

S 184 RS

**Calendar No. 26**

110th CONGRESS

1st Session

**S. 184**

To provide improved rail and surface transportation security.

**IN THE SENATE OF THE UNITED STATES**

**January 4, 2007**

Mr. INOUE (for himself, Mr. STEVENS, Mr. LAUTENBERG, Ms. SNOWE, Mr. ROCKEFELLER, Mr. KERRY, Mr. LIEBERMAN, Mrs. BOXER, Mr. PRYOR, Mr. CARPER, Mr. BIDEN, Mr. BAUCUS, Mrs. CLINTON, Mr. SCHUMER, Mr. DORGAN, Ms. MIKULSKI, Mr. DURBIN, Mr. MENENDEZ, Mrs. HUTCHISON, Mr. SPECTER, Ms. KLOBUCHAR, Ms. COLLINS, and Ms. CANTWELL) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

**February 15, 2007**

Reported by Mr. INOUE, with an amendment

**[Strike out all after the enacting clause and insert the part printed in italic]**

**A BILL**

To provide improved rail and surface transportation security.

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

**[Struck out->] SECTION 1. SHORT TITLE. [<-Struck out]**

[Struck out->] This Act may be cited as the `Surface Transportation and Rail Security Act of 2007'. [<-Struck out]

**[Struck out->] SEC. 2. TABLE OF CONTENTS. [<-Struck out]**

[Struck out->] The table of contents for this Act is as follows:  
[<-Struck out]

[Struck out->] Sec. 1. Short title. [<-Struck out]

[Struck out->] Sec. 2. Table of contents. [<-Struck out]

**[Struck out->] TITLE I--IMPROVED RAIL SECURITY [<-Struck out]**

[Struck out->] Sec. 101. Rail transportation security risk assessment. [<-Struck out]

[Struck out->] Sec. 102. Systemwide amtrak security upgrades.  
[<-Struck out]

[Struck out->] Sec. 103. Fire and life-safety improvements.  
[<-Struck out]

[Struck out->] Sec. 104. Freight and passenger rail security upgrades. [<-Struck out]

[Struck out->] Sec. 105. Rail security research and development. [<-Struck out]

[Struck out->] Sec. 106. Oversight and grant procedures. [<-Struck out]

[Struck out->] Sec. 107. Amtrak plan to assist families of passengers involved in rail passenger accidents. [<-Struck out]

out]

[Struck out->] Sec. 108. Northern border rail passenger report. [<-Struck out]

[Struck out->] Sec. 109. Rail worker security training program. [<-Struck out]

[Struck out->] Sec. 110. Whistleblower protection program. [<-Struck out]

[Struck out->] Sec. 111. High hazard material security threat mitigation plans. [<-Struck out]

[Struck out->] Sec. 112. Memorandum of agreement. [<-Struck out]

[Struck out->] Sec. 113. Rail security enhancements. [<-Struck out]

[Struck out->] Sec. 114. Public awareness. [<-Struck out]

[Struck out->] Sec. 115. Railroad high hazard material tracking. [<-Struck out]

[Struck out->] Sec. 116. Authorization of appropriations. [<-Struck out]

**[Struck out->] TITLE II--IMPROVED MOTOR CARRIER, BUS, AND HAZARDOUS MATERIAL SECURITY [<-Struck out]**

[Struck out->] Sec. 201. Hazardous materials highway routing. [<-Struck out]

[Struck out->] Sec. 202. Motor carrier high hazard material tracking. [<-Struck out]

[Struck out->] Sec. 203. Hazardous materials security inspections and enforcement. [<-Struck out]

[Struck out->] Sec. 204. Truck security assessment. [<-Struck out]

[Struck out->] Sec. 205. National public sector response system. [<-Struck out]

[Struck out->] Sec. 206. Over-the-road bus security assistance. [<-Struck out]

[Struck out->] Sec. 207. Pipeline security and incident recovery plan. [<-Struck out]

[Struck out->] Sec. 208. Pipeline security inspections and enforcement. [<-Struck out]

[Struck out->] Sec. 209. Technical corrections. [<-Struck out]

[Struck out->] Sec. 210. Certain personnel limitations not to apply. [<-Struck out]

**[Struck out->] TITLE I--IMPROVED RAIL SECURITY [<-Struck out]**

**[Struck out->] SEC. 101. RAIL TRANSPORTATION SECURITY RISK ASSESSMENT. [<-Struck out]**

[Struck out->] (a) In General- [<-Struck out]

[Struck out->] (1) VULNERABILITY AND RISK ASSESSMENT- The Secretary of Homeland Security shall establish a task force, including the Transportation Security Administration, the Department of Transportation, and other appropriate agencies, to complete a vulnerability and risk assessment of freight and passenger rail transportation (encompassing railroads, as that term is defined in section 20102(1) of title 49, United States Code). The assessment

shall include-- [~~Struck out~~]

[~~Struck out->~~] (A) a methodology for conducting the risk assessment, including timelines, that addresses how the Department of Homeland Security will work with the entities describe in subsection (b) and make use of existing Federal expertise within the Department of Homeland Security, the Department of Transportation, and other appropriate agencies; [~~Struck out~~]

[~~Struck out->~~] (B) identification and evaluation of critical assets and infrastructures; [~~Struck out~~]

[~~Struck out->~~] (C) identification of vulnerabilities and risks to those assets and infrastructures; [~~Struck out~~]

[~~Struck out->~~] (D) identification of vulnerabilities and risks that are specific to the transportation of hazardous materials via railroad; [~~Struck out~~]

[~~Struck out->~~] (E) identification of security weaknesses in passenger and cargo security, transportation infrastructure, protection systems, procedural policies, communications systems, employee training, emergency response planning, and any other area identified by the assessment; and [~~Struck out~~]

[~~Struck out->~~] (F) an account of actions taken or planned by both public and private entities to address identified rail security issues and assess the effective integration of such actions. [~~Struck out~~]

[~~Struck out->~~] (2) RECOMMENDATIONS- Based on the assessment conducted under paragraph (1), the Secretary, in consultation with the Secretary of Transportation, shall develop prioritized recommendations for improving rail security, including any recommendations the Secretary has for-- [~~Struck out~~]

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

[Struck out->] (B) deploying equipment to detect explosives and hazardous chemical, biological, and radioactive substances, and any appropriate countermeasures; [<-Struck out]

[Struck out->] (C) training appropriate railroad or railroad shipper employees in terrorism prevention, passenger evacuation, and response activities; [<-Struck out]

[Struck out->] (D) conducting public outreach campaigns on passenger railroads; [<-Struck out]

[Struck out->] (E) deploying surveillance equipment; and [<-Struck out]

[Struck out->] (F) identifying the immediate and long-term costs of measures that may be required to address those risks. [<-Struck out]

[Struck out->] (3) PLANS- The report required by subsection (c) shall include-- [<-Struck out]

[Struck out->] (A) a plan, developed in consultation with the freight and intercity passenger railroads, and State and local governments, for the Federal government to provide increased security support at high or severe threat levels of alert; [<-Struck out]

[Struck out->] (B) a plan for coordinating existing and planned rail security initiatives undertaken by the public and private sectors; and [<-Struck out]

[Struck out->] (C) a contingency plan, developed in conjunction with freight and intercity and commuter passenger railroads, to ensure the continued movement of freight and passengers in the event of an attack affecting the railroad system, which shall contemplate-- [<-Struck out]

[Struck out->] (i) the possibility of rerouting traffic due to the loss of critical infrastructure, such as a bridge, tunnel, yard, or station; and [<-Struck out]

[Struck out->] (ii) methods of continuing railroad service in the Northeast Corridor in the event of a commercial power loss, or catastrophe affecting a critical bridge, tunnel, yard, or station. [<-Struck out]

[Struck out->] (b) CONSULTATION; USE OF EXISTING RESOURCES- In carrying out the assessment and developing the recommendations and plans required by subsection (a), the Secretary of Homeland Security shall consult with rail management, rail labor, owners or lessors of rail cars used to transport hazardous materials, first responders, shippers of hazardous materials, public safety officials, and other relevant parties. [<-Struck out]

[Struck out->] (c) Report- [<-Struck out]

[Struck out->] (1) CONTENTS- Within 180 days after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security a report containing the assessment, prioritized recommendations, and plans required by subsection (a) and an estimate of the

cost to implement such recommendations. [~~Struck out~~]

[~~Struck out->~~] (2) FORMAT- The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary. [~~Struck out~~]

[~~Struck out->~~] (d) ANNUAL UPDATES- The Secretary, in consultation with the Secretary of Transportation, shall update the assessment and recommendations each year and transmit a report, which may be submitted in both classified and redacted formats, to the Committees named in subsection (c)(1), containing the updated assessment and recommendations. [~~Struck out~~]

[~~Struck out->~~] (e) FUNDING- Out of funds appropriated pursuant to section 114(u) of title 49, United States Code, as amended by section 116 of this Act, there shall be made available to the Secretary of Homeland Security to carry out this section \$5,000,000 for fiscal year 2008. [~~Struck out~~]

**[~~Struck out->~~] SEC. 102. SYSTEMWIDE AMTRAK SECURITY UPGRADES.**  
**[~~Struck out~~]**

[~~Struck out->~~] (a) IN GENERAL- Subject to subsection (c) the Secretary of Homeland Security, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration), is authorized to make grants to Amtrak-- [~~Struck out~~]

[~~Struck out->~~] (1) to secure major tunnel access points and ensure tunnel integrity in New York, Baltimore, and Washington, DC; [~~Struck out~~]

[~~Struck out->~~] (2) to secure Amtrak trains; [~~Struck out~~]

[~~Struck out->~~] (3) to secure Amtrak stations; [~~Struck out~~]

[~~Struck out->~~] (4) to obtain a watch list identification system approved by the Secretary; [~~Struck out~~]

