in there shipping along these routes without concern for safety, you may decide that when you look at what may be to some secure, you have serious safety considerations, whether the track is safe or what the weather is going to be like, and what is the first responder capabilities? Those are things that we have to consider when we are deciding on which route to take different shipments.

Also, the background checks. Section 120, I believe, weakens the background checks and it appears to me may pressure private industry to hire people, hire felons that we don't want working on the rail system that could further jeopardize our security.

The whistleblower protection. I believe it already affords adequate whistleblower protection for our workers. Keeping it under its current law under the Federal Rail Administration I believe is much better than moving it over to the Department of Labor. The Department of Labor hasn't had the experience in working with rail and rail labor, where the FRA has great experience. So I think we need to leave it there instead of moving it to an agency that, as I said, has no experience.

Most importantly, I rise today to oppose the manager's amendment. For decades, the Federal policy has given the U.S. Department of Transportation preeminent jurisdiction over rail safety under the Federal Railroad Safety Act. Section 3 of the manager's amendment would destroy that Federal pre-emption.

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Under current law, States may enact safety laws as long as they address unique local safety hazards.

As I said, section 3 of the manager's amendment will change all of that. This would balkanize our rail system and subject railroads to a hodgepodge of State and local regulations. Railroads could face different rules every time they crossed a State or county or municipal border. Imagine, 50 States, 50 different jurisdictions, or more, when you talk about the different counties in America. And they could regulate on braking systems, the number of people on the trains, and the types of trains that we use or the tracks we use. In fact, in California there are proposals out there that they want to change the track standards, they want to change the types of locomotives.

This is going to destroy the efficiency of the national rail system that we have created, a successful one over 20 or so years. And I repeat, this is not a security issue. It does not belong in this bill. And I hope the chairman of the full committee joins me in opposing this manager's amendment because rail safety belongs in a rail safety bill, which the subcommittee is going to take up. So I urge my colleagues to oppose the manager's amendment.

Mr. MICA. Mr. Chairman, I am pleased to yield at this time 3 minutes to the previous Chair of the Rail Subcommittee and current ranking Republican leader of the Coast Guard Subcommittee of the House of Representatives, the gentleman from Ohio (Mr. LATOURETTE).

Mr. LATOURETTE. I thank the chairman, and I thank Ranking Member MICA for yielding me the time.

Mr. Chairman, I want to commend the chairman and ranking member of the Homeland Security Committee for bringing this important legislation to the floor. As Mr. SHUSTER indicated, there are some good provisions in the bill that will improve our Nation's rail network and the flow of freight and passengers using that. However, there is something very troubling in the manager's amendment which will be discussed soon.

Without careful consideration, there is a provision in the manager's amendment that could be detrimental to anybody who wants to ship anything on rail in this country or any passenger who wants to ride on Amtrak.

Unfortunately, section 3 of the manager's amendment is crippling to the bill. This section will undermine the efforts of the U.S. Department of Transportation and FRA's efforts to create a sound national safety policy. As Mr. SHUSTER indicated, for decades the preeminent jurisdiction has been maintained by DOT. Section 3 destroys that Federal preemption.

Under current law, States can enact safety laws as long as they address the unique local safety hazard. The amendment before us will change that and

will allow States to effectively override Federal policies. With this amendment, the railroads could have 50 different sets of local laws to follow, and Federal law would no longer provide the blanket policy for the carriers to follow.

A few of the things that we look at on the Transportation and Infrastructure Committee is how DOT and FRA are doing with the implementation of our laws and regulations relating to the safety and security of the Nation's railroad. In addition, as a committee we also look into issues such as capacity on railroad network, and how efficiently and effectively the network is working for the freight passengers using the network.

Because this provision has been inserted into the manager's amendment without the benefit of bipartisan testimony and hearings, the catastrophic consequences of such provision have not been debated or considered, in my opinion, in regular order. I call for regular order today, Mr. Chairman. I know that the chairman of our full committee and the ranking member of our full committee are thoughtful Members, deliberative when it comes to our Nation's transportation laws. This provision severely cripples the good work of our committee, in my opinion, the good work of DOT, and FRA. We should not make radical changes to the law without careful bipartisan consideration. The consequences that has not occurred.

I would indicate that Chairwoman BROWN has had a hearing. And I know the gentleman from North Dakota is preparing to speak on the horrible events that occurred in Minot, North Dakota. We also had the benefit of what used to be the American Trial Lawyers Association. I think in the greatest PR stunt in the universe they are now the American Association for Justice; they are no longer the Trial Lawyers.

I think that the gentleman's concern can be addressed without throwing out the Federal preemption, and I am saddened that the manager's amendment does that, and I hope my colleagues will oppose the manager's amendment because of section 3.

Mr. MICA. Mr. Chairman, could I inquire as to the time remaining.

The Acting CHAIRMAN. The gentleman from Florida has 1½ minutes, and the gentleman from Minnesota has 4 minutes.

Mr. OBERSTAR. Mr. Chairman, I yield myself 3 minutes and yield to the distinguished gentleman from North Dakota.

Mr. POMEROY. Mr. Chairman, I rise to engage the chairman in a colloquy and thank the gentleman for yielding.

Chairman OBERSTAR, I rise to discuss an issue that is of critical importance to my district. At 1:39 a.m. on January 18, 2002, a Canadian Pacific Railway freight train derailed in Minot, North Dakota. The freight train derailed 31 freight cars, including 15 cars con-

taining anhydrous ammonia. As a result of this accident, the people of Minot were exposed to the largest catastrophic release of anhydrous ammonia in U.S. history. They were not at fault. They were sitting ducks in their own homes.

After the area cleared, one individual, John Grabinger, had died, and many, many others suffered injuries, including individuals who sustained second degree burns to their skin. And many others are still suffering from long-term permanent physical damage.

Some courts are ignoring congressional intent and denying Americans grievously injured in railroad accidents their rights under State law, even when it is undisputed that the cause of the accident was the railroad's wrongdoing. By preempting State law, these courts are leaving injured North Dakotans and others with no remedy at all, since the Federal Railroad Safety Act itself does not provide a remedy or cause of action for victims.

I just want to clarify with the chairman the intent of the language found in section 3 on the first page of the manager's amendment. Is it correct that this legislation clarifies that the Federal Rail Safety Act of 1970 does not and was never intended to preempt State law claims for damages?

Mr. OBERSTAR. That is correct. This clarifying language comes in large part as a response to court opinions that have misapplied principles of Federal preemption which has prevented people injured by the negligent acts of railroads from being compensated. The bill does not change any of the current law, but only adds to it to clarify the meaning of what is already in public law.

Mr. POMEROY. It is my understanding that until 1993, there was no question that State causes of actions were not preempted. The Supreme Court then said they could be, under some circumstances, and some courts since then have been broadening the railroads' immunity from liability under the auspices of preemption. Congress tried before to change the FRSA's preemptive scope, but courts didn't listen. Does this language reflect the fact that Congress never intended preemption of State causes of action?

Mr. OBERSTAR. That is correct.

Mr. POMEROY. While the bill accurately clarifies that State causes of action are not preempted, will you continue to work with us to take the steps necessary to ensure that courts construe this amendment only as a clarification of Congress' original intent?

Mr. OBERSTAR. We will pursue this issue in future hearings of the subcommittee of relevance.

Mr. POMEROY. Is it also your understanding that the same Federal court that dismissed those claims urged the Congress to remedy this situation and the language in section 3 does precisely what the court said needed to be done?

Mr. OBERSTAR. The situation that needs to be cured is not that the statute preempts negligence claims requires a change. The situation needing remedy is the misinterpretation of the statute by some courts. That is precisely what this clarifying language is intended to accomplish. This matter will be further reviewed as we proceed with reauthorization of the Federal Rail Safety Act in our Committee on Transportation and Infrastructure, and I would look forward to continuing to work with the gentleman from North Dakota, the Chair of the subcommittee, and ranking member of the subcommittee to address the judicial interpretation.

Mr. POMEROY. I thank the chairman.

Mr. MICA. Mr. Chairman, I yield myself the balance of my time.

I wish I could have come to the floor today and supported this measure, because rail and transit security are extremely important and it is one of our most important responsibilities as representatives of the people. People are working hard, trying to make a living, raise their families. They send us here to know the facts. And I can tell you, the facts are that this bill was done in haste, particularly the manager's amendment. It is a great example for the House of Representatives and the majority, the new majority and the minority. Because when you subvert and do not conduct yourself in the process that the Founding Fathers had envisioned, a bipartisan approach to crafting legislation, you get yourself tied up in these little knots. Now they are finding flaws in this legislation left and right, deregulating State traffic and railroads. They are scurrying around trying to figure out how are we going to fix this.

This is not the way to do the people's business, particularly on an important issue like security. So I will go home and tell people why I voted against this. Many others can go home and say, I voted \$7 billion or \$8 billion of your money for rail and transit security. But what did it do? Unfortunately, it didn't do the job we need to do in the situation we find ourselves in with terrorist threats and what we have seen in the rest of the world. We are abdicating our responsibility.

Mr. OBERSTAR. Mr. Chairman, we have worked very vigorously in our committee over decades to achieve the bipartisanship, and we have done so. But I think the gentleman is a little misguided in his recitation of history, because there were the Federalists and the Democrats at the outset and they didn't do much bipartisanship at the beginning of this Congress of ours.

I just refer to section 3 of the manager's amendment, line 2: No Preemption of State Law. Nothing in section 20106 of title 49 U.S. Code preempts a State cause of action, or any damages recoverable in such an action, et cetera. So, in fact, the preemptive language specifically recognizes that ex-

isting law preempts positive laws, regulation, or orders by executive or legislative branch officials, expressly address railroad safety or security. And, not to be concerned, we will address the broader issue as we go forward with the rail safety authorization.

Ms. LORETTA SANCHEZ of California. Mr. Chairman, I rise in strong support of H.R. 1401, The Rail and Public Transportation Security Act of 2007, of which I am an original cosponsor. This legislation will make long overdue security improvements to the rail, transit, and surface transportation systems in our nation.

In the last 80 years there have been over 900 attacks on public transportation systems around the world. In recent history, the horrific attacks in Madrid, London, and Mumbai have been unfortunate reminders that we must do more to secure our Nation's transportation systems. For too long, our country has not done enough to improve the security of our transportation systems. In fact President Bush's fiscal year 2007 budget proposal included \$41.4 million in the Transportation Security Administration budget for surface transportation security, less than 1 percent of the TSA budget. Clearly the past level of funding has been inadequate to address the security of the surface transportation system. I am very pleased that H.R. 1401 authorizes three grant programs that will make more funds available to enhance the security of rail, public transportation and over-the-road systems.

The Rail and Public Transportation Security Act of 2007 requires rail and public transportation systems to submit vulnerability assessments and security plans to the Department of Homeland Security. Each system is then placed into a risk tier, those in medium and high risk tiers have to have Department of Homeland Security approval for their security plans. Each transportation system will then employ security measures to address the type and degree of risk they face. This approach will help increase the security of our transportation systems, while allowing them the flexibility to adopt measures that meet their needs.

I am particularly pleased that the Rail and Public Transportation Security Act of 2007 requires that rail and public transportation systems provide their employees with adequate training. This training requirement will enable employees to respond efficiently to prevent potential terrorist attacks and to minimize the damage and loss of life if an attack does occur. I am also pleased that this legislation establishes a rail and public transportation security exercise program so that systems can practice and perfect their responses to potential attacks.

I urge my colleagues to support this important legislation.

Mr. HOLT. Mr. Chairman, I rise today in support of this bill.

As events over the last several years have shown, we ignore rail and transit security at our peril. Since 2004, terrorist cells have conducted successful and deadly bombings on major passenger rail systems in Spain (2004), the United Kingdom (2005), and India (2006), with 450 people killed and 2,800 wounded. We know al Qaeda and like-minded groups desire to repeat such attacks here in America. We also know that our rail and transit systems need more money to help deter such threats.

For example, the American Public Transportation Association (APTA) estimates that since

9/11, our government has invested \$7.53 in aviation security improvements per passenger boarding, but only \$0.008 (less than one penny) in public transportation security improvements per passenger boarding. This security investment disparity has been allowed to persist for years, despite the fact that every weekday, more than 14 million people use public transportation, and more than 25 million passengers ride Amtrak each year.

In New Jersey alone, NJ Transit—the third largest statewide transit agency—has stated that it has only 220 police officers to protect 400,000 customers per day (265,000 bus and 135,000 rail), 10,500 employees at multiple locations, 800 trains on more than 1,000 miles of track, 161 rail stations, and 49 light rail stations. Additionally, these same officers must protect and secure more than 2,000 buses that use more than 20,800 bus stops.

In 2004, the APTA outlined \$6 billion in needs for transit agency security-related investments. A 2002 Government Accountability Office study of just eight transit systems that had completed security assessments found that needed upgrades would cost at least \$700 million.

The Congress took a positive step last year when it raised rail and transit security funding from \$150 million to \$175 million. However, if we are to prevent the tragedies that occurred in Madrid, London, and Mumbai from being repeated in America, we must act now to ensure that our local transit providers have the resources they need to protect the millions of Americans who rely on rail service. Fortunately, Congress is now taking additional steps to address this problem.

The bill before us today authorizes three separate security grant programs: one each for rail security, public transportation security, and over-the-road bus security. More than \$5.8 billion would be authorized for these grants through 2011. If fully funded, these programs would help us close major security gaps in our rail and transit systems. Similar grant programs for firefighters and other first responders have helped local jurisdictions—including several in my own district—to upgrade their response capabilities. I look forward to working with my colleagues on both sides of the aisle to make sure the money to support these new grant programs is there from day one.

Additionally, this bill mandates a range of additional measures designed to improve rail and transit security, including vulnerability assessments and regular security exercises to test the ability of rail and transit systems to spot and defeat potential threats to the traveling public. One of the chief lessons of the Hurricane Katrina debacle is that Federal, State, and local governments, along with the relevant private sector partners, must regularly test our collective response system to detect and fix problems before a real incident occurs. Regular exercises and the lessons learned from them must be implemented in a timely fashion. Creating a system that institutionalizes such a process is vital.

Mr. Chairman, I'm pleased we're finally beginning to address our rail and transit security needs in a systematic way, and I urge my colleagues to support passage of this bill.

Mr. ENGEL. Mr. Chairman, I rise today in support of H.R. 1401, the Rail and Public Transportation Security Act of 2007. This bill calls for necessary funding and emergency

planning to protect the American rail system and other critical points of our Nation's infrastructure.

I support H.R. 1401 because I have seen the chaos that can ensue when a disaster occurs. I was in New York City on 9/11, and I saw firsthand what can happen when we are improperly prepared for a terrorist attack or natural disaster. The entire world saw in New Orleans that without planning and foresight, the aftermath a disaster can be even worse than the disaster itself. This bill will require a national plan to prepare for rail and public transportation emergencies.

This bill will also provide grant funding dedicated to rail and public transportation security. Included in these grants will be \$100 million over the next 4 years to improve security in the six New York City tunnels. Anybody who has traveled through these tunnels, as much as I have, will know this funding is critical.

In addition to providing direct funding for emergency prevention, this bill will require training programs to teach employees of public transportation systems how to prevent and prepare for a terrorist attack, and how to respond to such an attack. And it will go further, by establishing programs which will test how well the transportation systems have prepared for such an attack.

Mr. Chairman, H.R. 1401 is a wide ranging bill that touches on a number of critical infrastructure points in the United States. For example, currently our Nation has only 100 surface transportation inspectors. This bill will increase that number to 600 over the next 3 years.

In addition to providing grants for localities to secure their infrastructure, this bill will help prevent attacks that we haven't even thought of yet. \$200 million in this bill will go towards research and development that is intended to plan for and prevent terrorist attacks.

Mr. Chairman, millions of Americans from coast to coast rely upon public transportation every day. Our people deserve as much safety as we can provide for them. We cannot predict when a terrorist attack or natural disaster will occur, and we cannot always prevent these from happening. However, we have also seen that the better prepared we are, and the more we have planned, the better we can address these problems. H.R. 1401 will go a long way towards helping us minimize the impact of a terrible disaster. I strongly support it and urge my colleagues to offer their support as well.

Ms. GINNY BROWN-WAITE of Florida. Mr. Chairman, I rise today to discuss H.R. 1401, the Rail and Public Transportation Security Act of 2007.

Securing our Nation's rail and public transportation systems has long been a priority for the Homeland Security Committee.

However, many different competing priorities elbowed this issue out of the way as we faced growing concern about border and port security.

Our Committee addressed these issues head-on under the leadership of Ranking Member—then Chairman—PETER KING, and made great strides in securing our homeland.

However, attacks in London and Madrid are stark illustrations of the urgency with which Congress must address rail and mass transit security.

H.R. 1401 requires transportation providers to conduct vulnerability assessments and implement security plans.

The bill also mandates security training for transportation workers.

These steps are crucial in bringing rail and mass transit security up to par to the level of airports and seaports.

I also appreciate that our Committee adopted several amendments I offered during our markup.

Transportation workers will now have to undergo a background check that will look at both criminal history and current immigration status.

We cannot afford to give criminals and terrorists the access to our secure sites.

The American people do not understand or accept such a risk, and nor do I.

My other amendment specified that some of the new training exercises take place at the border.

We have all heard rumblings over the last few years about criminal gang activity, particularly along the Southern border.

It makes sense to have a portion of training dedicated to an area with a high risk.

However, I must express my disappointment that the Rules Committee did not make in order my amendment to better secure sensitive information from Freedom of Information Act Requests.

I fear without this additional language, security plans and risk assessment criteria could easily fall into the wrong hands.

Further, I have grave concerns about the amount of money we are spending in the bill without these protections.

The American people would not thank us for all of our work in airports or seaports if something happens to a major rail or subway carrier.

I want to thank Chairman THOMPSON and Ranking Member KING for their tireless work on this bill and for working with me on my amendments.

Mr. MARKEY. Mr. Chairman, first of all, I'd like to congratulate my colleagues on both sides of the aisle for producing bipartisan legislation to address the security weaknesses in our rail and mass transit systems and to ensure that strong whistleblower protections are provided to our front-line rail and mass transit security workers.

One area that has been largely overlooked since September 11th is the security associated with shipments of extremely hazardous materials on the roads and railways of our country.

Every day tank cars pass through our urban centers carrying enough chlorine to kill 100,000 people in half an hour. Some of these shipments must travel the routes they are currently using. But others could easily be safely re-routed to avoid population centers and other sensitive areas.

We already know that these chemicals are attractive terrorist targets. Just a few weeks ago, several deadly attacks in Iraq involved improvised explosive devices that included canisters of deadly chlorine gas, and a planned attack involving a truck full of chlorine was foiled this past weekend.

The risk is not just an overseas risk either. Several years ago, an Ohio-based al Qaeda operative was arrested and pled guilty for plotting to collapse a bridge in New York City or derail a train in DC.

Earlier this year, reporter Carl Prine at the Pittsburgh Tribune wrote a scathing expose on the state of rail insecurity in our country. He

was able to walk right into rail yards with tanker cars containing some of the deadliest chemicals on earth. No one stopped him—he had no problem getting his hands on these deadly chemical tanks.

We're lucky that—this time—it was a journalist and not a jihadist who penetrated these rail yards.

Whether it's an accident or an al Qaeda attack, we need to make the shipments of deadly chemicals more secure.

The language in this bill that I authored and that was agreed to on a bipartisan basis builds upon the recent Notices of Proposed Rule-making issued by the Department of Transportation and the TSA.

It requires rail carriers to analyze the routes and storage facilities for security sensitive materials as part of the security plans that they must submit for approval to the Department of Homeland Security. Then it requires the rail carriers to select the route and storage facilities that best reduce the risk and consequences of a terrorist attack on a shipment of these materials as they travel through or near high threat urban areas and other areas that DHS thinks need special security protections.

The language in this bill doesn't apply to all hazardous materials—just the ones that pose the greatest threat, such as chlorine or propane. Most assessments put this at less than 1 percent of all shipments.

This bill also doesn't require re-routing to occur if there is no practical alternative route. Rail carriers will only be required to re-route when a more secure route is available.

I urge my colleagues to join me in this bipartisan effort. Now is the time to upgrade the security for these toxic shipments so none of our constituents are ever exposed to a catastrophic chemical release simply because we failed to take these simple steps.

The Acting CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 1401

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 and Public Transportation Security Act of 2007”.

(b) **TABLE OF CONTENTS.—**

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—RAIL AND PUBLIC TRANSPORTATION SECURITY

Sec. 101. National strategy for rail and public transportation security.

Sec. 102. Assignment of providers of covered transportation to risk-based tiers.

Sec. 103. Rail and public transportation assessments and plans.

Sec. 104. Information sharing plan.

Sec. 105. Rail security assistance.

Sec. 106. Public transportation security assistance.

Sec. 107. Over-the-road bus security assistance.

Sec. 108. Fire and life safety improvements.

Sec. 109. Security training program.

Sec. 110. Security exercises.

Sec. 111. Security research and development.
 Sec. 112. Whistleblower protections.
 Sec. 113. Increase in surface transportation security inspectors.
 Sec. 114. National domestic preparedness consortium.
 Sec. 115. Authorization of Visible Intermodal Protection Response Teams.
 Sec. 116. National Transportation Security Center of Excellence.
 Sec. 117. TSA personnel limitations.
 Sec. 118. Homeland security grants.
 Sec. 119. Threat assessment screening.
 Sec. 120. Background checks for covered individuals.
 Sec. 121. Task force on disqualifying crimes.
 Sec. 122. Penalties.
 Sec. 123. School bus transportation security.
 Sec. 124. Enhanced security measures for shipments of security sensitive materials.
 Sec. 125. Technology standards and clearinghouse to improve security of covered transportation.
 Sec. 126. Rail tank car security testing.
 Sec. 127. Rail radiological and nuclear detection.
 Sec. 128. Requirement to provide preference to qualified anti-terrorism technologies.
 Sec. 129. Promoting liability protections for providers of covered transportation and related technologies.
 Sec. 130. International rail security program.
 Sec. 131. Terrorist watchlist and immigration status review at high-risk transportation sites.

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

Sec. 201. Increasing the number of canine detection teams for transportation security.
 Sec. 202. National explosives detection canine team program increase.
 Sec. 203. Transportation security administration breeding program increase.

SEC. 2. DEFINITIONS.

In this Act, the following definitions apply:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” has the meaning that term has in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101) and includes the Committees on Homeland Security and Transportation and Infrastructure of the House of Representatives and the Committees on Homeland Security and Governmental Affairs and Commerce, Science, and Transportation of the Senate.

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

(A) providers of covered transportation;
 (B) organizations representing providers of covered transportation;

(C) nonprofit employee labor organizations representing railroad, public transportation, or over-the-road bus workers;

(D) shippers of hazardous material;
 (E) manufacturers of railroad and transit cars;

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

(G) public safety officials;
 (H) law enforcement and fire service officials; and

(I) other relevant persons.

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

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

(5) DESIGNATED RECIPIENT.—The term “designated recipient” has the meaning that the term has in section 5307(a) of title 49, United States Code.

(6) PROVIDER OF COVERED TRANSPORTATION.—The term “provider of covered transportation” means—

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

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

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

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

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

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

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

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

(12) STATE.—The term “State” means any one of the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States.

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

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

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

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

(15) UNITED STATES.—The term “United States” means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States.

TITLE I—RAIL AND PUBLIC TRANSPORTATION SECURITY

SEC. 101. NATIONAL STRATEGY FOR RAIL AND PUBLIC TRANSPORTATION SECURITY.

(a) MODAL PLAN.—Not later than 6 months after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Transportation, shall develop and implement the modal plan for covered transportation as required by section 114(t)(1)(B) of title 49, United States Code. The modal plan shall be entitled the “National Strategy for Rail and Public Transportation Security” and shall include, at a minimum—

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

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

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

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

(5) a description of—

(A) how the Department has reviewed terrorist attacks on covered transportation throughout the world in the last 25 years;

(B) the lessons learned from those reviews; and

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

(6) a strategy and timeline for the Department, the Department of Transportation, other appropriate Federal agencies and private entities to research and develop new technologies for securing covered transportation;

(7) measurable goals, including objectives, mechanisms, and a schedule for enhancing the security of covered transportation;

(8) a framework for resuming the operation of covered transportation in the event of an act of terrorism and prioritizing resumption of such operations;

(9) a description of current and future public outreach and educational initiatives designed to inform the public on how to prevent, prepare for, respond to, and recover from a terrorist attack on covered transportation; and

(10) a process for coordinating covered transportation security strategies and plans, including the National Infrastructure Protection Plan required by Homeland Security Presidential Directive 7; Executive Order: Strengthening Surface Transportation Security dated December 5, 2006; the Memorandum of Understanding between the Department and the Department of Transportation on Roles and Responsibilities dated September 28, 2004; the Annex to the Memorandum of Understanding between the Department and the Department of Transportation on Roles and Responsibilities concerning Public Transportation Security dated September 8, 2005.

(b) ADEQUACY OF EXISTING PLANS AND STRATEGIES.—Nothing in this section shall prevent the Secretary from using existing plans and strategies, including those developed or implemented pursuant to section 114(t) of title 49, United States Code, or Homeland Security Presidential Directive-7, in meeting the requirements of subsection (a).

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

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

(b) PROVISION OF INFORMATION.—The Secretary may request, and the provider of covered transportation shall provide, information necessary for the Secretary to assign a provider of covered transportation to the appropriate tier under subsection (a).

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

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

SEC. 103. RAIL AND PUBLIC TRANSPORTATION ASSESSMENTS AND PLANS.

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Transportation, shall issue regulations that—

(1) require each provider of covered transportation assigned to a high- or medium-risk tier under section 102—

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

(B) to prepare, submit to the Secretary for approval, and implement a security plan in accordance with this section that addresses security performance requirements under subsection (f); and

(2) establish standards, and guidelines for vulnerability assessments under subsection (c) and security plans under subsection (d) and for developing and implementing such security plans.

(3) establish a security program for providers of covered transportation not assigned to a high- or medium-risk tier under section 102, including a process for providers to conduct vulnerability assessments and prepare and implement security plans, as determined appropriate by the Secretary.

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

(c) VULNERABILITY ASSESSMENTS.—

(1) REQUIREMENTS.—The Secretary, in consultation with the Secretary of Transportation, shall provide technical assistance and guidance to providers of covered transportation in conducting vulnerability assessments under this section and shall require that each vulnerability assessment of a provider of covered transportation assigned to a high- or medium-risk tier under section 102 include, at a minimum—

(A) identification and evaluation of critical covered transportation assets and infrastructures of the provider, including platforms, stations, bus and intermodal terminals, tunnels, bridges, switching and storage areas, and information systems;

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

(C) identification of the security weaknesses of the covered transportation in—

(i) physical security;

(ii) passenger and cargo security;

(iii) programmable electronic devices, computers, or other automated systems which are used in providing the transportation;

(iv) alarms, cameras, and other protection systems;

(v) communications systems, including dispatching services and mobile service equipment systems, to provide access to emergency services in underground fixed guideway systems;

(vi) utilities;

(vii) emergency response planning;

(viii) employee training; and

(ix) such other matters as the Secretary determines appropriate; and

(D) identification of redundant and backup systems required to ensure the continued operations of critical elements of the covered transportation in the event of an attack or other incident, including disruption of commercial electric power or communications network.

(2) THREAT INFORMATION.—A provider of covered transportation conducting a vulnerability assessment under this section shall incorporate in the assessment any threat information provided by the Secretary and other sources.

(d) SECURITY PLANS.—

(1) REQUIREMENTS.—The Secretary, in consultation with the Secretary of Transportation, shall provide technical assistance and guidance to providers of covered transportation in preparing and implementing security plans under this section and shall require that each security plan of each provider of covered transportation assigned a high- or medium-risk under section 102 include, at a minimum—

(A) identification of a security coordinator having authority—

(i) to implement security actions under the plan;

(ii) to coordinate security improvements described in sections 105, 106, and 107; and

(iii) to receive immediate communications from appropriate Federal officials regarding covered transportation security;

(B) plans for periodic exercises under section 110 that include participation by local law enforcement agencies and emergency responders as appropriate;

(C) a list of needed capital and operational improvements such as those described in sections 105, 106, and 107;

(D) procedures to be implemented or used by the provider in response to a terrorist attack, including evacuation and passenger communication plans that include individuals with disabilities;

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

(F) a strategy and timeline for conducting training under section 109, including recurrent training and periodic unannounced exercises for employees of the provider to be carried out under the plan to prevent, prepare for, or respond to a terrorist attack;

(G) enhanced security measures to be taken by the provider when the Secretary declares a period of heightened security risk;

(H) plans for redundant and backup systems required to ensure the continued operation of critical covered transportation elements of the provider in the event of a terrorist attack or other incident;

(I) plans for locating, including by covert electronic devices, shipments of railroad cars transporting security sensitive materials or nuclear waste so that, if the assets are lost or stolen, the provider or law enforcement authorities may locate, track, and recover the assets;

(J) a strategy for implementing enhanced security for shipments of security sensitive materials under section 124; and

(K) such other actions or procedures as the Secretary determines are appropriate to address the covered transportation security of the provider to a terrorist attack.

(2) SECURITY COORDINATOR REQUIREMENTS.—The Secretary shall require that the individual serving as the security coordinator identified in paragraph (1)(A) is a citizen of the United States. The Secretary may waive this requirement with respect to an individual if the Secretary determines that it is appropriate to do so based on a background check of the individual and a review of terrorist watch lists to ensure that the individual is not identified on any such terrorist watch list.

(3) CONSISTENCY WITH OTHER PLANS.—The Secretary, in consultation with the Secretary of Transportation, shall ensure that each security plan under this section is consistent with the requirements of the National Strategy for Rail and Public Transportation Security described in section 101.

(e) PROVIDED BY SECRETARY.—The Secretary shall provide, in a timely manner to the maximum extent practicable under applicable authority and in the interest of national security, to the provider of the covered transportation threat information that is relevant to the provider when preparing and submitting vulnerabilities and security plans, including an assessment of the most likely method that could be used by terrorists to exploit weaknesses in the covered transportation security and the likelihood of success by such terrorists.

(f) SECURITY PERFORMANCE REQUIREMENTS.—The Secretary shall, by regulation, establish security performance requirements for the security plans required for providers of covered transportation. The regulations shall—

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

(2) permit each provider of covered transportation submitting a security plan to select a combination of security measures that satisfy the security performance requirements established by the Secretary under this subsection.

(g) DEADLINE FOR REVIEW PROCESS.—Not later than 12 months after the date of the issuance of the regulations under subsection (a), the Secretary, in consultation with the Secretary of Transportation, shall—

(1) review each vulnerability assessment and security plan submitted to the Secretary in accordance with subsection (b);

(2) require amendments to any security plan that does not meet the requirements of this section, including such regulations; and

(3) approve any vulnerability assessment or security plan that meets the requirements of this section, including such regulations; and

(4) review each security plan periodically thereafter.

(h) INTERIM SECURITY MEASURES.—The Secretary, in consultation with the Secretary of Transportation, shall require, during the period before the deadline established under subsection (b), each provider of covered transportation required to submit a security plan under subsection (b) to implement any necessary interim security measures to deter, mitigate, and respond to, to the maximum extent practicable, a transportation security incident with respect to the covered transportation or a substantive threat of such an incident until the security plan of the provider is approved.

(i) NONDISCLOSURE OF INFORMATION.—

(1) IN GENERAL.—Nothing in this Act shall be construed to require the disclosure of a vulnerability assessment or a security plan of a provider of covered transportation to the extent that such information is exempted from mandatory disclosure under section 552 of title 5, United States Code.

(2) OTHER OBLIGATIONS UNAFFECTED.—Nothing in this section shall affect any obligation of the provider of covered transportation to submit or make available information to covered transportation employees, nonprofit employee labor organizations, or a Federal, State, or local government agency under, or otherwise to comply with, any other law.

(3) SUBMISSION OF INFORMATION TO CONGRESS.—Nothing in this section shall be construed as authorizing the withholding of any information from Congress.

(4) DISCLOSURE OF INDEPENDENTLY FURNISHED INFORMATION.—Nothing in this section shall be construed as affecting any authority or obligation of a Federal agency to disclose any record or information that the Federal agency obtains from a provider of covered transportation under any other law.

(j) PENALTIES.—

(1) ADMINISTRATIVE PENALTIES.—

(A) IN GENERAL.—The Secretary may impose an administrative penalty of not more than \$100,000 for failure to comply with this section, including regulations issued under subsection (a).

(B) NOTICE AND OPPORTUNITY TO REQUEST HEARING.—Before imposing a penalty under subparagraph (A), the Secretary shall provide to the person against whom the penalty is to be imposed—

(i) written notice of the proposed penalty; and
(ii) the opportunity to request, not later than 30 days after the date on which the person receives the notice, a hearing on the proposed penalty.

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

(2) CIVIL PENALTIES.—

(A) IN GENERAL.—The Secretary may bring an action in a United States district court against any provider of covered transportation that violates or fails to comply with this Act, including regulations issued under subsection (a), or a security plan approved by the Secretary under this section.

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

(3) CRIMINAL PENALTIES.—A provider of covered transportation who intentionally violates

this section, including regulations issued under subsection (a), shall be fined not more than \$50,000 for each day of such violation, imprisoned for not more than 2 years, or both.

(k) EXISTING PROCEDURES, PROTOCOLS AND STANDARDS.—

(1) **DETERMINATION.**—In response to a petition by a provider of covered transportation or at the discretion of the Secretary, the Secretary may recognize existing procedures, protocols, and standards of a provider of covered transportation that the Secretary determines to meet all or part of the requirements of this section, including regulations issued under subsection (a), regarding vulnerability assessments and security plans.

(2) **ELECTION.**—Upon review and written determination by the Secretary that existing procedures, protocols, or standards of a provider of covered transportation satisfy all of the requirements of this section, including regulations issued under subsection (a), the provider may elect to comply with those procedures, protocols, or standards instead of the requirements of this section.

(3) **PARTIAL APPROVAL.**—If the Secretary determines that the existing procedures, protocols, or standards of a provider of covered transportation satisfy only part of the requirements of this section, including regulations issued under subsection (a), the Secretary may accept those submissions, but shall require submission by the provider of any additional information relevant to vulnerability assessments and security plans of the provider to ensure that the remaining requirements of this section are fulfilled.

(4) **NOTIFICATION.**—If the Secretary determines that particular existing procedures, protocols, or standards of a provider of covered transportation under this subsection do not satisfy the requirements of this section, including regulations issued under subsection (a), the Secretary shall provide to such provider a written notification that includes an explanation of the reasons why the determination could not be made.

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

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

(B) to approve or disapprove each submission on an individual basis.

(l) PERIODIC REVIEW BY PROVIDER OF COVERED TRANSPORTATION REQUIRED.—

(1) **SUBMISSION OF REVIEW.**—Not later than 3 years after the date on which a vulnerability assessment or security plan required to be submitted to the Secretary under subsection (b) is submitted, and at least once every 5 years thereafter (or on such a schedule as the Secretary may establish by regulation), the provider of covered transportation who submitted the vulnerability assessment or security plan shall also submit to the Secretary a review of the adequacy of the vulnerability assessment or security plan that includes a description of any material changes made to the vulnerability assessment or security plan.

(2) **REVIEW OF REVIEW.**—Not later than 180 days after the date on which a review is submitted, the Secretary shall review the review and notify the provider of covered transportation submitting the review of the Secretary's approval or disapproval of such review.

(m) **SHARED FACILITIES.**—The Secretary, in consultation with the Secretary of Transportation, may permit under this section the development and implementation of coordinated vulnerability assessments and security plans to the extent 2 or more providers of covered transportation have shared facilities (such as tunnels, bridges, or stations, or facilities) that are geographically close or otherwise co-located.

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

(o) **REPORT.**—Not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Transportation, shall submit a report to the appropriate congressional committees regarding the feasibility of implementing name-based checks against terrorist watch lists for all National Railroad Passenger Corporation, hereinafter referred to as "Amtrak" passengers.

SEC. 104. INFORMATION SHARING PLAN.

(a) **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Transportation, shall develop and submit to the appropriate congressional committees a railroad, public transportation, and over-the-road bus information sharing plan to ensure the development of both tactical and strategic intelligence products pertaining to the threats and vulnerabilities to covered transportation for dissemination to Federal, State, and local agencies, tribal governments, and appropriate stakeholders.

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

(1) a description of how intelligence analysts in the Transportation Security Administration are coordinating with other intelligence analysts in the Department and other Federal, State, and local agencies;

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

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

(c) **UPDATES.**—

(1) **CERTIFICATION OF IMPLEMENTATION.**—After the plan is submitted under subsection (a), the Secretary shall certify to the appropriate congressional committees when the plan has been implemented.

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

(A) The number and brief description of each railroad, public transportation, and over-the-road bus intelligence report created and disseminated under the plan.

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

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

(d) **ANNUAL SURVEYS.**—The Secretary shall conduct an annual survey of the satisfaction of each of the recipients of railroad, public transportation, and over-the-road bus intelligence reports created and disseminated under the plan and include the results of the survey as part of the corresponding annual report provided under subsection (c)(2).

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

(f) **SECURITY CLEARANCES.**—The Department shall assist the appropriate Federal, State, regional, local, and tribal authorities, in addition to appropriate stakeholders, in obtaining the security clearances needed to receive classified covered transportation security information as necessary if this information cannot be disseminated in an unclassified format.

SEC. 105. RAIL SECURITY ASSISTANCE.

(a) **IN GENERAL.**—The Secretary, in consultation with the Secretary of Transportation, shall establish a program for making grants to eligible entities for security improvements described in subsection (b).

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

(1) Perimeter protection systems, including access control, installation of improved lighting, fencing, and barricades at railroad facilities.

(2) Technologies to reduce the vulnerability of rail cars.

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

(4) Security improvements to passenger railroad stations and other railroad transportation infrastructure.

(5) Tunnel protection systems.

(6) Evacuation improvements.

(7) Inspection technologies, including verified visual inspection technologies using hand-held readers and discs.

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

(9) Chemical, biological, radiological, or explosive detection, including canine patrols for such detection.

(10) Surveillance equipment.

(11) Cargo or passenger screening equipment.

(12) Railroad inspection facilities and related infrastructure at United States international borders, including additional side railroad track necessary for passenger and freight train inspection.

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

(14) Global positioning or tracking and recovery equipment.

(15) Redundant critical operations control systems.

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

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

(18) Overtime reimbursement for additional security personnel during periods of heightened security as determined by the Secretary.

(19) Public awareness campaigns for enhanced rail security.

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

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

(c) **SECURITY IMPROVEMENT PRIORITIES.**—In establishing guidelines for applications for grants under this section, the Secretary shall establish a list in order of priority regarding uses of funds for grant recipients under this section.

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

(e) **LETTERS OF INTENT.**—

(1) **ISSUANCE.**—The Secretary may issue a letter of intent to a recipient of a grant under this section, to commit funding from future budget authority of an amount, not more than the Federal Government's share of the project's cost, for a capital improvement project.

(2) **SCHEDULE.**—The letter of intent under this subsection shall establish a schedule under which the Secretary will reimburse the recipient for the Federal Government's share of the project's costs, as amounts become available, if the recipient, after the Secretary issues that letter, carries out the project without receiving amounts under a grant issued under this section.

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

(4) **NOTICE TO CONGRESS.**—The Secretary shall transmit to the appropriate congressional committees a written notification at least 3 days before the issuance of a letter of intent under this subsection.

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

(6) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to prohibit the obligation of amounts pursuant to a letter of intent under this section in the same fiscal year as the letter of intent is issued.

(f) ELIGIBILITY.—

(1) IN GENERAL.—Eligible entities for a grant under this section may include State, local, and tribal governmental entities, Amtrak, infrastructure owners, including railroad carriers, private entities, and public-private entities, or their designees.

(2) PROJECT ELIGIBILITY.—A recipient of a grant under this section may use grant funds only for permissible uses under subsection (b) to further a rail security plan developed, submitted to, and approved by the Secretary.

(g) FEDERAL SHARE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), a grant for a project under this section shall be for 80 percent of the net cost of the project.

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

(3) NATIONAL SECURITY EXCEPTION.—If the Secretary determines, upon written notice to the appropriate congressional committees, that a higher Federal share for a grant under this section is necessary to respond to an urgent threat to national security, the Secretary may increase the Federal share for the grant to up to 100 percent of the net cost of the project.

(4) APPLICABILITY.—This subsection shall only apply to freight rail carriers.

(h) SUBJECT TO CERTAIN STANDARDS.—The Secretary shall require a recipient of a grant under this section and section 108 to comply with the standards of section 24312 of title 49, United States Code, as in effect on January 1, 2007, with respect to the project in the same manner as Amtrak is required to comply with such standards for construction work financed under an agreement made under section 24308(a) of that title.

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

(1) to supplant State or local funds; and

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

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

(k) GUIDELINES.—Before distribution of funds to recipients of grants under this section, the Secretary, in consultation with the Secretary of Transportation, shall issue guidelines to ensure that recipients of grants under this section use small, minority, women-owned, or disadvantaged businesses as contractors or subcontractors to the extent practicable.

(l) MONITORING.—The Secretary shall be responsible for monitoring the manner in which the grants are used.

(m) AUTHORIZATION OF APPROPRIATIONS.—

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

(2) PERIOD OF AVAILABILITY.—Sums appropriated to carry out this section shall remain available until expended.

SEC. 106. PUBLIC TRANSPORTATION SECURITY ASSISTANCE.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Transportation, shall establish a program for making grants to an eligible public transportation designated recipient for security improvements described in subsection (b).

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

(1) Perimeter protection systems, including access control, installation of improved lighting, fencing, and barricades.

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

(3) Tunnel protection systems.

(4) Evacuation improvements.

(5) Inspection technologies, including verified visual inspection technologies using hand-held readers and discs.

(6) Communications equipment, including mobile service equipment to provide access to emergency services in an underground fixed guideway system.

(7) Chemical, biological, or radiological or explosive detection, including canine patrols for such detection.

(8) Surveillance equipment.

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

(10) Global positioning or tracking and recovery equipment.

(11) Redundant critical operations control systems.

(12) Live or simulated exercises described in section 110.

(13) Public awareness campaigns for enhanced public transportation security.

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

(15) Overtime reimbursement for additional security personnel during periods of heightened security as determined by the Secretary.

(16) Operational costs for personnel assigned to full-time security or counterterrorism duties related to public transportation.

(17) Such other security improvements as the Secretary considers appropriate.

(c) ELIGIBILITY.—

(1) IN GENERAL.—Eligible entities for a grant under this section may include public transportation agencies and State, local, and tribal governmental entities that provide security or counterterrorism related services to public transportation.

(2) PROJECT ELIGIBILITY.—A recipient of a grant under this section may use grant funds only for permissible uses under subsection (b) to further a public transportation security plan developed, submitted to, and approved by the Secretary.

(d) SECURITY IMPROVEMENT PRIORITIES.—In establishing guidelines for applications for grants under this section, the Secretary shall establish a list in order of priority regarding uses of funds for grant recipients under this section.

(e) SUBJECT TO CERTAIN TERMS AND CONDITIONS.—Except as otherwise specifically provided in this section, a grant provided under this section shall be subject to the terms and conditions applicable to a grant made under section 5307 of title 49, United States Code, under effect on January 1, 2007, and such other terms and conditions as are determined necessary by the Secretary.

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

(1) to supplant State or local funds; and

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

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

(h) GUIDELINES.—Before distribution of funds to recipients of grants under this section, the Secretary, in consultation with the Secretary of Transportation, shall issue guidelines to ensure that recipients of grants under this section use

small, minority, women-owned, or disadvantaged businesses as contractors or subcontractors to the extent practicable.

(i) MONITORING.—The Secretary shall be responsible for monitoring the manner in which the grants are used.

(j) AUTHORIZATION OF APPROPRIATIONS.—

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

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

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

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

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

(2) PERIOD OF AVAILABILITY.—Sums appropriated to carry out this section shall remain available until expended.

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

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Transportation, shall establish a program for making grants for eligible private operators providing transportation by an over-the-road bus for security improvements described in subsection (b).

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

(1) Constructing and modifying terminals, garages, facilities, or over-the-road buses to increase their security.

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

(3) Acquiring, upgrading, installing, or operating equipment, software, or accessorail services for collection, storage, or exchange of passenger and driver information through ticketing systems or otherwise and for information links with government agencies.

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

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

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

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

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

(9) Chemical, biological, radiological, or explosive detection, including canine patrols for such detection.

(10) Overtime reimbursement for additional security personnel during periods of heightened security as determined by the Secretary.

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

(12) Operational costs for personnel assigned to full-time security or counterterrorism duties related to over-the-road bus transportation.

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

(c) ELIGIBILITY.—

(1) IN GENERAL.—Eligible entities for a grant under this section may include over-the-road bus providers and State, local, and tribal governmental entities that provide security or counterterrorism related services to over-the-road bus providers.

(2) PROJECT ELIGIBILITY.—A recipient of a grant under this section may use grant funds only for permissible uses under subsection (b) to further an over-the-road bus security plan developed, submitted to, and approved by the Secretary.

(d) SECURITY IMPROVEMENT PRIORITIES.—In establishing guidelines for applications for grants under this section, the Secretary shall establish a list in order of priority regarding uses of funds for grant recipients under this section.

(e) SUBJECT TO CERTAIN TERMS AND CONDITIONS.—Except as otherwise specifically provided in this section, a grant made under this section shall be subject to the terms and conditions applicable to subrecipients who provide intercity bus transportation under section 5311(f) of title 49, United States Code, and such other terms and conditions as are determined necessary by the Secretary.

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

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

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

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

(h) GUIDELINES.—Before distribution of funds to recipients of grants under this section, the Secretary, in consultation with the Secretary of Transportation, shall issue guidelines to ensure that recipients of grants under this section use small, minority, women-owned, and disadvantaged businesses as contractors or subcontractors to the extent practicable.

(i) MONITORING.—The Secretary shall be responsible for monitoring the manner in which the grants are used.

(j) AUTHORIZATION.—

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

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

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

(2) PERIOD OF AVAILABILITY.—Sums appropriated to carry out this section shall remain available until expended.

SEC. 108. FIRE AND LIFE SAFETY IMPROVEMENTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for making grants to Amtrak, for the purpose of carrying out projects to make fire and life safety improvements to Amtrak tunnels on the Northeast Corridor the following amounts:

(1) For the 6 tunnels in New York City, New York, to provide ventilation, electrical, and fire safety technology improvements, emergency communication and lighting systems, and emergency access and egress for passengers—

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

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

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

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

(2) For the Baltimore & Potomac Tunnel and the Union Tunnel in Baltimore, Maryland, to provide adequate drainage and ventilation, communication, lighting, standpipe, and passenger egress improvements—

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

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

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

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

(3) For the Union Station tunnels in the District of Columbia to provide ventilation, communication, lighting, and passenger egress improvements—

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

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

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

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

(b) AVAILABILITY OF AMOUNTS.—Amounts appropriated pursuant to this section shall remain available until expended.

(c) GUIDELINES.—Before distribution of funds to recipients of grants under this section, the Secretary of Transportation shall issue guidelines to ensure that recipients of grants under this section use small, minority, women-owned, or disadvantaged businesses as the contractors or subcontractors to the extent practicable.

SEC. 109. SECURITY TRAINING PROGRAM.

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

in consultation with the Secretary of Transportation, shall—

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

(2) issue detailed guidance for the program.

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

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

(2) representatives of providers of covered transportation; and

(3) nonprofit employee labor organizations representing railroad, public transportation, over-the-road bus workers, and fire fighter workers.

(c) PROGRAM ELEMENTS.—The guidance developed under subsection (a)(2) shall require security training programs described in subsection (a) to include, at a minimum, elements to address the following:

(1) Determination of the seriousness of any occurrence or threat.

(2) Crew and passenger communication and coordination.

(3) Appropriate responses to defend oneself, including using nonlethal defense devices.

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

(5) Live situational training exercises regarding various threat conditions, including tunnel evacuation procedures.

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

(7) Understanding security incident procedures, including procedures for communicating with governmental and nongovernmental emergency response providers and for on-scene interaction with such emergency response providers.

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

(9) Any other subject the Secretary considers appropriate.

(d) REQUIRED PROGRAMS.—

(1) DEVELOPMENT AND SUBMISSION TO SECRETARY.—Not later than 60 days after the Secretary issues guidance under subsection (a)(2) in final form, each provider of covered transportation shall develop a security training program in accordance with the guidance developed under subsection (2) and submit the program to the Secretary for approval.

(2) APPROVAL.—Not later than 60 days after receiving a security training program under this subsection, the Secretary shall approve the program or require the provider of covered transportation that developed the program to make any revisions to the program that the Secretary considers necessary for the program to meet the guidance requirements.

(3) TRAINING.—Not later than 1 year after the Secretary approves a security training program under this subsection, the provider of covered transportation that developed the program shall complete the training of all workers covered under the program.

(4) UPDATES.—The Secretary shall periodically review and update as appropriate the training guidance issued under subsection (a)(2) to reflect new or changing security threats and require providers of covered transportation to revise their programs accordingly and provide additional training to their workers.

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

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

SEC. 110. SECURITY EXERCISES.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Transportation, shall

establish a program for conducting security exercises for covered transportation for the purpose of assessing and improving the capabilities of entities described in subsection (b) to prevent, prepare for, mitigate against, respond to, and recover from acts of terrorism involving covered transportation.

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

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

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

(3) governmental and nongovernmental emergency response providers and law enforcement personnel, including railroad and transit police; and

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

(c) REQUIREMENTS.—The Secretary, in consultation with the Secretary of Transportation, shall ensure that the program—

(1) consolidates all existing security exercises for covered transportation administered by the Department and the Department of Transportation;

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

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

(B) live, in the case of the most at-risk facilities to a terrorist attack;

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

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

(E) consistent with the National Incident Management System, the National Response Plan, the National Infrastructure Protection Plan, the National Preparedness Guidance, the National Preparedness Goal, and other such national initiatives;

(3) provides that exercises described in paragraph (2) will be—

(A) evaluated against clear and consistent performance measures;

(B) assessed to learn best practices, which shall be shared with appropriate Federal, State, local, and tribal officials, governmental and nongovernmental emergency response providers, law enforcement personnel, including railroad and transit police, and appropriate stakeholders; and

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

(4) includes exercises involving covered transportation at or near the international land borders of the United States and in coordination with international stakeholders;

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

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

(d) REMEDIAL ACTION MANAGEMENT PROGRAM.—The Secretary shall utilize the remedial action management program of the Federal Emergency Management Agency to—

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

(2) disseminate lessons learned and best practices to participants in the program;

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

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

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

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

SEC. 111. SECURITY RESEARCH AND DEVELOPMENT.

(a) **ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM.**—The Secretary shall carry out a research and development program for the purpose of improving the security of covered transportation.

(b) **ELIGIBLE PROJECTS.**—The research and development program may include projects—

(1) to reduce the vulnerability of passenger trains, stations, and equipment to explosives and hazardous chemical, biological, and radioactive substances including the development of technology to screen passengers in large numbers at peak commuting times with minimal interference and disruption;

(2) to test new emergency response and recovery techniques and technologies, including those used at international borders;

(3) to develop improved freight railroad technologies, including—

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

(B) automatic inspection of railroad cars;

(C) communication-based train controls;

(D) signal system integrity at switches;

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

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

(G) technologies for securing bridges and tunnels;

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

(5) to support enhanced security for the transportation of security sensitive materials by railroad;

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

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

(c) **COORDINATION WITH OTHER RESEARCH INITIATIVES.**—The Secretary shall—

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

(2) to the greatest extent practicable, coordinate the research and development activities of the Department with other ongoing research and development security related initiatives, including research being conducted by—

(A) the National Academy of Sciences;

(B) the Department of Transportation, including University Transportation Centers and other institutes, centers, and simulators funded by the Department of Transportation;

(C) the Technical Support Working Group;

(D) other Federal departments and agencies; and

(E) other Federal and private research laboratories, research entities, and universities and institutions of higher education including, Historically Black Colleges or Universities, and Hispanic Serving Institution or Tribal University, with the capability to conduct both practical and theoretical research and technical systems analysis on subjects that include bridge, tunnel, blast, and infrastructure protection;

(3) carry out any research and development project authorized by this section through a reimbursable agreement with the appropriate agency or entity official, if the agency or entity—

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

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

(4) award grants, cooperative agreements, contracts, other transactions, or reimbursable agreements to the entities described in subsection (c)(2) and shall adopt necessary procedures, including audits, to ensure that awards

made under this section are expended in accordance with the purposes of this title and the priorities and other criteria developed by the Secretary; and

(5) make reasonable efforts to enter into memoranda of understanding, contracts, grants, cooperative agreements, or other transactions with owners and operators of freight and intercity passenger rail and over-the-road bus facilities willing to contribute both physical space and other resources.

(d) **PRIVACY AND CIVIL RIGHTS AND CIVIL LIBERTIES ISSUES.**—

(1) **CONSULTATION.**—In carrying out research and development projects under this section, the Secretary shall consult with the Chief Privacy Officer of the Department and the Officer for Civil Rights and Civil Liberties of the Department as appropriate and in accordance with section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142).

(2) **PRIVACY IMPACT ASSESSMENTS.**—In accordance with sections 222 and 705 of the Homeland Security Act of 2002 (6 U.S.C. 142; 345), the Chief Privacy Officer shall conduct privacy impact assessments and the Officer for Civil Rights and Civil Liberties shall conduct reviews, as appropriate, for research and development initiatives developed under this section.

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

(1) \$50,000,000 for fiscal year 2008;

(2) \$50,000,000 for fiscal year 2009;

(3) \$50,000,000 for fiscal year 2010; and

(4) \$50,000,000 for fiscal year 2011.

Such sums shall remain available until expended.

SEC. 112. WHISTLEBLOWER PROTECTIONS.

(a) **IN GENERAL.**—No covered individual may be discharged, demoted, suspended, threatened, harassed, reprimanded, investigated, or in any other manner discriminated against, including by a denial, suspension, or revocation of a security clearance or by any other security access determination, if such discrimination is due, in whole or in part, to any lawful act done, perceived to have been done, or intended to be done by the covered individual—

(1) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the covered individual reasonably believes constitutes a violation of any law, rule, or regulation relating to rail, public transportation, or over-the-road-bus security, which the covered individual reasonably believes constitutes a threat to rail, public transportation, or over-the-road-bus security, or which the covered individual reasonably believes constitutes fraud, waste, or mismanagement of Government funds intended to be used for rail, public transportation, or over-the-road-bus security, if the information or assistance is provided to or the investigation is conducted by—

(A) by a Federal, State, or local regulatory or law enforcement agency (including an office of the Inspector General under the Inspector General Act of 1978 (5 U.S.C. app.; Public Law 95-452);

(B) any Member of Congress, any committee of Congress, or the Government Accountability Office; or

(C) a person with supervisory authority over the covered individual (or such other person who has the authority to investigate, discover, or terminate misconduct);

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

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

(b) **ENFORCEMENT ACTION.**—

(1) **IN GENERAL.**—A covered individual who alleges discharge or other discrimination by any person in violation of subsection (a) may seek relief under subsection (c)—

(A) for covered individuals who are employees of the Department or the Department of Transportation, by filing a complaint with the Merit Systems Protection Board;

(B) for contractors or subcontractors of the Department or Department of Transportation, by filing a complaint with their respective Inspector General;

(C) for all other covered individuals, by filing a complaint with the Secretary of Labor; and

(D) if the Secretary of Labor, Merit System Protection Board, or the respective Inspector General has not issued a final decision not later than 180 days after the filing of the complaint, or in the event that a final order or decision is issued by the Secretary of Labor, Merit System Protection Board, or the respective Inspector General, whether within the 180-day period or thereafter, when, not later than 90 days after such an order or decision is issued, bringing an original action at law or equity for *de novo* review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy, and then, at the request of either party to such action, be tried by the court with a jury.

(2) **PROCEDURE.**—

(A) **IN GENERAL.**—An action under paragraph (1) shall be governed under the rules and procedures set forth in section 42121(b) of title 49, United States Code.

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

(C) **BURdens OF PROOF.**—An action brought under paragraph (1) shall be governed by the legal burdens of proof set forth in section 42121(b) of title 49, United States Code.

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

(e) **REMEDIES.**—

(1) **IN GENERAL.**—A covered individual prevailing in any action under subsection (b)(1) shall be entitled to all relief necessary to make the covered individual whole.

(2) **DAMAGES.**—Relief for an action under subsection (b)(1) shall include remedies under subparagraphs (A) through (C) and if appropriate, may include subparagraph (D) of such subsection—

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

(B) the amount of any backpay, with interest; and

(C) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees; and

(3) **POSSIBLE RELIEF.**—Relief from an action under paragraph (1) may include punitive damages in an amount not to exceed the greater of 3 times the amount of any compensatory damages awarded under this section or \$5,000,000.

(d) **USE OF STATE SECRETS PRIVILEGE.**—If the Government, in a court of competent jurisdiction, asserts as a defense the privilege commonly referred to as the “state secrets privilege” then—

(1) the parties will act expeditiously to settle the case and the court shall grant the parties 60 days by which to reach settlement of the pending matter to avoid disclosure of any sensitive government information, including classified or sensitive intelligence information. The parties may certify to the court that settlement cannot be reached before the end of the 60-day period;

(2) if the parties cannot settle the matter and the parties continue to litigate the matter, the

parties and court shall apply special procedures in order to protect classified or sensitive intelligence information in a manner consistent with sections 1 through 10 of the Classified Information and Procedures Act, and shall adhere to the Classified Information Procedures Act (18 U.S.C. App.; Public Law 96-456; 4 Stat. 2025); and

(3) if, in any action brought under subsection (b)(1), the Government asserts the state secrets privilege and the assertion of such privilege either is frivolous, without merit, or is asserted and causes undue delay or hardship to the plaintiff, or prevents the plaintiff from establishing a *prima facie* case in support of the plaintiff's claim or from rebutting an affirmative defense, then the court shall enter judgment for the plaintiff and shall determine the relief to be granted.

(e) CRIMINAL PENALTIES.—

(1) IN GENERAL.—It shall be unlawful for any person employing a covered individual to commit an act prohibited by subsection (a). Any person who willfully violates this section by terminating or retaliating against any covered individual who makes a claim under this section shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both.

(2) REPORTING REQUIREMENT.—

(A) IN GENERAL.—The Attorney General shall submit to the appropriate congressional committees an annual report on the enforcement of paragraph (1).

(B) CONTENTS.—Each such report shall—

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

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

(iii) in any actions under subsection (b)(1) in which the covered individual was the prevailing party or the substantially prevailing party, indicate whether or not any formal charges under paragraph (1) have been brought and, if not, the reasons therefor.

(f) NO PREEMPTION.—Nothing in this section preempts or diminishes any other safeguards against discrimination, demotion, discharge, suspension, threats, harassment, reprimand, retaliation, or any other manner of discrimination provided by Federal or State law.

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

(h) DEFINITIONS.—In this section, the following definitions apply:

(1) COVERED INDIVIDUAL.—The term "covered individual" means an employee of—

(A) the Department;

(B) the Department of Transportation;

(C) a contractor or subcontractor; and

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

(2) LAWFUL.—The term "lawful" means not specifically prohibited by law, except that, in the case of any information the disclosure of which is specifically prohibited by law or specifically required by Executive order to be kept classified in the interest of national defense or the conduct of foreign affairs, any disclosure of such information to any Member of Congress, committee of Congress, or other recipient authorized to receive such information, shall be deemed lawful.

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

(4) EMPLOYEE.—The term "employee" means—

(A) with respect to an employer referred to in paragraph (1)(A) or (1)(B), an employee as de-

fined by section 2105 of title 5, United States Code; and

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

(5) SUBCONTRACTOR.—The term "subcontractor"—

(A) means any person, other than the contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a contract with the Department, the Department of Transportation, or a provider of covered transportation; and

(B) includes any person who offers to furnish or furnishes general supplies to the Federal contractor or a higher tier subcontractor.

(6) PERSON.—The term "person" means a corporation, partnership, State entity, business association of any kind, trust, joint-stock company, or individual.

SEC. 113. INCREASE IN SURFACE TRANSPORTATION SECURITY INSPECTORS.

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

(b) QUALIFICATIONS.—Surface transportation security inspectors hired by the Secretary shall have at least 1 year or equivalent experience in conducting inspections and investigations and engaging in testing security systems and any other qualifications that the Secretary determines appropriate.

(c) ROLES AND RESPONSIBILITIES.—The Secretary, in consultation with the Secretary of Transportation and appropriate State, local, and tribal officials, shall develop a standard operating procedure clearly defining the relationship between—

(1) surface transportation security inspectors of the Department and safety inspectors of the Department of Transportation; and

(2) State, local, and tribal law enforcement officers and other law enforcement personnel, including railroad and public transportation police.

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

SEC. 114. NATIONAL DOMESTIC PREPAREDNESS CONSORTIUM.

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

(b) MEMBERS.—The National Domestic Preparedness Consortium that identifies, develops, tests, and delivers training to State, local, and tribal emergency response providers, provides onsite and mobile training at the performance and management and planning levels, and facilitates the delivery of awareness level training by the training partners of the Department shall consist of—

(1) the Center for Domestic Preparedness;

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

(3) the National Center for Biomedical Research and Training, Louisiana State University;

(4) the National Emergency Response and Rescue Training Center, Texas A&M University;

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

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

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

(1) to at least maintain the funding level of fiscal year 2007 for each member of the National Domestic Preparedness Consortium listed in subsection (b) in existence prior to the inclusion of the Transportation Technology Center in the Consortium; and

(2) in fiscal years 2008 through 2011, increase the funding level for each member of the National Domestic Preparedness Consortium to not less than 3 percent of the amount made available for the preceding fiscal year.

SEC. 115. AUTHORIZATION OF VISIBLE INTERMODAL PROTECTION RESPONSE TEAMS.

The Secretary, acting through the Administrator of the Transportation Security Administration, is authorized to develop Visible Intermodal Protection Response (referred to in this section as "VIPR") teams designed to augment security for any mode of transportation at any location within the United States. In forming a VIPR team, the Secretary—

(1) may use any asset of the Department, including Federal air marshals, surface transportation security inspectors, canine detection teams, and advanced screening technology;

(2) has the discretion to determine, consistent with ongoing security threats, when a VIPR should be deployed, as well as the duration of the deployment in coordination with local security and law enforcement officials; and

(3) prior to deployments, shall consult with local security and law enforcement officials in the jurisdiction where the VIPR Team is planned to deploy, to develop and agree upon the appropriate operating protocols and in order to educate those officials regarding the mission of the VIPR teams.

SEC. 116. NATIONAL TRANSPORTATION SECURITY CENTER OF EXCELLENCE.

(a) ESTABLISHMENT.—The Secretary shall establish a National Transportation Security Center of Excellence at an institution of higher education to conduct research and education activities, and to develop or provide professional security training, including the training of rail and public transportation employees and rail and public transportation-related professionals, with emphasis on utilization of intelligent transportation systems, technologies, and architectures.

(b) CRITERIA.—The Secretary shall designate the Center according to the following selection criteria:

(1) The demonstrated commitment of the institution to transportation security issues.

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

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

(4) Utilization of intelligent transportation system technologies and architectures.

(5) Ability to develop professional security training programs.

(6) Capability and willingness to conduct education of transportation security professionals.

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

(c) CONSORTIUM.—

(1) EXPERIENCE.—The Consortium shall include universities and institutions of higher education that have existing transportation programs.

(2) CERTAIN INCLUSIONS.—At least two of the consortium colleges and universities associated with the National Transportation Security Center of Excellence shall be an Historically Black College or University, an Hispanic Serving Institution, Tribal University, even if the primary institution is one of the aforementioned institutions of higher education.

(3) DEGREE PROGRAM.—Of the universities selected under paragraph (2), at least one shall have an established degree and an advanced degree program in transportation studies.

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

(e) FUNDING.—The Secretary shall provide such funding as is necessary to the National Transportation Security Center of Excellence established under subsection (a) to carry out this section.

SEC. 117. TSA PERSONNEL LIMITATIONS.

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

SEC. 118. HOMELAND SECURITY GRANTS.

Notwithstanding any provision of this Act, all grants distributed for security-related purposes pursuant to this Act, shall be administered on the basis of risk by the Secretary as the lead Federal official on transportation security.

SEC. 119. THREAT ASSESSMENT SCREENING.

Not later than 180 days after the date of the enactment of this Act, the Secretary shall implement a threat assessment screening program, including name-based checks against terrorist watch lists and immigration status check, for all employees of covered transportation, that is the same as the threat assessment screening program required for facility employees and longshoremen by the Commandant of the Coast Guard under Coast Guard Notice USCG-2006-24189 (71 Fed. Reg. 25066 (Friday, April 28, 2006)).

SEC. 120. BACKGROUND CHECKS FOR COVERED INDIVIDUALS.

(a) **DEFINITIONS.**—In this section, the following definitions apply:

(1) **BACKGROUND CHECKS.**—The term “background check” means a check of the following:

(A) Relevant criminal history databases.

(B) In the case of an alien (as defined in the Immigration and Nationality Act (8 U.S.C. 1101(a)(3))), the relevant databases to determine the status of the alien under the immigration laws of the United States.

(2) **COVERED INDIVIDUALS.**—The term “covered individual” means an employee of—

(A) an employer within the meaning of section 701(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(b)), who is a provider of covered transportation; or

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

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

(c) STANDARDS FOR REDRESS PROCESS.

(1) **IN GENERAL.**—The Secretary shall ensure that each provider of covered transportation implements a redress process in accordance with subsection (b) for covered individuals adversely impacted by a background check described in subsection (b).

(2) **STANDARDS.**—The redress process shall be modeled after the appeals and waiver process established for hazmat drivers and transportation workers at ports, as required by section 1515 of title 49, Code of Federal Regulations.

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

(A) A waiver process that will allow a covered individual to demonstrate, through rehabilitation, or facts surrounding the conviction or other mitigating factors, that the individual is not a security risk.

(B) An appeal process during which a covered individual will have an opportunity to demonstrate that the individual does not have a disqualifying conviction either by—

(i) correcting outdated underlying court records;

(ii) proving mistaken identity; or

(iii) establishing that the conviction cannot serve as the basis for an adverse employment decision in accordance with the limitations contained in subsection (d).

(C) A proceeding providing an independent review.

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

(4) **PROCEEDINGS PROVIDING AN INDEPENDENT REVIEW.**—A covered individual who requests a

proceeding under paragraph (3)(C) shall have the right to have waiver and appeal decisions heard by an independent decisionmaker with the ability to order reinstatement expeditiously or provide other remedy.

(5) **PREVIOUS BACKGROUND CHECKS.**—A covered individual subjected to and adversely affected by a background check conducted by a provider of covered transportation (or a contractor or subcontractor of such a provider), in the period beginning on June 23, 2006, and ending on the date of enactment of this Act, to satisfy any rules, regulations, directives, or other guidance issued by the Secretary to protect covered transportation from the threat of terrorism shall have an immediate right to a proceeding with an independent decisionmaker to determine if the adverse action was in compliance with this section and shall have a right to immediate reinstatement or other remedy if the background check fails to comply with this section.

(d) LIMITATIONS.—

(1) **IN GENERAL.**—Subject to paragraph (2), any rule, regulation, directive, or other guidance issued by the Secretary regarding background checks of covered individuals shall prohibit an employer from making an adverse employment decision, including removal or suspension, with respect to a covered individual based on—

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

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

(C) any felony not listed in section 1572.103 of title 49, Code of Federal Regulations.