[Struck out->] (5) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible; [<-Struck out]

[Struck out->] (6) to hire additional police and security officers, including canine units; [<-Struck out]

[Struck out->] (7) to expand emergency preparedness efforts; and [<-Struck out]

[Struck out->] (8) for employee security training. [<-Struck out]

[Struck out->] (b) CONDITIONS- The Secretary of Transportation shall disburse funds to Amtrak provided under subsection (a) for projects contained in a systemwide security plan approved by the Secretary of Homeland Security. The plan shall include appropriate measures to address security awareness, emergency response, and passenger evacuation training. [<-Struck out]

[Struck out->] (c) EQUITABLE GEOGRAPHIC ALLOCATION- The Secretary shall ensure that, subject to meeting the highest security needs on Amtrak's entire system and consistent with the risk assessment required under section 101, stations and facilities located outside of the Northeast Corridor receive an equitable share of the security funds authorized by this section. [<-Struck out]

[Struck out->] (d) AVAILABILITY OF FUNDS- Out of funds appropriated pursuant to section 114(u) of title 49, United States Code, as amended by section 116 of this Act,, there shall be made available to the Secretary of Homeland Security and the Assistant Secretary of Homeland Security (Transportation Security Administration) to carry out this section-- [<-Struck out]

[Struck out->] (1) \$63,500,000 for fiscal year 2008; [<-Struck out]

[Struck out->] (2) \$30,000,000 for fiscal year 2009; and [~~Struck out~~]

[Struck out->] (3) \$30,000,000 for fiscal year 2010. [~~Struck out~~]

[Struck out->] Amounts appropriated pursuant to this subsection shall remain available until expended. [~~Struck out~~]

**[Struck out->] SEC. 103. FIRE AND LIFE-SAFETY IMPROVEMENTS.**

**[~~Struck out~~]**

[Struck out->] (a) LIFE-SAFETY NEEDS- The Secretary of Transportation, in consultation with the Secretary of Homeland Security, is authorized to make grants to Amtrak for the purpose of making fire and life-safety improvements to Amtrak tunnels on the Northeast Corridor in New York, NY, Baltimore, MD, and Washington, DC. [~~Struck out~~]

[Struck out->] (b) AUTHORIZATION OF APPROPRIATIONS- Out of funds appropriated pursuant to section 116(b) of this Act, there shall be made available to the Secretary of Transportation for the purposes of carrying out subsection (a) the following amounts: [~~Struck out~~]

[Struck out->] (1) For the 6 New York tunnels to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers-- [~~Struck out~~]

[Struck out->] (A) \$100,000,000 for fiscal year 2008; [~~Struck out~~]

[Struck out->] (B) \$100,000,000 for fiscal year 2009; [~~Struck out~~]

[Struck out->] (C) \$100,000,000 for fiscal year 2010; and [~~Struck out~~]

[Struck out->] (D) \$100,000,000 for fiscal year 2011. [<-Struck out]

[Struck out->] (2) For the Baltimore & Potomac tunnel and the Union tunnel, together, to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades-- [<-Struck out]

[Struck out->] (A) \$10,000,000 for fiscal year 2008; [<-Struck out]

[Struck out->] (B) \$10,000,000 for fiscal year 2009; [<-Struck out]

[Struck out->] (C) \$10,000,000 for fiscal year 2010; and [<-Struck out]

[Struck out->] (D) \$10,000,000 for fiscal year 2011. [<-Struck out]

[Struck out->] (3) For the Washington, DC, Union Station tunnels to improve ventilation, communication, lighting, and passenger egress upgrades-- [<-Struck out]

[Struck out->] (A) \$8,000,000 for fiscal year 2008; [<-Struck out]

[Struck out->] (B) \$8,000,000 for fiscal year 2009; [<-Struck out]

[Struck out->] (C) \$8,000,000 for fiscal year 2010; and [<-Struck out]

[Struck out->] (D) \$8,000,000 for fiscal year 2011. [<-Struck out]

[Struck out->] (c) INFRASTRUCTURE UPGRADES- Out of funds appropriated pursuant to section 116(b) of this Act, there shall be made available to the Secretary of Transportation for fiscal

year 2008 \$3,000,000 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels. [~~Struck out~~]

[~~Struck out->~~] (d) AVAILABILITY OF APPROPRIATED FUNDS- Amounts made available pursuant to this section shall remain available until expended. [~~Struck out~~]

[~~Struck out->~~] (e) PLANS REQUIRED- The Secretary of Transportation may not make amounts available to Amtrak for obligation or expenditure under subsection (a)-- [~~Struck out~~]

[~~Struck out->~~] (1) until Amtrak has submitted to the Secretary, and the Secretary has approved, an engineering and financial plan for such projects; and [~~Struck out~~]

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

[~~Struck out->~~] (f) REVIEW OF PLANS- The Secretary of Transportation shall complete the review of the plans required by paragraphs (1) and (2) of subsection (e) and approve or disapprove the plans within 45 days after the date on which each such plan is submitted by Amtrak. If the Secretary determines that a plan is incomplete or deficient, the Secretary shall notify Amtrak of the incomplete items or deficiencies and Amtrak shall, within 30 days after receiving the Secretary's notification, submit a modified plan for the Secretary's review. Within 15 days after receiving additional information on items previously included in the plan, and within 45 days after receiving items newly included in a modified plan, the Secretary shall either approve the modified plan, or, if the Secretary finds the plan is still incomplete or deficient, the Secretary shall identify in writing to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of

Representatives Committee on Homeland Security the portions of the plan the Secretary finds incomplete or deficient, approve all other portions of the plan, obligate the funds associated with those other portions, and execute an agreement with Amtrak within 15 days thereafter on a process for resolving the remaining portions of the plan. [~~Struck out~~]

[~~Struck out->~~] (g) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS- The Secretary shall, taking into account the need for the timely completion of all portions of the tunnel projects described in subsection (a)-- [~~Struck out~~]

[~~Struck out->~~] (1) consider the extent to which rail carriers other than Amtrak use or plan to use the tunnels; [~~Struck out~~]

[~~Struck out->~~] (2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and [~~Struck out~~]

[~~Struck out->~~] (3) obtain financial contributions or commitments from such other rail carriers at levels reflecting the extent of their use or planned use of the tunnels, if feasible. [~~Struck out~~]

**[~~Struck out->~~] SEC. 104. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES. [~~Struck out~~]**

[~~Struck out->~~] (a) SECURITY IMPROVEMENT GRANTS- The Secretary of Homeland Security, through the Assistant Secretary of Homeland Security (Transportation Security Administration) and other appropriate agencies, is authorized to make grants to freight railroads, the Alaska Railroad, hazardous materials shippers, owners of rail cars used in the transportation of hazardous materials, universities, colleges and research centers, State and local governments (for rail passenger facilities and infrastructure not owned by Amtrak), and, through the Secretary of Transportation, to Amtrak, for full or partial reimbursement of costs incurred in the conduct of activities to prevent or respond to acts of terrorism, sabotage, or other intercity

passenger rail and freight rail security vulnerabilities and risks identified under section 101, including-- [~~Struck out~~]

[~~Struck out~~] (1) security and redundancy for critical communications, computer, and train control systems essential for secure rail operations; [~~Struck out~~]

[~~Struck out~~] (2) accommodation of rail cargo or passenger screening equipment at the United States-Mexico border, the United States-Canada border, or other ports of entry; [~~Struck out~~]

[~~Struck out~~] (3) the security of hazardous material transportation by rail; [~~Struck out~~]

[~~Struck out~~] (4) secure intercity passenger rail stations, trains, and infrastructure; [~~Struck out~~]

[~~Struck out~~] (5) structural modification or replacement of rail cars transporting high hazard materials to improve their resistance to acts of terrorism; [~~Struck out~~]

[~~Struck out~~] (6) employee security awareness, preparedness, passenger evacuation, and emergency response training; [~~Struck out~~]

[~~Struck out~~] (7) public security awareness campaigns for passenger train operations; [~~Struck out~~]

[~~Struck out~~] (8) the sharing of intelligence and information about security threats; [~~Struck out~~]

[~~Struck out~~] (9) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible; [~~Struck out~~]

[~~Struck out~~] (10) to hire additional police and security officers, including canine units; and [~~Struck out~~]

[Struck out->] (11) other improvements recommended by the report required by section 101, including infrastructure, facilities, and equipment upgrades. [<-Struck out]

[Struck out->] (b) ACCOUNTABILITY- The Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this title and the priorities and other criteria developed by the Secretary. [<-Struck out]

[Struck out->] (c) ALLOCATION- The Secretary shall distribute the funds authorized by this section based on risk and vulnerability as determined under section 101, and shall encourage non-Federal financial participation in awarding grants. With respect to grants for intercity passenger rail security, the Secretary shall also take into account passenger volume and whether a station is used by commuter rail passengers as well as intercity rail passengers. [<-Struck out]

[Struck out->] (d) CONDITIONS- The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless Amtrak meets the conditions set forth in section 102(b) of this Act. [<-Struck out]

[Struck out->] (e) ALLOCATION BETWEEN RAILROADS AND OTHERS- Unless as a result of the assessment required by section 101 the Secretary of Homeland Security determines that critical rail transportation security needs require reimbursement in greater amounts to any eligible entity, no grants under this section may be made-- [<-Struck out]

[Struck out->] (1) in excess of \$45,000,000 to Amtrak; or [<-Struck out]

[Struck out->] (2) in excess of \$80,000,000 for the purposes described in paragraphs (3) and (5) of subsection (a). [<-Struck out]

[Struck out->] (f) AUTHORIZATION OF APPROPRIATIONS- Out of funds

appropriated pursuant to section 114(u) of title 49, United States Code, as amended by section 116 of this Act,, there shall be made available to the Secretary of Homeland Security to carry out this section-- [~~Struck out~~]