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

(A) Treason (or conspiracy to commit treason).

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

(C) Sedition (or conspiracy to commit sedition).

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

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

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

SEC. 121. TASK FORCE ON DISQUALIFYING CRIMES.

(a) **ESTABLISHMENT.**—The Secretary shall establish a task force to review the lists of crimes that disqualify individuals from certain transportation-related employment under current regulations of the Transportation Security Administration and assess whether such lists of crimes are accurate indicators of a terrorism security risk.

(b) **MEMBERSHIP.**—The task force shall be composed of representatives of appropriate industries, including representatives of nonprofit employee labor organizations, and Federal agencies.

(c) **REPORT.**—Not later than 180 days after the date of enactment of this Act, the task force shall transmit to the Secretary and Congress a report containing the results of the review, including recommendations for a common list of disqualifying crimes and the rationale for the inclusion of each crime on the list.

SEC. 122. PENALTIES.

(a) **REGULATIONS AND ORDERS OF THE SECRETARY.**—Section 114 of title 49, United States Code, is amended by adding at the end the following:

(u) **GENERAL CIVIL PENALTIES AND ENFORCEMENT OF REGULATIONS AND ORDERS OF THE SECRETARY OF HOMELAND SECURITY.**—

“(1) **APPLICATION.**—This subsection applies to the enforcement of regulations prescribed, and orders issued, by the Secretary of Homeland Security under a provision of chapter 701 of title 46 and this title (other than chapter 449) (in this subsection referred to as an ‘applicable provision of this title’). Penalties for violation of regulations prescribed, and orders issued, by the Secretary of Homeland Security under a provision of chapter 449 are provided under chapter 463.

(2) GENERAL CIVIL PENALTIES.—

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

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

(3) ADMINISTRATIVE IMPOSITION OF CIVIL PENALTIES.—

“(A) **IN GENERAL.**—The Secretary of Homeland Security may impose a civil penalty for a violation of a regulation prescribed, or order issued, under an applicable provision of this title. The Secretary of Homeland Security shall give written notice of the finding of a violation and the penalty.

“(B) **CIVIL ACTIONS TO COLLECT PENALTIES.**—In a civil action to collect a civil penalty imposed by the Secretary under this paragraph, the issues of liability and the amount of the penalty may not be reexamined.

“(C) **EXCLUSIVE JURISDICTION OF DISTRICT COURTS.**—Notwithstanding subparagraph (A) of this paragraph, the district courts of the United States have exclusive jurisdiction of a civil action involving a penalty that the Secretary initiates if—

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

“(I) \$400,000 if the violation was committed by a person other than an individual or small business concern; or

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

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

“(iii) another action has been brought for an injunction based on the same violation.

“(D) **MAXIMUM CIVIL PENALTIES IMPOSED BY THE SECRETARY.**—The maximum civil penalty the Secretary may impose under this paragraph is—

“(i) \$400,000 if the violation was committed by a person other than an individual or small business concern; or

“(ii) \$50,000 if the violation was committed by an individual or small business concern.

“(E) **NOTICE AND OPPORTUNITY TO REQUEST HEARING.**—Before imposing a penalty under this section the Secretary shall provide to the person against whom the penalty is to be imposed—

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

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

(4) COMPROMISE AND SETOFF.—

“(A) **COMPROMISE.**—The Secretary may compromise the amount of a civil penalty imposed under this subsection.

“(B) **SETOFF.**—The Government may deduct the amount of a civil penalty imposed or compromised under this subsection from amounts it owes the person liable for the penalty.

“(5) **INVESTIGATIONS AND PROCEEDINGS.**—The provisions set forth in chapter 461 shall be applicable to investigations and proceedings brought under this subsection to the same extent that they are applicable to investigations and proceedings brought with respect to aviation security duties designated to be carried out by the Secretary.

(6) NONAPPLICATION.—

“(A) PERSONS SUBJECT TO PENALTIES DETERMINED BY THE SECRETARY OF DEFENSE.—Paragraphs (1) through (4) of this subsection do not apply to the following persons, who shall be subject to penalties as determined by the Secretary of Defense or the Secretary's designee:

“(i) The transportation of personnel or shipments of materials by contractors where the Department of Defense has assumed control and responsibility.

“(ii) A member of the Armed Forces of the United States when performing official duties.

“(iii) A civilian employee of the Department of Defense when performing official duties.

“(B) POSTAL SERVICE; DEPARTMENT OF DEFENSE.—In this subsection, the term ‘person’ does not include—

“(i) the United States Postal Service; or

“(ii) the Department of Defense.

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

(b) CONFORMING AMENDMENT.—Section 46301(a)(4) of title 49, United States Code, is amended by striking “or another requirement under this title administered by the Under Secretary of Transportation for Security”.

SEC. 123. SCHOOL BUS TRANSPORTATION SECURITY.

(a) SCHOOL BUS SECURITY THREAT ASSESSMENT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives, a report, including a classified report, as appropriate, containing a comprehensive threat assessment of the threat of a terrorist attack on the Nation’s school bus transportation system in accordance with the requirements of this section.

(b) CONTENTS OF THREAT ASSESSMENT.—The assessment shall include—

(1) an assessment of the Nation’s school bus transportation system, including publicly and privately operated systems;

(2) the security threats to the assets and systems;

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

(4) an assessment of additional actions and investments necessary to improve the security of the Nation’s school children traveling on school buses;

(5) an assessment of whether additional legislation or Federal programs are needed to provide for the security of children traveling on school buses; and

(6) an assessment of the psychological and economic impacts of an attack on school buses.

(c) CONSULTATION.—In conducting the threat assessment, the Secretary shall consult with administrators and officials of school systems, representatives of the school bus industry, including both public and privately operated systems, public safety and law enforcement officials, and nonprofit employee labor organizations representing school bus drivers.

SEC. 124. ENHANCED SECURITY MEASURES FOR SHIPMENTS OF SECURITY SENSITIVE MATERIALS.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Transportation, shall issue regulations to require enhanced security measures for shipments of security sensitive materials.

(b) DEFINITIONS.—

(1) SECURITY SENSITIVE MATERIAL.—The Secretary shall designate a material, or a group or class of material, in a particular amount and form as security sensitive when the Secretary determines that transporting the material in commerce poses a significant risk to national security due to the potential use of the material in

an act of terrorism. In making such a designation, the Secretary shall consider the following:

(A) A highway route-controlled quantity of a Class 7 (radioactive) material, as defined in section 173.403 of title 49, Code of Federal Regulations, in a motor vehicle, railcar, or freight container.

(B) More than 25 kilograms (55 pounds) of a division 1.1, 1.2, or 1.3 of section 173.5 of title 49, Code of Federal Regulations (explosive) material in a motor vehicle, rail car, or freight container;

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

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

(E) A shipment in other than a bulk packaging of 2,268 kilograms (5,000 pounds) gross weight or more of one class of hazardous materials for which placarding of a vehicle, rail car, or freight container is required for that class under the provisions of section 172.521B of title 49, Code of Federal Regulations.

(F) A select agent or toxin regulated by the Centers for Disease Control and Prevention under part 73 of title 42, Code of Federal Regulations.

(G) A quantity of hazardous material that requires placarding under the provisions of subpart F of part 172 of title 49, Code of Federal Regulations.

(2) AREA OF CONCERN.—For purposes of this section, the term “area of concern” means a geographic region designated by the Secretary as commanding special consideration with respect to the security of the transportation of security sensitive materials, which shall include high threat urban areas as determined by the Secretary.

(3) STORAGE PATTERN.—The term “storage pattern” is defined as the conditions of storage, including—

(A) location of cars in railyards or on railroad-controlled leased tracks;

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

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

(D) population density;

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

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

(4) MOST SECURE.—The term “most secure route or storage pattern” means the route or storage pattern that best reduces the risk, including consequences, of a terrorist attack on a shipment of security sensitive material that is transported through or near an area of concern.

(c) COMPILED OF ROUTE AND STORAGE PATTERN INFORMATION FOR RAIL CARRIERS TRANSPORTING SECURITY SENSITIVE MATERIALS.—Not later than 90 days after the end of each calendar year, a rail carrier shall compile commodity data by route and storage pattern, a line segment or series of line segments as aggregated by the rail carrier. Within the rail carrier selected route, the commodity data shall identify the geographic location of the route and storage pattern and the total number of shipments by United Nations identification number for security sensitive materials and storage patterns along the routes.

(d) RAIL TRANSPORTATION ROUTE AND STORAGE PATTERN ANALYSIS FOR SECURITY SENSITIVE MATERIALS.—For each calendar year, a rail carrier shall provide a written analysis of the security risks for the transportation routes and stor-

age patterns, identified in the commodity data collected as required by subsection (c). The security risks present shall be analyzed for the route, railroad facilities, railroad storage facilities, private storage facilities, and areas of concern along or in proximity to the route.

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

(1) By the end of each calendar year, a rail carrier shall—

(A) identify to the Department practical alternative routes and storage patterns that will avoid areas of concern for each of the transportation routes or facilities it used to ship or store security sensitive materials through or near areas of concern in the last calendar year; and

(B) perform a security risk assessment of the alternative route or storage pattern for comparison to the route and storage pattern analysis specified in subsection (d).

(2) The analysis shall include the following:

(A) Identification of security risks for alternative route or storage pattern.

(B) Comparison of those risks identified in subparagraph (A) to the primary rail transportation route or storage pattern.

(3) Rail carriers transporting security sensitive materials must consider the availability of interchange agreements or systems of tracks and facilities owned by other operators when determining whether an alternate route for transporting the security sensitive materials to avoid areas of concern is practical.

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

(f) ALTERNATIVE ROUTE AND STORAGE PATTERN SELECTION FOR SECURITY SENSITIVE MATERIALS.—A carrier shall use the analysis required by subsections (d) and (e) to select the most secure route and storage pattern to be used in moving the materials specified in subsection (b).

(g) REVIEW.—Not less than once every 5 years, the analyses route and storage pattern selection determinations required under subsections (c), (d), (e), and (f) shall include a comprehensive, system-wide review of all operational changes, infrastructure modifications, traffic adjustments, changes in the nature of the areas of concern located along or in proximity to the route, or other changes affecting the security of the movements of the materials specified in subsection (b) of this section that were implemented during the 5-year period.

SEC. 125. TECHNOLOGY STANDARDS AND CLEARINGHOUSE TO IMPROVE SECURITY OF COVERED TRANSPORTATION.

(a) IN GENERAL.—The Secretary, acting through the Under Secretary for Science and Technology and the Director of the Domestic Nuclear Detection Office (for radiological and nuclear detection technologies and training), in consultation with the Director of the National Institute of Standards and Technology and other appropriate Federal agencies, as appropriate, shall establish a standards program to support the development, promulgation, and updating as necessary of national voluntary consensus standards for performance, testing, use, and training with respect to technologies that will improve the security of covered transportation in order to meet the security plan requirements under section 103(d)(1) and the security performance requirements under section 103(f).

(b) EQUIPMENT STANDARDS.—

(1) REQUIREMENTS.—The standards for the performance, use, and validation of equipment developed under subsection (a) shall be designed to assist Federal, State, local, and tribal government and nongovernment emergency response providers, other components of the Department,

providers of covered transportation, shippers of hazardous material, manufacturers of railroad and transit cars, transportation and public safety officials, and other relevant stakeholders in acquiring and implementing technologies to prevent, prepare for, mitigate against, and respond to acts of terrorism on covered transportation. Such standards—

(A) shall be, to the maximum extent practicable, consistent with any existing voluntary consensus standards;

(B) shall take into account, as appropriate, new types of terrorism threats which may target covered transportation and responsibilities of the Department that may not have been contemplated when such existing standards were developed;

(C) shall focus on maximizing interoperability, interchangeability, durability, flexibility, efficiency, efficacy, portability, sustainability, and safety;

(D) shall facilitate deployment of the systems to the field and include concept of operations;

(E) shall consider human factors science; and

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

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

(A) Physical security equipment, including surveillance cameras, alarm systems, access/intrusion control, motion detection, barriers such as fences, impact resistant doors, bomb-resistant trash receptacles, and personnel and vehicle identification systems.

(B) Interoperable communications equipment, including wireless and wireline voice, video, and data networks.

(C) Information technology, including position locating and tracking systems.

(D) Cybersecurity equipment, including biometric authentication systems, network and personal firewalls and other authentication technologies.

(E) Personal protective equipment, including garments, boots, gloves, and hoods and other protective clothing.

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

(G) Explosive mitigation devices and explosive detection and analysis equipment.

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

(I) Decontamination equipment.

(J) Noninvasive inspection and screening systems.

(K) Medical and pharmaceutical supplies.

(L) Other terrorism incident prevention equipment.

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

(3) CERTIFICATION AND ACCREDITATION.—The Secretary, in carrying out this subsection, and in coordination with the Director of the National Institute of Standards and Technology, may support the certification of equipment and the accreditation of laboratories to conduct testing and evaluation.

(c) TRAINING STANDARDS.—

(1) REQUIREMENTS.—The standards for the training developed under subsection (a) shall be designed to enable Federal, State, local, and tribal government and nongovernment emergency response providers, other Department personnel, providers of covered transportation, shippers of hazardous material, manufacturers of railroad and transit cars, transportation and public safety officials, and other relevant stakeholders to use equipment effectively and appropriately in carrying out their responsibilities to secure covered transportation. Such standards shall prioritize—

(A) enabling appropriate stakeholders to prevent, prepare for, respond to, mitigate against,

and recover from terrorist threats on covered transportation, including threats from chemical, biological, radiological, and nuclear weapons and explosive devices capable of inflicting significant human casualties, and other potentially catastrophic emergencies; and

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

(2) CATEGORIES OF ACTIVITIES.—In carrying out paragraph (1), the Secretary specifically shall include the following categories of activities:

(A) Regional planning.

(B) Joint exercises.

(C) Information analysis and sharing.

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

(E) Emergency notification of affected populations.

(F) Detection of biological, nuclear, radiological, and chemical weapons of mass destruction.

(G) Screening and patrolling procedures.

(H) Such other activities for which the Secretary determines that national voluntary consensus training standards would be appropriate.

(3) CONSISTENCY.—In carrying out this subsection, the Secretary shall ensure that training standards are consistent with the principles of all hazards emergency preparedness.

(d) CONSULTATION WITH STANDARDS ORGANIZATIONS.—In establishing national voluntary consensus standards for equipment and training under this section, the Secretary shall consult with relevant public and private sector groups, including—

(1) the National Institute of Standards and Technology;

(2) the American Public Transportation Association;

(3) the National Fire Protection Association;

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

(5) the Association of American Railroads;

(6) the American Bus Association;

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

(8) the American National Standards Institute;

(9) the National Institute of Justice;

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

(11) the National Public Health Performance Standards Program;

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

(13) ASTM International;

(14) the International Safety Equipment Association;

(15) the Emergency Management Accreditation Program; and

(16) to the extent the Secretary considers appropriate, other national voluntary consensus standards development organizations, other interested Federal, State, and local agencies, and other interested persons.

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

(1) IN GENERAL.—The Secretary shall utilize the Technology Clearinghouse established under section 313 of the Homeland Security Act of 2002 (6 U.S.C. 193) to facilitate the identification, acquisition, and deployment of technology, equipment, and training for use by Federal, State, local, and tribal agencies, emergency response providers, other components of the Department, providers of covered transportation, shippers of hazardous material, manufacturers of railroad and transit cars, transportation and public safety officials, and other relevant stakeholders to prevent, prepare for, mitigate against, respond to, or recover from acts of terrorism on covered transportation.

(2) ELEMENTS OF THE TECHNOLOGY CLEARINGHOUSE.—Activities in carrying out paragraph (1) shall include—

(A) identifying available technologies that have been, or are in the process of being, developed, tested, evaluated, or demonstrated by the Department, other Federal agencies, the private sector, or foreign governments and international organizations, and reviewing whether such technologies may be useful in assisting appropriate stakeholders to prevent, prepare for, mitigate against, respond to, or recover from acts of terrorism on covered transportation; and

(B) communicating to Federal, State, local, and tribal agencies, emergency response providers, other components of the Department, providers of covered transportation, shippers of hazardous material, manufacturers of railroad and transit cars, transportation and public safety officials, and other relevant stakeholders the availability of such technologies, as well as—

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

(ii) satisfaction of appropriate equipment and training standards developed under subsections (a) and (b);

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

(iv) whether the Secretary has designated a product, equipment, service, device, or technology under subparagraph (A) as a qualified antiterrorism technology pursuant to the Support Anti-terrorism by Fostering Effective Technologies Act of 2002 (6 U.S.C. 441 et seq.).

(3) COORDINATION.—The Secretary shall ensure that the technology clearinghouse activities conducted through the Under Secretary for Science and Technology are coordinated with appropriate components of the Department including the Domestic Nuclear Detection Office, the Transportation Security Administration, the Office of Infrastructure Protection, the Office of Grants and Training, and the Federal Emergency Management Agency.

(4) AGREEMENTS.—The Secretary may enter into memoranda of understandings or agreements with other Federal agencies, foreign governments, and national and international organizations as appropriate, in order to maximize the availability of such technologies and information through the Technology Clearinghouse.

SEC. 126. RAIL TANK CAR SECURITY TESTING.

(a) RAIL TANK CAR VULNERABILITY ASSESSMENT.—

(1) ASSESSMENT.—The Secretary shall assess the likely methods of a deliberate attack against a rail tank car used to transport toxic-inhalation-hazard materials, and for each method assessed, the degree to which it may be successful in causing death, injury, or serious adverse effects to human health, the environment, critical infrastructure, national security, the national economy, or public welfare.

(2) THREATS.—In carrying out paragraph (1), the Secretary shall consider the most current threat information as to likely methods of a successful attack on a rail tank car transporting toxic-inhalation-hazard materials, and may consider the following:

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

(B) An improvised explosive device attached to the rail car.

(C) The use of shoulder-fired missiles.

(D) The use of rocket propelled grenades.

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

(3) PHYSICAL TESTING.—In developing the assessment required under paragraph (1), the Secretary shall conduct physical testing of the vulnerability of rail tank cars used to transport toxic-inhalation-hazard materials to different methods of a deliberate attack, using technical information and criteria to evaluate the structural integrity of railroad tank cars.

(4) REPORT.—Not later than 30 days after the completion of the assessment under paragraph (1), the Secretary shall provide to the appropriate congressional committees a report, in the appropriate format, on such assessment.

(b) RAIL TANK CAR DISPERSION MODELING.—

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

(2) CONSIDERATIONS.—The analysis under this subsection shall take into account the following considerations:

(A) A deliberate attack on a rail tank car transporting toxic-inhalation-hazard materials, including the most likely means of attack and the resulting dispersal rate.

(B) Different times of day, to account for differences in population size and density in the urban area, as well as differences in cloud coverage over the affected regions.

(C) Historically accurate wind speeds, temperatures and directions.

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

(E) Emergency response procedures by local officials, including the availability of medical countermeasures to treat exposures to toxic-inhalation-hazard materials.

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

(3) CONSULTATION.—In conducting the dispersion modeling under paragraph (1), the Secretary shall consult with the appropriate State, local, and tribal officials of the high-threat urban area selected, and with other Federal agencies as appropriate.

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

(5) REPORT.—Not later than 30 days after completion of all dispersion analyses under paragraph (1), the Secretary shall submit to the appropriate congressional committees a report detailing the Secretary's conclusions and findings in an appropriate format.

SEC. 127. RAIL RADIOLOGICAL AND NUCLEAR DETECTION.

(a) PROTOTYPE.—Not later than one year after the date of enactment of this Act, the Domestic Nuclear Detection Office shall begin testing and evaluation of prototype systems to detect nuclear or radiological materials in rail security venues, including spectroscopic technologies.

(b) STRATEGY.—Upon successful developmental testing and evaluation of such radiation detection technologies at Domestic Nuclear Detection Office test facilities, as well as extensive testing and evaluation in operational environments, the Domestic Nuclear Detection Office shall, in coordination with Customs and Border Protection and the Transportation Security Administration, ensure appropriate training, operations, and response protocols are established and, shall develop a deployment strategy to detect nuclear or radiological materials arriving in or transporting through the United States by rail. Such strategy shall consider the integration of radiation detection technologies with other nonintrusive inspection technologies, including imagery and density scanning, in order to utilize existing rail examination facilities and further strengthen border security.

(c) REPORT TO CONGRESS.—Not later than September 30, 2008, the Domestic Nuclear Detection Office shall transmit to Congress a report. Such report shall—

(1) describe the progress of testing and evaluation under subsection (a); and

(2) in coordination with U.S. Customs and Border Protection and the Transportation Security Administration, describe the development of a strategy under subsection (b).

(d) IMPLEMENTATION.—The Domestic Nuclear Detection Office, U.S. Customs and Border Protection, and the Transportation Security Administration shall begin implementation of the strategy developed under subsection (b) after verification of systems performance.

SEC. 128. REQUIREMENT TO PROVIDE PREFERENCE TO QUALIFIED ANTI-TERORISM TECHNOLOGIES.

In using grant funds provided under this Act to purchase products, equipment, services, devices, or technologies to be employed in the implementation of any security plan required under this Act, a grant recipient shall, to the extent practicable, give preference to products, equipment, services, devices, and technologies that the Secretary has designated as qualified anti-terrorism technologies under the Support Anti-terrorism by Fostering Effective Technologies Act of 2002 (subtitle G of title VIII of the Homeland Security Act of 2002; 6 U.S.C. 441 et seq.), if the grant recipient determines that such a product, equipment, service, device, or technology meets or exceeds the requirements of the security plan.

SEC. 129. PROMOTING LIABILITY PROTECTIONS FOR PROVIDERS OF COVERED TRANSPORTATION AND RELATED TECHNOLOGIES.

The Secretary shall work with providers of covered transportation to identify for procurement products, equipment, services, devices, and technologies to be employed in the implementation of security plans required under this Act, that are designated by the Secretary as qualified anti-terrorism technologies under the Support Anti-terrorism by Fostering Effective Technologies Act of 2002 (subtitle G of title VIII of the Homeland Security Act of 2002; 6 U.S.C. 441 et seq.) or may otherwise be eligible for liability protections.

SEC. 130. INTERNATIONAL RAIL SECURITY PROGRAM.

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

(1) deploy, where practicable, non-intrusive inspection imaging equipment at locations where rail shipments cross an international border to enter the United States; or

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

(b) ADVANCED FILING OF SECURITY DATA.—

(1) IN GENERAL.—The Secretary shall—

(A) identify and seek the submission of additional data elements for improved high-risk targeting related to the movement of cargo through the international supply chain utilizing a railroad prior to importation into the United States; and

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

(2) INTERNATIONAL SUPPLY CHAIN DEFINED.—For purposes of this subsection, the term "international supply chain" means the end-to-end process for shipping goods to or from the United States beginning at the point of origin (including manufacturer, supplier, or vendor) through a point of distribution to the destination.

SEC. 131. TERRORIST WATCHLIST AND IMMIGRATION STATUS REVIEW AT HIGH-RISK TRANSPORTATION SITES.

The Secretary shall require each provider of covered transportation, including contractors and subcontractors, assigned to a high-risk tier under section 102 to conduct checks of their employees against available terrorist watchlists and immigration status databases.

TITLE II—SECURE TRANSPORTATION THROUGH INCREASED USE OF CANINE DETECTION TEAMS**SEC. 201. INCREASING THE NUMBER OF CANINE DETECTION TEAMS FOR TRANSPORTATION SECURITY.**

(a) MINIMUM REQUIREMENT.—The Secretary shall coordinate with owners and providers of covered transportation systems to ensure that canine detection teams are deployed at each high-risk transportation system to provide continuous coverage if the Secretary considers it necessary. Each canine detection team—

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

(2) may be deployed to alternate sites to provide additional coverage during times of increased risk or due to specific threat information, as determined by the Secretary.

(b) INCREASE.—The Secretary shall coordinate with owners and providers of covered transportation systems to increase the number of trained canine detection teams deployed at the Nation's high-risk rail and mass transit systems by not less than 10 percent each fiscal year for fiscal years 2008 through 2012. Each canine detection team shall be trained to detect explosives, and, to the greatest extent possible, chemical and biological weapons.

SEC. 202. NATIONAL EXPLOSIVES DETECTION CANINE TEAM PROGRAM INCREASE.

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

(1) 50 in fiscal year 2008.

(2) 55 in fiscal year 2009.

(3) 60 in fiscal year 2010.

(4) 66 in fiscal year 2011.

(5) 73 in fiscal year 2012.

(b) DEPLOYED THROUGHOUT COUNTRY.—The canine detection teams authorized under this section shall be deployed across the country to strengthen the security of covered transportation systems, including buses, subway systems, ferries, and passenger rail carriers.

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

(d) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 203. TRANSPORTATION SECURITY ADMINISTRATION BREEDING PROGRAM INCREASE.

(a) TSA PUPPY PROGRAM.—The Transportation Security Administration Puppy Program shall work to increase the number of domestically bred canines to help meet the increase in demand for canine detection teams authorized in section 202 while preserving the current quality of canines provided for training.

(b) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this section, the Administrator of the Transportation Security Administration shall submit to the Committee on Homeland Security of the House and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the personnel and resource needs to fulfill the requirements of this section.

(c) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

The Acting CHAIRMAN. No amendment to the committee amendment is in order except the amendments printed in House Report 110-74. Each amendment may be offered only in the order

printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent of the amendment, shall not be subject to amendment and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. THOMPSON OF MISSISSIPPI

The Acting CHAIRMAN. It is now in order to consider amendment No. 1 printed in House Report 110-74.

Mr. THOMPSON of Mississippi. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. THOMPSON of Mississippi:

Section 2(2)(E), strike “railroad and transit cars” and insert “railroad cars, public transportation cars and buses, and over-the-road buses”.

Section 2(6)(B), strike “the public transportation designated recipient providing the transportation” and insert “the designated recipient”.

Section 2(14), strike the period after “over-the-road bus” and insert “—”.

After section 2, insert the following:

SEC. 3. NO PREEMPTION OF STATE LAW.

(a) NO PREEMPTION OF STATE LAW.—Nothing in section 20106 of title 49, United States Code, preempts a State cause of action, or any damages recoverable in such an action, including negligence, recklessness, and intentional misconduct claims, unless compliance with State law would make compliance with Federal requirements impossible. Nothing in section 20106 of title 49, United States Code, confers Federal jurisdiction of a question for such a cause of action.

(b) SECRETARIAL POWER.—Section 20106 of title 49, United States Code, preempts only positive laws, regulations, or orders by executive or legislative branch officials that expressly address railroad safety or security. The Secretary and the Secretary of Transportation have the power to preempt such positive enactments by substantially subsuming the same subject matter, pursuant to proper administrative procedures.

Section 101(a), strike “, in consultation with the Secretary of Transportation.”.

Section 103, strike “, in consultation with the Secretary of Transportation,” each place it appears, except subsection (o).

Section 103(c)(1), strike “high-or” and insert “high- or”.

Section 103(e), strike “vulnerabilities and security plans” and insert “a vulnerability assessment and security plan”.

Section 103(k)(3)—

(1) strike “those submissions” and insert “such submission”; and

(2) strike “vulnerability assessments and security plans” and insert “the vulnerability assessment and security plan”.

Section 103(o), strike “, hereinafter referred to as ‘Amtrak’”.

Section 104(a), strike “, in consultation with the Secretary of Transportation.”.

Section 105(a), strike “, in consultation with the Secretary of Transportation.”.

Section 105(b)(2), strike “rail” and insert “railroad”.

Section 105(b)(3), strike “redevelopment and”.

Section 105(b)(4), insert “, including stations and other railroad transportation infrastructure owned by State or local governments” before the period.

Section 105(b)(12) insert “security” before “inspection” each places it appears.

Section 105(b)(16), strike “front-line railroad employees” and insert “railroad employees, including front-line employees”.

Strike section 105(c) and insert the following:

(c) DEPARTMENT OF HOMELAND SECURITY RESPONSIBILITIES.—In carrying out the responsibilities under subsection (a), the Secretary shall—

(1) determine the requirements for recipients of grants under this section, including application requirements;

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

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

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

(5) not later than 5 business days after making determinations under paragraphs (1) through (4), transfer grant funds under this section to the Secretary of Transportation for distribution to the recipients of grants determined by the Secretary under paragraph (2).

Section 105—

(1) strike subsection (f);

(2) redesignate subsections (d) through (m) as subsections (g) through (o), respectively;

(3) insert after subsection (c), as amended, the following:

(d) DEPARTMENT OF TRANSPORTATION RESPONSIBILITIES.—The Secretary of Transportation shall distribute grant funds under this section to the recipients of grants determined by the Secretary under subsection (f).

(e) MONITORING AND AUDITING.—The Department of Homeland Security and the Department of Transportation jointly shall monitor and audit the use of funds under this section.

(f) ELIGIBILITY.—A railroad carrier is eligible for a grant under this section if the carrier has completed a vulnerability assessment and developed a security plan that the Secretary has approved under section 103. Grant funds may only be used for permissible uses under subsection (b) to further a rail security plan.

Section 105(j), as redesignated (relating to standards)—

(1) strike “The Secretary shall require a” and insert “A”;

(2) after “108” insert “shall be required”; and

(3) strike “Amtrak” and insert “the National Railroad Passenger Corporation”.

Section 105(m), as redesignated (relating to guidelines)—

(1) strike “, in consultation with the Secretary of Transportation,”; and

(2) strike “recipients of grants under this section” the first place it appears and insert “, to the extent that recipients of grants under this section use contractors or subcontractors, such recipients”.

Section 105 strike subsection (n), as redesignated.

Section 105, redesignate subsection (o), as redesignated, as subsection (n).

Section 106, strike “, in consultation with the Secretary of Transportation,” each place it appears.

Section 106(b)(2), insert “, including stations and other public transportation infrastructure owned by State or local governments” before the period.

Section 106(b)—

(1) redesignate paragraphs (10) through (17) as paragraphs (11) through (18), respectively; and

(2) after paragraph (9) insert the following:

(10) Purchase and placement of bomb-resistant trash cans throughout public trans-

portation facilities, including subway exits, entrances, and tunnels.

Section 106(b)(15), as redesignated—

(1) strike “front-line” before “public”; and

(2) insert “, including front-line employees” after “employees”.

Section 106(b)(16), as redesignated, after “reimbursement” insert “, including reimbursement of State, local, and tribal governments for costs.”.

Section 106(b)(17), as redesignated, after “costs” insert “, including reimbursement of State, local, and tribal governments for costs”.

At the end of section 106(b), strike paragraph (18), as redesignated, and insert the following:

(18) Such other security improvements as the Secretary considers appropriate, including security improvements for newly completed public transportation systems that are not yet operable for passenger use.

Section 106—

(1) strike subsections (c) and (d);

(2) redesignate subsections (e) through (j) as subsections (g) through (l), respectively; and

(3) insert after subsection (b) the following:

(c) DEPARTMENT OF HOMELAND SECURITY RESPONSIBILITIES.—In carrying out the responsibilities under subsection (a), the Secretary shall—

(1) determine the requirements for recipients of grants under this section, including application requirements;

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

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

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

(5) not later than 5 business days after making determinations under paragraphs (1) through (4), transfer grant funds under this section to the Secretary of Transportation for distribution to the recipients of grants determined by the Secretary under paragraph (2).

(d) DEPARTMENT OF TRANSPORTATION RESPONSIBILITIES.—The Secretary of Transportation shall distribute grant funds under this section to the recipients of grants determined by the Secretary under subsection (f).

(e) MONITORING AND AUDITING.—The Department of Homeland Security and the Department of Transportation shall jointly monitor and audit the use of funds under this section.

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

Section 106, subsection (g), as redesignated (relating to terms and conditions), strike “under effect” and insert “as in effect”.

Section 106, subsection (j), as redesignated (relating to guidelines), strike “recipients of grants under this section” the first place it appears and insert “, to the extent that recipients of grants under this section use contractors or subcontractors, such recipients shall”.

Section 106, strike subsection (k), as redesignated (relating to monitoring).

Section 106, redesignate subsection (l), as redesignated (relating to authorization of appropriations), as subsection (k).

Section 107, strike “, in consultation with the Secretary of Transportation,” each place it appears.

Section 107(b)(1), insert: “, including terminals and other over-the-road bus facilities

owned by State or local governments" before the period.

Section 107(b)(8) strike—

(1) strike "front-line" before "over-the-road"; and

(2) insert ", including front-line employees" after "employees".

Section 107(b)(10), after "reimbursement" insert "including reimbursement of State, local, and tribal governments for costs".

Section 107(b)(12), after "costs" insert ", including reimbursement of State, local, and tribal governments for such costs".

Section 107—

(1) redesignate subsections (e) through (j) as subsections (g) through (l), respectively; and

(2) strike subsections (c) and (d) and insert the following:

(c) DEPARTMENT OF HOMELAND SECURITY RESPONSIBILITIES.—In carrying out the responsibilities under subsection (a), the Secretary shall—

(1) determine the requirements for recipients of grants under this section, including application requirements;

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

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

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

(5) not later than 5 business days of making determinations under paragraphs (1) through (4), transfer grant funds under this section to the Secretary of Transportation for distribution to the recipients of grants determined by the Secretary under paragraph (2).

(d) DEPARTMENT OF TRANSPORTATION RESPONSIBILITIES.—The Secretary of Transportation shall distribute grant funds under this section to the recipients of grants determined by the Secretary under subsection (f).

(e) MONITORING AND AUDITING.—The Department of Homeland Security and the Department of Transportation shall jointly monitor and audit the use of funds under this section.

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

Section 107, subsection (i), as redesignated (relating to annual reports), after "funds" insert a period.

Section 107, subsection (j), as redesignated (relating to guidelines), strike "recipients of grants under this section the first place it appears" and insert "to the extent that recipients of grants under this section use contractors or subcontractors, such recipients shall".

Section 107, strike subsection (k) as redesignated (relating to monitoring).

Section 107, redesignate subsection (l), as redesignated (relating to authorization), as subsection (k).

Section 108(a), strike "Amtrak" the first place it appears and insert "the National Railroad Passenger Corporation".

Section 108(c) strike "recipients of grants under this section" the first place it appears and insert ", to the extent that recipients of grants under this section use contractors or subcontractors, such recipients shall".

Section 109(a), strike ", in consultation with the Secretary of Transportation,"

Section 109(a)(1), insert a comma after "employees".

Section 109(b)(3) strike "and fire fighter workers" and insert "or emergency response personnel".

Section 109(c)(9), strike "Any other subject" and insert "Other security training activities that".

Section 109(d)(1), strike "in final form".

Section 109(d)(2), insert "proposal" after "training program".

Section 109(d)(3), insert "proposal" after "training program".

Section 109(d)(4), insert "as necessary" after "workers".

Section 110(a), strike ", in consultation with the Secretary of Transportation,".

Section 110(c), strike ", in consultation with the Secretary of Transportation,".

Section 110(c)(1), insert "working jointly with the Secretary of Transportation," before "consolidates".

Section 111(b)(3) strike "freight".

Section 111(b), strike "and" at the end of paragraph (6), redesignate paragraph (7) as paragraph (8), and insert the following after paragraph (6):

(7) to assess the vulnerabilities and risks associated with new rail and public transportation construction projects prior to their completion; and

Section 111(c)(2)(E)—

(1) strike "including," and insert ", including"; and

(2) strike "Institution or Tribal University" and insert "Institutions or Tribal Universities".

Strike section 112 of the bill and insert the following (and make all necessary technical and conforming changes):

SEC. 112. WHISTLEBLOWER PROTECTIONS.

(a) IN GENERAL.—No covered individual may be discharged, demoted, suspended, threatened, harassed, reprimanded, investigated, or in any other manner discriminated against, including by a denial, suspension, or revocation of a security clearance or by any other security access determination, if such discrimination is due, in whole or in part, to any lawful act done, perceived to have been done, or intended to be done by the covered individual—

(1) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the covered individual reasonably believes constitutes a violation of any law, rule, or regulation relating to rail, public transportation, or over-the-road-bus security, which the covered individual reasonably believes constitutes a threat to rail, public transportation, or over-the-road-bus security, or which the covered individual reasonably believes constitutes fraud, waste, or mismanagement of Government funds intended to be used for rail, public transportation, or over-the-road-bus security, if the information or assistance is provided to or the investigation is conducted by—

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

(B) any Member of Congress, any committee of Congress, or the Government Accountability Office; or

(C) a person with supervisory authority over the covered individual (or such other person who has the authority to investigate, discover, or terminate);

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

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

(b) ENFORCEMENT ACTION.—

(1) IN GENERAL.—A covered individual who alleges discharge or other discrimination by any person in violation of subsection (a) may—

(A) in the case of a covered individual who is employed by the Department or the Department of Transportation, seek relief in accordance with—

(i) the provisions of title 5, United States Code, to the same extent and in the same manner as if such individual were seeking relief from a prohibited personnel practice described in section 2302(b)(8) of such title; and

(ii) the amendments made by section 112A; except that, if the disclosure involved consists in whole or in part of classified or sensitive information, clauses (i) and (ii) shall not apply, and such individual may seek relief in the same manner as provided by section 112B;

(B) in the case of a covered individual who is a contractor or subcontractor of the Department or the Department of Transportation, seek relief in accordance with section 112B; and

(C) in the case of any other covered individual, seek relief in accordance with the provisions of this section, with any petition or other request for relief under this section to be initiated by filing a complaint with the Secretary of Labor.

(2) PROCEDURE.—

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

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

(C) BURDENS OF PROOF.—An action brought under paragraph (1)(C) shall be governed by the legal burdens of proof set forth in section 42121(b) of title 49, United States Code.

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

(3) DE NOVO REVIEW.—With respect to a complaint under paragraph (1)(C), if the Secretary of Labor has not issued a final decision within 180 days after the filing of the complaint (or, in the event that a final order or decision is issued by the Secretary of Labor, whether within the 180-day period or thereafter, then, not later than 90 days after such an order or decision is issued), the covered individual may bring an original action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury.

(c) REMEDIES.—

(1) IN GENERAL.—A covered individual prevailing in any action under subsection (b)(1)(C) shall be entitled to all relief necessary to make the covered individual whole.

(2) DAMAGES.—Relief in an action under subsection (b)(1)(C) (including an action described in subsection (b)(3)) shall include—

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

(B) the amount of any back pay, with interest; and

(C) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

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

(d) USE OF STATE SECRETS PRIVILEGE.—

(1) If, in any action for relief sought by a covered individual in accordance with the provisions of subsection (b)(1)(A), (B), or (C), the Government agency moves to withhold information from discovery based on a claim that disclosure would be inimical to national security by asserting the privilege commonly referred to as the "state secrets privilege", and if the assertion of such privilege prevents the covered individual from establishing an element in support of the covered individual's claim, the court shall resolve the disputed issue of fact or law in favor of the covered individual, provided that, in an action brought by a covered individual in accordance with the provisions of subsection (b)(1)(A) or (B), an Inspector General investigation under section 112B has resulted in substantial confirmation of that element, or those elements, of the covered individual's claim.

(2) In any case in which the Government agency asserts the privilege commonly referred to as the "state secrets privilege", whether or not an Inspector General has conducted an investigation with respect to the alleged discrimination, the head of the Government agency involved shall, at the same time it asserts the privilege, issue a report to authorized Members of Congress, accompanied by a classified annex if necessary, describing the reasons for the assertion, explaining why the court hearing the matter does not have the ability to maintain the protection of classified information related to the assertion, detailing the steps the agency has taken to arrive at a mutually agreeable settlement with the covered individual, setting forth the date on which the classified information at issue will be declassified, and providing all relevant information about the underlying substantive matter.

(e) CRIMINAL PENALTIES.—

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

(2) REPORTING REQUIREMENT.—

(A) IN GENERAL.—The Attorney General shall submit to the appropriate congressional committees an annual report on the enforcement of paragraph (1).

(B) CONTENTS.—Each such report shall—

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

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

(iii) in any actions under subsection (b)(1)(C) in which the covered individual was the prevailing party or the substantially prevailing party, indicate whether or not any formal charges under paragraph (1) have been brought and, if not, the reasons therefor.

(f) NO PREEMPTION.—Nothing in this section, section 112A, or section 112B preempts or diminishes any other safeguards against discrimination, demotion, discharge, suspension, threats, harassment, reprimand, retaliation, or any other manner of discrimination provided by Federal or State law.

(g) RIGHTS RETAINED BY COVERED INDIVIDUAL.—Nothing in this section, section 112A, or section 112B shall be deemed to diminish the rights, privileges, or remedies of any covered individual under any Federal or State law or under any collective bargaining agreement. The rights and remedies in this section, section 112A and section 112B may not be waived by any agreement, policy, form, or condition of employment.

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

(1) COVERED INDIVIDUAL.—The term "covered individual" means an employee of—
(A) the Department;
(B) the Department of Transportation;
(C) a contractor or subcontractor; and
(D) an employer within the meaning of section 701(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(b)) and who is a provider of covered transportation.

(2) LAWFUL.—The term "lawful" means not specifically prohibited by law, except that, in the case of any information the disclosure of which is specifically prohibited by law or specifically required by Executive order to be kept classified in the interest of national defense or the conduct of foreign affairs, any disclosure of such information to any Member of Congress, committee of Congress, or other recipient authorized to receive such information, shall be deemed lawful.

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

(4) EMPLOYEE.—The term "employee" means—

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

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

(5) SUBCONTRACTOR.—The term "subcontractor"—

(A) means any person, other than the contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a contract with the Department, the Department of Transportation, or a provider of covered transportation; and

(B) includes any person who offers to furnish or furnishes general supplies to the contractor or a higher tier subcontractor.

(6) PERSON.—The term "person" means a corporation, partnership, State entity, business association of any kind, trust, joint-stock company, or individual.

Section 113(c), strike "the Secretary of Transportation and".

Section 116(b), strike "designate the Center" and insert "select an institution of higher education to operate the National Transportation Security Center of Excellence".

Section 116(c)—

(1) redesignate paragraphs (1) through (3) as paragraphs (2) through (4), respectively; and

(2) insert after the subsection heading the following:

(1) CONSORTIUM.—The institution of higher education selected under subsection (b) shall execute agreements with other institutions of higher education to develop a consortium to assist in accomplishing the goals of the Center.

Section 116(c)(3), as redesignated, insert "or" before "Tribal".

Section 116, strike "Consortium" each place it appears and insert "consortium".

Section 118, after "risk" strike all that follows through "security".

Section 120(d)(1), strike "any rule" and all that follows through "an employer" and insert the following: "if an employer performs background checks to satisfy any rule, regulation, directive, or other guidance issued by the Secretary regarding background checks of covered individuals, the employer shall be prohibited".

Section 123(a), strike "the Committee on Homeland Security and Government Affairs

of the Senate and the Committee on Homeland Security of the House of Representatives" and insert "the appropriate congressional committees".

Section 124, strike "railcar" and insert "railroad car" each place it appears.

Section 124(b)(1), strike subparagraph (B) and insert the following:

(B) More than 25 kilograms (55 pounds) of a division 1.1, 1.2, or 1.3 explosive, as defined in section 173.50 of title 49, Code of Federal Regulations, in a motor vehicle, rail car, or freight container.

Section 124(b)(3)(A), strike "railyards" and insert "railroad yards".

Section 124(f), insert "railroad" before "carrier".

Section 125(d)—

(1) redesignate paragraph (16) as paragraph (17);

(2) in paragraph (15), strike "and" after the semicolon; and

(3) after paragraph (15), insert the following:

(16) nonprofit employee labor organizations; and

Section 124(f), insert "railroad" before "carrier".

Section 125 at the end, insert the following:

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

Section 126(a)(1), "The Secretary shall" and insert "The Secretary and the Secretary of Transportation shall jointly".

Section 126(a)(2), strike "the Secretary shall" and insert "the Secretary and the Secretary of Transportation shall jointly".

Section 126(a)(3), insert "and the Secretary of Transportation" after "Secretary".

Section 126(b)(3), insert "and the Secretary of Transportation" after "Secretary".

Section 128, strike "shall" and insert "should".

Section 128, insert "(a) PREFERENCE—" before "In".

Section 128 at the end, insert the following:

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

Section 130(a), strike "undeclared passengers or contraband, including".

Section 130 at the end, insert the following:

(c) USE OF TRANSPORTATION DATA.—In carrying out this subsection, the Secretary shall make use of data collected and maintained by the Secretary of Transportation.

Section 131, strike the text and insert the following: "In carrying out section 119, the Secretary shall require each provider of covered transportation, including contractors and subcontractors, assigned to a high-risk tier under section 102 to submit the names of their employees to the Secretary to conduct checks of their employees against available terrorist watchlists and immigration status databases".

At the end of title I, insert the following (and conform the table of contents accordingly):

SEC. 132. REVIEW OF GRANT-MAKING EFFICIENCY.

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

(1) the efficiency of the division of the grant-making process, including whether the

Department of Transportation's role in distributing, auditing, and monitoring the grant funds produces efficiency compared to the consolidation of these responsibilities in the Department of Homeland Security;

(2) whether the roles of the Department of Homeland Security and the Department of Transportation in the administration of the grants permit the grants to be awarded and used in a timely and efficient manner and according to their intended purposes;

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

(b) REPORT.—The Comptroller General of the United States shall submit an annual report to the appropriate congressional committees on the results of the study for each of the first 3 years after enactment of this title, including any recommendations for improving the administration and use of the grant funds awarded under sections 105, 106, and 107.

SEC. 133. ROLES OF THE DEPARTMENT OF HOME LAND SECURITY AND THE DEPARTMENT OF TRANSPORTATION.

The Secretary of Homeland Security is the principal Federal official responsible for transportation security. The roles and responsibilities of the Department of Homeland Security and the Department of Transportation in carrying out sections 101, 103, 104, 105, 106, 107, 109, 110, 111, 113, 123, 124, 125, 126, 127, 128, 129, 130, 131, and 201 of this Act are the roles and responsibilities of such Departments pursuant to the Aviation and Transportation Security Act (Public Law 107-71); the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458); the National Infrastructure Protection Plan required by Homeland Security Presidential Directive 7; Executive Order 13416: Strengthening Surface Transportation Security, dated December 5, 2006; the Memorandum of Understanding between the Department and the Department of Transportation on Roles and Responsibilities, dated September 28, 2004; the Annex to the Memorandum of Understanding between the Department and the Department of Transportation on Roles and Responsibilities concerning Railroad Security, dated September 28, 2006; the Annex to the Memorandum of Understanding between the Department and the Department of Transportation on Roles and Responsibilities concerning Public Transportation Security, dated September 8, 2005; and any subsequent agreements between the Department of Homeland Security and the Department of Transportation.

Section 201(a), strike “ensure that canine detection teams are deployed” and insert “encourage the deployment of canine detection teams”.

Section 201(b), strike “to increase” and insert “to encourage an increase in”.

Strike “rail carrier” and insert “railroad carrier” each place it appears in the bill.

The Acting CHAIRMAN. Pursuant to House Resolution 270, the gentleman from Mississippi (Mr. THOMPSON) and a Member opposed will each control 5 minutes.

The Chair recognizes the gentleman from Mississippi.

Mr. THOMPSON of Mississippi. Mr. Chairman, before I begin, I ask unanimous consent that the amendment be modified with the text I have placed at the desk.

The Acting CHAIRMAN. Is there objection to the modification?

Mr. MICA. Mr. Chairman, I reserve the right to object.

Mr. Chairman, I am not sure of the provisions of the offering that have

been made by the gentleman. I was wondering if I could inquire as to the content of his modification.

Mr. THOMPSON of Mississippi. Actually, Mr. Chairman, it was a drafting error on the whistleblower proceedings. And if you would look at it, it clearly was Legislative Counsel's error, and we are really just trying to correct the language.

Mr. MICA. Mr. Chairman, will the gentleman yield for further inquiry?

Mr. THOMPSON of Mississippi. I yield to the gentleman from Florida.

Mr. MICA. Mr. Chairman, it is my understanding that in fact the way that the amendment is now drawn, the original Thompson amendment offered as amendment No. 1 was in fact flawed and that this would correct that flaw; and the intent that is in the Thompson amendment that would be of a negative impact would be removed by the correction that you are now offering.

Mr. THOMPSON of Mississippi. Mr. Chairman, I understand that Mr. DAVIS, as well as Mr. WAXMAN, are in agreement with the correction, because it is really the language from their whistleblower bill that we are trying to make sure that is consistent with what we have.

The Acting CHAIRMAN. Does the gentleman from Florida withdraw his reservation?

Mr. MICA. I do have a reservation. I will have to object.

The Acting CHAIRMAN. Objection is heard.

The Chair recognizes the gentleman from Mississippi.

□ 1600

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as I noted earlier, H.R. 1401 is an important milestone in protecting our Nation's rail and public transportation systems.

Since its introduction, however, Chairman OBERSTAR and Chairman WAXMAN have worked with me to improve the bill and satisfy a number of concerns they had. I am proud that my colleagues and I were able to put aside jurisdictional squabbles that plagued our committees in the past two Congresses. By working together, we came up with compromise language that is good for the Nation and good for Congress.

I want to thank Chairman WAXMAN for the assistance he and his staff gave me on improving whistleblower protections for transportation workers. The manager's amendment strengthens the protections for Federal employees and contractors.

As revised, the protections more closely resemble those found in H.R. 985, the Whistleblower Protection Enhancement Act. Members may recall that H.R. 985 overwhelmingly passed the House 2 weeks ago.

I also have worked closely with Chairman OBERSTAR to clarify the roles and responsibilities of the Depart-

ments of Homeland Security and Transportation under this bill. The two agencies will have the same responsibilities established in the various laws, executive orders, and MOUs already governing their relationship.

Additionally, in order to improve efficiency, we will create a new relationship between the Departments to manage the rail, public transportation, and bus security grants created by this bill. For all three grants, the Homeland Security Department will be responsible for determining the requirements for recipients of grants, including application requirements; determining who receives the grants; determining the uses for the grant funds; and establishing priorities for uses of funds.

Transportation will be responsible for distributing grant funds to those recipients as directed by Homeland Security. Both agencies will jointly monitor and audit the use of grant funds.

I believe that this cooperative relationship will create efficiencies. Allowing Transportation to be the “Western Union” for grants is consistent with the recommendation of the American Public Transportation Association.

I am proud to have worked side by side with Chairman OBERSTAR to ensure that our Nation's security needs are met in an efficient and effective manner.

Since its creation in the 108th Congress, the Committee on Homeland Security has had to compete with other committees just to get things done. Good bills were stalled or held up too long because of jurisdictional squabbles. Not this Congress. I thank Chairman OBERSTAR for his help. By working together, I think we can demonstrate that the 110th Congress is a do-something Congress, not a Congress of competing jurisdictions.

I urge all of my colleagues to support this amendment and make this a Congress that acts to better protect our rail and public transportation system.

Mr. Chairman, I enter the following for purposes of explaining my request for unanimous consent to correct a technical drafting error that resulted in the omission from the Manager's Amendment of two sections clearly referenced throughout the Manager's Amendment, specifically referred to below as sections 112A and 112B.

The two sections listed below are not essential to making this section of the underlying bill operative, but, while the bill and section are still operational, the bill would be further clarified if the following sections were included. I am disappointed that my unanimous consent request was objected to, apparently for mere partisan advantage. As such, at conference, I plan to work with Chairman WAXMAN of the Oversight and Government Reform Committee to offer this language as it represents a compromise between myself and Chairman WAXMAN. I worked with Chairman WAXMAN to make the provisions of H.R. 1401 similar to those in H.R. 985, which is the bipartisan whistleblower protection bill that overwhelmingly passed the House on March 14. Below is the technical amendment that should have been made today:

SEC. 112A. WHISTLEBLOWER PROVISIONS RELATING TO CERTAIN FEDERAL EMPLOYEES.

(a) IN GENERAL.—Section 1221 of title 5, United States Code, is amended by adding at the end the following:

“(k)(1) If, in the case of a covered individual described in the provisions of section 112(b)(1)(A) of the Rail and Transportation Security Act of 2007 seeking relief (in accordance with such provisions) from any discrimination described in section 112(a) of such Act, no final order or decision is issued by the Board within 180 days after the date on which a request for such relief has been duly submitted (or, in the event that a final order or decision is issued by the Board, whether within that 180-day period or thereafter, then, within 90 days after such final order or decision is issued, and so long as such covered individual has not filed a petition for judicial review of such order or decision under subsection (h))—

“(A) such covered individual may, after providing written notice to the Board, bring an action at law or equity for de novo review in the appropriate United States district court, which shall have jurisdiction over such action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury; and

“(B) in any such action, the court—

“(i) shall apply the standards set forth in subsection (e); and

“(ii) may award any relief which the court considers appropriate, including any relief described in subsection (g).

An appeal from a final decision of a district court in an action under this paragraph may, at the election of the covered individual, be taken to the Court of Appeals for the Federal Circuit (which shall have jurisdiction of such appeal), in lieu of the United States court of appeals for the circuit embracing the district in which the action was brought.

“(2) For purposes of this subsection, the term ‘appropriate United States district court’, as used with respect to any alleged discrimination, means the United States district court for the district in which the such discrimination is alleged to have occurred, the judicial district in which the employment records relevant to such discrimination are maintained and administered, or the judicial district in which resides the covered individual allegedly affected by such discrimination.

“(3) This subsection applies with respect to any appeal, petition, or other request for relief duly submitted to the Board, whether pursuant to section 1214(b)(2), the preceding provisions of this section, section 7513(d), or any otherwise applicable provisions of law, rule, or regulation.”

(b) REVIEW OF MSPB DECISIONS.—Section 7703(b) of such title 5 is amended—

(1) in the first sentence of paragraph (1), by striking “the United States Court of Appeals for the Federal Circuit” and inserting “the appropriate United States court of appeals”; and

(2) by adding at the end the following:

“(3) For purposes of the first sentence of paragraph (1), the term ‘appropriate United States court of appeals’ means the United States Court of Appeals for the Federal Circuit, except that in the case of any discrimination to which section 1221(k) applies, such term means the United States Court of Appeals for the Federal Circuit and any United States court of appeals having jurisdiction over appeals from any United States district court which, under section 1221(k)(2), would be an appropriate United States district court for purposes of such discrimination.”

(c) COMPENSATORY DAMAGES.—Section 1221(g)(1)(A)(ii) of such title 5 is amended by

striking “changes.” and inserting “changes (as well as, in any case of discrimination covered by section 112 of the Rail and Public Transportation Security Act of 2007, compensatory damages, including attorney’s fees, interest, reasonable expert witness fees, and costs).”.

(d) CONFORMING AMENDMENTS.—

(1) Section 1221(h) of such title 5 is amended by adding at the end the following:

“(3) Judicial review under this subsection shall not be available with respect to any decision or order as to which a covered individual has filed a petition for judicial review under subsection (k).”.

(2) Section 7703(c) of such title 5 is amended by striking “court.” and inserting “court, and in the case of discrimination described in section 112 of the Rail and Public Transportation Security Act of 2007 brought under any provision of law, rule, or regulation described in section 1221(k)(3), the covered individual involved shall have the right to de novo review in accordance with section 1221(k).”.

SEC. 112B. WHISTLEBLOWER PROVISIONS RELATING TO CERTAIN FEDERAL CONTRACTORS.

(a) INVESTIGATION OF COMPLAINTS.—A covered individual described in subsection (b)(1)(B) of section 112 who believes that such individual has been subjected to discrimination prohibited by such section may submit a complaint to the Inspector General and the head of the contracting agency. The Inspector General shall investigate the complaint and, unless the Inspector General determines that the complaint is frivolous, submit a report of the findings of the investigation within 120 days to the covered individual and to the head of the contracting agency.

(b) REMEDY.—

(1) Within 180 days of the filing of the complaint, the head of the contracting agency shall, taking into consideration the report of the Inspector General under subsection (a) (if any), determine whether the covered individual has been subjected to discrimination prohibited by section 112, and shall either issue an order denying relief or shall take one or more of the actions described in subparagraphs (A) through (C) of section 315(c)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 265(c)(1)).

(2) If the head of the contracting agency has not made a determination under paragraph (1) within 180 days of the filing of the complaint (or has issued an order denying relief, in whole or in part, whether within that 180-day period or thereafter, then, within 90 days after such order is issued), the covered individual may bring an action at law or equity for de novo review to seek any relief described in paragraph (1) in the appropriate United States district court (as defined by section 1221(k)(2) of title 5, United States Code), which shall have jurisdiction over such action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury.

(3) A covered individual adversely affected or aggrieved by an order issued under paragraph (1), or who seeks review of any relief determined under paragraph (1), may obtain judicial review of such order in the United States court of appeals for the circuit in which the discrimination is alleged to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the order or the determination to implement any relief by the head of the agency. Review shall conform to chapter 7 of title 5, United States Code.

Mr. Chairman, I reserve the balance of my time.

Mr. KING of New York. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. KING of New York. Mr. Chairman, I yield myself 1 minute; and I reluctantly oppose the manager’s amendment.

The first basic reason is, when the original legislation was passed out of our committee, we would have had funding going directly to police agencies, the police departments who actually do security work. Now the money will have to go through the carriers, and the police will have to seek reimbursement from them. This is an added level of bureaucracy we don’t need. It will impede a well-coordinated and structured security response. For that reason alone, I have to oppose it.

Also, by having a bifurcated rent distribution system between DOT and DHS, to me this goes against the letter and the spirit of the 9/11 Commission. For those basic reasons, I reluctantly oppose the manager’s amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I reserve the balance of my time.

Mr. KING of New York. Mr. Chairman, I yield 2 minutes to the ranking member of the Transportation Committee, the gentleman from Florida (Mr. MICA).

Mr. MICA. Mr. Chairman and Members of the House, again, I wish that this bill could truly have been crafted in a bipartisan manner.

I have to speak against the manager’s amendment because the sponsor of the manager’s amendment just stood and admitted to a flaw that is in the bill. Again, this is a lesson to all of us that if we craft these pieces of important legislation, we put partisan politics aside. This isn’t the place for partisan politics. This is a national security issue critical to the survival of our people. If we put those aside and we work together on this, we wouldn’t find ourselves tied in this little legislative knot that they are trying to figure out: Should we pass this flawed manager’s amendment?

The bad news is that the flawed provision in section 3 of the manager’s amendment allows every State to effectively override safety rules. That is the great part of this system, that the minority and the majority work together and craft legislation and we find some flaws and make some improvements, and we were denied that. The T&I side was denied even one amendment.

That is why I opposed the rule, and that is why I am going to oppose the manager’s amendment, and that is why I am going to oppose this bill.

I will go back and tell folks in my district, I did not vote for this, and it was \$7 billion, not because I didn’t want to provide security, but I wanted to make sure that their hard-earned

money was well spent and we didn't pass in an arbitrary fashion, ignore the rights of the majority and the minority, legislation that would benefit this country, especially in the situation we find ourselves with the terrorist threats we have seen.

We don't want a Madrid or a London, but I don't want politics to override what should be good legislation.

Mr. THOMPSON of Mississippi. Mr. Chairman, I reserve the balance of my time.

Mr. KING of New York. Mr. Chairman, I yield the balance of my time to the gentleman from Ohio (Mr. LATOURETTE).

Mr. LATOURETTE. How much time is left, Mr. Chairman?

The Acting CHAIRMAN. Two minutes.

Mr. LATOURETTE. I want to thank Mr. KING for yielding.

I listened very carefully to the colloquy between someone I have the greatest respect for in the entire Congress, Chairman OBERSTAR, and the gentleman from North Dakota. We had the gentleman from North Dakota and some of his constituents and people from the American Association for Justice before the committee.

I happen to believe that anybody who is injured as a result of fault by another person should have his or her day in court and should be compensated when that is required. But the problem we have with section 3, section 3 undoes decades of Federal preemption when safety matters are concerned on the Nation's railroads, and the situation that we are going to find ourselves in is the one that Mr. SHUSTER described: States will be free to pass 50 different sets of safety regulations, and trains are going to have to stop at the border and comply with this, that or the other thing.

If section 3 simply said what happened in Minot, North Dakota, is horrible and those people should have their day in court to have the ability to seek compensation, I would be the first one to support it.

I am afraid, however, and with as much respect as I have for the chairman of the committee, Mr. OBERSTAR, when the title of the document, section 3, is "No Preemption of State Law" it is going to have an unintended consequence. It is going to undo the fabric of our Nation's rail system. I think for that reason alone, notwithstanding whatever Mr. MICA had to say, for that reason alone, we should have come together in a bipartisan way, recognizing the strengthens of both the Homeland Security and the Transportation and Infrastructure Committee, and gotten this right.

This, in my opinion, is a ham-handed approach that should be defeated.

Mr. THOMPSON of Mississippi. Mr. Chairman, I am prepared to close at this time.

Mr. KING of New York. Mr. Chairman, I yield back the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield the balance of my time to the chairman of the Transportation and Infrastructure Committee, Mr. OBERSTAR.

The Acting CHAIRMAN. The gentleman from Minnesota is recognized for 90 seconds.

Mr. OBERSTAR. Again, I want to express my great appreciation to the chairman of the Homeland Security Committee with whom I have worked very diligently and cooperatively. He is a man of great personal integrity and legislative honor and has worked vigorously to produce a splendid rail and public transportation security bill.

There has been some discussion about how the grants will be administered. We had testimony before our committee from the Nation's transit agencies and through their national organization. The American Public Transit Association told our committee they prefer to work with the DOT and Federal Transit Administration and grant administration. They have had experience with them. FTA knows the operational aspect of transit. They know the security side of transit. They can combine the two with less complexity and more efficiency than the Department of Homeland Security, which is just getting started, with a huge new bureaucracy, as we have learned, with over 206,000 people. So that part is working well and will work well in the language that we have agreed upon.

Again, let me just come back to the preemption issue. Read the words, believe the words, "no preemption of State law." That's what it says. That's what it means. I strongly support the manager's amendment.

Mr. THOMPSON of Mississippi. Mr. Chairman, I want to call to your attention a problem which has been slowly developing based on recent court cases, and why it is necessary for Congress to rectify the situation. Courts are ignoring congressional intent and leaving Americans injured by the negligence of the railroads without any remedies.

The Federal Rail Safety Act (FRSA) was enacted in 1970 to create a system of minimum safety standards to improve railroad safety and reduce accidents. Congress intended for these federal standards to be a floor, and expressly granted states the authority to pass stronger safety laws.

Now some courts are ignoring congressional intent and denying Americans grievously injured in railroad accidents their rights under state law, even when it is undisputed that the cause of the accident was the railroad's wrongdoing. By preempting state law, these courts are leaving injured Americans with no remedy at all—since FRSA itself does not provide a remedy or cause of action for victims.

The residents of Minot, North Dakota and others similarly injured should have their day in court. One only needs to look at the tragedy in Minot, North Dakota to see the impact of these court decisions on real people. On January 31, 2002, 31 railroad cars derailed near the city of Minot, North Dakota, releasing over 200,000 gallons of the deadly gas, anhydrous ammonia. The dense cloud of toxic fumes en-

gulfed the town of Minot causing one death and injuring hundreds of people. If this tragedy had happened in a big city or even in the middle of the day (instead of 2:00 a.m.) countless more people would be killed or injured.

Among the various causes of the derailment was the failure of a so-called temporary joint bar that had been left in this substandard track for over 20 months. In addition, the track itself was old, worn out and poorly maintained—not even meeting the minimum standards under FRSA. The Canadian Pacific Railroad admitted that it was responsible for the derailment, but argued that it could not be held accountable because FRSA preempted state law claims.

The federal court dismissed the claims brought under state law on the basis of federal preemption, admitting that "such a result is unduly harsh and leaves the Plaintiffs no remedy for this tragic accident." *Mehl v. Canadian Pacific Railway*, 417 F. Supp. 2d 1104, 1120 (D.N.D. 2006).

Unfortunately, this isn't a problem limited to one court. Court decisions in Minnesota and Massachusetts have left victims of negligence with no recourse for their injuries. See, e.g., *Kalan Enterprises, LLC v BNSF Railway Co.*, 415 F. Supp. 2d 977 (D. Minn. 2006); *Ouellette v. Union Tank Car Co.*, 902 F. Supp. 5 (D. Mass. 1995).

Congress must act now before more Americans lose their right to a remedy, and that is why we have chosen to add technical language to the Rail Security bill to alleviate this problem on a timely basis. Over 200 claims pending in Minnesota state court have been removed to federal court by Canadian Pacific. The railroad is arguing that all claims against it should be dismissed based on preemption under the FRSA. Oral argument on the railroad's motion to dismiss has been scheduled for May 15th so it's imperative to clarify that the FRSA does not preempt state remedies in order to prevent an additional travesty of justice.

The language would clarify that the purpose of the FRSA was and is to set uniform minimum safety standards, and that an expansive application of preemption to deprive accident victims' access to state remedies is a misapplication of the law.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Mississippi (Mr. THOMPSON).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Mr. LATOURETTE. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Mississippi will be postponed.

AMENDMENT NO. 2 OFFERED BY MR. ARCURI

The Acting CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 110-74.

Mr. ARCURI. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. ARCURI:

At the end of title I, insert the following (and conform the table of contents accordingly):

SEC. . ASSESSMENT AND REPORT.

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

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

The Acting CHAIRMAN. Pursuant to House Resolution 270, the gentleman from New York (Mr. ARCURI) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York.

Mr. ARCURI. Mr. Chairman, I yield myself such time as I may consume.

(Mr. ARCURI asked and was given permission to revise and extend his remarks.)

Mr. ARCURI. Mr. Chairman, my amendment to H.R. 1401, the Rail and Public Transportation Security Act, would address an important issue surrounding our Nation's efforts to expand electric power to major urban areas, and that is, of course, the safety issue.

On the morning of March 12, 2007, a CSX freight train derailed approximately 34 cars near Oneida, New York. Reports indicate there was an evacuation covering a 1-mile radius. Luckily, there were no reported deaths or injuries. However, a large fire occurred at the scene, and residents and emergency responders reported hearing secondary explosions. CSX provided information that there were 40 tank cars carrying liquid petroleum gas in the train. What's more, the derailment closed the New York State Thruway for several hours, requiring traffic to be detoured miles out of the way.

Prior to this incident, there were 18 train derailments in western New York between January, 2005, and September, 2006, which further suggests the condition of New York State's freight railroads are in need of serious attention and repair.

While this concern continues to trouble the people of New York, a private company is seeking to build a 190-mile high-voltage direct current transmission line from the town of Marcy in Oneida County, located in my district, to the town of New Windsor in Orange County in Mr. JOHN HALL's district.

The company estimates that more than 90 percent of the proposed primary and alternative routes will follow existing rights-of-way, both along railroad tracks and natural gas lines. The transmission line would consist of 135-foot-tall towers and be operated with a rated power flow of 1,200 megawatts. A portion of the proposed route follows the New York Susquehanna & Western Railway right-of-way, which would run

through some of the more heavily populated cities and towns in upstate New York. This is a situation where the consequences and risk are not only unknown but wholly unnecessary.

□ 1615

For these reasons, my amendment to H.R. 1401 would require the Secretary of Homeland Security, in coordination with the Secretary of Transportation, to conduct an assessment of the safety and security vulnerabilities of placing high voltage direct current electric transmission lines along active railroad rights-of-way.

The assessment shall, at a minimum, evaluate the risks to local inhabitants and consumers of electric power transmitted by those lines, associated with a train collision or derailment that damages such electric transmission lines.