[~~Struck out->~~] (1) \$100,000,000 for fiscal year 2008; [~~Struck out~~]

[~~Struck out->~~] (2) \$100,000,000 for fiscal year 2009; and [~~Struck out~~]

[~~Struck out->~~] (3) \$100,000,000 for fiscal year 2010. [~~Struck out~~]

[~~Struck out->~~] Amounts made available pursuant to this subsection shall remain available until expended. [~~Struck out~~]

[~~Struck out->~~] (g) HIGH HAZARD MATERIALS DEFINED- In this section, the term `high hazard materials' means quantities of poison inhalation hazard materials, Class 2.3 gases, Class 6.1 materials, and anhydrous ammonia that the Secretary, in consultation with the Secretary of Transportation, determines pose a security risk. [~~Struck out~~]

## **[~~Struck out->~~] SEC. 105. RAIL SECURITY RESEARCH AND DEVELOPMENT. [~~Struck out~~]**

[~~Struck out->~~] (a) ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM- The Secretary of Homeland Security, through the Under Secretary for Science and Technology and the Assistant Secretary of Homeland Security (Transportation Security Administration), in consultation with the Secretary of Transportation shall carry out a research and development program for the purpose of improving freight and intercity passenger rail security that may include research and development projects to-- [~~Struck out~~]

[~~Struck out->~~] (1) reduce the vulnerability of passenger trains, stations, and equipment to explosives and hazardous chemical, biological, and radioactive substances; [~~Struck~~

out]

[Struck out->] (2) test new emergency response techniques and technologies; [<-Struck out]

[Struck out->] (3) develop improved freight technologies, including-- [<-Struck out]

[Struck out->] (A) technologies for sealing rail cars; [<-Struck out]

[Struck out->] (B) automatic inspection of rail cars; [<-Struck out]

[Struck out->] (C) communication-based train controls; and [<-Struck out]

[Struck out->] (D) emergency response training; [<-Struck out]

[Struck out->] (4) test wayside detectors that can detect tampering with railroad equipment; [<-Struck out]

[Struck out->] (5) support enhanced security for the transportation of hazardous materials by rail, including-- [<-Struck out]

[Struck out->] (A) technologies to detect a breach in a tank car or other rail car used to transport hazardous materials and transmit information about the integrity of cars to the train crew or dispatcher; [<-Struck out]

[Struck out->] (B) research to improve tank car integrity, with a focus on tank cars that carry high hazard materials (as defined in section 104(g) of this Act); and [<-Struck out]

[Struck out->] (C) techniques to transfer hazardous

materials from rail cars that are damaged or otherwise represent an unreasonable risk to human life or public safety; and [~~Struck out~~]

[~~Struck out->~~] (6) other projects that address vulnerabilities and risks identified under section 101. [~~Struck out~~]

[~~Struck out->~~] (b) COORDINATION WITH OTHER RESEARCH INITIATIVES- The Secretary of Homeland Security shall ensure that the research and development program authorized by this section is coordinated with other research and development initiatives at the Department of Homeland Security and the Department of Transportation. The Secretary shall carry out any research and development project authorized by this section through a reimbursable agreement with the Secretary of Transportation, if the Secretary of Transportation-- [~~Struck out~~]

[~~Struck out->~~] (1) is already sponsoring a research and development project in a similar area; or [~~Struck out~~]

[~~Struck out->~~] (2) has a unique facility or capability that would be useful in carrying out the project. [~~Struck out~~]

[~~Struck out->~~] (c) GRANTS AND ACCOUNTABILITY- To carry out the research and development program, the Secretary may award grants to the entities described in section 104(a) and shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this title and the priorities and other criteria developed by the Secretary. [~~Struck out~~]

[~~Struck out->~~] (d) AUTHORIZATION OF APPROPRIATIONS- Out of funds appropriated pursuant to section 114(u) of title 49, United States Code, as amended by section 116 of this Act,, there shall be made available to the Secretary of Homeland Security to carry out this section-- [~~Struck out~~]

[~~Struck out->~~] (1) \$33,000,000 for fiscal year 2008; [~~Struck out~~]

[Struck out->] (2) \$33,000,000 for fiscal year 2009; and [<-Struck out]

[Struck out->] (3) \$33,000,000 for fiscal year 2010. [<-Struck out]

[Struck out->] Amounts made available pursuant to this subsection shall remain available until expended. [<-Struck out]

## **[Struck out->] SEC. 106. OVERSIGHT AND GRANT PROCEDURES. [<-Struck out]**

[Struck out->] (a) SECRETARIAL OVERSIGHT- The Secretary of Homeland Security may use up to 0.5 percent of amounts made available for capital projects under this Act to enter into contracts for the review of proposed capital projects and related program management plans and to oversee construction of such projects. [<-Struck out]

[Struck out->] (b) USE OF FUNDS- The Secretary may use amounts available under subsection (a) of this subsection to make contracts to audit and review the safety, procurement, management, and financial compliance of a recipient of amounts under this title. [<-Struck out]

[Struck out->] (c) PROCEDURES FOR GRANT AWARD- The Secretary shall, within 90 days after the date of enactment of this Act, prescribe procedures and schedules for the awarding of grants under this title, including application and qualification procedures (including a requirement that the applicant have a security plan), and a record of decision on applicant eligibility. The procedures shall include the execution of a grant agreement between the grant recipient and the Secretary and shall be consistent, to the extent practicable, with the grant procedures established under section 70107 of title 46, United States Code. [<-Struck out]

## **[Struck out->] SEC. 107. AMTRAK PLAN TO ASSIST FAMILIES OF**

## **PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS. [~~Struck out~~]**

[~~Struck out~~->] (a) IN GENERAL- Chapter 243 of title 49, United States Code, is amended by adding at the end the following: [~~Struck out~~]

### **[~~Struck out~~->] `sec. 24316. Plans to address needs of families of passengers involved in rail passenger accidents [~~Struck out~~]**

[~~Struck out~~->] `(a) SUBMISSION OF PLAN- Not later than 6 months after the date of the enactment of the Surface Transportation and Rail Security Act of 2007, Amtrak shall submit to the Chairman of the National Transportation Safety Board, the Secretary of Transportation, and the Secretary of Homeland Security a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving an Amtrak intercity train and resulting in a loss of life. [~~Struck out~~]

[~~Struck out~~->] `(b) CONTENTS OF PLANS- The plan to be submitted by Amtrak under subsection (a) shall include, at a minimum, the following: [~~Struck out~~]

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

[~~Struck out~~->] `(2) A plan for creating and publicizing a reliable, toll-free telephone number within 4 hours after such an accident occurs, and for providing staff, to handle

calls from the families of the passengers. [<-Struck out]

[Struck out->] `(3) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, by suitably trained individuals.

[<-Struck out]

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

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

[Struck out->] `(6) A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers. [<-Struck out]

[Struck out->] `(7) An assurance that Amtrak will provide adequate training to its employees and agents to meet the needs of survivors and family members following an accident. [<-Struck out]

[Struck out->] `(c) USE OF INFORMATION- The National Transportation Safety Board, the Secretary of Transportation, and Amtrak may not release any personal information on a list obtained under subsection (b)(1) but may provide information on the list about a passenger to the family of the passenger to the extent that the Board or Amtrak considers appropriate. [<-Struck

out]

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

[Struck out->] `(e) LIMITATION ON STATUTORY CONSTRUCTION- Nothing in this section may be construed as limiting the actions that Amtrak may take, or the obligations that Amtrak may have, in providing assistance to the families of passengers involved in a rail passenger accident. [<-Struck out]

[Struck out->] `(f) FUNDING- Out of funds appropriated pursuant to section 116(b) of the Surface Transportation and Rail Security Act of 2007, there shall be made available to the Secretary of Transportation for the use of Amtrak \$500,000 for fiscal year 2007 to carry out this section. Amounts made available pursuant to this subsection shall remain available until expended.'. [<-Struck out]

[Struck out->] (b) CONFORMING AMENDMENT- The chapter analysis for chapter 243 of title 49, United States Code, is amended by adding at the end the following: [<-Struck out]

[Struck out->] `24316. Plan to assist families of passengers involved in rail passenger accidents.'. [<-Struck out]

**[Struck out->] SEC. 108. NORTHERN BORDER RAIL PASSENGER REPORT. [<-Struck out]**

[Struck out->] Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration), the Secretary of Transportation, heads of other appropriate Federal departments, and agencies and the

National Railroad Passenger Corporation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security that contains--  
[<-Struck out]

[Struck out->] (1) a description of the current system for screening passengers and baggage on passenger rail service between the United States and Canada; [<-Struck out]

[Struck out->] (2) an assessment of the current program to provide preclearance of airline passengers between the United States and Canada as outlined in 'The Agreement on Air Transport Preclearance between the Government of Canada and the Government of the United States of America', dated January 18, 2001; [<-Struck out]

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

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

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

[Struck out->] (6) a description of the position of the Government of Canada and relevant Canadian agencies with

respect to preclearance of such passengers; [<-Struck out]

[Struck out->] (7) a draft of any changes in existing Federal law necessary to provide for pre-screening of such passengers and providing pre-screened passenger lists to the Department of Homeland Security; and [<-Struck out]

[Struck out->] (8) an analysis of the feasibility of reinstating in-transit inspections onboard international Amtrak trains. [<-Struck out]

**[Struck out->] SEC. 109. RAIL WORKER SECURITY TRAINING PROGRAM. [<-Struck out]**

[Struck out->] (a) In General- Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security and the Secretary of Transportation, in consultation with appropriate law enforcement, security, and terrorism experts, representatives of railroad carriers, and nonprofit employee organizations that represent rail workers, shall develop and issue detailed guidance for a rail worker security training program to prepare front-line workers for potential threat conditions. The guidance shall take into consideration any current security training requirements or best practices. [<-Struck out]