It is no secret that as our cities continue to grow they will need more energy, and I fully support addressing that need; but meeting that need must be done in a safe and a responsible way.

To this end, my amendment simply requires the Departments of Homeland Security and Transportation to take a hard look at our existing rail infrastructure and assess the security vulnerabilities so that we can avoid further electric power interruptions and preserve the safety of our constituents.

Mr. Chairman, I reserve the balance of my time.

Mr. KING of New York. Mr. Chairman, I would claim the time in opposition, even though I do not intend to oppose the amendment.

The Acting CHAIRMAN. Without objection, the gentleman from New York is recognized for 5 minutes.

There was no objection.

Mr. KING of New York. Mr. Chairman, I would just say to the gentleman from New York, I commend him for his amendment and I appreciate his concerns. My only thought is that these seem to be primarily safety concerns, as opposed to security, and there are already so many reporting requirements on the Department of Homeland Security that I am reluctant to request another report from the Department of Homeland Security.

Having said that, as this legislation goes forward, I would just ask the gentleman to work with us as it goes to conference in the event that after speaking with the Secretary and the Department that they do consider this a burden and perhaps refine it.

With that, I have no objection to it. I just would ask the gentleman if he would work with us as the process goes forward.

Mr. ARCURI. If the gentleman would yield, I thank the gentleman, yes.

Mr. KING of New York. I thank the gentleman.

Mr. Chairman, I yield back the balance of my time.

Mr. ARCURI. Mr. Chairman, may I inquire as to how much time we have remaining.

The Acting CHAIRMAN. The gentleman from New York (Mr. ARCURI) has 2 minutes remaining.

Mr. ARCURI. Mr. Chairman, I yield 1½ minutes to the gentleman from New York (Mr. HALL).

Mr. HALL of New York. Mr. Chairman, I thank my colleague from New York for offering this important amendment. I am honored to speak in support of it.

America's railways and power lines are key critical infrastructure. So when proposals would locate them together, it only makes sense for DHS and DOT to give them serious scrutiny.

In the State of New York, the homeland security stakes are particularly high. Yet a private company continues to pursue eminent domain authority to install the massive New York Regional Interconnect along rail routes, through environmentally sensitive areas, and over the objections of local residents.

In their hurry to get NYRI up and running, the company has pushed forward a plan that would put a 1,200 megawatt line on 135-foot towers near numerous rail lines. In western New York, there have been 19 derailments since 2005. The potential recipe for disaster is clear here.

There is also a matter of precedent that this amendment would help to clarify. By passing this amendment, this body can say that in projects in New York and around the country that we will not endorse putting special for-profit eminent domain provisions above the security of our citizens, the sanctity of our environment or the rights of our landowners.

I urge my colleagues to support this amendment.

Mr. ARCURI. Mr. Chairman, I yield 15 seconds to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise to indicate that the committee majority supports Mr. ARCURI's very thoughtful method to protect those individuals along those very difficult byways dealing with these particular power lines.

Mr. ARCURI. Mr. Chairman, as I said, my amendment simply requires the Departments of Homeland Security and Transportation to take a hard look at our existing rail infrastructure and assess the security vulnerabilities so that we can avoid further electric power interruptions, while at the same time ensuring the health and safety of our citizens residing near high voltage power lines.

I urge my colleagues on both sides of the aisle to support this amendment.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. ARCURI).

The amendment was agreed to.

AMENDMENT NO. 3 OFFERED BY MR. COHEN

The Acting CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 110-74.

Mr. COHEN. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. COHEN:
At the end of title I, add the following:

SEC. _____ ALTERNATIVE MATERIAL SOURCES.

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

The Acting CHAIRMAN. Pursuant to House Resolution 270, the gentleman from Tennessee (Mr. COHEN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Tennessee.

Mr. COHEN. Mr. Chairman, I yield myself as much time as necessary to make this presentation.

I rise today to offer an amendment to H.R. 1401, the Rail and Public Transportation Security Act. My amendment would call for the Department of Transportation to coordinate with related agencies as well as State and local governments to seek efforts that will minimize the transport of toxic inhalation hazardous materials.

Never has the danger of transporting hazardous materials been more clear than in this post-9/11 age. While rail is clearly the safest means of transport for such materials, we must work to ensure this transit is as secure, efficient and is as considerate towards the safety of our communities as possible. The U.S. Naval Research Lab has said an attack on such a rail car could kill 100,000 people.

Additionally, in 2005 testimony before the Senate Committee on Homeland Security and Government Affairs, the administration's deputy homeland security adviser at the time, Richard A. Falkenrath, told Congress in 2005 that "toxic-by-inhalation industrial chemicals present a mass-casualty terrorist potential rivaled only by improvised nuclear devices, certain acts of bioterrorism, and the collapse of large, occupied buildings." Railroads carry 105,000 carloads of toxic chemicals a year and 1.6 million carloads of other hazardous materials such as explosives and radioactive items.

In mid-January of this year, several train cars carrying flammable liquid derailed and exploded south of Louisville, Kentucky, shutting down a nearby highway and forcing evacuations of nearby homes, businesses and a school, according to local authorities. Two years earlier, a train crash in South Carolina caused a release of chlorine gas resulting in deaths, injuries, and forcing the evacuation of people from the surrounding areas. Most recently, there was a Union Pacific derailment of 28 cars in Henderson County, Texas.

In the wake of these recent derailments, State and local officials nationwide have begun examining their

regulatory authority over the transportation of hazardous materials by rail. Several localities nationwide have either introduced or enacted absolute bans on the transportation of certain toxic substances from trains that travel through their areas.

This action has prompted litigation from the rail industry due to alleged violations of the U.S. Constitution's commerce clause and Federal statutes concerning the transportation of hazardous materials. Rail companies fear such laws would force them to extend the travel of hazardous cargo by hundreds of miles around cities with the unintended effect of transferring the risk to other localities. This consensus amendment addresses the concerns of both rail companies and community advocates by seeking to cut the transport of these hazardous materials all together.

In a June 2006 statement before the House Transportation and Infrastructure Committee, the president and CEO of the Association of American Railroads made several recommendations intended to reduce the risks associated with the manufacture and transport of highly hazardous materials. Among these recommendations was "examining whether and how railroads can utilize coordinated routing arrangements to safely reduce hazmat transportation" as well as "examining whether hazmat consumers can source hazmat from closer suppliers."

My amendment would simply call upon the Department of Transportation to follow this recommendation by coordinating with localities to allow consumers to obtain TIH materials with the intended consequence of minimizing the time and frequency such materials are routed through our communities.

Last July, the Memphis Commercial Appeal identified train cars carrying chlorine, 2-Dimethylaminoethyl acrylate, acetone cyanohydrin, nickel carbonyl, and several other toxic inhalation hazard cargoes over a 2-day period in or near residential areas of Memphis. Not only hard to pronounce but very difficult to inhale I am sure of the things we would rather not inhale or pronounce. All of these chemicals are listed as potentially lethal if inhaled.

City council members and other community leaders in Memphis are calling on the Federal Government for assistance in deterring the transport of these materials through their residential areas.

Mr. Chairman, I am proud to support this amendment and support this legislation and current efforts under way to improve the safety of our rail system. To further ensure the safety of our railways, as well as the local communities they serve, I call upon my colleagues to pass this amendment.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. Who claims time in opposition?

Mr. DANIEL E. LUNGREN of California. Mr. Chairman, I do.

The Acting CHAIRMAN. The gentleman from California is recognized for 5 minutes.

Mr. DANIEL E. LUNGREN of California. Mr. Chairman, I understand the intent of the gentleman offering the amendment; but, unfortunately, upon reading it, it is obvious that this is a do-good amendment that either does nothing or does harm.

The reason I say that is that the subject the gentleman wishes to cover in this amendment is covered by the base bill already which will be retained if, in fact, we pass the manager's amendment.

Section 124 of the bill, pages 84, 85, 86, 87, 88, 89 and 90, take into effect what the gentleman is talking about. This is the Markey amendment which was worked out in committee on a bipartisan basis in some detail to work with the problem that you have, the security-sensitive materials, that encompasses security-sensitive materials, which includes within its universe toxic inhalation hazardous materials.

The issue is, what do we do with the fact that we need some of these products as far as our society goes now but that they would also provide an opportunity for terrorists to utilize them for damage to a particular community? So we crafted a very careful amendment that allows for consideration of the needs here on the economic side and the harm done.

The way the gentleman has written his amendment, it requires the Secretary of Transportation to establish a program to minimize the need for transportation of toxic inhalation hazardous materials by rail only, by rail only. We looked at that requirement to have the Secretary come up with rules and regulations that were to take into consideration the total threat, the total need here. So by the gentleman's own amendment, we may be required to minimize the travel on rail, which will maximize the travel on our highways. Now, I do not think the gentleman believes that necessarily makes it safer, or on our barges.

This amendment, as drafted so narrowly, would require us to undercut much of what we have done in the base bill as a result of working on a bipartisan basis with Mr. MARKEY in an area of concern that he has expressed often on the floor and in committee hearing after committee hearing.

That is why I say either it does nothing and, therefore, is harmless or if, in fact, it does something, and there is mandatory language in here requiring the Secretary of Transportation, he shall establish such a program, requires him to move in only one direction which may, in fact, make it more dangerous overall.

One of the things we learned in our hearings was that you have to consider the entirety of the threat out there, the entirety of the universe of possible options. The gentleman denies the Secretary to do that by requiring that it minimize the transit of toxic inhalation hazardous materials by rail only,

and it undercuts what we have done in a very, very I think informed way, detailed way, talking about storage patterns, talking about rail transportation routes, talking about the analysis of these storage patterns and then requires a compilation of that information and analysis of that information and consideration of that information and then informed judgment, not something like this which says, you know, you have to do it only one way.

So, as I say, I understand what the gentleman has said. It sounds good when you first look at it; but if you really look at what it means, it is going to tie the Secretary's hands to move in a particular direction that may or may not allow us to be safer than we are today; and for that reason, I would hope that we would vote this down.

If the gentleman would like to work with us on a bipartisan basis, as I did with Mr. MARKEY before, that would be superior to this. This unfortunately, as I say, is a do-good amendment which either does nothing or does harm to the interests of this bill as presented by our committee on a bipartisan basis.

Mr. COHEN. Mr. Chairman, will the gentleman yield?

Mr. DANIEL E. LUNGREN of California. I yield to the gentleman from Tennessee.

Mr. COHEN. Thank you. It is my understanding that the Markey amendment dealt with a study. This does not deal with a study.

Mr. DANIEL E. LUNGREN of California. No, no. I take my time back. The Markey amendment does not just deal with a study. Read the Markey amendment. It starts with a study. Then it requires the Secretary to come forward with regulations. Then it requires certain action on the part of all the parties involved. It is not just a mere study. Working that hard on it, I frankly do not appreciate you trying to say that it is just a study. That is not true whatsoever.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. DANIEL E. LUNGREN of California. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. First of all, the gentleman knows that we look forward in our committee to work on this issue dealing with trucks. I would say that the distinguished gentleman from Tennessee's amendment does not push it off to trucks. It only wants to reduce chemicals.

I thank the gentleman for yielding.

□ 1630

The Acting CHAIRMAN. All time has expired on this amendment.

The question is on the amendment offered by the gentleman from Tennessee (Mr. COHEN).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. COHEN. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Tennessee will be postponed.

AMENDMENT NO. 4 OFFERED BY MR. CASTLE

The Acting CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 110-74.

Mr. CASTLE. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. CASTLE:

At the end of title I, insert the following (and conform the table of contents accordingly):

SEC. _____. STUDY OF FOREIGN RAIL SECURITY PRACTICES.

The Secretary shall—

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

(A) implementing covert testing processes to evaluate the effectiveness of rail system security personnel;

(B) implementing practices used by foreign rail operators that integrate security into infrastructure design;

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

(D) establishing and maintaining an information clearinghouse on existing and emergency security technologies and security best practices used in the passenger rail industry both in the United States and abroad; and

(2) report the results of the study, together with any recommendations that the Secretary may have for implementing covert testing, practices for integrating security in infrastructure design, random searches or screenings, and an information clearinghouse to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland Security of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives not later than 1 year after the date of enactment of this Act.

The Acting CHAIRMAN. Pursuant to House Resolution 270, the gentleman from Delaware (Mr. CASTLE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Delaware.

Mr. CASTLE. Mr. Chairman I yield myself such time as I may consume.

I rise to offer an important amendment to the legislation before us today.

As many of my colleagues have noted, terrorists are increasingly targeting rail and transit systems throughout the world. The recent bombings in India, London and Madrid are clear evidence of this dangerous trend.

While the concept of rail security is relatively new here at home, security officials in Europe and Asia have decades of experience with terrorist attacks, and I have long believed in the importance of leveraging this experience to improve our own system.

In 2003, I asked the Government Accountability Office to undertake an in-depth study of foreign rail security practices. Over the course of several months, a GAO team visited 13 different foreign rail systems, and a subsequent report identified many innovative measures to secure rail systems, many of which are currently being used in the U.S.

Most significantly, however, the GAO report identified four important foreign rail security practices that are not currently being used to any great extent in the United States.

First, the report found that other nations have improved the vigilance of their security staff by performing daily unannounced events, known as covert testing, to gauge responsiveness to incidents such as suspicious packages or open emergency doors.

Similarly, two of the thirteen foreign operators interviewed by GAO also reported success using some form of random screening to search passengers and baggage for bombs and other suspicious materials. This practice has been used sporadically in the U.S., including in New York City following in the 2005 London bombings, but has never been implemented for any continuous period of time.

The GAO also noted that many foreign governments maintain a national clearinghouse on security technologies and best practices. Such a government-sponsored database would allow rail operators to have one central source of information on the merits of rail security technology, like chemical sensors and surveillance equipment.

Finally, while GAO noted that the Department of Transportation has taken steps to encourage rail operators to consider security when renovating or constructing facilities, many foreign operators are still far more advanced when it comes to incorporating aspects of security into infrastructure design.

For example, this photograph here to my left of the London Underground demonstrates several security upgrades, such as vending machines with sloped tops to reduce the likelihood of a bomb being placed there, clear trash bins, and netting throughout the station to prevent objects from being left in recessed areas. As you can see, the London stations are also designed to provide security staff with clear lines of sight to all areas of the station, including underneath benches and ticket machines.

The British government has praised these measures for deterring terrorist attacks. In one incident their security cameras recorded IRA terrorists attempting to place an explosive device inside a station. According to London officials, due to infrastructure design and improvements, the terrorists were deterred when they could not find a suitable location to hide the device inside the station.

While the GAO acknowledged that deploying these four practices in this

country may be difficult, in fact, random screening may pose many challenges, it is clear that these foreign security techniques deserve greater consideration. Therefore, the amendment I am offering today would take steps to improve rail and transit security by requiring the Secretary of Homeland Security to study the cost and feasibility of implementing these practices and submit a report making recommendations to the Homeland Security Committee and Transportation Committee within one year of enactment.

Mr. Chairman, recent attacks on rail and transit throughout the world underscores the importance of acting now to upgrade security here at home. My amendment will make certain that we are knowledgeable and consider all available options when it comes to ensuring the safety and security of our rail system.

Mr. Chairman, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise to claim the time in opposition. I am not opposed, but I would claim the time.

The Acting CHAIRMAN. Without objection, the gentlelady is recognized for 5 minutes.

There was no objection.

Ms. JACKSON-LEE of Texas. I thank the distinguished gentleman.

I believe this is a thoughtful amendment. The committee believes this adds to the legislation on the floor. We should look into security practices used by other countries that have experience with attacks on rail and mass transit systems.

This timeframe, the month of March, sadly commemorates the tragedy in Madrid. Certainly we are well aware of the London train bombings. Their insight, their recovery, their instructions would be very important. This study should include an evaluation of practices such as covert testing, security measures built into infrastructure and random searches of passengers and baggage.

When GAO testified before our committee, we learned that, while we share many rail security practices with other countries such as customer awareness, canine teams, limited passenger and baggage screening and technology upgrades, there were many practices that we haven't fully vetted. It makes sense to learn what we can from our neighbors who have already done a lot of work in this area.

I know that this is a tough challenge. This bill, I believe, answers a lot of the concerns about the massiveness of rail travel and passenger travel and all that goes into securing that particular travel.

Looking at what our neighbors are doing and what other countries are doing, Mr. CASTLE, I think it provides us an added road map for a complicated process which really impacts certain areas of our country more so than others. The Northeast corridor, of course, deserves our fullest measure of support

when it comes to passenger travel for the numbers of systems that are here.

I ask my colleagues to support it.

Mr. Chairman, I reserve the balance of my time.

Mr. CASTLE. Mr. Chairman, I will just take a moment.

First, let me first thank very much the distinguished Congresswoman from Texas for her very kind words about the amendment. I am a strong believer, as you have indicated as well, that when there are good ideas out there that we should borrow these ideas. I believe this is something we should do.

I don't mean to burden Homeland Security with studies, but to me this is a relatively simple study matter and something which I think will ultimately provide greater safety to people in this country.

Hopefully, all can support this amendment.

Mr. Chairman, I yield back the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I simply ask my colleagues to support this amendment.

I thank the gentleman for his thoughtful contribution to this bill.

I support Mr. CASTLE's amendment.

We should look into security practices used by other countries that have experience with terrorist attacks on rail and mass transits systems.

This study should include an evaluation of practices such as covert testing, security measures built into infrastructure, and random searches of passengers and baggage.

When GAO testified before our committee, we learned that while we share many rail security practices with other countries, such as customer awareness, canine teams, limited passenger and baggage screening, and technology upgrades, there were many practices that we haven't fully vetted.

It makes sense to learn what we can from our neighbors who have already done a lot of work in this area.

I ask that my colleagues support this amendment.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Delaware (Mr. CASTLE).

The amendment was agreed to.

AMENDMENT NO. 5 OFFERED BY MR. SESSIONS

The Acting CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 110-74.

Mr. SESSIONS. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. SESSIONS:

At the end of title I, insert the following new section:

SEC. 132. USE OF FUNDS BY AMTRAK.

None of the funds appropriated pursuant to this Act, except pursuant to section 108, may be used by Amtrak for any of the 10 long-distance routes of Amtrak that have the highest cost per seat/mile ratios according to the

September 2006 Amtrak monthly performance report, unless the Secretary has transmitted to Congress a waiver of the requirement under this section with respect to a route or portion of a route that the Secretary considers to be critical to homeland security.

The Acting CHAIRMAN. Pursuant to House Resolution 270, the gentleman from Texas (Mr. SESSIONS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. SESSIONS. Mr. Chairman, my amendment is a straightforward attempt to prevent any further taxpayer money from being spent to place additional unnecessary cost on Amtrak's 10 least profitable routes.

I would like to talk a little bit about what this amendment does not do.

This amendment does not remove any currently appropriated funds.

This amendment does affect the 10 routes that are affected by the amendment that currently cost the taxpayer \$161 million per year and will continue to cost the taxpayers \$161 million if it is enacted.

This amendment does not affect the funds made available in section 108, which would be used to upgrade and improve the Northeast corridor tunnels in New York City, Baltimore, and Washington, D.C.

This amendment does not tie the hands of the administration, because it provides the Secretary of the Department of Homeland Security with the flexibility to waive this provision should that Secretary deem that a security upgrade on one of these most unprofitable routes, or even a partial part of it, would be deemed to be critical to Homeland Security.

What this amendment does, and it does it very simply, is stop adding unnecessary costs to the 10 worst routes that already cost Amtrak \$161 million a year. The worst route in Amtrak's system, called the Sunset Limited, which runs from New Orleans to Los Angeles, had a net loss of \$20.4 million last year, or, on a cost basis to taxpayers, 25.5 cents per seat for every mile of that journey.

The tenth worst route in Amtrak's system is the City of New Orleans, which runs from Chicago to New Orleans, which had a net loss of \$9 million last year, or a cost to taxpayers of 10.4 cents per seat for every mile of that trip.

This amendment seeks to prevent further good taxpayer dollars from being thrown after bad by limiting the costs on these already unprofitable routes.

All in all, it says that if Amtrak wants to compete for the \$4 billion worth of funds made available under this Act, they must ensure that they are being used for routes that cost the taxpayer less than 10.4 cents per seat over every single mile, a hurdle that is hardly unreasonable.

This amendment will provide fiscal discipline and accountability to a system that has already received over \$30

billion in taxpayer subsidies over its lifetime.

My amendment is supported by the National Taxpayers Union, Citizens Against Government Waste and Americans for Tax Reform, which are three of the most prominent groups committed to monitoring the effective use of taxpayer dollars.

On behalf of fiscal discipline, I don't know if there is anything that's possible that they could want to support on behalf of taxpayers that would be more. I encourage all of my colleagues to support my amendment.

COUNCIL FOR CITIZENS AGAINST GOVERNMENT WASTE,
Washington, DC, March 27, 2007.
HOUSE OF REPRESENTATIVES,
Washington, DC.

DEAR REPRESENTATIVE: Soon you will have the opportunity to vote on an amendment to H.R. 1401, the Rail and Public Transportation Security Act of 2007, that will be offered by Rep. Pete Sessions (R-Texas). This amendment will prevent Amtrak from using any of the appropriated funds in the bill, except those noted in Section 108, from being used for any of the top ten revenue-losing long-distance routes that were noted in Amtrak's September 2006 monthly performance report. On behalf of the more than 1.2 million members and supporters of the Council for Citizens Against Government Waste (CCAGW), I ask that you support this amendment.

Amtrak has failed to produce a profit since its inception in 1971 and still has not met the Congressional deadline of December 2, 2002 to achieve self-sufficiency. As a result, it has become a black hole for taxpayer dollars. Fewer and fewer people are using the rail service due to less costly and more efficient alternatives, yet everyone pays for Amtrak through their taxes. This amendment will ensure that tax dollars will not be used to prop up non-profitable Amtrak routes and that the money will be used in appropriate areas in order to provide greater protection and safety for our nation's public transportation. It does provide a waiver from this provision if the Secretary of Homeland Security believes a route or a portion of an Amtrak route is critical to homeland security.

All votes on H.R. 1401 will be among those considered in CCAGW's 2007 Congressional Ratings.

Sincerely,

THOMAS SCHATZ,
President.

AMERICANS FOR TAX REFORM,
Washington, DC, March 26, 2007.

Hon. LOUISE M. SLAUGHTER,
Chairwoman, Committee on Rules,
Washington, DC.

DEAR CHAIRWOMAN SLAUGHTER: On behalf of Americans for Tax Reform (ATR), I urge you to make in order as part of the rule the amendment offered by Congressman Pete Sessions (R-TX) to H.R. 1401, the "Rail and Public Transportation Security Act of 2007." This amendment ensures the correct and effective allocation of appropriations for homeland security in H.R. 1401.

H.R. 1401 was created to increase protection of America's rail and public transportation. Congressman Sessions' amendment helps close loopholes that could be exploited by Amtrak to increase revenue on the least profitable of its lines. Congressman Sessions makes clear that Amtrak may petition for use of the funds on these rail lines if it is a matter of homeland security.

Year after year taxpayers send Amtrak millions of dollars in funding for projects and improvements that routinely fall short

of expectations. The funds in this bill have been created to aid American transportation organizations in making their services safer and more secure, not to help an archaic rail-way.

Many amendments have been proposed to H.R. 1401 in an effort to make the legislation stronger and more effective. By allowing the Sessions amendment to be attached to H.R. 1401, you send a clear message that the funds included in this bill are for making America safer, not for helping Amtrak's bottom line.

Sincerely,

GROVER NORQUIST,
President.

NATIONAL TAXPAYERS UNION,
Alexandria, VA, March 26, 2007.

NATIONAL TAXPAYERS UNION VOTE ALERT

NTU urges all Members to vote "yes" on the amendment offered by Rep. Pete Sessions to the Rail and Public Transportation Security Act of 2007 (H.R. 1401) that would prohibit funds in the bill from being used by Amtrak for any of the 10 worst revenue-losing long-distance routes. Amtrak has received more than \$30 billion in taxpayer subsidies during its lifetime, yet it continues to lose money due to poor management practices and insulation from real-world competitive business pressures. In fact, a 2005 Reason Foundation commentary noted that one unprofitable crosscountry route operated by Amtrak lost \$466 per passenger in 2004! Rep. Sessions' amendment would put an end to this kind of fiscal foolishness by stopping Amtrak from throwing good taxpayer money after bad.

Roll call votes on the Sessions Amendment will be included in our annual Rating of Congress.

Mr. Chairman, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIRMAN. The gentlelady from Texas is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Chairman, this is a baffling, puzzling amendment. I ask the question of my colleagues, what is one life worth? What is one life worth that travels along the Nation's transit corridors, the intense Northeast corridor that deals with Amtrak long distance routes, 2 million people?

The Sessions amendment would prohibit any grant funds appropriated pursuant to this Act to be used by Amtrak for making necessary safety or security improvements along 10 Amtrak routes, with the exceptions of some of those in some of the more intense areas of New York, Baltimore and Union Station. Many of these routes provide central transportation services to rural areas. Some of them enabled Amtrak to bring water and food to the people of New Orleans during Hurricane Katrina and to hurricane victims.

The question is, what is one life worth that is using this system? What is our responsibility as Members of the United States Congress and the Homeland Security Committee?

I believe this is both a bad amendment but a puzzling amendment, and I would ask my colleagues to oppose this amendment so that we can truly have a rail security bill that secures all of

the transit system that needs that coverage.

Mr. Chairman, I reserve the balance of my time.

Mr. SESSIONS. Mr. Chairman, so that the gentlewoman from Texas is not confused, I will repeat what we have said. The routes that we have selected, the 10 most unprofitable routes, do not have enough people on them to support this additional security and additional necessary things that would come under the billions of dollars of this bill.

My amendment is straightforward. It allows the management of Amtrak to be able to reallocate those resources where there are a lot of people, namely, the east coast and the west coast, rather than providing all these new security concerns all across the country that has little to no passengers, that is unprofitable.

I am trying to allow Amtrak and the management, including the people who live in the east coast and the west coast, to be able to get the full measure of the security enhancements that would be necessary.

I am trying to allow the men and women, the management of Amtrak, to be able to run their own business where the allocation of resources should be made.

The Acting CHAIRMAN. The time of the gentleman from Texas has expired.

Ms. JACKSON-LEE of Texas. Mr. Chairman, how much time remains?

The Acting CHAIRMAN. The gentlelady has 3½ minutes.

Ms. JACKSON-LEE of Texas. Let me just simply say to the gentleman, so that I will clarify any suggestion of my confusion, we have 3.5 million passengers who are riding Amtrak. One of the routes the gentleman wants to eliminate is from Texas to California. I believe the gentleman is from Texas. The idea is, Mr. Chairman, to make sure we have a system that is integrated, safe; and there are security provisions to make the network safe, the network that travels to the east coast, the network that travels to California, the network that travels to the Northwest.

That is the idea of the rail bill, to ensure that we now have coverage and the opportunity for security where we previously did not, to avoid London and to avoid Madrid.

It is now my pleasure to be able to yield to the distinguished chairman of the Transportation Committee, Mr. OBERSTAR, for such time as he might consume.

□ 1645

Mr. OBERSTAR. I thank the Chair of the subcommittee for yielding.

And I respect very much the gentleman from Texas (Mr. SESSIONS). He is a very devout fiscal conservative. But, unfortunately, this language, as I read his amendment, would make very vulnerable those persons who travel Amtrak routes that don't yield as much revenue to Amtrak as those on

the east coast or the west coast. The Silver Service Palmetto carries 457,000 passengers. The Silver Meteor goes from New York, Philadelphia, Wilmington, all the way to Ft. Lauderdale, 273,000 passengers. The Capitol Limited, Chicago to Washington, Pittsburgh, Cleveland, Toledo, nearly 200,000 passengers. The City of New Orleans, from Chicago to New Orleans, 175,000 passengers a year. You are saying that they should be vulnerable, but not others in more densely run lines. I think that is inappropriate.

Mr. SESSIONS. Will the gentleman yield?

Mr. OBERSTAR. I would like to yield, but unfortunately I have committed time to the gentlewoman from Florida, Chair of the Rail Subcommittee to whom, the gentlewoman controls the time, if I may yield further to her.

Ms. JACKSON-LEE of Texas. I thank the distinguished chairman for his eloquent statement.

Let me yield 1 minute to the distinguished chairman of the Subcommittee on Rails on the Transportation Committee.

Ms. CORRINE BROWN of Florida. This amendment jeopardizes the safety and security of over 2 million Amtrak passengers and is a huge step backwards in protecting the Nation's transportation infrastructure from harm.

Amtrak was a first responder during Hurricane Katrina, delivering food and supplies and helping to evacuate thousands of gulf region residents when President Bush and his administration were nowhere to be found. Now they are becoming a key part in each State's future evacuation plan.

I was in New York City shortly after September 11 when the plane leaving JFK airport crashed into the Bronx. Along with many of my other colleagues in both the House and the Senate, I took Amtrak back to Washington. I realized once again just how important Amtrak is to the American people and how important it is for this Nation to have alternate modes of transportation.

Vote "no" on this amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I will close by simply saying that we have asked the question and it has been answered: What is one life worth?

Amtrak is part of a system. You break the security of one part of the system, Mr. Chairman, you break the security of the entire system. This amendment is important for breaking that. It is not important for making this bill work.

I ask my colleagues to oppose the Sessions amendment so that the network of Amtrak will have a secure and safe system for those that travel on it.

Mr. Chairman, I yield back my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. SESSIONS).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. SESSIONS. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas will be postponed.

AMENDMENT NO. 6 OFFERED BY MR. FLAKE

The Acting CHAIRMAN. It is now in order to consider amendment No. 6 printed in House Report 110-74.

Mr. FLAKE. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. FLAKE:
Strike section 203.

The Acting CHAIRMAN. Pursuant to House Resolution 270, the gentleman from Arizona (Mr. FLAKE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arizona.

Mr. FLAKE. Mr. Chairman, this amendment would strike funding in the bill for the TSA puppy breeding program, the increase that is slated to take place in section 203 of the underlying bill.

The Transportation Security Administration, or TSA, has a puppy program that puts government in the role of being the breeder of bomb-sniffing dogs. This is clearly a role for the private sector.

There are literally hundreds, or thousands perhaps, private contractors that perform this function. It seems laughable to me that the Federal Government needs to be in the business of breeding dogs for any purpose.

Some will defend the role of bomb-sniffing dogs. I don't question the importance of the work that these animals do. It is important. It is needed. It is certainly necessary.

What I am questioning is whether or not the Federal Government ought to be in the business of breeding dogs. This is something that the private sector does a lot more effectively.

I would ask any American who has been to the airport, any airport at any time recently, if they believe that the TSA is so efficient in what they do that they have somehow found new efficiencies in dog breeding and that this is something that they ought to be spending their time doing. I would venture to say, no, that they ought to spend their time in doing the tasks that they have been given and not expanding their reach further into this business.

How much this will cost the average American taxpayer is unclear. In the bill it simply says "such sums as may be necessary." I think that we should, if there is a figure, it ought to be there rather than a simple "such sums as may be necessary." We have no idea how expensive this program may become.

Mr. Chairman, I reserve the balance of my time and look forward to hearing the justification for this program.

The Acting CHAIRMAN. Who claims time in opposition?

Ms. JACKSON-LEE of Texas. Mr. Chairman, I claim the time in opposition.

The Acting CHAIRMAN. The gentlewoman from Texas is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Chairman, again, let me simply say that we are speaking about an existing program. We know that throughout our security system the FBI, Customs and Border Protection, we use bomb-sniffing dogs. And this is a program that already exists. It strikes the increase in TSA's, Transportation Security Administration's, already-existing program, domestic canine breeding program that is called for in this bill.

Interestingly enough, this was added by Mr. ROGERS, MIKE ROGERS of our committee, of Alabama. This was added in the markup because he is the ranking member on our Management and Personnel Subcommittee. He understands the need for these canines. It was accepted in a spirit of bipartisanship.

The TSA canine teams are a key part of the equation in keeping our traveling public secure, and we all support expanding this program.

I ask one person in here, when they see dogs coming to be part of the security team, how many people want to reject that canine team that is very effective in determining whether something heinous and horrific is going to act, even on this very campus in the United States Congress.

I ask my colleagues to oppose the amendment.

Mr. Chairman, I reserve my time.

Mr. FLAKE. Mr. Chairman, I appreciate the discussion on this. As I said, nobody is questioning, certainly not me, the need to have bomb-sniffing dogs. The FAA has had programs since 1972. Those programs have continued.

But in 1999 the FAA, and as later taken up by the TSA, got into the business of dog breeding. All this amendment says is, don't go any further.

I have yet to hear a justification why the Federal Government needs to be in the business of dog breeding.

Mr. ROGERS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. FLAKE. I yield to the gentleman from Alabama.

Mr. ROGERS of Alabama. One of the main reasons is we don't have the capacity domestically to breed these dogs. Of the dogs that we use in TSA now, about 420, only about 15 percent, are bred in the domestic program here. We have to go overseas to European sources for these dogs because you can't just use any kind of dogs. They have to have particular breeds that have skill sets and the ability to sniff a variety of not only drugs but explosives, and we can't get them domestically.

And I find it odd that I am on the other side of this issue because I am the one that is usually criticized for

advocating more contracting out. But the fact is domestically we just do not have the capacity to provide these dogs that we need in TSA or in other areas, CBP, Secret Service or in DOD. DOD is obtaining the majority of its dogs from European sources as well. I think that is unacceptable as Americans.

Mr. FLAKE. Reclaiming my time, I have here a list of many, many companies that perform this function already that offer canine support services in the private sector.

I still don't know why the Federal Government is in the business. I haven't heard justification, and I don't think we can take it at face value. I will bet if you go to the private contractors here they would say there is enough. There are plenty of people in the private sector that are doing this.

Why is the Federal Government competing with the private sector? Why are we in the business?