[Struck out->] (b) Program Elements- The guidance developed under subsection (a) shall include elements, as appropriate to passenger and freight rail service, that address the following: [<-Struck out]

[Struck out->] (1) Determination of the seriousness of any occurrence. [<-Struck out]

[Struck out->] (2) Crew communication and coordination. [<-Struck out]

[Struck out->] (3) Appropriate responses to defend or protect oneself. [<-Struck out]

[Struck out->] (4) Use of protective devices. [<-Struck out]

[Struck out->] (5) Evacuation procedures. [<-Struck out]

[Struck out->] (6) Psychology of terrorists to cope with hijacker behavior and passenger responses. [<-Struck out]

[Struck out->] (7) Situational training exercises regarding various threat conditions. [<-Struck out]

[Struck out->] (8) Any other subject the Secretary considers appropriate. [<-Struck out]

[Struck out->] (c) Railroad Carrier Programs- Not later than 90 days after the Secretary of Homeland Security issues guidance under subsection (a) in final form, each railroad carrier shall develop a rail worker security training program in accordance with that guidance and submit it to the Secretary for review. Not later than 30 days after receiving a railroad carrier's program under this subsection, the Secretary shall review the program and transmit comments to the railroad carrier concerning any revisions the Secretary considers necessary for the program to meet the guidance requirements. A railroad carrier shall respond to the Secretary's comments within 30 days after receiving them. [<-Struck out]

[Struck out->] (d) Training- Not later than 1 year after the Secretary reviews the training program developed by a railroad carrier under this section, the railroad carrier shall complete the training of all front-line workers in accordance with that program. The Secretary shall review implementation of the training program of a representative sample of railroad carriers and report to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security on the number of reviews conducted and the results. The Secretary may submit the report in both classified and redacted formats as necessary. [<-Struck out]

[Struck out->] (e) Updates- The Secretary shall update the training guidance issued under subsection (a) as appropriate to reflect new or different security threats. Railroad carriers shall revise their programs accordingly and provide additional training to their front-line workers within a reasonable time after the guidance is updated. [<-Struck out]

[Struck out->] (f) Front-Line Workers Defined- In this section, the term `front-line workers' means security personnel, dispatchers, train operators, other onboard employees, maintenance and maintenance support personnel, bridge tenders, as well as other appropriate employees of railroad carriers, as defined by the Secretary. [<-Struck out]

[Struck out->] (g) Other Employees- The Secretary of Homeland Security shall issue guidance and best practices for a rail shipper employee security program containing the elements listed under subsection (b) as appropriate. [<-Struck out]

**[Struck out->] SEC. 110. WHISTLEBLOWER PROTECTION PROGRAM. [<-Struck out]**

[Struck out->] (a) IN GENERAL- Subchapter A of chapter 201 of title 49, United States Code, is amended by inserting after section 20117 the following: [<-Struck out]

**[Struck out->] `sec. 20118. Whistleblower protection for rail security matters [<-Struck out]**

[Struck out->] `(a) DISCRIMINATION AGAINST EMPLOYEE- No rail carrier engaged in interstate or foreign commerce may discharge a railroad employee or otherwise discriminate against a railroad employee because the employee (or any person acting pursuant to a request of the employee)-- [<-Struck out]

[Struck out->] `(1) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to a reasonably perceived threat, in good faith, to security; or

[<-Struck out]

[Struck out->] `(2) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding a reasonably perceived threat, in good faith, to security; or  
[<-Struck out]

[Struck out->] `(3) refused to violate or assist in the violation of any law, rule or regulation related to rail security. [<-Struck out]

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

[Struck out->] `(c) PROCEDURAL REQUIREMENTS- Except as provided in subsection (b), the procedure set forth in section 42121(b)(2) (B) of this subtitle, including the burdens of proof, applies to any complaint brought under this section. [<-Struck out]

[Struck out->] `(d) ELECTION OF REMEDIES- An employee of a railroad carrier may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the carrier. [<-Struck out]

[Struck out->] `(e) Disclosure of Identity- [<-Struck out]

[Struck out->] `(1) Except as provided in paragraph (2) of

this subsection, or with the written consent of the employee, the Secretary of Transportation may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this section. [~~Struck out~~]

[~~Struck out->~~] `(2) The Secretary shall disclose to the Attorney General the name of an employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement.'. [~~Struck out~~]

[~~Struck out->~~] (b) CONFORMING AMENDMENT- The chapter analysis for chapter 201 of title 49, United States Code, is amended by inserting after the item relating to section 20117 the following: [~~Struck out~~]

[~~Struck out->~~] `20118. Whistleblower protection for rail security matters.'. [~~Struck out~~]

**[~~Struck out->~~] SEC. 111. HIGH HAZARD MATERIAL SECURITY THREAT MITIGATION PLANS. [~~Struck out~~]**

[~~Struck out->~~] (a) IN GENERAL- The Secretary of Homeland Security, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration) and the Secretary of Transportation, shall require rail carriers transporting a high hazard material, as defined in section 104 (g) of this Act to develop a high hazard material security threat mitigation plan containing appropriate measures, including alternative routing and temporary shipment suspension options, to address assessed risks to high consequence targets. The plan, and any information submitted to the Secretary under this section shall be protected as sensitive security information under the regulations prescribed under section 114 (s) of title 49, United States Code. [~~Struck out~~]

[~~Struck out->~~] (b) IMPLEMENTATION- A high hazard material security threat mitigation plan shall be put into effect by a rail carrier for the shipment of high hazardous materials by rail on the rail carrier's right-of-way when the threat levels of the

Homeland Security Advisory System are high or severe and specific intelligence of probable or imminent threat exists towards-- [~~Struck out~~]

[~~Struck out->~~] (1) a high-consequence target that is within the catastrophic impact zone of a railroad right-of-way used to transport high hazardous material; or [~~Struck out~~]

[~~Struck out->~~] (2) rail infrastructure or operations within the immediate vicinity of a high-consequence target. [~~Struck out~~]

[~~Struck out->~~] (c) COMPLETION AND REVIEW OF PLANS- [~~Struck out~~]

[~~Struck out->~~] (1) PLANS REQUIRED- Each rail carrier shall-- [~~Struck out~~]

[~~Struck out->~~] (A) submit a list of routes used to transport high hazard materials to the Secretary of Homeland Security within 60 days after the date of enactment of this Act; [~~Struck out~~]

[~~Struck out->~~] (B) develop and submit a high hazard material security threat mitigation plan to the Secretary within 180 days after it receives the notice of high consequence targets on such routes by the Secretary; and [~~Struck out~~]

[~~Struck out->~~] (C) submit any subsequent revisions to the plan to the Secretary within 30 days after making the revisions. [~~Struck out~~]

[~~Struck out->~~] (2) REVIEW AND UPDATES- The Secretary, with assistance of the Secretary of Transportation, shall review the plans and transmit comments to the railroad carrier concerning any revisions the Secretary considers necessary. A railroad carrier shall respond to the Secretary's comments within 30 days after receiving them. Each rail carrier shall update and resubmit its plan for review not

less than every 2 years. [~~Struck out~~]

[~~Struck out->~~] (d) DEFINITIONS- In this section: [~~Struck out~~]

[~~Struck out->~~] (1) The term `high-consequence target' means a building, buildings, infrastructure, public space, or natural resource designated by the Secretary of Homeland Security that is viable terrorist target of national significance, the attack of which could result in-- [~~Struck out~~]

[~~Struck out->~~] (A) catastrophic loss of life; and [~~Struck out~~]

[~~Struck out->~~] (B) significantly damaged national security and defense capabilities; or [~~Struck out~~]

[~~Struck out->~~] (C) national economic harm. [~~Struck out~~]

[~~Struck out->~~] (2) The term `catastrophic impact zone' means the area immediately adjacent to, under, or above an active railroad right-of-way used to ship high hazard materials in which the potential release or explosion of the high hazard material being transported would likely cause-- [~~Struck out~~]

[~~Struck out->~~] (A) loss of life; or [~~Struck out~~]

[~~Struck out->~~] (B) significant damage to property or structures. [~~Struck out~~]

[~~Struck out->~~] (3) The term `rail carrier' has the meaning given that term by section 10102(5) of title 49, United States Code. [~~Struck out~~]

**[~~Struck out->~~] SEC. 112. MEMORANDUM OF AGREEMENT. [~~Struck out~~]**

[~~Struck out->~~] (a) MEMORANDUM OF AGREEMENT- Similar to the public transportation security annex between the two departments signed

on September 8, 2005, within 1 year after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Homeland Security shall execute and develop an annex to the memorandum of agreement between the two departments signed on September 28, 2004, governing the specific roles, delineations of responsibilities, resources and commitments of the Department of Transportation and the Department of Homeland Security, respectively, in addressing railroad transportation security matters, including the processes the departments will follow to promote communications, efficiency, and nonduplication of effort. [~~Struck out~~]

[~~Struck out->~~] (b) RAIL SAFETY REGULATIONS- Section 20103(a) of title 49, United States Code, is amended by striking `safety' the first place it appears, and inserting `safety, including security,'. [~~Struck out~~]

## **[~~Struck out->~~] SEC. 113. RAIL SECURITY ENHANCEMENTS. [~~Struck out~~]**

[~~Struck out->~~] (a) RAIL POLICE OFFICERS- Section 28101 of title 49, United States Code, is amended-- [~~Struck out~~]

[~~Struck out->~~] (1) by inserting `(a) IN GENERAL- ' before `Under'; and [~~Struck out~~]

[~~Struck out->~~] (2) by striking `the rail carrier' each place it appears and inserting `any rail carrier'. [~~Struck out~~]