I can guarantee you that TSA hasn't found efficiencies that people in the private sector already know.

Mr. ROGERS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. FLAKE. I yield to the gentleman from Alabama.

Mr. ROGERS of Alabama. The interesting thing about TSA, I have been over to, the last couple of years, most of the breeding and training programs for canines in this country. And the interesting thing about TSA is they have the most stellar breeding program because they are genetically breeding a dog that is particularly useful in transportation settings at detecting explosives and being on its feet for long periods of time.

The contractors you are talking about, you can buy dogs in this country. Not the breeds that we need. That is the problem. If we could, I would be on your side of this amendment. We can't. That is why currently we are obtaining over 80 percent of our dogs from European sources. And they are private sources, by the way.

Mr. FLAKE. Mr. Chairman, I simply have a hard time believing that there aren't sufficient private sector contractors out there. And if the Federal Government needs to set some standards and say we will only take dogs or companies that are licensed this way or that way, they can do that. But to get in the business of competing is simply wrong.

I would urge adoption of the amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, let me yield 1½ minutes to the distinguished subcommittee Chair on the Transportation Committee and a member of the Homeland Security Committee, Mr. DEFAZIO of Oregon.

Mr. DEFAZIO. Mr. Chairman, the simple answer to Mr. FLAKE is, this saves the taxpayers money. And I know that is a concern to the gentleman.

We have here certified breeding stock that was donated to the Government of the United States of America by the Australian Customs Service that has a

great line of dogs that are easily trained and have a low failure rate once they reach maturity.

The gentleman obviously doesn't know much about dogs. And in fact, I would say there might even be a security risk. There are not a lot of breeders in the U.S. who are training for this specific purpose. In fact, many police agencies now have to buy their dogs from Germany.

Remember the Hamburg cell? Do you want them infiltrating our dog program, maybe with secret German commands that we don't know? I mean, come on. This is a national security issue, to have a little fun with the gentleman.

But the point is, these dogs are great stock. It is less expensive. They go to a foster home for a year. That isn't a year that you would have to pay for with a breeder, and then they get their final training. They have a very low failure rate. That again saves money for the program.

We are saving money here. We are providing a vital service. The gentleman doesn't strike the previous section of the bill, 201, which requires a dramatic increase in dogs for the program, which is fully warranted because they are extraordinarily effective deterrents, and they are very good at detecting problems, explosives, drugs and other contraband.

So I would say that the gentleman really should withdraw his amendment if he is interested in saving the taxpayers money. Privatization for private profits' sake is not the way to serve our taxpayers and our security well in this matter.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I would be delighted to yield 30 seconds to the distinguished Chair of the Transportation Committee, Mr. OBERSTAR.

Mr. OBERSTAR. Mr. Chairman, the godfather of security dogs, the gentleman from Indiana (Mr. BURTON), would probably be surprised at this debate unfolding this afternoon.

When I was Chair of the Aviation Subcommittee, we were doing a major security act, he came to me with this idea of using dogs as a supplement to security, and I agreed to it. We included the language, and it has proceeded now to this stage of breeding special dogs that have staying power and the ability to cleanse their system of previously inhaled items in order to sustain the work of security.

The gentleman's amendment is misguided.

□ 1700

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield 30 seconds to the gentleman from New York (Mr. KING).

Mr. KING of New York. Mr. Chairman, let me just make two points.

There is nobody on our committee who is more dedicated to this issue than Mr. ROGERS. There is also no one in the Congress who I know that is more dedicated to contracting out than

Mr. ROGERS, his dedication on this issue and the fact that we have to realize that it is more important to know the value of something rather than just the price. The fact is, this is a situation where both the price and the value call for us to go forward with this program. This is an issue of Homeland Security. We can trivialize it. We can have some fun with it. But the fact is it is a very, very important issue. So I ask for defeat of the amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield 1 minute to the ranking member of the subcommittee, Mr. ROGERS.

Mr. ROGERS of Alabama. Mr. Chairman, I do want to go back to one question the gentleman from Arizona had, and that was the cost. Roughly, we are spending about \$500,000 on this TSA breeding and training program. It trains about 50 dogs a year now. It can double that capacity with this.

This breeding is very important, particularly at this facility because it is on the cutting edge. I would urge this Congress to recognize how significant it is that we are able to produce this kind of dog here, and I would tell you that I have also been a big advocate on the DOD side as well of our trying to create more breeding programs domestically. I would like to see them be private, frankly, but we don't have that capacity right now that can put the standard of quality of dogs out that we need so that we don't have to rely on foreign sources for these dogs. Because I can assure you we are not getting the first quality and the quantity that we need.

So I would urge my colleagues to vote against this amendment. It is truly a matter of national security both in TSA and I think in DOD.

Ms. JACKSON-LEE of Texas. Mr. Chairman, to close, let me just thank Mr. ROGERS for the underlying language and make the point again that this is a question of security and to contract out, privatize the breeding of these dogs and/or to use foreign-bred dogs may raise a question in terms of source, resource, and utilization.

This is good language in this bill that allows TSA to continue its program, particularly since we are expanding rail security and therefore needing the increase in the canine breed.

I would ask my colleague to defeat the Flake amendment.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. FLAKE).

The amendment was rejected.

AMENDMENT NO. 7 OFFERED BY MR. FLAKE

The Acting CHAIRMAN. It is now in order to consider amendment No. 7 printed in House Report 110-74.

Mr. FLAKE. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. FLAKE:

Strike section 107 and redesignate the succeeding sections accordingly and conform the table of contents.

The Acting CHAIRMAN. Pursuant to House Resolution 270, the gentleman from Arizona (Mr. FLAKE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arizona.

Mr. FLAKE. Mr. Chairman, this amendment would strike section 107 of the underlying bill. This section authorizes \$87 million for a new Homeland Security grant program for private bus companies.

I and some of my colleagues have expressed concern about what we see as Homeland Security grant waste. It is everywhere in the country. It is in my district. It is in virtually every district across the country.

I pointed out in a recent meeting that in my own district there is some Homeland Security funding going to things like synchronization of street lights. It shouldn't come from the Federal Government. It needs to be done, should be done, by local governments. In this case, this is activity that should be done by the private companies themselves.

We have seen Homeland Security grants in recent years go to protect mushroom festivals, lawn mower races, investigations into bingo halls, and puppet show performances. There seems to be no end to the waste. Yet now we are going to authorize a new Homeland Security grant program to go to private bus operators like the Hampton Jitney?

For those who have not ridden on the Hampton Jitney, it is a private bus service that brings wealthy East Side Manhattanites to their beach homes in the Hamptons. The Hampton Jitney and other private bus companies such as Greyhound and Peter Pan Bus Lines have received Homeland Security grant dollars under the Intercity Bus Security Grant program in 2005.

This is corporate welfare, pure and simple. These are for-profit enterprises that should not be underwritten by the taxpayer.

This amendment to eliminate this wasteful spending is supported by an array of taxpayer groups across the country. I would urge its adoption.

Mr. Chairman, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I claim the time in opposition to the amendment.

The Acting CHAIRMAN. The gentlewoman from Texas is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I strongly oppose this amendment striking the bus security grant provided in this bill.

The underlying jurisdiction of this particular subcommittee and Homeland Security includes responsibility of over-the-road buses. We plan to look even more extensively at the necessary

security requirements of making sure that people who travel in bus transportation likewise deserve the coverage and security that we can provide. More people ride over-the-road buses and more communities and destinations are served by those buses than any other form of intercity passenger transportation.

Jitney-type buses are not the only forms of buses, but they are part of the bus transportation of this country. Buses and bus terminals have been the targets of suicide bombers in countries like Iraq, Israel, Pakistan, and elsewhere in the world. The question for the Homeland Security Department and the Homeland Security Committee is to be preventative in front of the tragedy, not behind it. This legislation is to get us in front, to look at areas that we have not looked at before.

Worldwide over the last 80 years, 47 percent of surface transportation terrorist attacks have involved buses. We have seen the horrific tragedy. We have seen the loss of lives, the loss of lives of children. We must invest the money needed to protect bus passengers; and I believe the gentleman's amendment may be well-intended but, frankly, underestimates the need of security measures for buses and undermines the bill.

I would ask my colleagues to oppose this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. FLAKE. Mr. Chairman, let me point out that in 2005 I mentioned there is already an Intercity Bus Security Grant award program. Under this program, since 2005, Academy Express LLC has received \$267,279; Greyhound Lines has received \$5,471,365; Trans-Bridge Lines, \$466,611.

How do you decide which private sector business gets the grant and which ones don't? What about a group like, as I mentioned, the Hampton Jitney? It is hardly a model of an intercity where it is just taking people that can't afford to ride the bus. It goes to the Hamptons. Yet we are subsidizing that.

Here is another one. It is called the Hampton Luxury Liner. This is another one that would qualify, that would be eligible to receive grants under this program. They advertise complimentary snacks, complimentary beverage, a feature movie. The latest periodicals, newspapers, and magazines are handed out to those patrons who ride those bus lines, yet they will be eligible to receive grants, taxpayer money, to subsidize their business.

Why are we doing this kind of corporate welfare? Where are those who stand against corporate welfare? When are they going to stand up and say, enough is enough, we shouldn't be doing this? We are wasting too much money in the Homeland Security program that should be actually spent in threat-based programs where there are real, actual threats, instead of simply spread around by formula or favor around the country.

Mr. Chairman, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Chairman, it is my pleasure to yield 2 minutes to the distinguished subcommittee Chair of the Transportation Committee, Mr. DEFAZIO.

Mr. DEFAZIO. Mr. Chairman, I thank the gentlewoman for yielding.

First, to correct the gentleman, it is not a new program. It is an ongoing program.

However, we are going to add an element. No longer will it just be competitive. It will be risk-based.

Now, he is true. On the Republican watch, when they controlled the House, the Senate, and the White House, there were scandalous and wasteful expenditures of funds by the early startup of the Department of Homeland Security, which actually I opposed creating that giant new bureaucracy. I thought we could have done it in a much more effective way.

However, I serve on the committee now that has jurisdiction over that. We are cleaning up the mess you guys created. This is a risk-based program. It is competitive.

Now, are we telling the 800 million people a year who ride buses in the U.S. they are third or fourth class? The gentleman says it is a private undertaking; they shouldn't even be able to get risk-based competitive grants. Well, would you abandon aviation security, too? That is also a private industry. Rail? Well, most of that is private, with the exception of Amtrak. All of maritime is private, so I guess we will sort of abandon the ports.

If you follow that principle to its illogical conclusion, we would not spend public taxpayer dollars to defend any mode of transportation in this country, with very narrow exceptions. That is not the criteria that we need to apply here: risk-based, competitive.

Now, what happened after 9/11? How did people get around the country? We need alternate modes.

An important Federal official was here on 9/11. He had to get back to Oregon. He took Amtrak. Other people took the bus system. So you have got to understand redundancy. You have got to understand risk. And, hopefully, we will provide the oversight that was lacking before to make sure that we don't have any more of those scandalous things that he talked about. Those are the past. That was on the all-Republican watch. We will do better.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I continue to reserve the balance of my time.

Mr. FLAKE. Mr. Chairman, I applaud the talk about cleaning up the extravagant spending in the past. I applaud it. I just don't see it. I just wish that you would say, all right, this was a scandal.

We gave out millions and millions of dollars to private bus companies and others. Yet how are we going to fix it? We are going to create a new authorized program, a new one on top of this.

Instead of saying, let's go in and find the waste, fraud, and abuse that was there before, we are not doing that. We are adding a new program.

What this amendment does is simply strikes funding for the new authorization so we don't do more. If we do need these expenditures that are risk-based, then let's take out the formula funding that we are already doing.

If you are in the majority and you have the power to do it, please don't blame those in the past. I have no brief for what we did before. I didn't vote for the creation of the Department. But if there is waste and abuse, let's take care of it. Let's not add to it. And that is what we are seeking to do with this amendment. Don't go any further.

Mr. Chairman, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I will be happy to yield 30 seconds to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Chairman, in response to the gentleman from Arizona, we have added the risk element which wasn't there previously. And he is right. We are still confronted with the Bush administration. But I feel that the new TSA administrator is the best we have ever had, and let's give him the tools he needs to do his job properly. Risk-based, competitive grants. If he doesn't find there is risk in the intercity bus service, then he shouldn't give out the grants. I think he will find plenty of meritorious, risk-based, competitive grants that will help better protect the traveling public in this vital mode of transportation.

Mr. FLAKE. Mr. Chairman, let me close by saying we are already spending millions and millions, tens of millions of dollars on programs to make sure that bus travel and other modes of transportation travel are safe. Let's not add another program so that the Hampton Jitney and other private sector businesses can continue to receive this kind of corporate welfare. We can't keep doing this. We have a massive deficit and a huge debt. When are we going to say, let's stop authorizing new programs like this?

Mr. Chairman, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I reserve the balance of my time.

Mr. FLAKE. Mr. Chairman, I will just finish. I will say again, let's not authorize a new program when we concede that there is considerable waste in the current program.

To say that we simply can't address what is in the past, these programs are continuing forward. Let's simply say, let's take from this formula, the money that is distributed by formula and favor, and apply it toward the real risks out there, rather than creating new authorization for new spending on programs that can be taken care of elsewhere.

Mr. Chairman, I yield back the balance of my time.

Ms. JACKSON-LEE of Texas. Let me close, Mr. Chairman.

Mr. FLAKE has one philosophy about security, and that is narrow and let us not move forward. The underlying bill makes a whole new statement to America, that we are planning on reviewing those areas that are failing in security and improve them.

Has anyone heard of the eighth grade school bus trip, where children fill up a long-distance bus going somewhere that you hope your children will return from?

□ 1715

That is what we are trying to improve, the tragedy that may occur when people are using over-the-road buses. This is what this program is. It is not a program of waste; it is based on risk. As well, we are holding TSA accountable in the utilization of funds.

This is a bad amendment that undermines the new idea, which is to make sure that all aspects of America's security are both reviewed and provided resources so we can do the right thing and move forward with the right program that is fiscally responsible, but also provides the security necessary.

This amendment undermines the underlying bill and certainly takes away the necessary security for over-the-road buses. I ask my colleagues to oppose this amendment.

I strongly oppose this amendment striking the bus security grants provided in this bill.

More people ride over-the-road buses, and more communities and destinations are served by those buses, than any other form of intercity passenger transportation.

Buses and bus terminals have been the targets of suicide bombers in Iraq, Israel, Pakistan and elsewhere in the world.

Worldwide, over the last 80 years, 47% of surface transportation terrorist attacks have involved buses.

We must invest the money needed to protect bus passengers.

I encourage my colleagues to vote against this amendment.

The Acting CHAIRMAN. All time has expired on this amendment.

The question is on the amendment offered by the gentleman from Arizona (Mr. FLAKE).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. FLAKE. Mr. Chairman, I demand a recorded vote.

The Acting Chairman. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Arizona will be postponed.

AMENDMENT NO. 8 OFFERED BY MR. LYNCH

The Acting CHAIRMAN. It is now in order to consider amendment No. 8 printed in House Report 110-74.

Mr. LYNCH. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. LYNCH:

At the end of section 109, add the following:

(g) REPORTING REQUIREMENTS.—Not later than one year after the issuance of guidelines under subsection (a)(2), the Secretary shall conduct a survey regarding the satisfaction of workers regarding the effectiveness and adequacy of the training programs. In addition, the Secretary shall submit a report to the appropriate congressional committees regarding the results of the survey and the progress of providers of covered transportation in meeting the requirements of paragraphs (1) and (3) of subsection (d).

The Acting CHAIRMAN. Pursuant to House Resolution 270, the gentleman from Massachusetts (Mr. LYNCH) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Massachusetts.

Mr. LYNCH. Mr. Chairman, I want to begin by thanking Chairman BENNIE THOMPSON, Chairman OBERSTAR, Ranking Member MICA, and Ranking Member PETER KING for their great work on this bill.

This amendment actually strengthens the worker training requirements contained in H.R. 1401, the Rail and Public Transportation Security Act, by ensuring that Congress is kept informed of the progress that must be made in rail and mass transportation providers providing basic security training to their front line workers.

Specifically, this amendment would require the Secretary of Homeland Security within 1 year of issuing the worker training guidance mandated by section 109 of this bill to submit a comprehensive progress report to Congress on the steps that rail and mass transit entities have taken to meet the bill's worker-training requirements.

Notably, this report must also include the result of a worker survey conducted by the Department on whether our front line rail workers and mass transit employees have actually received basic security training.

Mr. Chairman, this amendment stems from the reluctance on the part of the Department of Homeland Security and the rail industry carriers to make worker training a priority.

Back in November, Chairman THOMPSON and I addressed the National Rail Symposium here in Washington, a rail security conference attended by rail workers, union representatives, industry experts, and transportation scholars. The symposium marked the release of a key rail security study prepared by the National Rail College which noted that our Nation's rail workers continue to lack basic and necessary emergency and anti-terrorism training.

The National Labor College study came on the heels of a 2005 Rail Worker Safety Report prepared by the International Brotherhood of Teamsters Rail Security Conference based on over 4,000 surveys completed by the members of the Brotherhood of Locomotive Engineers and Trainmen and the Brotherhood of Maintenance of Way employees. Regrettably, that report revealed that 84 percent of rail workers

surveyed had not received any terrorism prevention training within the last year, and that 64 percent had not ever been trained in their railroad emergency response plan.

Mr. Chairman, reports that our locomotive engineers, our train crews, conductors, track workers, bridge and building trade employees, our electricians and all other front line rail employees have not received basic security training, are particularly troubling, given that the pattern of terrorist activity around the globe continues to be markedly centered on rail and mass transit.

You can follow the pattern of attacks, Mr. Chairman. Whether it be in 1995 with the sarin gas attacks in Tokyo, the 1995 attacks by the Algerian rebels in Paris, the 2004 suicide bombings of the Moscow metro rail car by Chechen separatists, the 2004 Madrid train bombings, the 2005 London train bombings, or recently the 2006 Mumbai train bombings, terrorists have indicated that this is a preferred area of terrorism, and there is no indication that there is any let-up here. Their willingness to execute bold attacks on rail and transit systems worldwide continues.

Yet despite these lessons learned, our rail and mass transit workers still lack basic and necessary security training, and since 9/11 we have spent over \$24 billion on aviation security versus less than \$600 million on rail and transit. The Rail Security Summit that we had in Boston not long ago revealed the fact that very few of these workers have been trained at all.

Accordingly, I urge my colleagues to support this amendment, as well as the main bill, bipartisan legislation that is the result of good work on the part of Chairman THOMPSON, again Ranking Member KING of the Homeland Security Committee, as well as Chairman OBERSTAR and also Mr. MICA, the ranking member of the Transportation Committee.

Mr. Chairman, I reserve the balance of my time.

The Acting CHAIRMAN. Who claims the time in opposition?

Mr. DANIEL E. LUNGREN of California. Mr. Chairman, I claim the time in opposition, although I do not oppose the amendment.

The Acting CHAIRMAN. Without objection, the gentleman from California is recognized for 5 minutes.

There was no objection.

Mr. DANIEL E. LUNGREN of California. Mr. Chairman, this is a worthy amendment. We need information of this nature. In hearings that I conducted last year as the Chair of the relevant subcommittee and in hearings we have had this year, we have had conflicting bits of information from those in management and those representing labor as to the length and breadth of the training programs that are available and that have been actually implemented. We never got a definitive answer in that regard, even though we requested it from both sides.

Therefore, this amendment I think will be of benefit not only to the Department, but to those of us in this body such that we might be able to make a determination as to the extent and effectiveness, as well as adequacy, of the security training programs that we have been told are already in effect, but now that are specifically required under section 109 of this bill.

Under this amendment, the Secretary would submit to us a report on the results of the survey and the progress of the providers of the covered transportation, and that is something that we have been lacking in the past. So I thank the gentleman for this amendment.

This bill requires mandatory security training programs for all rail, mass transit and over-the-road bus employees and requires that the employers provide such training within 1 year of the issuance of regulations. In order for us to exercise our proper oversight, this information is necessary. In order for us to put forth appropriate prod-
ding with respect to both the employers and the employees in this regard, I think this survey will be very, very beneficial.

Having said that with reference to the specifics of this, let me just remark on some things that have been said on this floor about where we have been previous to this bill.

The fact of the matter is that those of us on this committee, on a bipartisan basis, for at least the last 3 years I have been here, and I have been assured before that with the select committee, we have worked to try and respond in an appropriate way to the threats coming from 9/11 and the things that we have learned subsequent to 9/11. It is true that in the immediate response to 9/11 the administration and the Congress worked together and in some ways pushed money out the door without a risk-based analysis.

That has changed over the last number of years. There has been a commitment on a bipartisan basis in this committee and on this floor and in the Senate and in the conference in all the bills that we have passed that a risk-based assessment is necessary for a strategy for our tactics and our grants. Now, I will say I think we are more enlightened on this side of the Capitol than maybe some of our friends over in the other body in terms of how we make sure that we are dedicated to a risk-based analysis, but we have been going forward with that.

Also I would like to say with respect to the administration, Secretary Chertoff, his number two, his number three and the head of TSA, have all committed themselves publicly and privately and I think in their actions to a risk-based analysis.

We are all in this together. I don't think there is any disagreement on the risk-based analysis being absolutely essential to tactics, to strategy, and to grants. It is in this bill, as it should be; it was in the bills that we passed over

the last 2 years, as it should have been; and it is in the actions of the current administration.

So I just wanted to make that clear. I believe the gentleman's amendment will be helpful in gauging the progress made in terms of training in this very serious area and giving us the kind of information necessary so that we can make informed judgments in the years ahead.

Mr. Chairman, I yield back the balance of my time.

Mr. LYNCH. Mr. Chairman, just on the point of the risk analysis and the risk-based strategy here, I do want to note that in our rail conference, our summit on rail security, at one point I did ask the union representative of Amtrak and some of the train crews that were present where they worked. They explained they are the train crews that travel on the trains that go beneath New York City. They run the Northeast corridor from basically Boston to Washington, D.C.

I asked them if they had been trained on evacuation procedures in the tunnels beneath New York City and they explained to me that, no, they had not been trained on evacuating train passengers from the maze of tunnels beneath New York City. I think reason and experience would agree that that is something that would be included in our risk-based strategy.

Ms. JACKSON-LEE of Texas. Mr. Chairman, we support the amendment offered by the gentleman from Massachusetts.

Training is a critical component of my bill.

We specifically added training language to the bill because I knew that our Nation's rail, public transportation and over-the-road bus employees were not receiving the necessary security training.

Representative LYNCH's amendment goes one step further—it mandates a survey of the satisfaction of workers regarding the effectiveness and adequacy of the training.

I urge my colleagues to support this amendment.

The Acting CHAIRMAN. The gentleman's time has expired.

The question is on the amendment offered by the gentleman from Massachusetts (Mr. LYNCH).

The amendment was agreed to.

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order:

Amendment by Mr. THOMPSON of Mississippi.

Amendment by Mr. COHEN of Tennessee.

Amendment by Mr. SESSIONS of Texas.

Amendment by Mr. FLAKE of Arizona.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 1 OFFERED BY MR. THOMPSON OF MISSISSIPPI

The Acting CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered

by the gentleman from Mississippi (Mr. THOMPSON) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered

The vote was taken by electronic device, and there were—ayes 224, noes 199, answered “present” 1, not voting 14, as follows:

[Roll No. 194]

AYES—224

Abercrombie	Gordon	Murphy (CT)
Ackerman	Green, Al	Murphy, Patrick
Allen	Green, Gene	Murtha
Altmine	Grijalva	Nadler
Arcuri	Gutierrez	Napolitano
Baca	Hall (NY)	Neal (MA)
Baird	Hare	Norton
Baldwin	Harman	Oberstar
Barrow	Hastings (FL)	Obey
Bean	Herseth	Olver
Becerra	Higgins	Ortiz
Berkley	Hill	Pallone
Berman	Hinchey	Pascarella
Berry	Hinojosa	Pastor
Bishop (GA)	Hirono	Payne
Bishop (NY)	Hodes	Perlmutter
Blumenauer	Holden	Peterson (MN)
Bordallo	Holt	Pomeroy
Boren	Hooley	Price (NC)
Boswell	Hoyer	Rahall
Boucher	Inslee	Rangel
Boyd (FL)	Israel	Reyes
Brady (PA)	Jackson (IL)	Rodriguez
Braley (IA)	Jackson-Lee	Ross
Brown, Corrine	(TX)	Rothman
Butterfield	Jefferson	Royal-Allard
Capps	Johnson (GA)	Ruppersberger
Capuano	Johnson, E. B.	Rush
Cardoza	Jones (OH)	Ryan (OH)
Carnahan	Kagen	Salazar
Carney	Kaptur	Sánchez, Linda T.
Castor	Kennedy	Sanchez, Loretta
Christensen	Kildee	Sarbanes
Clarke	Kilpatrick	Schakowsky
Clay	Kind	Schiff
Cleaver	Klein (FL)	Schwartz
Clyburn	Kucinich	Scott (GA)
Cohen	Langevin	Scott (VA)
Conyers	Lantos	Serrano
Cooper	Larsen (WA)	Sestak
Costa	Larson (CT)	Shea-Porter
Costello	Lee	Sherman
Courtney	Levin	Shuler
Cramer	Lewis (GA)	Sires
Crowley	Lipinski	Skelton
Cummings	Loebssack	Slaughter
Davis (AL)	Lofgren, Zoe	Smith (WA)
Davis (CA)	Lowey	Snyder
Davis (IL)	Lynch	Solis
Davis, Lincoln	Mahoney (FL)	Space
DeFazio	Maloney (NY)	Spratt
DeGette	Markey	Stark
Delahunt	Marshall	Stupak
DeLauro	Matheson	Sutton
Dicks	Matsui	Tauscher
Dingell	McCarthy (NY)	Taylor
Doggett	McCollum (MN)	Thompson (CA)
Donnelly	McDermott	Thompson (MS)
Doyle	McGovern	Tierney
Edwards	McIntyre	Towns
Ellison	McNerney	Udall (CO)
Ellsworth	McNulty	Van Hollen
Emanuel	Meehan	Velázquez
Engel	Meek (FL)	Visclosky
Eshoo	Meeks (NY)	Walz (MN)
Etheridge	Melancon	Wasserman
Faleomavaaga	Michaud	Schultz
Farr	Miller (NC)	Waters
Fattah	Miller, George	Watson
Filner	Mitchell	Watson
Frank (MA)	Mollohan	Waxman
Giffords	Moore (KS)	Welch (VT)
Gillibrand	Moore (WI)	
Gonzalez	Moran (VA)	

Wexler Woolsey Wynn
Wilson (OH) Wu Yarmuth

NOES—199

Aderholt	Frelinghuysen	Nunes
Akin	Gallegly	Paul
Alexander	Garrett (NJ)	Pearce
Bachmann	Gerlach	Pence
Bachus	Gilchrest	Peterson (PA)
Baker	Gillmor	Petri
Barrett (SC)	Gingrey	Pickering
Bartlett (MD)	Gohmert	Pitts
Barton (TX)	Goode	Platts
Biggert	Goodlatte	Poe
Bliley	Granger	Porter
Bilirakis	Graves	Price (GA)
Bishop (UT)	Hall (TX)	Pryce (OH)
Blackburn	Hastert	Putnam
Blunt	Hastings (WA)	Radanovich
Boehner	Hayes	Ramstad
Bonner	Heller	Regula
Bono	Hensarling	Rehberg
Boozman	Herger	Reichert
Boustany	Hobson	Renzi
Brady (TX)	Hoekstra	Rogers (AL)
Brown (SC)	Hulshof	Rogers (KY)
Brown-Waite,	Hunter	Rogers (MI)
Ginny	Inglis (SC)	Rohrabacher
Buchanan	Issa	Ros-Lehtinen
Burgess	Jindal	Roskam
Burton (IN)	Johnson (IL)	Royce
Buyer	Johnson, Sam	Ryan (WI)
Calvert	Jones (NC)	Sali
Camp (MI)	Jordan	Saxton
Cannon	Keller	Schmidt
Cantor	King (IA)	Sensenbrenner
Capito	King (NY)	Carter
Carter	Kirk	Sessions
Castle	Kline (MN)	Shadegg
Chabot	Knollenberg	Shays
Chandler	Kuhl (NY)	Shimkus
Coble	LaHood	Shuster
Cole (OK)	Lamborn	Simpson
Conaway	Latham	Smith (NE)
Crenshaw	LaTourette	Smith (NJ)
Cubin	Lewis (GA)	Smith (TX)
Culberson	Lewis (KY)	Souder
Davis (KY)	Linder	Stearns
Davis, David	LoBiondo	Tancredo
Davis, Tom	Lucas	Tanner
Deal (GA)	Lungren, Daniel	Terry
Dent	E.	Thornberry
Diaz-Balart, L.	Mack	Tiaht
Diaz-Balart, M.	Manzullo	Tiberi
Doolittle	Marchant	Turner
Drake	McCarthy (CA)	Upton
Dreier	McCaull (TX)	Walberg
Duncan	McCotter	Walden (OR)
Ehlers	McCrery	Walsh (NY)
Emerson	McHenry	Wamp
English (PA)	McHugh	Weiner
Everett	McMorris	Weldon (FL)
Fallin	Rodgers	Weller
Feeley	Mica	Westmoreland
Ferguson	Miller (FL)	Whitfield
Flake	Miller (MI)	Wicker
Forbes	Miller, Gary	Wilson (NM)
Fortenberry	Moran (KS)	Wilson (SC)
Fortuño	Murphy, Tim	Wolf
Fossella	Musgrave	Young (AK)
Foxx	Myrick	Young (FL)
Franks (AZ)	Neugebauer	Young (FL)

AMENDMENT NO. 3 OFFERED BY MR. COHEN

The Acting CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Tennessee (Mr. COHEN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 237, noes 188, not voting 13, as follows:

[Roll No. 195]

AYES—237

Abercrombie	Eshoo	McCullum (MN)
Ackerman	Etheridge	McDermott
Allen	Faleomavaega	McGovern
Altmire	Farr	McIntyre
Arcuri	Fattah	McNerney
Baca	Ferguson	McNulty
Baird	Filner	Meehan
Baldwin	Frank (MA)	Meek (FL)
Barrett (SC)	Giffords	Meeks (NY)
Barrow	Gillibrand	Melanccon
Bean	Gonzalez	Michaud
Becerra	Gordon	Miller (NC)
Berkley	Green, Al	Miller, George
Berman	Green, Gene	Mitchell
Berry	Grijalva	Mollohan
Bishop (GA)	Gutierrez	Moore (KS)
Bishop (NY)	Hall (NY)	Moore (WI)
Blumenauer	Hare	Moran (VA)
Bordallo	Harman	Murphy (CT)
Boren	Hastings (FL)	Murphy, Patrick
Boswell	Herseth	Murtha
Boucher	Higgins	Nadler
Boyd (FL)	Hill	Napolitano
Boyd (KS)	Hinchey	Neal (MA)
Brady (PA)	Hinojosa	Norton
Braley (IA)	Hirono	Oberstar
Brown, Corrine	Hodes	Obey
Butterfield	Holden	Olver
Capps	Holt	Ortiz
Capuano	Honda	Pallone
Cardoza	Hooley	Pascrell
Carnahan	Hoyer	Pastor
Carney	Inslee	Payne
Castle	Israel	Perlmutter
Castor	Jackson (IL)	Peterson (MN)
Chandler	Jackson-Lee	Pomeroy
Christensen	(TX)	Price (NC)
Clarke	Jefferson	Rahall
Clay	Johnson (GA)	Ramstad
Cleaver	Johnson, E. B.	Rangel
Clyburn	Jones (NC)	Reyes
Cohen	Kagen	Rodriguez
Conyers	Kaptur	Ross
Cooper	Kennedy	Rothman
Costa	Kildee	Royal-Allard
Costello	Kilpatrick	Ruppersberger
Courtney	Kind	Rush
Cramer	Klein (FL)	Ryan (OH)
Crowley	Kucinich	Salazar
Cuellar	Langevin	Sánchez, Linda
Cummings	Lantos	T.
Davis (AL)	Larsen (WA)	Sanchez, Loretta
Davis (CA)	Larson (CT)	Sarbanes
Davis (IL)	Lee	Saxton
Davis, Lincoln	Levin	Schakowsky
Davis, Tom	Lewis (GA)	Schiff
DeFazio	Lipinski	Schwartz
DeGette	LoBiondo	Scott (GA)
Delahunt	Loebback	Scott (VA)
DeLauro	Lofgren, Zoe	Serrano
Dicks	Lowey	Sestak
Dingell	Lynch	Shea-Porter
Doggett	Mahoney (FL)	Sherman
Doyle	Maloney (NY)	Shuler
Edwards	Markey	Skelton
Ellison	Marshall	Slaughter
Ellsworth	Matheson	Smith (NJ)
Emanuel	Matsui	Smith (WA)
Engel	McCarthy (NY)	Solis

Space	Tierney	Watt
Spratt	Towns	Waxman
Stark	Udall (CO)	Weiner
Stearns	Van Hollen	Welch (VT)
Stupak	Velázquez	Weller
Sutton	Visclosky	Wexler
Tanner	Walz (MN)	Wilson (OH)
Tauscher	Wasserman	Woolsey
Taylor	Schultz	Wu
Thompson (CA)	Waters	Wynn
Thompson (MS)	Watson	Yarmuth

NOES—188

Aderholt	Frelinghuysen	Neugebauer
Akin	Gallogly	Nunes
Alexander	Garrett (NJ)	Paul
Bachmann	Gerlach	Pearce
Bachus	Gilchrest	Pence
Baker	Gillmor	Peterson (PA)
Bartlett (MD)	Gingrey	Petri
Barton (TX)	Gohmert	Pickering
Biggert	Goode	Pitts
Bilbray	Goodlatte	Platts
Bilirakis	Granger	Poe
Bishop (UT)	Hall (TX)	Porter
Blackburn	Hastert	Price (GA)
Blunt	Hastings (WA)	Pryce (OH)
Boehner	Hayes	Putnam
Bonner	Heller	Radanovich
Bono	Hensarling	Regula
Boozman	Herger	Rehberg
Boustany	Hobson	Reichert
Brady (TX)	Hoekstra	Renzi
Brown (SC)	Hulshof	Reynolds
Brown-Waite,	Hunter	Rogers (AL)
Ginny	Inglis (SC)	Rogers (KY)
Buchanan	Issa	Rogers (MI)
Burgess	Jindal	Rohrabacher
Burton (IN)	Johnson (IL)	Ros-Lehtinen
Buyer	Johnson, Sam	Roskam
Calvert	Jordan	Royce
Camp (MI)	Keller	Ryan (WI)
Campbell (CA)	King (IA)	Bishop (UT)
Cannon	King (NY)	Sali
Cantor	Kirk	Schmidt
Capito	Kline (MN)	Sensenbrenner
Carter	Knollenberg	Sessions
Chabot	Kuhl (NY)	Shadegg
Coble	LaHood	Shays
Cole (OK)	Latham	Shimkus
Conaway	LaTourette	Shuster
Crenshaw	Lewis (CA)	Simpson
Cubin	Lewis (KY)	Smith (NE)
Culberson	Linder	Smith (TX)
Davis (KY)	Lucas	Snyder
Davis, David	Lungren, Daniel	Souder
Deal (GA)	E.	Sullivan
Dent	Mack	Tancredo
Diaz-Balart, L.	Manzullo	Terry
Diaz-Balart, M.	Marchant	Thornberry
Doolittle	McCarthy (CA)	Tiahrt
Drake	McCaull (TX)	Tiberi
Dreier	McCotter	Turner
Duncan	McCrery	Upton
Ehlers	McHenry	Walberg
Emerson	McHugh	Walden (OR)
English (PA)	McKeon	Walsh (NY)
Everett	McMorris	Wamp
Fallin	Rodgers	Weldon (FL)
Feeney	Mica	Westmoreland
Flake	Miller (FL)	Whitfield
Forbes	Miller (MI)	Wicker
Fortenberry	Miller, Gary	Wilson (NM)
Fortuño	Moran (KS)	Wilson (SC)
Fossella	Murphy, Tim	Wolf
Foxx	Musgrave	Young (AK)
Franks (AZ)	Myrick	Young (FL)

NOT VOTING—13

Andrews	Jones (OH)	Millender-
Carson	Kanjorski	McDonald
Davis, Jo Ann	Kingston	Sires
Donnelly	Lamborn	Udall (NM)
Graves	Lampson	

ANNOUNCEMENT BY THE ACTING CHAIRMAN
The Acting CHAIRMAN (during the vote). Members are advised that less than 2 minutes remain in this vote.