[~~Struck out->~~] (b) REVIEW OF RAIL REGULATIONS- Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Homeland Security and the Assistant Secretary of Homeland Security (Transportation Security Administration), shall review existing rail regulations of the Department of Transportation for the purpose of identifying areas in which those regulations need to be revised to improve rail security. [~~Struck out~~]

## **[~~Struck out->~~] SEC. 114. PUBLIC AWARENESS. [~~Struck out~~]**

[Struck out->] Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall develop a national plan for public outreach and awareness. Such plan shall be designed to increase awareness of measures that the general public, railroad passengers, and railroad employees can take to increase railroad system security. Such plan shall also provide outreach to railroad carriers and their employees to improve their awareness of available technologies, ongoing research and development efforts, and available Federal funding sources to improve railroad security. Not later than 9 months after the date of enactment of this Act, the Secretary of Homeland Security shall implement the plan developed under this section.  
[<-Struck out]

**[Struck out->] SEC. 115. RAILROAD HIGH HAZARD MATERIAL TRACKING. [<-Struck out]**

[Struck out->] (a) Wireless Communications- [<-Struck out]

[Struck out->] (1) IN GENERAL- In conjunction with the research and development program established under section 105 and consistent with the results of research relating to wireless tracking technologies, the Secretary of Homeland Security, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration), shall develop a program that will encourage the equipping of rail cars transporting high hazard materials (as defined in section 104(g) of this Act) with wireless terrestrial or satellite communications technology that provides-- [<-Struck out]

[Struck out->] (A) car position location and tracking capabilities; [<-Struck out]

[Struck out->] (B) notification of rail car depressurization, breach, or unsafe temperature; and [<-Struck out]

[Struck out->] (C) notification of hazardous material release. [<-Struck out]

[Struck out->] (2) COORDINATION- In developing the program required by paragraph (1), the Secretary shall-- [<-Struck out]

[Struck out->] (A) consult with the Secretary of Transportation to coordinate the program with any ongoing or planned efforts for rail car tracking at the Department of Transportation; and [<-Struck out]

[Struck out->] (B) ensure that the program is consistent with recommendations and findings of the Department of Homeland Security's hazardous material tank rail car tracking pilot programs. [<-Struck out]

[Struck out->] (b) FUNDING- Out of funds appropriated pursuant to section 114(u) of title 49, United States Code, as amended by section 116 of this Act, there shall be made available to the Secretary of Homeland Security to carry out this section \$3,000,000 for each of fiscal years 2008, 2009, and 2010. [<-Struck out]

**[Struck out->] SEC. 116. AUTHORIZATION OF APPROPRIATIONS. [<-Struck out]**

[Struck out->] (a) TRANSPORTATION SECURITY ADMINISTRATION AUTHORIZATION- Section 114 of title 49, United States Code, is amended by adding at the end thereof the following: [<-Struck out]

[Struck out->] `(u) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated to the Secretary of Homeland Security for rail security-- [<-Struck out]

[Struck out->] `(1) \$228,000,000 for fiscal year 2008; [<-Struck out]

[Struck out->] `(2) \$183,000,000 for fiscal year 2009; and [  
Struck out]

[Struck out->] `(3) \$183,000,000 for fiscal year 2010.'. [  
Struck out]

[Struck out->] (b) DEPARTMENT OF TRANSPORTATION- There are authorized to be appropriated to the Secretary of Transportation to carry out this title and sections 20118 and 24316 of title 49, United States Code, as added by this Act-- [  
Struck out]

[Struck out->] (1) \$121,500,000 for fiscal year 2007; [  
Struck out]

[Struck out->] (2) \$118,000,000 for fiscal year 2008; [  
Struck out]

[Struck out->] (3) \$118,000,000 for fiscal year 2009; and [  
Struck out]

[Struck out->] (4) \$195,000,000 for fiscal year 2011. [  
Struck out]

**[Struck out->] TITLE II--IMPROVED MOTOR CARRIER, BUS, AND HAZARDOUS MATERIAL SECURITY [  
Struck out]**

**[Struck out->] SEC. 201. HAZARDOUS MATERIALS HIGHWAY ROUTING. [  
Struck out]**

[Struck out->] (a) ROUTE PLAN GUIDANCE- Within one year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Homeland Security, shall-- [  
Struck out]

[Struck out->] (1) document existing and proposed routes for the transportation of radioactive and non-radioactive hazardous materials by motor carrier, and develop a framework for using a Geographic Information System-based approach to characterize routes in the National Hazardous

Materials Route Registry; [~~Struck out~~]

[~~Struck out~~->] (2) assess and characterize existing and proposed routes for the transportation of radioactive and non-radioactive hazardous materials by motor carrier for the purpose of identifying measurable criteria for selecting routes based on safety and security concerns; [~~Struck out~~]

[~~Struck out~~->] (3) analyze current route-related hazardous materials regulations in the United States, Canada, and Mexico to identify cross-border differences and conflicting regulations; [~~Struck out~~]

[~~Struck out~~->] (4) document the concerns of the public, motor carriers, and State, local, territorial, and tribal governments about the highway routing of hazardous materials for the purpose of identifying and mitigating security vulnerabilities associated with hazardous material routes; [~~Struck out~~]

[~~Struck out~~->] (5) prepare guidance materials for State officials to assist them in identifying and reducing both safety concerns and security vulnerabilities when designating highway routes for hazardous materials consistent with the 13 safety-based non-radioactive materials routing criteria and radioactive materials routing criteria in Subpart C part 397 of title 49, Code of Federal Regulations; [~~Struck out~~]

[~~Struck out~~->] (6) develop a tool that will enable State officials to examine potential routes for the highway transportation of hazardous material and assess specific security vulnerabilities associated with each route and explore alternative mitigation measures; and [~~Struck out~~]

[~~Struck out~~->] (7) transmit to the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure a report on the actions taken to fulfill

paragraphs (1) through (6) of this subsection and any recommended changes to the routing requirements for the highway transportation of hazardous materials in part 397 of title 49, Code of Federal Regulations. [~~-Struck out~~]

[~~Struck out->~~] (b) ROUTE PLANS- [~~-Struck out~~]

[~~Struck out->~~] (1) ASSESSMENT- Within one year after the date of enactment of this Act, the Secretary of Transportation shall complete an assessment of the safety and national security benefits achieved under existing requirements for route plans, in written or electronic format, for explosives and radioactive materials. The assessment shall, at a minimum-- [~~-Struck out~~]

[~~Struck out->~~] (A) compare the percentage of Department of Transportation recordable incidents and the severity of such incidents for shipments of explosives and radioactive materials for which such route plans are required with the percentage of recordable incidents and the severity of such incidents for shipments of explosives and radioactive materials not subject to such route plans; and [~~-Struck out~~]

[~~Struck out->~~] (B) quantify the security and safety benefits, feasibility, and costs of requiring each motor carrier that is required to have a hazardous material safety permit under part 385 of title 49, Code of Federal Regulations, to maintain, follow, and carry such a route plan that meets the requirements of section 397.101 of that title when transporting the type and quantity of hazardous materials described in section 385.403 of that title, taking into account the various segments of the trucking industry, including tank truck, truckload and less than truckload carriers. [~~-Struck out~~]

[~~Struck out->~~] (2) REPORT- Within one year after the date of enactment of this Act, the Secretary of Transportation shall submit a report to the Senate Committee on Commerce, Science, and Transportation, and the House of

Representatives Committee on Transportation and Infrastructure containing the findings and conclusions of the assessment. [~~Struck out~~]

[~~Struck out->~~] (c) REQUIREMENT- The Secretary shall require motor carriers that have a hazardous material safety permit under part 385 of title 49, Code of Federal Regulations, to maintain, follow, and carry a route plan, in written or electronic format, that meets the requirements of section 397.101 of that title when transporting the type and quantity of hazardous materials described in section 385.403 of that title if the Secretary determines, under the assessment required in subsection (b), that such a requirement would enhance the security and safety of the nation without imposing unreasonable costs or burdens upon motor carriers. [~~Struck out~~]

**[~~Struck out->~~] SEC. 202. MOTOR CARRIER HIGH HAZARD MATERIAL TRACKING. [~~Struck out~~]**

[~~Struck out->~~] (a) Wireless Communications-- [~~Struck out~~]

[~~Struck out->~~] (1) IN GENERAL- Consistent with the findings of the Transportation Security Administration's Hazmat Truck Security Pilot Program and within 6 months after the date of enactment of this Act, the Secretary of Homeland Security, through the Transportation Security Administration and in consultation with the Secretary of Transportation, shall develop a program to encourage the equipping of motor carriers transporting high hazard materials in quantities equal to or greater than the quantities specified in subpart 171.800 of title 49, Code of Federal Regulations, with wireless communications technology that provides-- [~~Struck out~~]

[~~Struck out->~~] (A) continuous communications; [~~Struck out~~]

[~~Struck out->~~] (B) vehicle position location and tracking capabilities; and [~~Struck out~~]

[Struck out->] (C) a feature that allows a driver of such vehicles to broadcast an emergency message. [<-Struck out]

[Struck out->] (2) CONSIDERATIONS- In developing the program required by paragraph (1), the Secretary shall-- [<-Struck out]

[Struck out->] (A) consult with the Secretary of Transportation to coordinate the program with any ongoing or planned efforts for motor carrier tracking at the Department of Transportation; [<-Struck out]

[Struck out->] (B) take into consideration the recommendations and findings of the report on the Hazardous Material Safety and Security Operation Field Test released by the Federal Motor Carrier Safety Administration on November 11, 2004; [<-Struck out]

[Struck out->] (C) evaluate-- [<-Struck out]

[Struck out->] (i) any new information related to the cost and benefits of deploying and utilizing truck tracking technology for motor carriers transporting high hazard materials not included in the Hazardous Material Safety and Security Operation Field Test Report released by the Federal Motor Carrier Safety Administration on November 11, 2004; [<-Struck out]

[Struck out->] (ii) the ability of truck tracking technology to resist tampering and disabling; [<-Struck out]

[Struck out->] (iii) the capability of truck tracking technology to collect, display, and store information regarding the movements of shipments of high hazard materials by commercial motor vehicles; [<-Struck out]

[Struck out->] (iv) the appropriate range of contact intervals between the tracking technology and a commercial motor vehicle transporting high hazard materials; and [<-Struck out]

[Struck out->] (v) technology that allows the installation by a motor carrier of concealed electronic devices on commercial motor vehicles that can be activated by law enforcement authorities and alert emergency response resources to locate and recover security sensitive material in the event of loss or theft of such material. [<-Struck out]

[Struck out->] (b) FUNDING- There are authorized to be appropriated to the Secretary of Homeland Security to carry out this section \$3,000,000 for each of fiscal years 2008, 2009, and 2010. [<-Struck out]

**[Struck out->] SEC. 203. HAZARDOUS MATERIALS SECURITY INSPECTIONS AND ENFORCEMENT. [<-Struck out]**

[Struck out->] (a) IN GENERAL- The Secretary of Homeland Security shall establish a program within the Transportation Security Administration, in consultation with the Secretary of Transportation, for reviewing hazardous materials security plans required under part 172, title 49, Code of Federal Regulations, within 180 days after the date of enactment of this Act. In establishing the program, the Secretary shall ensure that-- [<-Struck out]

[Struck out->] (1) the program does not subject carriers to unnecessarily duplicative reviews of their security plans by the 2 departments; and [<-Struck out]

[Struck out->] (2) a common set of standards is used to review the security plans. [<-Struck out]

[Struck out->] (b) CIVIL PENALTY- The failure, by a shipper,

carrier, or other person subject to part 172 of title 49, Code of Federal Regulations, to comply with any applicable section of that part within 180 days after being notified by the Secretary of such failure to comply, is punishable by a civil penalty imposed by the Secretary under title 49, United States Code. For purposes of this subsection, each day of noncompliance after the 181st day following the date on which the shipper, carrier, or other person received notice of the failure shall constitute a separate failure. [~~Struck out~~]

[~~Struck out->~~] (c) COMPLIANCE REVIEW- In reviewing the compliance of hazardous materials shippers, carriers, or other persons subject to part 172 of title 49, Code of Federal Regulations, with the provisions of that part, the Secretary shall utilize risk assessment methodologies to prioritize review and enforcement actions to the most vulnerable and critical hazardous materials transportation operations. [~~Struck out~~]

[~~Struck out->~~] (d) TRANSPORTATION COSTS STUDY- Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in conjunction with the Secretary of Homeland Security, shall study to what extent the insurance, security, and safety costs borne by railroad carriers, motor carriers, pipeline carriers, air carriers, and maritime carriers associated with the transportation of hazardous materials are reflected in the rates paid by shippers of such commodities as compared to the costs and rates respectively for the transportation of non-hazardous materials. [~~Struck out~~]

[~~Struck out->~~] (e) FUNDING- There are authorized to be appropriated to the Secretary of Homeland Security to carry out this section-- [~~Struck out~~]

[~~Struck out->~~] (1) \$2,000,000 for fiscal year 2008; [~~Struck out~~]

[~~Struck out->~~] (2) \$2,000,000 for fiscal year 2009; and [~~Struck out~~]

[~~Struck out->~~] (3) \$2,000,000 for fiscal year 2010. [~~Struck out~~]

out]

**[Struck out->] SEC. 204. TRUCK SECURITY ASSESSMENT. [<-Struck out]**

[Struck out->] Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall transmit to the Senate Committee on Commerce, Science, and Transportation, Senate Committee on Finance, the House of Representatives Committee on Transportation and Infrastructure, the House of Representatives Committee on Homeland Security, and the House of Representatives Committee on Ways and Means, a report on security issues related to the trucking industry that includes-- [<-Struck out]

[Struck out->] (1) an assessment of actions already taken to address identified security issues by both public and private entities; [<-Struck out]

[Struck out->] (2) an assessment of the economic impact that security upgrades of trucks, truck equipment, or truck facilities may have on the trucking industry and its employees, including independent owner-operators; [<-Struck out]

[Struck out->] (3) an assessment of ongoing research and the need for additional research on truck security; and [<-Struck out]

[Struck out->] (4) an assessment of industry best practices to enhance security. [<-Struck out]

**[Struck out->] SEC. 205. NATIONAL PUBLIC SECTOR RESPONSE SYSTEM. [<-Struck out]**

[Struck out->] (a) DEVELOPMENT- The Secretary of Homeland Security, in conjunction with the Secretary of Transportation, shall consider the development of a national public sector response system to receive security alerts, emergency messages,

and other information used to track the transportation of high hazard materials which can provide accurate, timely, and actionable information to appropriate first responder, law enforcement and public safety, and homeland security officials, as appropriate, regarding accidents, threats, thefts, or other safety and security risks or incidents. In considering the development of this system, they shall consult with law enforcement and public safety officials, hazardous material shippers, motor carriers, railroads, organizations representing hazardous material employees, State transportation and hazardous materials officials, private for-profit and non-profit emergency response organizations, and commercial motor vehicle and hazardous material safety groups. Consideration of development of the national public sector response system shall be based upon the public sector response center developed for the Transportation Security Administration hazardous material truck security pilot program and hazardous material safety and security operational field test undertaken by the Federal Motor Carrier Safety Administration. [~~Struck out~~]

[~~Struck out->~~] (b) CAPABILITY- The national public sector response system to be considered shall be able to receive, as appropriate-- [~~Struck out~~]

[~~Struck out->~~] (1) negative driver verification alerts; [~~Struck out~~]

[~~Struck out->~~] (2) out-of-route alerts; [~~Struck out~~]

[~~Struck out->~~] (3) driver panic or emergency alerts; and [~~Struck out~~]

[~~Struck out->~~] (4) tampering or release alerts. [~~Struck out~~]

[~~Struck out->~~] (c) CHARACTERISTICS- The national public sector response system to be considered shall-- [~~Struck out~~]

[~~Struck out->~~] (1) be an exception-based system; [~~Struck out~~]

[~~Struck out->~~] (2) be integrated with other private and

public sector operation reporting and response systems and all Federal homeland security threat analysis systems or centers (including the National Response Center); and [~~Struck out~~]

[~~Struck out->~~] (3) provide users the ability to create rules for alert notification messages. [~~Struck out~~]

[~~Struck out->~~] (d) CARRIER PARTICIPATION- The Secretary of Homeland Security shall coordinate with motor carriers and railroads transporting high hazard materials, entities acting on their behalf who receive communication alerts from motor carriers or railroads, or other Federal agencies that receive security and emergency related notification regarding high hazard materials in transit to facilitate the provisions of the information listed in subsection (b) to the national public sector response system to the extent possible if the system is established. [~~Struck out~~]

[~~Struck out->~~] (e) DATA PRIVACY- The national public sector response system shall be designed to ensure appropriate protection of data and information relating to motor carriers, railroads, and employees. [~~Struck out~~]

[~~Struck out->~~] (f) REPORT- Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security a report on whether to establish a national public sector response system and the estimated total public and private sector costs to establish and annually operate such a system, together with any recommendations for generating private sector participation and investment in the development and operation of such a system. [~~Struck out~~]

[~~Struck out->~~] (g) FUNDING- There are authorized to be appropriated to the Secretary of Homeland Security to carry out this section-- [~~Struck out~~]

[Struck out->] (1) \$1,000,000 for fiscal year 2008; [<-Struck out]

[Struck out->] (2) \$1,000,000 for fiscal year 2009; and [<-Struck out]

[Struck out->] (3) \$1,000,000 for fiscal year 2010. [<-Struck out]

**[Struck out->] SEC. 206. OVER-THE-ROAD BUS SECURITY ASSISTANCE. [<-Struck out]**

[Struck out->] (a) IN GENERAL- The Secretary of Homeland Security shall establish a program within the Transportation Security Administration for making grants to private operators of over-the-road buses or over-the-road bus terminal operators for system-wide security improvements to their operations, including-- [<-Struck out]

[Struck out->] (1) constructing and modifying terminals, garages, facilities, or over-the-road buses to assure their security; [<-Struck out]

[Struck out->] (2) protecting or isolating the driver; [<-Struck out]

[Struck out->] (3) acquiring, upgrading, installing, or operating equipment, software, or accessorial services for collection, storage, or exchange of passenger and driver information through ticketing systems or otherwise, and information links with government agencies; [<-Struck out]

[Struck out->] (4) training employees in recognizing and responding to security threats, evacuation procedures, passenger screening procedures, and baggage inspection; [<-Struck out]

[Struck out->] (5) hiring and training security officers; [<-Struck out]

[Struck out->] (6) installing cameras and video surveillance equipment on over-the-road buses and at terminals, garages, and over-the-road bus facilities; [<-Struck out]

[Struck out->] (7) creating a program for employee identification or background investigation; [<-Struck out]

[Struck out->] (8) establishing and upgrading an emergency communications system linking operational headquarters, over-the-road buses, law enforcement, and emergency personnel; and [<-Struck out]

[Struck out->] (9) implementing and operating passenger screening programs at terminals and on over-the-road buses. [<-Struck out]

[Struck out->] (b) FEDERAL SHARE- The Federal share of the cost for which any grant is made under this section shall be 80 percent. [<-Struck out]

[Struck out->] (c) DUE CONSIDERATION- In making grants under this section, the Secretary shall give due consideration to private operators of over-the-road buses that have taken measures to enhance bus transportation security from those in effect before September 11, 2001, and shall prioritize grant funding based on the magnitude and severity of the security threat to bus passengers and the ability of the funded project to reduce, or respond to, that threat. [<-Struck out]