□ 1800

So the amendment was agreed to.
The result of the vote was announced as above recorded.
Stated against:
Mr. GRAVES. Mr. Chairman, on rollcall No. 195, I put my card in the machine but was in-

advertently not recorded. I should have been recorded as a "no."

AMENDMENT NO. 5 OFFERED BY MR. SESSIONS
The Acting CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Texas (Mr. SESSIONS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 130, noes 299, not voting 9, as follows:

[Roll No. 196]

AYES—130

Akin	Forbes	Nunes
Alexander	Forox	Paul
Bachmann	Franks (AZ)	Pearce
Baker	Garrett (NJ)	Pence
Barrett (SC)	Gingrey	Perlmutter
Bartlett (MD)	Gohmert	Petri
Biggert	Granger	Pickering
Bilbray	Graves	Pitts
Bishop (UT)	Hall (TX)	Poe
Blackburn	Hastert	Price (GA)
Blunt	Hastings (WA)	Pryce (OH)
Boehner	Hayes	Putnam
Bonner	Heller	Radanovich
Bono	Hensarling	Regula
Boozman	Herger	Rehberg
Boustany	Hobson	Reichert
Brady (TX)	Hoekstra	Renzi
Brown (SC)	Hulshof	Reynolds
Brown-Waite,	Hunter	Rogers (AL)
Ginny	Inglis (SC)	Rogers (KY)
Buchanan	Issa	Rogers (MI)
Burgess	Jindal	Rohrabacher
Burton (IN)	Johnson (IL)	Ros-Lehtinen
Buyer	Johnson, Sam	Roskam
Calvert	Jordan	Royce
Camp (MI)	Keller	Ryan (WI)
Campbell (CA)	King (IA)	Bishop (UT)
Cannon	King (NY)	Sali
Cantor	Kirk	Schmidt
Capito	Kline (MN)	Sensenbrenner
Carter	Knollenberg	Sessions
Chabot	Kuhl (NY)	Shadegg
Coble	LaHood	Shays
Cole (OK)	Latham	Shimkus
Conaway	LaTourette	Shuster
Crenshaw	Lewis (CA)	Simpson
Cubin	Lewis (KY)	Smith (NE)
Culberson	Linder	Smith (TX)
Davis (KY)	Lucas	Snyder
Davis, David	Lungren, Daniel	Cannon
Deal (GA)	E.	Kline (MN)
Dent	Mack	Schmidt
Diaz-Balart, L.	Manzullo	Tancredo
Diaz-Balart, M.	Marchant	Terry
Doolittle	McCarthy (CA)	Thornberry
Drake	McCaull (TX)	Tiberi
Dreier	McCotter	Turner
Duncan	McCrery	Upton
Ehlers	McHenry	Walberg
Emerson	McHugh	Walden (OR)
English (PA)	McKeon	Walsh (NY)
Everett	McMorris	Wamp
Fallin	Rodgers	Weldon (FL)
Feeney	Mica	Westmoreland
Flake	Miller (FL)	Whitfield
Forbes	Miller (MI)	Wicker
Fortenberry	Miller, Gary	Wilson (NM)
Fortuño	Moran (KS)	Wilson (SC)
Fossella	Murphy, Tim	Wolf
Foxx	Musgrave	Young (AK)
Franks (AZ)	Myrick	Young (FL)

NOES—299

Andrews	Jones (OH)	Millender-
Carson	Kanjorski	McDonald
Davis, Jo Ann	Kingston	Sires
Donnelly	Lamborn	Udall (NM)
Graves	Lampson	

ANNOUNCEMENT BY THE ACTING CHAIRMAN
The Acting CHAIRMAN (during the vote). Members are advised that less than 2 minutes remain in this vote.

□ 1800

Cummings	Jones (OH)	Rangel
Davis (AL)	Kagen	Regula
Davis (CA)	Kaptur	Rehberg
Davis (IL)	Kennedy	Renzi
Davis, Lincoln	Kildee	Reyes
Davis, Tom	Kilpatrick	Reynolds
DeFazio	Kind	Rodriguez
DeGette	King (NY)	Rogers (AL)
Delahunt	Klein (FL)	Ross
DeLauro	Kucinich	Rothman
Dent	Kuhl (NY)	Royal-Allard
Dicks	LaHood	Ruppersberger
Dingell	Langevin	Rush
Doggett	Lantos	Ryan (OH)
Donnelly	Larsen (WA)	Salazar
Doyle	Larson (CT)	Sánchez, Linda T.
Edwards	LaTourette	Sanchez, Loretta
Ellison	Lee	Sarbanes
Ellsworth	Levin	Saxton
Emanuel	Lewis (CA)	Schakowsky
Emerson	Lewis (GA)	Engel
English (PA)	Lipinski	LoBiondo
Eshoo	LoBiondo	Schwartz
Etheridge	Lofgren, Zoe	Scott (GA)
Everett	Lowey	Scott (VA)
Ferguson	Lungren, Daniel E.	Sestak
Filner	Farr	Shea-Porter
Fortenberry	Fattah	Solis
Fortuno	Ferguson	Souder
Fortune	Fitzgerald	McGovern
Fossella	Fitzgerald	Smith (NJ)
Frank (MA)	Fitzgerald	McCollum (MN)
Frelinghuysen	Fitzgerald	Smith (WA)
Gallagly	Fitzgerald	Snyder
Gerlach	Fitzgerald	Solis
Giffords	Fitzgerald	Souder
Gilchrest	Fitzgerald	Space
Gordon	Fitzgerald	McIntyre
Green, Al	Fitzgerald	McMorris
Green, Gene	Fitzgerald	Spratt
Grijalva	Fitzgerald	Stark
Melancon	Fitzgerald	Stupak
Michaud	Fitzgerald	Sutton
Hall (NY)	Fitzgerald	Tanner
Hare	Fitzgerald	Tauscher
Miller (MI)	Fitzgerald	Taylor
Miller (NC)	Fitzgerald	Thompson (CA)
Meehan	Fitzgerald	Thompson (MS)
Meek (FL)	Fitzgerald	Tierney
Meeks (NY)	Fitzgerald	Towns
Mitchell	Fitzgerald	Turner
Mollohan	Fitzgerald	Udall (CO)
Moore (KS)	Fitzgerald	Upton
Moore (WI)	Fitzgerald	Van Hollen
Moran (VA)	Fitzgerald	Velázquez
Hill	Fitzgerald	Visclosky
Hinchey	Fitzgerald	Walsh (NY)
Hinojosa	Fitzgerald	Walz (MN)
Hirono	Fitzgerald	Wasserman
Murtha	Fitzgerald	Velzquez
Nadler	Fitzgerald	Waters
Napolitano	Fitzgerald	Watson
Neal (MA)	Fitzgerald	Watson
Norton	Fitzgerald	Watt
Oberstar	Fitzgerald	Waxman
Obey	Fitzgerald	Weiner
Olver	Fitzgerald	Welch (VT)
Ortiz	Fitzgerald	Weldon (FL)
Pallone	Fitzgerald	Weller
Pascarella	Fitzgerald	Wexler
Pastor	Fitzgerald	Whitfield
Jackson (IL)	Fitzgerald	Payne
Jackson-Lee (TX)	Fitzgerald	Peterson (MN)
Jackson-Lee (TX)	Fitzgerald	Peterson (PA)
Jefferson	Fitzgerald	Platts
Jindal	Fitzgerald	Wolf
Pomeroy	Fitzgerald	Woolsey
Johnson (GA)	Fitzgerald	Wu
Johnson (IL)	Fitzgerald	Wynn
Johnson, E. B.	Fitzgerald	Yarmuth
Jones (NC)	Fitzgerald	Young (FL)

NOT VOTING—9

Andrews	Kingston	Radanovich
Carson	Lampson	Udall (NM)
Davis, Jo Ann	Millender-	
Kanjorski	McDonald	

ANNOUNCEMENT BY THE ACTING CHAIRMAN
The Acting CHAIRMAN (during the vote). Members are advised there are 2 minutes left to vote.

□ 1808

Mr. ELLISON and Mr. JACKSON of Illinois changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 7 OFFERED BY MR. FLAKE

The Acting CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Arizona (Mr. FLAKE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 98, noes 332, not voting 8, as follows:

[Roll No. 197]

AYES—98

Aderholt	Flake	Musgrave	LaTourette	Rogers (AL)
Akin	Foxx	Myrick	Lee	Rogers (KY)
Barrett (SC)	Franks (AZ)	Neugebauer	Emanuel	Rogers (MI)
Bartlett (MD)	Frelinghuysen	Paul	Emerson	Lewis (CA)
Barton (TX)	Giffords	Pence	Engel	Lewis (GA)
Biggert	Gingrey	Pickering	English (PA)	Lipinski
Bilbray	Granger	Pitts	Eshoo	LoBiondo
Bishop (UT)	Graves	Poe	Etheridge	Loebback
Blunt	Hastings (WA)	Price (GA)	Faleomavaega	Lofgren, Zoe
Boehner	Heller	Putnam	Fallin	Lowey
Bonner	Hensarling	Radanovich	Farr	Lungren, Daniel
Boyd (KS)	Herger	Rehberg	Fattah	E.
Brown-Waite,	Hill	Rohrabacher	Ferguson	Lynch
Ginny	Hoekstra	Roskam	Filner	Manhoney (FL)
Burgess	Inglis (SC)	Royce	Forbes	Maloney (NY)
Burton (IN)	Issa	Ryan (WI)	Fortenberry	Marchant
Campbell (CA)	Johnson, Sam	Sali	Fortuño	Markey
Cannon	Jones (NC)	Schmidt	Fossella	Marshall
Cantor	Jordan	Sensenbrenner	Frank (MA)	Matheson
Carter	Keller	Shadegg	Gallegly	Matsui
Chabot	King (IA)	Smith (NE)	Garrett (NJ)	McCarthy (NY)
Coble	Kline (MN)	Smith (TX)	Gerlach	McCaul (TX)
Cole (OK)	Lamborn	Stearns	Gilchrest	McCollum (MN)
Cubin	Lewis (KY)	Sullivan	Gillibrand	McCotter
Culberson	Linder	Tancredo	Gillmor	McDermott
Davis (KY)	Lucas	Terry	Hochberg	Gohmert
Davis, David	Mack	Tiahrt	Hofbauer	Gonzalez
Deal (GA)	Manzullo	Walberg	Hollingsworth	Goode
Dingell	McCarthy (CA)	Wamp	Horn	Goodlatte
Duncan	McCrary	Weldon (FL)	Horn	Gordon
Ehlers	McHenry	Westmoreland	Hodes	Green, Al
Everett	McKeon	Wilson (OH)	Hofbauer	Green, Gene
Feeney	Miller (FL)	Wilson (SC)	Horn	Gutierrez

NOES—332

Abercrombie	Boustany	Cooper	NOT VOTING—8	NOT VOTING—8
Ackerman	Boyd (FL)	Costa	Andrews	NOT VOTING—8
Alexander	Brady (PA)	Costello	Carson	NOT VOTING—8
Allen	Brady (TX)	Courtney	Davis, Jo Ann	NOT VOTING—8
Altmine	Braley (IA)	Cramer		
Arcuri	Brown (SC)	Crenshaw		
Baca	Brown, Corrine	Crowley		
Bachmann	Buchanan	Cuellar		
Bachus	Butterfield	Cummings		
Baird	Buyer	Davis (AL)		
Baker	Calvert	Davis (CA)		
Baldwin	Camp (MI)	Davis (IL)		
Barrow	Capito	Davis, Lincoln		
Bean	Capps	Davis, Tom		
Becerra	Capuano	DeFazio		
Berkley	Cardoza	DeGette		
Berman	Carnahan	Delahunt		
Berry	Carney	DeLauro		
Bilirakis	Castle	Dent		
Bishop (GA)	Castor	Diaz-Balart, L.		
Bishop (NY)	Chandler	Diaz-Balart, M.		
Blackburn	Christensen	Dicks		
Blumenauer	Clarke	Doggett		
Bono	Clay	Donnelly		
Boozman	Cleaver	Doolittle		
Bordallo	Clyburn	Doyle		
Boren	Cohen	Drake		
Boswell	Conaway	Dreier		
Boucher	Conyers	Edwards		

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1815

So the amendment was rejected.

The result of the vote was announced as above recorded.

The Acting CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The Acting CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Ms. SOLIS) having assumed the chair, Mr. SNYDER, Acting Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 1401) to improve the security of railroads, public transportation, and over-the-road buses in the United States, and for other purposes, pursuant to House Resolution 270, reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment reported from the Committee of the Whole?

Mr. PRICE of Georgia. Madam Speaker, I demand a re-vote on the Thompson and the Cohen amendments.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment to the amendment reported from the Committee of the Whole?

The Clerk will redesignate the first amendment on which a separate vote has been demanded.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. THOMPSON of Mississippi:

Section 2(2)(E), strike “railroad and transit cars” and insert “railroad cars, public transportation cars and buses, and over-the-road buses”.

Section 2(6)(B), strike “the public transportation designated recipient providing the transportation” and insert “the designated recipient”.

Section 2(14), strike the period after “over-the-road bus” and insert “—”.

After section 2, insert, the following:

SEC. 3. NO PREEMPTION OF STATE LAW.

(a) **NO PREEMPTION OF STATE LAW.**—Nothing in section 20106 of title 49, United States Code, preempts a State cause of action, or any damages recoverable in such an action, including negligence, recklessness, and intentional misconduct claims, unless compliance with State law would make compliance with Federal requirements impossible. Nothing in section 20106 of title 49, United States Code, confers Federal jurisdiction of a question for such a cause of action.

(b) **SECRETARIAL POWER.**—Section 20106 of title 49, United States Code, preempts only positive laws, regulations, or orders by executive or legislative branch officials that expressly address railroad safety or security. The Secretary and the Secretary of Transportation have the power to preempt such positive enactments by substantially subsuming the same subject matter, pursuant to proper administrative procedures.

Section 101(a), strike “, in consultation with the Secretary of Transportation.”.

Section 103, strike “, in consultation with the Secretary of Transportation,” each place it appears, except subsection (o).

Section 103(c)(1), strike “high-or” and insert “high- or”.

Section 103(e), strike “vulnerabilities and security plans” and insert “a vulnerability assessment and security plan”.

Section 103(k)(3)—

(1) strike “those submissions” and insert “such submission”; and

(2) strike “vulnerability assessments and security plans” and insert “the vulnerability assessment and security plan”.

Section 103(o), strike “, hereinafter referred to as ‘Amtrak’”.

Section 104(a), strike “, in consultation with the Secretary of Transportation.”.

Section 105(a), strike “, in consultation with the Secretary of Transportation.”.

Section 105(b)(2), strike “rail” and insert “railroad”.

Section 105(b)(3), strike “redevelopment and”.

Section 105(b)(4), insert “, including stations and other railroad transportation infrastructure owned by State or local governments” before the period.

Section 105(b)(12) insert “security” before “inspection” each places it appears.

Section 105(b)(16), strike “front-line railroad employees” and insert “railroad employees, including front-line employees”.

Strike section 105(c) and insert the following:

(c) DEPARTMENT OF HOMELAND SECURITY RESPONSIBILITIES.—In carrying out the responsibilities under subsection (a), the Secretary shall—

(1) determine the requirements for recipients of grants under this section, including application requirements;

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

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

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

(5) not later than 5 business days after making determinations under paragraphs (1) through (4), transfer grant funds under this section to the Secretary of Transportation for distribution to the recipients of grants determined by the Secretary under paragraph (2).

Section 105—

(1) strike subsection (f);

(2) redesignate subsections (d) through (m) as subsections (g) through (o), respectively;

(3) insert after subsection (c), as amended, the following:

(d) DEPARTMENT OF TRANSPORTATION RESPONSIBILITIES.—The Secretary of Transportation shall distribute grant funds under this section to the recipients of grants determined by the Secretary under subsection (f).

(e) MONITORING AND AUDITING.—The Department of Homeland Security and the Department of Transportation jointly shall monitor and audit the use of funds under this section.

(f) ELIGIBILITY.—A railroad carrier is eligible for a grant under this section if the carrier has completed a vulnerability assessment and developed a security plan that the Secretary has approved under section 103. Grant funds may only be used for permissible uses under subsection (b) to further a rail security plan.

Section 105(j), as redesignated (relating to standards)—

(1) strike “The Secretary shall require a” and insert “A”;

(2) after “108” insert “shall be required”; and

(3) strike “Amtrak” and insert “the National Railroad Passenger Corporation”.

Section 105(m), as redesignated (relating to guidelines)—

(1) strike “, in consultation with the Secretary of Transportation,”; and

(2) strike “recipients of grants under this section” the first place it appears and insert “, to the extent that recipients of grants under this section use contractors or subcontractors, such recipients”.

Section 105 strike subsection (n), as redesignated.

Section 105, redesignate subsection (o), as redesignated, as subsection (n).

Section 106, strike “, in consultation with the Secretary of Transportation,” each place it appears.

Section 106(b)(2), insert “, including stations and other public transportation infrastructure owned by State or local governments” before the period.

Section 106(b)—

(1) redesignate paragraphs (10) through (17) as paragraphs (11) through (18), respectively; and

(2) after paragraph (9) insert the following:

(10) Purchase and placement of bomb-resistant trash cans throughout public transportation facilities, including subway exits, entrances, and tunnels.

Section 106(b)(15), as redesignated—

(1) strike “front-line” before “public”; and

(2) insert “, including front-line employees” after “employees”.

Section 106(b)(16), as redesignated, after “reimbursement” insert “, including reimbursement of State, local, and tribal governments for costs.”.

Section 106(b)(17), as redesignated, after “costs” insert “, including reimbursement of State, local, and tribal governments for costs”.

At the end of section 106(b), strike paragraph (18), as redesignated, and insert the following:

(18) Such other security improvements as the Secretary considers appropriate, including security improvements for newly completed public transportation systems that are not yet operable for passenger use.

Section 106—

(1) strike subsections (c) and (d);

(2) redesignate subsections (e) through (j) as subsections (g) through (l), respectively; and

(3) insert after subsection (b) the following:

(c) DEPARTMENT OF HOMELAND SECURITY RESPONSIBILITIES.—In carrying out the responsibilities under subsection (a), the Secretary shall—

(1) determine the requirements for recipients of grants under this section, including application requirements;

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

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

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

(5) not later than 5 business days after making determinations under paragraphs (1) through (4), transfer grant funds under this section to the Secretary of Transportation for distribution to the recipients of grants determined by the Secretary under paragraph (2).

(d) DEPARTMENT OF TRANSPORTATION RESPONSIBILITIES.—The Secretary of Transportation shall distribute grant funds under this section to the recipients of grants determined by the Secretary under subsection (f).

(e) MONITORING AND AUDITING.—The Department of Homeland Security and the Department of Transportation shall jointly monitor and audit the use of funds under this section.

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

(t) ELIGIBILITY.—A designated recipient is eligible for a grant under this section if the recipient has completed a vulnerability assessment and developed a security plan that the Secretary has approved under section 103. Grant funds may only be used for permissible uses under subsection (b) to further a public transportation security plan.

Section 106, subsection (g), as redesignated (relating to terms and conditions), strike “under effect” and insert “as in effect”.

Section 106, subsection (j), as redesignated (relating to guidelines), strike “recipients of grants under this section” the first place it appears and insert “, to the extent that recipients of grants under this section use contractors or subcontractors, such recipients”.

Section 106, strike subsection (k), as redesignated (relating to monitoring).

Section 106, redesignate subsection (1), as redesignated (relating to authorization of appropriations), as subsection (k).

Section 107, strike “, in consultation with the Secretary of Transportation,” each place it appears.

Section 107(b)(1), insert: “, including terminals and other over-the-road bus facilities owned by State or local governments” before the period.

Section 107(b)(8) strike—

(1) strike “front-line” before “over-the-road”; and

(2) insert “, including front-line employees” after “employees”.

Section 107(b)(10), after “reimbursement” insert “including reimbursement of State, local, and tribal governments for costs.”.

Section 107(b)(12), after “costs” insert “, including reimbursement of State, local, and tribal governments for such costs.”.

Section 107—

(1) redesignate subsections (e) through (j) as subsections (g) through (l), respectively; and

(2) strike subsections (c) and (d) and insert the following:

(c) DEPARTMENT OF HOMELAND SECURITY RESPONSIBILITIES.—In carrying out the responsibilities under subsection (a), the Secretary shall—

(1) determine the requirements for recipients of grants under this section, including application requirements;

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

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

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

(5) not later than 5 business days of making determinations under paragraphs (1) through (4), transfer grant funds under this section to the Secretary of Transportation for distribution to the recipients of grants determined by the Secretary under paragraph (2).

(d) DEPARTMENT OF TRANSPORTATION RESPONSIBILITIES.—The Secretary of Transportation shall distribute grant funds under this section to the recipients of grants determined by the Secretary under subsection (f).

(e) MONITORING AND AUDITING.—The Department of Homeland Security and the Department of Transportation shall jointly monitor and audit the use of funds under this section.

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

Section 107, subsection (i), as redesignated (relating to annual reports), after “funds” insert a period.

Section 107, subsection (j), as redesignated (relating to guidelines), strike ‘recipients of grants under this section the first place it appears’ and insert ‘to the extent that recipients of grants under this section use contractors or subcontractors, such recipients shall’.

Section 107, strike subsection (k) as redesignated (relating to monitoring).

Section 107, redesignate subsection (l), as redesignated (relating to authorization), as subsection (k).

Section 108(a) strike ‘Amtrak’ the first place it appears and insert ‘the National Railroad Passenger Corporation’.

Section 108(c) strike ‘recipients of grants under this section’ the first place it appears and insert ‘, to the extent that recipients of grants under this section use contractors or subcontractors, such recipients shall’.

Section 109(a), strike ‘, in consultation with the Secretary of Transportation.’.

Section 109(a)(1), insert a comma after ‘employees’.

Section 109(b)(3) strike ‘and fire fighter workers’ and insert ‘or emergency response personnel’.

Section 109(c)(9), strike ‘Any other subject’ and insert ‘Other security training activities that’.

Section 109(d)(1), strike ‘in final form’.

Section 109(d)(2), insert ‘proposal’ after ‘training program’.

Section 109(d)(3), insert ‘proposal’ after ‘training program’.

Section 109(d)(4), insert ‘as necessary’ after ‘workers’.

Section 110(a), strike ‘, in consultation with the Secretary of Transportation.’.

Section 110(c), strike ‘, in consultation with the Secretary of Transportation.’.

Section 110(c)(1), insert ‘working jointly with the Secretary of Transportation,’ before ‘consolidates’.

Section 111(b)(3) strike ‘freight’.

Section 111(b), strike ‘and’ at the end of paragraph (6), redesignate paragraph (7) as paragraph (8), and insert the following after paragraph (6):

(7) to assess the vulnerabilities and risks associated with new rail and public transportation construction projects prior to their completion; and

Section 111(c)(2)(E)—

(1) strike ‘including,’ and insert ‘, including’;

(2) strike ‘Institution or Tribal University’ and insert ‘Institutions or Tribal Universities’.

Strike section 112 of the bill and insert the following (and make all necessary technical and conforming changes):

SEC. 112. WHISTLEBLOWER PROTECTIONS.

(a) IN GENERAL.—No covered individual may be discharged, demoted, suspended, threatened, harassed, reprimanded, investigated, or in any other manner discriminated against, including by a denial, suspension, or revocation of a security clearance or by any other security access determination, if such discrimination is due, in whole or in part, to any lawful act done, perceived to have been done, or intended to be done by the covered individual.

(1) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the covered individual reasonably believes constitutes a violation of any law, rule, or regulation relating to rail, public transportation, or over-the-road-bus security, which the covered individual reasonably believes constitutes a threat to rail, public transportation, or over-the-road-bus security, or

which the covered individual reasonably believes constitutes fraud, waste, or mismanagement of Government funds intended to be used for rail, public transportation, or over-the-road-bus security, if the information or assistance is provided to or the investigation is conducted by—

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

(B) any Member of Congress, any committee of Congress, or the Government Accountability Office; or

(C) a person with supervisory authority over the covered individual (or such other person who has the authority to investigate, discover, or terminate);

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

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

(b) ENFORCEMENT ACTION.

(1) IN GENERAL.—A covered individual who alleges discharge or other discrimination by any person in violation of subsection (a) may—

(A) in the case of a covered individual who is employed by the Department or the Department of Transportation, seek relief in accordance with—

(i) the provisions of title 5, United States Code, to the same extent and in the same manner as if such individual were seeking relief from a prohibited personnel practice described in section 2302(b)(8) of such title; and

(ii) the amendments made by section 112A; except that, if the disclosure involved consists in whole or in part of classified or sensitive information, clauses (i) and (ii) shall not apply and such individual may seek relief in the same manner as provided by section 112B;

(B) in the case of a covered individual who is a contractor or subcontractor of the Department or the Department of Transportation, seek relief in accordance with section 112B; and

(C) in the case of any other covered individual, seek relief in accordance with the provisions of this section, with any petition or other request for relief under this section to be initiated by filing a complaint with the Secretary of Labor.

(2) PROCEDURE.

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

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

(C) BURDENS OF PROOF.—An action brought under paragraph (1)(C) shall be governed by the legal burdens of proof set forth in section 42121(b) of title 49, United States Code.

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

(3) DE NOVO REVIEW.—With respect to a complaint under paragraph (1)(C), if the Secretary of Labor has not issued a final decision within 180 days after the filing of the complaint (or, in the event that a final order or decision is issued by the Secretary of Labor, whether within the 180-day period or thereafter, then, not later than 90 days after such an order or decision is issued), the covered individual may bring an original action

at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury.

(c) REMEDIES.

(1) IN GENERAL.—A covered individual prevailing in any action under subsection (b)(1)(C) shall be entitled to all relief necessary to make the covered individual whole.

(2) DAMAGES.—Relief in an action under subsection (b)(1)(C) (including an action described in subsection (b)(3)) shall include—

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

(B) the amount of any back pay, with interest; and

(C) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

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

(d) USE OF STATE SECRETS PRIVILEGE.

(1) If, in any action for relief sought by a covered individual in accordance with the provisions of subsection (b)(1)(A), (B), or (C), the Government agency moves to withhold information from discovery based on a claim that disclosure would be inimical to national security by asserting the privilege commonly referred to as the ‘state secrets privilege’, and if the assertion of such privilege prevents the covered individual from establishing an element in support of the covered individual’s claim, the court shall resolve the disputed issue of fact or law in favor of the covered individual, provided that, in an action brought by a covered individual in accordance with the provisions of subsection (b)(1)(A) or (B), an Inspector General investigation under section 112B has resulted in substantial confirmation of that element, or those elements, of the covered individual’s claim.

(2) In any case in which the Government agency asserts the privilege commonly referred to as the ‘state secrets privilege’, whether or not an Inspector General has conducted an investigation with respect to the alleged discrimination, the head of the Government agency involved shall, at the same time it asserts the privilege, issue a report to authorized Members of Congress, accompanied by a classified annex if necessary, describing the reasons for the assertion, explaining why the court hearing the matter does not have the ability to maintain the protection of classified information related to the assertion, detailing the steps the agency has taken to arrive at a mutually agreeable settlement with the covered individual, setting forth the date on which the classified information at issue will be declassified, and providing all relevant information about the underlying substantive matter.

(e) CRIMINAL PENALTIES.

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

(2) REPORTING REQUIREMENT.

(A) IN GENERAL.—The Attorney General shall submit to the appropriate congressional committees an annual report on the enforcement of paragraph (1).

(B) CONTENTS.—Each such report shall—

- (i) identify each case in which formal charges under paragraph (1) were brought;
- (ii) describe the status or disposition of each such case; and
- (iii) in any actions under subsection (b)(1)(C) in which the covered individual was the prevailing party or the substantially prevailing party, indicate whether or not any formal charges under paragraph (1) have been brought and, if not, the reasons therefor.

(f) NO PREEMPTION.—Nothing in this section, section 112A, or section 112B preempts or diminishes any other safeguards against discrimination, demotion, discharge, suspension, threats, harassment, reprimand, retaliation, or any other manner of discrimination provided by Federal or State law.

(g) RIGHTS RETAINED BY COVERED INDIVIDUAL.—Nothing in this section, section 112A, or section 112B shall be deemed to diminish the rights, privileges, or remedies of any covered individual under any Federal or State law or under any collective bargaining agreement. The rights and remedies in this section, section 112A and section 112B may not be waived by any agreement, policy, form, or condition of employment.

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

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

- (A) the Department;
- (B) the Department of Transportation;
- (C) a contractor or subcontractor; and

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

(2) LAWFUL.—The term “lawful” means not specifically prohibited by law, except that, in the case of any information the disclosure of which is specifically prohibited by law or specifically required by Executive order to be kept classified in the interest of national defense or the conduct of foreign affairs, any disclosure of such information to any Member of Congress, committee of Congress, or other recipient authorized to receive such information, shall be deemed lawful.

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

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

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

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

(5) SUBCONTRACTOR.—The term “subcontractor”—

(A) means any person, other than the contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a contract with the Department, the Department of Transportation, or a provider of covered transportation; and

(B) includes any person who offers to furnish or furnishes general supplies to the contractor or a higher tier subcontractor.

(6) PERSON.—The term “person” means a corporation, partnership, State entity, business association of any kind, trust, joint-stock company, or individual.

Section 113(c), strike “the Secretary of Transportation and”.

Section 116(b), strike “designate the Center” and insert “select an institution of higher education to operate the National Transportation Security Center of Excellence”.

Section 116(c)—

- (1) redesignate paragraphs (1) through (3) as paragraphs (2) through (4), respectively; and

(2) insert after the subsection heading the following:

(1) CONSORTIUM.—The institution of higher education selected under subsection (b) shall execute agreements with other institutions of higher education to develop a consortium to assist in accomplishing the goals of the Center.

Section 116(c)(3), as redesignated, insert “or” before “Tribal”.

Section 116, strike “Consortium” each place it appears and insert “consortium”.

Section 118, after “risk” strike all that follows through “security”.

Section 120(d)(1), strike “any rule” and all that follows through “an employer” and insert the following: “if an employer performs background checks to satisfy any rule, regulation, directive, or other guidance issued by the Secretary regarding background checks of covered individuals, the employer shall be prohibited”.

Section 123(a), strike “the Committee on Homeland Security and Government Affairs of the Senate and the Committee on Homeland Security of the House of Representatives” and insert “the appropriate congressional committees”.

Section 124, strike “railcar” and insert “railroad car” each place it appears.

Section 124(b)(1), strike subparagraph (B) and insert the following:

(B) More than 25 kilograms (55 pounds) of a division 1.1, 1.2, or 1.3 explosive, as defined in section 173.50 of title 49, Code of Federal Regulations, in a motor vehicle, rail car, or freight container.

Section 124(b)(3)(A), strike “railyards” and insert “railroad yards”.

Section 124 (f), insert “railroad” before “carrier”.

Section 125(d)—

(1) redesignate paragraph (16) as paragraph (17);

(2) in paragraph (15), strike “and” after the semicolon; and

(3) after paragraph (15), insert the following:

(16) nonprofit employee labor organizations; and

Section 124(f), insert “railroad” before “carrier”.