[Struck out->] (d) GRANT REQUIREMENTS- A grant under this section shall be subject to all the terms and conditions that a grant is subject to under section 3038(f) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 393). [<-Struck out]

[Struck out->] (e) PLAN REQUIREMENT- [<-Struck out]

[Struck out->] (1) IN GENERAL- The Secretary may not make a

grant under this section to a private operator of over-the-road buses until the operator has first submitted to the Secretary-- [~~Struck out~~]

[~~Struck out->~~] (A) a plan for making security improvements described in subsection (a) and the Secretary has approved the plan; and [~~Struck out~~]

[~~Struck out->~~] (B) such additional information as the Secretary may require to ensure accountability for the obligation and expenditure of amounts made available to the operator under the grant. [~~Struck out~~]

[~~Struck out->~~] (2) COORDINATION- To the extent that an application for a grant under this section proposes security improvements within a specific terminal owned and operated by an entity other than the applicant, the applicant shall demonstrate to the satisfaction of the Secretary that the applicant has coordinated the security improvements for the terminal with that entity. [~~Struck out~~]

[~~Struck out->~~] (f) OVER-THE-ROAD BUS DEFINED- In this section, the term `over-the-road bus' means a bus characterized by an elevated passenger deck located over a baggage compartment. [~~Struck out~~]

[~~Struck out->~~] (g) BUS SECURITY ASSESSMENT- [~~Struck out~~]

[~~Struck out->~~] (1) IN GENERAL- Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security a preliminary report in accordance with the requirements of this section. [~~Struck out~~]

[~~Struck out->~~] (2) CONTENTS OF PRELIMINARY REPORT- The preliminary report shall include-- [~~Struck out~~]

[Struck out->] (A) an assessment of the over-the-road bus security grant program; [<-Struck out]

[Struck out->] (B) an assessment of actions already taken to address identified security issues by both public and private entities and recommendations on whether additional safety and security enforcement actions are needed; [<-Struck out]

[Struck out->] (C) an assessment of whether additional legislation is needed to provide for the security of Americans traveling on over-the-road buses; [<-Struck out]

[Struck out->] (D) an assessment of the economic impact that security upgrades of buses and bus facilities may have on the over-the-road bus transportation industry and its employees; [<-Struck out]

[Struck out->] (E) an assessment of ongoing research and the need for additional research on over-the-road bus security, including engine shut-off mechanisms, chemical and biological weapon detection technology, and the feasibility of compartmentalization of the driver; and [<-Struck out]

[Struck out->] (F) an assessment of industry best practices to enhance security. [<-Struck out]

[Struck out->] (3) CONSULTATION WITH INDUSTRY, LABOR, AND OTHER GROUPS- In carrying out this section, the Secretary shall consult with over-the-road bus management and labor representatives, public safety and law enforcement officials, and the National Academy of Sciences. [<-Struck out]

[Struck out->] (h) FUNDING- There are authorized to be appropriated to the Secretary of Homeland Security to carry out this section-- [<-Struck out]

[Struck out->] (1) \$12,000,000 for fiscal year 2008; [<-Struck out]

[Struck out->] (2) \$25,000,000 for fiscal year 2009; and [<-Struck out]

[Struck out->] (3) \$25,000,000 for fiscal year 2010. [<-Struck out]

[Struck out->] Amounts made available pursuant to this subsection shall remain available until expended. [<-Struck out]

**[Struck out->] SEC. 207. PIPELINE SECURITY AND INCIDENT RECOVERY PLAN. [<-Struck out]**

[Struck out->] (a) IN GENERAL- The Secretary of Homeland Security, in consultation with the Secretary of Transportation and the Pipeline and Hazardous Materials Safety Administration, and in accordance with the Memorandum of Understanding Annex executed on August 9, 2006, shall develop a Pipeline Security and Incident Recovery Protocols Plan. The plan shall include-- [<-Struck out]

[Struck out->] (1) a plan for the Federal Government to provide increased security support to the most critical interstate and intrastate natural gas and hazardous liquid transmission pipeline infrastructure and operations as determined under section 208-- [<-Struck out]

[Struck out->] (A) at high or severe security threat levels of alert; and [<-Struck out]

[Struck out->] (B) when specific security threat information relating to such pipeline infrastructure or operations exists; and [<-Struck out]

[Struck out->] (2) an incident recovery protocol plan, developed in conjunction with interstate and intrastate

transmission and distribution pipeline operators and terminals and facilities operators connected to pipelines, to develop protocols to ensure the continued transportation of natural gas and hazardous liquids to essential markets and for essential public health or national defense uses in the event of an incident affecting the interstate and intrastate natural gas and hazardous liquid transmission and distribution pipeline system, which shall include protocols for granting access to pipeline operators for pipeline infrastructure repair, replacement or bypass following an incident. [~~Struck out~~]

[~~Struck out->~~] (b) EXISTING PRIVATE AND PUBLIC SECTOR EFFORTS- The plan shall take into account actions taken or planned by both private and public entities to address identified pipeline security issues and assess the effective integration of such actions. [~~Struck out~~]

[~~Struck out->~~] (c) CONSULTATION- In developing the plan under subsection (a), the Secretary of Homeland Security shall consult with the Secretary of Transportation, interstate and intrastate transmission and distribution pipeline operators, pipeline labor, first responders, shippers of hazardous materials, State Departments of Transportation, public safety officials, and other relevant parties. [~~Struck out~~]

[~~Struck out->~~] (d) REPORT- [~~Struck out~~]

[~~Struck out->~~] (1) CONTENTS- Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall transmit to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives a report containing the plan required by subsection (a), along with an estimate of the private and public sector costs to implement any recommendations. [~~Struck out~~]

[~~Struck out->~~] (2) FORMAT- The Secretary may submit the report in both classified and redacted formats if the

Secretary determines that such action is appropriate or necessary. [~~Struck out~~]

**[Struck out->] SEC. 208. PIPELINE SECURITY INSPECTIONS AND ENFORCEMENT. [~~Struck out~~]**

[Struck out->] (a) IN GENERAL- Within 1 year after the date of enactment of this Act the Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall establish a program for reviewing pipeline operator adoption of recommendations in the September, 5, 2002, Department of Transportation Research and Special Programs Administration Pipeline Security Information Circular, including the review of pipeline security plans and critical facility inspections. [~~Struck out~~]

[Struck out->] (b) REVIEW AND INSPECTION- Within 9 months after the date of enactment of this Act the Secretary shall complete a review of the pipeline security plan and an inspection of the critical facilities of the 100 most critical pipeline operators covered by the September, 5, 2002, circular, where such facilities have not been inspected for security purposes since September 5, 2002, by either the Department of Homeland Security or the Department of Transportation, as determined by the Secretary in consultation with the Secretary of Transportation. [~~Struck out~~]

[Struck out->] (c) COMPLIANCE REVIEW METHODOLOGY- In reviewing pipeline operator compliance under subsections (a) and (b), the Secretary shall utilize risk assessment methodologies to prioritize vulnerabilities and to target inspection and enforcement actions to the most vulnerable and critical pipeline assets. [~~Struck out~~]

[Struck out->] (d) REGULATIONS- Within 1 year after the date of enactment of this Act, the Secretary shall transmit to pipeline operators and the Secretary of Transportation security recommendations for natural gas and hazardous liquid pipelines and pipeline facilities. If the Secretary of Homeland Security determines that regulations are appropriate, the Secretary shall

promulgate such regulations and carry out necessary inspection and enforcement actions. Any regulations should incorporate the guidance provided to pipeline operators by the September 5, 2002, Department of Transportation Research and Special Programs Administration's Pipeline Security Information Circular and contain additional requirements as necessary based upon the results of the inspections performed under subsection (b). The regulations shall include the imposition of civil penalties for non-compliance. [~~Struck out~~]

[~~Struck out~~] (e) FUNDING- There are authorized to be appropriated to the Secretary of Homeland Security to carry out this section-- [~~Struck out~~]

[~~Struck out~~] (1) \$2,000,000 for fiscal year 2008; and [~~Struck out~~]

[~~Struck out~~] (2) \$2,000,000 for fiscal year 2009. [~~Struck out~~]

## [~~Struck out~~] SEC. 209. TECHNICAL CORRECTIONS. [~~Struck out~~]

[~~Struck out~~] (a) HAZMAT LICENSES- Section 5103a of title 49, United States Code, is amended-- [~~Struck out~~]

[~~Struck out~~] (1) by inserting 'of Homeland Security' after 'Secretary' each place it appears in subsections (a)(1), (d)(1)(b), and (e); and [~~Struck out~~]

[~~Struck out~~] (2) by redesignating subsection (h) as subsection (i) and inserting the following after subsection (g): [~~Struck out~~]

[~~Struck out~~] (h) RELATIONSHIP TO TRANSPORTATION SECURITY CARDS- Upon application, a State shall issue to an individual a license to operate a motor vehicle transporting in commerce a hazardous material without the security assessment required by this section, provided the individual meets all other applicable requirements for such a license, if the Secretary of Homeland

Security has previously determined, under section 70105 of title 46, United States Code, that the individual does not pose a security risk.'. [~~-Struck out~~]

**[~~Struck out->~~] SEC. 210. CERTAIN PERSONNEL LIMITATIONS NOT TO APPLY. [~~-Struck out~~]**

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

**SECTION 1. SHORT TITLE.**

*This Act may be cited as the `Surface Transportation and Rail Security Act of 2007'.*

**SEC. 2. TABLE OF CONTENTS.**

*The table of contents for this Act is as follows:*

*Sec. 1. Short title.*

*Sec. 2. Table of contents.*

*Sec. 3. Definitions.*

**TITLE I--IMPROVED RAIL SECURITY**

*Sec. 101. Rail transportation security risk assessment.*

*Sec. 102. Systemwide Amtrak security upgrades.*

*Sec. 103. Fire and life-safety improvements.*

*Sec. 104. Freight and passenger rail security upgrades.*

*Sec. 105. Rail security research and development.*

*Sec. 106. Oversight and grant procedures.*

*Sec. 107. Amtrak plan to assist families of passengers involved in rail passenger accidents.*