Section 125 at the end, insert the following:

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

Section 126(a)(1), “The Secretary shall” and insert “The Secretary and the Secretary of Transportation shall jointly”.

Section 126(a)(2), strike “the Secretary shall” and insert “the Secretary, and the Secretary of Transportation shall jointly”.

Section 126(a)(3), insert “and the Secretary of Transportation” after “Secretary”.

Section 126(b)(3), insert “and the Secretary of Transportation” after “Secretary”.

Section 128, strike “shall” and insert “should”.

Section 128, insert “(a) PREFERENCE.” before “In”.

Section 128 at the end, insert the following:

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

Section 130(a), strike “undeclared passengers or contraband, including”.

Section 130 at the end, insert the following:

(c) USE OF TRANSPORTATION DATA.—In carrying out this subsection, the Secretary shall make use of data collected and maintained by the Secretary of Transportation.

Section 131, strike the text and insert the following: “In carrying out section 119, the Secretary shall require each provider of covered transportation, including contractors and subcontractors, assigned to a high-risk tier under section 102 to submit the names of their employees to the Secretary to conduct checks of their employees against available terrorist watchlists and immigration status databases.”.

At the end of title I, insert the following (and conform the table of contents accordingly):

SEC. 132. REVIEW OF GRANT-MAKING EFFICIENCY.

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

(1) the efficiency of the division of the grant-making process, including whether the Department of Transportation’s role in distributing, auditing, and monitoring the grant funds produces efficiency compared to the consolidation of these responsibilities in the Department of Homeland Security;

(2) whether the roles of the Department of Homeland Security and the Department of Transportation in the administration of the grants permit the grants to be awarded and used in a timely and efficient manner and according to their intended purposes;

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

(b) REPORT.—The Comptroller General of the United States shall submit an annual report to the appropriate congressional committees on the results of the study for each of the first 3 years after enactment of this title, including any recommendations for improving the administration and use of the grant funds awarded under sections 105, 106, and 107.

SEC. 133. ROLES OF THE DEPARTMENT OF HOMELAND SECURITY AND THE DEPARTMENT OF TRANSPORTATION.

The Secretary of Homeland Security is the principal Federal official responsible for transportation security. The roles and responsibilities of the Department of Homeland Security and the Department of Transportation in carrying out sections 101, 103, 104, 105, 106, 107, 109, 110, 111, 113, 123, 124, 125, 126, 127, 128, 129, 130, 131, and 201 of this Act are the roles and responsibilities of such Departments pursuant to the Aviation and Transportation Security Act (Public Law 107-71); the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458); the National Infrastructure Protection Plan required by Homeland Security Presidential Directive 7; Executive Order 13416: Strengthening Surface Transportation Security, dated December 5, 2006; the Memorandum of Understanding between the Department and the Department of Transportation on Roles and Responsibilities, dated September 28, 2004; the Annex to the Memorandum of Understanding between the Department and the Department of Transportation on Roles and Responsibilities concerning Railroad Security, dated September 28, 2006; the Annex to the Memorandum of Understanding between the Department and the Department of Transportation on Roles and Responsibilities concerning Public Transportation Security, dated September 8, 2005; and any subsequent agreements between the Department of Homeland Security and the Department of Transportation.

Moran (VA)	Rush	Stupak
Murphy (CT)	Ryan (OH)	Sutton
Murphy, Patrick	Salazar	Tanner
Murtha	Sánchez, Linda	Tauscher
Nadler	T.	Taylor
Napolitano	Sanchez, Loretta	Thompson (CA)
Neal (MA)	Sarbanes	Thompson (MS)
Oberstar	Saxton	Tierney
Obey	Schakowsky	Towns
Olver	Schiff	Udall (CO)
Ortiz	Schwartz	Van Hollen
Pallone	Scott (GA)	Velázquez
Pascarella	Scott (VA)	Visclosky
Pastor	Serrano	Walz (MN)
Payne	Sestak	Wasserman
Perlmutter	Shea-Porter	Schultz
Peterson (MN)	Sherman	Waters
Pomeroy	Shuler	Watson
Price (NC)	Sires	Watt
Rahall	Skelton	Waxman
Ramstad	Slaughter	Weiner
Rangel	Smith (NJ)	Welch (VT)
Reyes	Smith (WA)	Wexler
Rodriguez	Solis	Wilson (OH)
Ross	Space	Woolsey
Rothman	Spratt	Wu
Royal-Allard	Stark	Wynn
Ruppersberger	Stearns	Yarmuth

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Aderholt	Garrett (NJ)	Nunes
Akin	Gerlach	Pearce
Alexander	Gillmor	Pence
Bachmann	Gingrey	Peterson (PA)
Bachus	Gohmert	Petri
Baker	Goode	Pickering
Barton (TX)	Goodlatte	Pitts
Biggert	Granger	Platts
Bilbrey	Graves	Poe
Bilirakis	Hall (TX)	Porter
Bishop (UT)	Hastert	Price (GA)
Blackburn	Hastings (WA)	Pryce (OH)
Blunt	Hayes	Putnam
Bonner	Heller	Radanovich
Bono	Hensarling	Regula
Boozman	Herger	Rehberg
Boustany	Hobson	Reichert
Brady (TX)	Hoekstra	Renzi
Brown (SC)	Hulshof	Reynolds
Brown-Waite,	Inglis (SC)	Rogers (AL)
Ginny	Issa	Rogers (KY)
Buchanan	Jindal	Rogers (MI)
Burgess	Johnson (IL)	Rohrabacher
Burton (IN)	Johnson, Sam	Ros-Lehtinen
Buyer	Jordan	Roskam
Calvert	Keller	Royce
Camp (MI)	King (IA)	Ryan (WI)
Campbell (CA)	King (NY)	Sali
Cannon	Kirk	Schmidt
Cantor	Kline (MN)	Sensenbrenner
Capito	Knollenberg	Sessions
Carter	Kuhl (NY)	Shadegg
Chabot	LaHood	Shays
Coble	Lamborn	Shimkus
Cole (OK)	Latham	Shuster
Conaway	LaTourette	Simpson
Crenshaw	Lewis (CA)	Smith (NE)
Cubin	Lewis (KY)	Smith (TX)
Culberson	Linder	Snyder
Davis (KY)	Lucas	Souder
Davis, David	Lungren, Daniel	Sullivan
Deal (GA)	E.	Tancredo
Dent	Mack	Terry
Diaz-Balart, L.	Manzullo	Tiaht
Diaz-Balart, M.	Marchant	Tiberi
Doolittle	McCarthy (CA)	Turner
Drake	McCaul (TX)	Upton
Dreier	McCotter	Walberg
Duncan	McCrery	Walden (OR)
Ehlers	McHenry	Walsh (NY)
Emerson	McHugh	Wamp
English (PA)	McKeon	Weldon (FL)
Everett	McMorris	Westmoreland
Fallin	Rodgers	Whitfield
Feeley	Mica	Wicker
Flake	Miller (FL)	Wilson (NM)
Forbes	Miller (MI)	Wolf
Fortenberry	Miller, Gary	Young (AK)
Fosseella	Moran (KS)	Young (FL)
Foxx	Murphy, Tim	
Franks (AZ)	Musgrave	
Frelinghuysen	Myrick	
Gallegly	Neugebauer	

ANSWERED “PRESENT”—4

Bartlett (MD)	Jones (NC)
Gilchrest	Paul

NOT VOTING—11

Andrews	Hunter	Millender-
Boehner	Kanjorski	McDonald
Carson	Kingston	Udall (NM)
Davis, Jo Ann	Lampson	Weller

□ 1849

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. KING OF NEW YORK

Mr. KING of New York. Madam Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. KING of New York. I am, Madam Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. King of New York moves to recommit the bill H.R. 1401 to the Committee on Homeland Security with instructions to report the same back to the House forthwith, with the following amendment:

At the end of title I, add the following (and conform the table of contents accordingly):

SEC. _____. IMMUNITY FOR REPORTING SUSPICIOUS ACTIVITIES AND MITIGATING TERRORIST THREATS RELATING TO TRANSPORTATION SECURITY.

(a) IMMUNITY FOR REPORTING SUSPICIOUS BEHAVIOR.—Any person who makes or causes to be made a voluntary disclosure of any suspicious transaction, activity or occurrence indicating that an individual may be engaging or preparing to engage in a matter described in subsection (b) to any employee or agent of the Department of Homeland Security, the Department of Transportation, the Department of Justice, any Federal, State, or local law enforcement officer, any transportation security officer, or to any employee or agent of a transportation system shall be immune from civil liability to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision of any State, for such disclosure.

(b) COVERED DISCLOSURES.—The matter referred to in subsection (a) is a possible violation or attempted violation of law or regulation relating—

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

(2) to an act of terrorism, as defined in section 3077 of title 18, United States Code, that involves or is directed against transportation systems or passengers.

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

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

(e) ATTORNEY FEES AND COSTS.—If a person is named as a defendant in a civil lawsuit for making voluntary disclosures of any suspicious transaction or taking actions to mitigate a suspicious matter described in subsection (b), and the person is found to be immune from civil liability under this section, the person shall be entitled to recover from the plaintiff all reasonable costs and attorney's fees as allowed by the court.

(f) RETROACTIVE APPLICATION.—This section shall apply to activities and claims occurring on or after November 20, 2006.

Mr. KING of New York (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The gentleman is recognized for 5 minutes in support of his motion to recommit.

Mr. KING of New York. Madam Speaker, all our lives changed on September 11. The government tried to react the best that it could; all levels of government have tried to come forward. But one of the most important things we have done is ask our local citizens, to ask the average person to do what they can to avoid a terrorist attack. We have asked them, for instance, there are signs at trains and subways and means of transportation all over the country which say, if you see something, say something.

Yet we saw the incident this past November in Minnesota where passengers on a US Airways flight reported what they saw as suspicious activity. That resulted in six imams being removed from the plane. Now, that is a matter that is going to be in litigation between US Airways and those six imams.

But what is absolutely disgraceful is to find out that lawyers are coming forward and advocacy groups are coming forward to represent those imams and suing, attempting to find the identity of those passengers, those citizens who acted in good faith, who responded to their government and reported what they deemed to be suspicious activity.

Madam Speaker, that is absolutely disgraceful. What this motion to recommit would do would be to provide immunity for any citizen, any individual that comes forward and reports suspicious activity in good faith. If they do, they will be indemnified. This is the very least we can do, to stand by good people who come forward and report suspicious activity.

I mean, just think if we had citizens who had seen what was happening on September 11, who saw people sitting not in their assigned seats, who had seen them being disruptive, who had seen them asking for extended seatbelts when they didn't need them and yet, somehow, those people didn't come forward because they were afraid of being sued.

If we are going to be serious, as a Nation, about fighting Islamic terrorism, then we have to stand by our people who come forward and report suspicious activity. So I think it is absolutely essential that this motion to recommit be passed. I can't imagine anyone being opposed to it.

Madam Speaker, I yield the balance of my time to the gentleman from New Mexico (Mr. PEARCE) who has been a true leader on this issue.

Mr. PEARCE. Madam Speaker, I want to thank the gentleman from New York for working with me on this motion to recommit that we are offering today. I believe that we are going to make this legislation much better.

Ever since 9/11, law enforcement agencies have been telling the American people that they should immediately report any suspicious activity. This important step is one of the best ways that we have to stop terrorism. In essence, the public is the eyes and ears for the security of the Nation.

Sadly, a lawsuit has been filed in Minnesota which named as defendants the Americans who were simply trying to protect themselves and their country. These everyday people have now found themselves subject to a lawsuit for simply reporting what they thought in good faith was suspicious activity.

We are in grave danger when terrorists and their sympathizers use our freedoms against us. Terrorists have abused our Nation's immigration system, our foreign student travel visa opportunities, and open society's freedom to travel.

On 9/11 the hijackers knew how the crew on the plane would respond and used that knowledge against the air crews to carry out their deadly attacks.

Now, we have imams who behaved in methods similar to those 9/11 terrorists and are now using our courts to terrorize the Americans who reported the behavior. They used a seating pattern that was similar to the 9/11 attackers. They asked for seatbelt extensions, and then didn't use them but laid them at their feet in an ominous gesture of disrespect. They did not sit in assigned seats. The loud criticism of President Bush and the war all added together to create a mood of uncertainty among passengers who were watching them.

If we allow these lawsuits to go forward, it will have a chilling effect on the future of American security. Today's USA Today opinion stated the "Clerics' lawsuit threatens the security of all passengers; efforts to name those who reported suspicious actions has chilling effect." I will submit the full article for the RECORD.

If we are serious about fighting terrorism, if we are serious about protecting Americans and asking them to help protect each other, then we must pass this motion.

If I leave my colleagues with one message about this motion, it is simply, no American should be sued for trying to stop terrorism.

Recently, I visited Israel. There they were much more open about it. They said, the stakes are too high. The danger is too imminent. There is no room left in the world for political correctness.

Today we are going to make that choice on the floor of the House, to choose political correctness or to choose to protect the people in this country and the people who would bring the attention of suspicious activities to the Nation's authorities.

Vote "yes" on today's motion to recommit and help protect Americans.

[From USA Today, Mar. 27, 2007]

OUR VIEW ON POST-9/11 TRAVEL: CLERICS' LAWSUIT THREATENS SECURITY OF ALL PASSENGERS

"If you see something, say something." Since the terror attacks of 9/11, that common-sense message has been displayed prominently worldwide for obvious reasons.

Police and transportation authorities can't be everywhere. Whether at an airport, bus or rail station, officials need passengers to alert them to unattended baggage that might contain explosives and behavior that appears out of the ordinary.

Now the reward for being vigilant apparently includes being dragged into a lawsuit and accused of bigotry. The wry adage about how no good deed goes unpunished seems apt, though not so funny.

The lawsuit grew out of an incident last November when six Muslim clerics, returning from a religious conference in Minneapolis, were removed from a US Airways flight after passengers and crew raised alarms. The imams were questioned by authorities and released. The six say they are innocent victims of ethnic profiling for merely praying quietly in Arabic at the terminal.

Their lawsuit, filed earlier this month, accused the airline and Metropolitan Airports Commission of anti-Muslim bias. That was expected. What's unique and especially troubling, though, is the effort to identify an unknown number of passengers and airline employees who reported suspicions so they might also be included as defendants. For example, the imams want to know the names of an elderly couple who turned around "to watch" and then made cellphone calls, presumably to authorities, as the men prayed.

This legal tactic seems designed to intimidate passengers willing to do exactly what authorities have requested—say something about suspicious activity.

The imams' actions last November appeared to be either deliberately provocative or clueless as to how others might perceive them. Several passengers and crewmembers told authorities that the men loudly chanted "Allah" several times, cursed U.S. involvement in Iraq and switched their seat assignments. Three imams asked for seat belt extenders, which include a heavy metal buckle that could be used as a weapon, but left them on the floor.

Under the circumstances, the pilot made a reasonable judgment call to remove them from the plane. Some of the facts are in dispute: The imams deny making any anti-American remarks and say seats were changed to accommodate a blind cleric who might need assistance. They accuse the airline of slandering them.

US Airways can afford to defend itself and the crew in court. Passengers who notified authorities don't have those resources. Several lawyers have promised to represent such passengers for free. The American Islamic Forum for Democracy, a moderate Muslim

group, will raise funds for their defense. Rep. Steve Pearce, R-N.M., has introduced a bill to shield from legal liability those who report suspicious behavior.

It shouldn't have to come to that, especially if a judge has the wisdom to throw out the complaints against the "John Doe" passengers before they're identified.

As for ethnic profiling—the reprehensible practice of discriminating solely based on ethnicity—this incident doesn't qualify. The imams were tossed off the plane because of suspicious behavior, which obviously can't be ignored. Suing passengers who merely report such behavior threatens everyone's ability to travel securely.

Mr. THOMPSON of Mississippi. Madam Speaker, I rise to claim time.

The SPEAKER pro tempore. Is the gentleman opposed?

Mr. THOMPSON of Mississippi. In its present form I am.

The SPEAKER pro tempore. The gentleman is recognized for 5 minutes.

Mr. THOMPSON of Mississippi. Madam Speaker, as you know, we just received the motion to recommit a few minutes ago, and if I could ask some questions of the ranking member about the motion to recommit, it would help.

You have the motion to recommit being retroactive back until November 20, 2006. Is there any reason for that date?

Mr. KING of New York. Will the gentleman yield?

Mr. THOMPSON of Mississippi. I yield to the gentleman from New York.

Mr. KING of New York. November 20 was the date of the incident in Minnesota where the passengers on the plane reported suspicious activity to the pilots and to the flight attendants.

Mr. THOMPSON of Mississippi. Have they been charged with anything, to your knowledge?

Mr. KING of New York. If the gentleman will yield, a lawsuit is being commenced and John Does are being named in the complaints, the John Does for the purpose of finding out the identity of those passengers, those good-faith passengers who came forward to report the suspicious activity to make them defendants in the case.

Mr. THOMPSON of Mississippi. But to your knowledge no criminal charges have been filed against the people on the plane.

Mr. KING of New York. This motion is only dealing with civil cases, which is why they would also be indemnified for their reasonable costs and attorneys' fees.

Mr. THOMPSON of Mississippi. Reclaiming my time, Madam Speaker, I think the issue is if individuals who were singled out, not charged with anything in violation of the law, then why shouldn't they be able to seek remedy in a court of law?

For the sake of discussion, Madam Speaker, all of us in this body don't look alike, and it is clear that people could be profiled because of their religion or their race.

□ 1900

I think the record is clear in this country that some people are profiled,

and I am wondering if people are profiled illegally, not charged with a criminal act. They absolutely should have the ability to seek redress in a court of law.

What I want to do is to say that there is nothing wrong with reporting in good faith, but when it is clear that we have not defined in a good-faith language in this motion to recommit what that is, then a number of people in this country could be singled out for various and sundry reasons. And what I am saying in this motion to recommit is it sets us up to start profiling against individuals regardless of religion, custom, or what have you.

If I am praying on a plane simply because I am afraid to fly, then I could be singled out in the eyes of someone else. So I am clear that this is speculative on people who look different; it is speculative on people who perhaps act differently. I am convinced that, knowing you, you have not proven on the committee to be a punitive person; and the reason I say that, Mr. Ranking Member, is we should not be singling people out for personal reasons. We need to catch bad people, but we need to make sure that we are not profiling those individuals because of how they look. I mean, this is America. This is the melting pot with a rainbow.

The point that I am making, while this motion to recommit might be well-intended, it has unintended consequences on a lot of people, people who, for religious or other reasons, might look different; and I think that the offerers of this motion to recommit should think about this. Because we are not a body or a country of just one people. And if you look at it, we should be tolerant, and tolerant doesn't mean singling people out or having them arrested for no apparent reason other than the fact that they look different.

Madam Speaker, I accept the motion to recommit.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. KING of New York. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 304, noes 121, not voting 8, as follows:

[Roll No. 200]

AYES—304

Aderholt	Arcuri	Baker
Akin	Bachmann	Barrett (SC)
Alexander	Bachus	Barrow
Altmine	Baird	Bartlett (MD)

Barton (TX)	Goode	Paul	NOES—121
Bean	Goodlatte	Pearce	Hastings (FL)
Berkley	Gordon	Pence	Oberstar
Biggert	Granger	Ackerman	Hinchey
Bilbray	Graves	Perlmutter	Olver
Bilirakis	Green, Gene	Peterson (MN)	Hirono
Bishop (NY)	Hall (NY)	Peterson (PA)	Pallone
Bishop (UT)	Hall (TX)	Pickering	Pascarella
Blackburn	Hare	Pitts	Holt
Blunt	Hastert	Bishop (GA)	Pastor
Boehner	Hastings (WA)	Poe	Hoyer
Bonner	Hayes	Pomeroy	Price (NC)
Bono	Heller	Porter	Rahall
Boozman	Hensarling	Price (GA)	Rangel
Boren	Herger	Pryce (OH)	Rodriguez
Boswell	Herseth	Putnam	Rothman
Boucher	Higgins	Radanovich	Royal-Allard
Boustany	Hill	Ramstad	Rush
Boyd (FL)	Hinojosa	Regula	Sánchez, Linda
Boyd (KS)	Hobson	Rehberg	T.
Brady (TX)	Hodes	Reichert	Sanchez, Loretta
Braley (IA)	Hoekstra	Renzl	Sarbanes
Brown (SC)	Holden	Conyers	Schakowsky
Brown-Waite,	Hooley	Crowley	Scott (GA)
Ginny	Hulshof	Reynolds	Scott (VA)
Buchanan	Hunter	Rogers (AL)	Serrano
Burgess	Inglis (SC)	Rogers (KY)	Sires
Burton (IN)	Issa	Rogers (MI)	Slater
Buyer	Jindal	Rohrabacher	Stark
Calvert	Johnson (IL)	Ros-Lehtinen	Sutton
Camp (MI)	Johnson, Sam	Roskam	Tauscher
Campbell (CA)	Jones (NC)	Ross	Thompson (CA)
Cannon	Jones (OH)	Royce	Tierney
Cantor	Jordan	Ruppertsberger	Towns
Capito	Kagen	Ryan (OH)	Van Hollen
Cardoza	Keller	Ryan (WI)	Velázquez
Carnahan	Kildee	Salazar	Wasserman
Carney	Kind	Sali	Schultz
Carter	King (IA)	Saxton	Waterson
Castle	King (NY)	Schiff	Watson
Chabot	Kirk	Schmidt	Watt
Chandler	Klein (FL)	Schwartz	Welch (VT)
Coble	Kline (MN)	Sensenbrenner	Wexler
Cohen	Knollenberg	Sessions	Woolsey
Cole (OK)	Kuhl (NY)	Sestak	Wynn
Conaway	LaHood	Shadegg	
Cooper	Lamborn	Shays	
Costa	Lantos	Shea-Porter	
Costello	Latham	Sherman	
Courtney	LaTourette	Shimkus	
Cramer	Levin	Shuler	
Crenshaw	Lewis (CA)	Shuster	
Cubin	Lewis (KY)	Simpson	
Cuellar	Linder	Skelton	
Culberson	Lipinski	Smith (NE)	
Davis (CA)	LoBiondo	Smith (NJ)	
Davis (KY)	Lucas	Smith (TX)	
Davis, David	Lungren, Daniel	Smith (WA)	
Davis, Lincoln	E.	Snyder	
Davis, Tom	Lynch	Solis	
Deal (GA)	Mack	Souder	
DeFazio	Mahoney (FL)	Space	
Dent	Manzullo	Spratt	
Diaz-Balart, L.	Marchant	Stearns	
Diaz-Balart, M.	Marshall	Stupak	
Dicks	Matheson	Sullivan	
Donnelly	McCarthy (CA)	Tancredo	
Doolittle	McCaull (TX)	Tanner	
Doyle	McCotter	Taylor	
Drake	McCrary	Terry	
Dreier	McHenry	Thompson (MS)	
Duncan	McHugh	Thornberry	
Edwards	McIntyre	Tiaht	
Ehlers	McKeon	Tiberi	
Ellsworth	McMorris	Turner	
Emanuel	Rodgers	Udall (CO)	
Emerson	McNerny	Upton	
English (PA)	McNulty	Viscosky	
Etheridge	Meek (FL)	Walberg	
Everett	Melancon	Walden (OR)	
Fallin	Mica	Walsh (NY)	
Feeley	Miller (FL)	Walz (MN)	
Ferguson	Miller (MI)	Wamp	
Flake	Miller, Gary	Waxman	
Forbes	Mitchell	Weiner	
Fortenberry	Mollohan	Weldon (FL)	
Fossella	Moore (KS)	Weiler	
Fox	Moran (KS)	Westmoreland	
Franks (AZ)	Moran (VA)	Whitfield	
Frelinghuysen	Murphy (CT)	Wicker	
Gallegly	Murphy, Patrick	Wilson (NM)	
Garrett (NJ)	Murphy, Tim	Wilson (OH)	
Gerlach	Murtha	Wilson (SC)	
Giffords	Musgrave	Yarmuth	
Gilchrest	Myrick	Wolf	
Gillibrand	Neugebauer	Wu	
Gillmor	Nunes	Young (AK)	
Gingrey	Obey	Young (FL)	
Gohmert	Ortiz		

NOT VOTING—8

Andrews	Kanjorski	Millender-
Carson	Kingston	McDonald
Davis, Jo Ann	Lampson	Udall (NM)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised less than 2 minutes remain in this vote.

□ 1922

Messrs. ALLEN, MICHAUD, DOGGETT and MARKEY changed their vote from “aye” to “no.”

Ms. SHEA-PORTER and Mr. HILL changed their vote from “no” to “aye.”

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

Mr. THOMPSON of Mississippi. Madam Speaker, pursuant to the instructions of the House in the motion to recommit, I report the bill, H.R. 1401, back to the House with an amendment.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment:

At the end of title I, add the following (and conform the table of contents accordingly):

SEC. _____. IMMUNITY FOR REPORTING SUSPICIOUS ACTIVITIES AND MITIGATING TERRORIST THREATS RELATED TO TRANSPORTATION SECURITY.

(a) IMMUNITY FOR REPORTING SUSPICIOUS BEHAVIOR.—Any person who makes or causes to be made a voluntary disclosure of any suspicious transaction, activity or occurrence indicating that an individual may be engaging or preparing to engage in a matter described in subsection (b) to any employee or agent of the Department of Homeland Security, the Department of Transportation, the

Department of Justice, any Federal, State, or local law enforcement officer, any transportation security officer, or to any employee or agent of a transportation system shall be immune from civil liability to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision of any State, for such disclosure.

(b) COVERED DISCLOSURES.—The matter referred to in subsection (a) is a possible violation or attempted violation of law or regulation relating—

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

(2) to an act of terrorism, as defined in section 3077 of title 18, United States Code, that involves or is directed against transportation systems or passengers.

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

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

(e) ATTORNEY FEES AND COSTS.—If a person is named as a defendant in a civil lawsuit for making voluntary disclosures of any suspicious transaction or taking actions to mitigate a suspicious matter described in subsection (b), and the person is found to be immune from civil liability under this section, the person shall be entitled to recover from the plaintiff all reasonable costs and attorney's fees as allowed by the court.

(f) RETROACTIVE APPLICATION.—This section shall apply to activities and claims occurring on or after November 20, 2006.

Mr. THOMPSON of Mississippi (during the reading). Madam Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. KING of New York. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 299, noes 124, answered “present” 1, not voting 9, as follows:

	[Roll No. 201]						
AYES—299							
Abercrombie	Gillmor	Miller (MI)	Waters	Weller	Woolsey		
Ackerman	Gohmert	Miller (NC)	Watson	Wexler	Wu		
Allen	Gonzalez	Miller, George	Welch (VT)	Whitfield	Wynn		
Altire	Goode	Mitchell	Weiner	Wilson (NM)	Yarmuth		
Arcuri	Goodlatte	Mollohan	Welch (VT)	Wolf			
Baca	Gordon	Moore (KS)	Aderholt	Feeley	Peterson (PA)		
Baird	Green, Al	Moore (WI)	Akin	Flake	Petri		
Baldwin	Green, Gene	Moran (VA)	Alexander	Forbes	Pickering		
Barrow	Grijalva	Murphy (CT)	Bachmann	Foxx	Pitts		
Bean	Gutierrez	Murphy, Patrick	Bachus	Franks (AZ)	Poe		
Becerra	Hall (NY)	Murphy, Tim	Baker	Gallegly	Price (GA)		
Berkley	Hare	Murtha	Barrett (SC)	Gingrey	Pryce (OH)		
Berman	Harman	Nadler	Bartlett (MD)	Granger	Putnam		
Berry	Hastings (FL)	Napolitano	Barton (TX)	Graves	Radanovich		
Biggert	Hastings (WA)	Neal (MA)	Bilbray	Hall (TX)	Regula		
Bilirakis	Heller	Nunes	Bishop (UT)	Hastert	Rehberg		
Bishop (GA)	Herseth	Oberstar	Blackburn	Hayes	Rogers (KY)		
Bishop (NY)	Higgins	Obey	Blunt	Hensarling	Rogers (MI)		
Blumenauer	Hill	Olver	Boehner	Herger	Rohrabacher		
Bono	Hinchey	Ortiz	Bonner	Hobson	Roskam		
Boren	Hinojosa	Pallone	Boozman	Ingles (SC)	Royce		
Boswell	Hirono	Pascrall	Boustany	Issa	Ryan (WI)		
Boucher	Hodes	Pastor	Brady (TX)	Johnson (IL)	Sali		
Boyd (FL)	Hoekstra	Payne	Brown (SC)	Johnson, Sam	Schmidt		
Brady (PA)	Holden	Pearce	Brown-Waite,	Jordan	Sensenbrenner		
Braley (IA)	Holt	Perlmutter	Ginny	King (IA)	Sessions		
Brown, Corrine	Honda	Peterson (MN)	Buchanan	Lamborn	Shadegg		
Burgess	Hooley	Platts	Burton (IN)	LaTourette	Thornberry		
Butterfield	Hoyer	Pomeroy	Buyer	Lewis (CA)	Tiabrt		
Capito	Hulshof	Porter	Calvert	Lewis (KY)	Tiberi		
Capps	Inslee	Price (NC)	Camp (MI)	Linder	Smith (NE)		
Capuano	Israel	Rahall	Campbell (CA)	Mack	Stearns		
Cardoza	Jackson (IL)	Ramstad	Cannon	Manzullo	Sullivan		
Carnahan	Jackson-Lee	Rangel	Cantor	Marchant	Tancredo		
Carney	(TX)	Reichert	Carter	McCarthy (CA)	Terry		
Castle	Jefferson	Renzi	Coble	McCrary	Thornberry		
Castor	Jindal	Reyes	Conaway	McHenry	Tiabrt		
Chabot	Johnson (GA)	Reynolds	Crenshaw	McKeon	Tiberi		
Chandler	Johnson, E. B.	Rodriguez	Cubin	Mica	Turner		
Clarke	Jones (NC)	Rogers (AL)	Culberson	Miller (FL)	Walberg		
Clay	Jones (OH)	Ros-Lehtinen	Davis, David	Miller, Gary	Wamp		
Cleaver	Kagen	Ross	Deal (GA)	Moran (KS)	Weldon (FL)		
Clyburn	Kaptur	Rothman	Drake	Musgrave	Westmoreland		
Cohen	Keller	Royal-Allard	Dreier	Myrick	Wicker		
Cole (OK)	Kennedy	Ruppersberger	Duncan	Neugebauer	Wilson (SC)		
Conyers	Kildee	Rush	Everett	Paul	Young (AK)		
Cooper	Kilpatrick	Ryan (OH)	Fallin	Pence	Young (FL)		
Costa	Kind	Salazar					
Costello	King (NY)	Sánchez, Linda					
Courtney	Kirk	T.					
Cramer	Klein (FL)	Sanchez, Loretta					
Crowley	Kline (MN)	Sarbanes					
Cuellar	Knollenberg	Saxton					
Cummings	Kucinich	Schakowsky					
Davis (AL)	Kuhl (NY)	Schiff					
Davis (CA)	LaHood	Schwartz					
Davis (IL)	Langevin	Scott (GA)					
Davis (KY)	Lantos	Scott (VA)					
Davis, Lincoln	Larsen (WA)	Serrano					
Davis, Tom	Larson (CT)	Sestak					
DeFazio	Latham	Shays					
DeGette	Lee	Shea-Porter					
Delahunt	Levin	Sherman					
DeLauro	Lewis (GA)	Shimkus					
Dent	Lipinski	Shuler					
Diaz-Balart, L.	LoBiondo	Sires					
Diaz-Balart, M.	Loebbecke	Skelton					
Dicks	Lofgren, Zoe	Slaughter					
Dingell	Lowey	Smith (NJ)					
Doggett	Lucas	Smith (TX)					
Donnelly	Lungren, Daniel	Smith (WA)					
Doolittle	E.	Snyder					
Doyle	Lynch	Solis					
Edwards	Mahoney (FL)	Souder					
Ehlers	Maloney (NY)	Space					
Ellis	Markley	Spratt					
Ellsworth	Marshall	Stark					
Emanuel	Matheson	Stupak					
Emerson	Matsui	Sutton					
Engel	McCarthy (NY)	Tanner					
English (PA)	McCaul (TX)	Tauscher					
Eshoo	McCollum (MN)	Taylor					
Etheridge	McCotter	Thompson (CA)					
Farr	McDermott	Thompson (MS)					
Fattah	McGovern	Tierney					
Ferguson	McHugh	Towns					
Filner	McIntyre	Udall (CO)					
Fortenberry	McMorris	Upton					
Fossella	Rodgers	Van Hollen					
Frank (MA)	McNerny	Velázquez					
Frelinghuysen	McNulty	Viscosky					
Garrett (NJ)	Meehan	Walden (OR)					
Gerlach	Meek (FL)	Walsh (NY)					
Giffords	Meeks (NY)	Walz (MN)					
Gilchrest	Melancon	Wasserman					
Gillibrand	Michaud	Schultz					

ANSWERED “PRESENT”—1

Boyd (KS)

NOT VOTING—9

Andrews Kanjorski Millender-
Carson Kingston McDonald
Davis, Jo Ann Lampson Udall (NM)
Hunter

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes left on this vote.

□ 1933

Mr. SIMPSON and Mr. HAYES changed their vote from “aye” to “no.”

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN EN-GROSSMENT OF H.R. 1401, RAIL AND PUBLIC TRANSPORTATION SECURITY ACT OF 2007

Mr. THOMPSON of Mississippi. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to make technical corrections in the engrossment of H.R. 1401, including corrections in spelling, punctuation, section numbering, and cross-referencing and the insertion of appropriate headings.

The SPEAKER pro tempore (Mr. KIND). Is there objection to the request of the gentleman from Mississippi?