*Sec. 108. Northern border rail passenger report.*

*Sec. 109. Rail worker security training program.*

*Sec. 110. Whistleblower protection program.*

*Sec. 111. High hazard material security risk mitigation plans.*

*Sec. 112. Enforcement authority.*

*Sec. 113. Rail security enhancements.*

*Sec. 114. Public awareness.*

*Sec. 115. Railroad high hazard material tracking.*

*Sec. 116. Authorization of appropriations.*

## **TITLE II--IMPROVED MOTOR CARRIER, BUS, AND HAZARDOUS MATERIAL SECURITY**

*Sec. 201. Hazardous materials highway routing.*

*Sec. 202. Motor carrier high hazard material tracking.*

*Sec. 203. Memorandum of agreement.*

*Sec. 204. Hazardous materials security inspections and enforcement.*

*Sec. 205. Truck security assessment.*

*Sec. 206. National public sector response system.*

*Sec. 207. Over-the-road bus security assistance.*

*Sec. 208. Pipeline security and incident recovery plan.*

*Sec. 209. Pipeline security inspections and enforcement.*

*Sec. 210. Technical corrections.*

*Sec. 211. Certain personnel limitations not to apply.*

*Sec. 212. Maritime and surface transportation security user fee study.*

### **SEC. 3. DEFINITIONS.**

*In this Act:*

*(1) HIGH HAZARD MATERIALS-* The term `high hazard materials' means quantities of poison inhalation hazard materials, Class 2.3 gases, Class 6.1 materials, anhydrous ammonia, and other hazardous materials that the Secretary, in consultation with the Secretary of Transportation, determines pose a security risk.

*(2) SECRETARY-* Except as otherwise explicitly provided, the term `Secretary' means the Secretary of Homeland Security.

### **TITLE I--IMPROVED RAIL SECURITY**

### **SEC. 101. RAIL TRANSPORTATION SECURITY RISK ASSESSMENT.**

*(a) In General-*

*(1) RISK ASSESSMENT-* The Secretary shall establish a task force, including the Transportation Security Administration, the Department of Transportation, and other appropriate agencies, to complete a risk assessment of freight and passenger rail transportation (encompassing railroads, as that term is defined in section 20102(1) of title 49, United States Code). The assessment shall include--

*(A) a methodology for conducting the risk assessment, including timelines, that addresses how the Department of Homeland Security will work with the entities described in subsection (b)*

*and make use of existing Federal expertise within the Department of Homeland Security, the Department of Transportation, and other appropriate agencies;*

*(B) identification and evaluation of critical assets and infrastructures;*

*(C) identification of risks to those assets and infrastructures;*

*(D) identification of risks that are specific to the transportation of hazardous materials via railroad;*

*(E) identification of risks to passenger and cargo security, transportation infrastructure (including rail tunnels used by passenger and freight railroads in high threat urban areas), protection systems, operations, communications systems, employee training, emergency response planning, and any other area identified by the assessment;*

*(F) an assessment of public and private operational recovery plans to expedite, to the maximum extent practicable, the return of an adversely affected freight or passenger rail transportation system or facility to its normal performance level after a major terrorist attack or other security event on that system or facility; and*

*(G) an account of actions taken or planned by both public and private entities to address identified rail security issues and assess the effective integration of such actions.*

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

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

*the provision of rail service or on operations served or otherwise affected by rail service;*

*(B) deploying equipment and personnel to detect security threats, including those posed by explosives and hazardous chemical, biological, and radioactive substances, and any appropriate countermeasures;*

*(C) training appropriate railroad or railroad shipper employees in terrorism prevention, preparedness, passenger evacuation, and response activities;*

*(D) conducting public outreach campaigns on passenger railroads regarding security;*

*(E) deploying surveillance equipment;*

*(F) identifying the immediate and long-term costs of measures that may be required to address those risks; and*

*(G) public and private sector sources to fund such measures.*

*(3) PLANS- The report required by subsection (c) shall include--*

*(A) a plan, developed in consultation with the freight and intercity passenger railroads, and State and local governments, for the Federal government to provide adequate security support at high or severe threat levels of alert;*

*(B) a plan for coordinating existing and planned rail security initiatives undertaken by the public and private sectors; and*

*(C) a contingency plan, developed in coordination with freight and intercity and commuter passenger railroads, to ensure the continued movement of freight and passengers in the event of an attack affecting the railroad system, which shall contemplate--*

*(i) the possibility of rerouting traffic due to the loss of critical infrastructure, such as a bridge, tunnel, yard, or station; and*

*(ii) methods of continuing railroad service in the Northeast*

*Corridor in the event of a commercial power loss, or catastrophe affecting a critical bridge, tunnel, yard, or station.*

*(b) CONSULTATION; USE OF EXISTING RESOURCES-* In carrying out the assessment and developing the recommendations and plans required by subsection (a), the Secretary shall consult with rail management, rail labor, owners or lessors of rail cars used to transport hazardous materials, first responders, offerers of hazardous materials, public safety officials, and other relevant parties. In developing the risk assessment required under this section, the Secretary shall utilize relevant existing risk assessments developed by the Department or other Federal agencies, and, as appropriate, assessments developed by other public and private stakeholders.

*(c) Report-*

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

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

*(d) ANNUAL UPDATES-* The Secretary, in consultation with the Secretary of Transportation, shall update the assessment and recommendations each year and transmit a report, which may be submitted in both classified and redacted formats, to the Committees named in subsection (c)(1), containing the updated assessment and recommendations.

*(e) FUNDING-* Out of funds appropriated pursuant to section 114(u) of title 49, United States Code, as amended by section 116 of this Act, there shall be made available to the Secretary to carry out this section \$5,000,000 for fiscal year 2008.

## **SEC. 102. SYSTEMWIDE AMTRAK SECURITY UPGRADES.**

*(a) In General-*

*(1) GRANTS- Subject to subsection (c) the Secretary, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration), is authorized to make grants to Amtrak in accordance with the provisions of this section.*

*(2) GENERAL PURPOSES- The Secretary may make such grants for the purposes of--*

*(A) protecting underwater and underground assets and systems;*

*(B) protecting high risk and high consequence assets identified through system-wide risk assessments;*

*(C) providing counter-terrorism training;*

*(D) providing both visible and unpredictable deterrence; and*

*(E) conducting emergency preparedness drills and exercises.*

*(3) SPECIFIC PROJECTS- The Secretary shall make such grants--*

*(A) to secure major tunnel access points and ensure tunnel integrity in New York, New Jersey, Maryland, and Washington, DC;*

*(B) to secure Amtrak trains;*

*(C) to secure Amtrak stations;*

*(D) to obtain a watch list identification system approved by the Secretary;*

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

*(F) to hire additional police officers, special agents, security officers, including canine units, and to pay for other labor costs directly associated with security and terrorism prevention*

*activities;*

*(G) to expand emergency preparedness efforts; and*

*(H) for employee security training.*

*(b) CONDITIONS- The Secretary of Transportation shall disburse funds to Amtrak provided under subsection (a) for projects contained in a systemwide security plan approved by the Secretary. Amtrak shall develop the security plan in consultation with constituent States and other relevant parties. The plan shall include appropriate measures to address security awareness, emergency response, and passenger evacuation training and shall be consistent with State security plans to the maximum extent practicable.*

*(c) EQUITABLE GEOGRAPHIC ALLOCATION- The Secretary shall ensure that, subject to meeting the highest security needs on Amtrak's entire system and consistent with the risk assessment required under section 101, stations and facilities located outside of the Northeast Corridor receive an equitable share of the security funds authorized by this section.*

*(d) AVAILABILITY OF FUNDS- Out of funds appropriated pursuant to section 114(u) of title 49, United States Code, as amended by section 116 of this Act, there shall be made available to the Secretary and the Assistant Secretary of Homeland Security (Transportation Security Administration) to carry out this section--*

*(1) \$63,500,000 for fiscal year 2008;*

*(2) \$30,000,000 for fiscal year 2009; and*

*(3) \$30,000,000 for fiscal year 2010.*

*Amounts appropriated pursuant to this subsection shall remain available until expended.*

## **SEC. 103. FIRE AND LIFE-SAFETY IMPROVEMENTS.**

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

*(b) AUTHORIZATION OF APPROPRIATIONS- Out of funds appropriated pursuant to section 116(b) of this Act, there shall be made available to the Secretary of Transportation for the purposes of carrying out subsection (a) the following amounts:*

*(1) For the 6 New York and New Jersey tunnels to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers--*

*(A) \$100,000,000 for fiscal year 2008;*

*(B) \$100,000,000 for fiscal year 2009;*

*(C) \$100,000,000 for fiscal year 2010; and*

*(D) \$100,000,000 for fiscal year 2011.*

*(2) For the Baltimore & Potomac tunnel and the Union tunnel, together, to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades--*

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

*(B) \$10,000,000 for fiscal year 2009;*

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

*(D) \$10,000,000 for fiscal year 2011.*

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

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

*(B) \$8,000,000 for fiscal year 2009;*

*(C) \$8,000,000 for fiscal year 2010; and*

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

*(c) INFRASTRUCTURE UPGRADES- Out of funds appropriated pursuant to section 116(b) of this Act, there shall be made available to the Secretary of Transportation for fiscal year 2008 \$3,000,000 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.*

*(d) AVAILABILITY OF APPROPRIATED FUNDS- Amounts made available pursuant to this section shall remain available until expended.*

*(e) PLANS REQUIRED- The Secretary of Transportation may not make amounts available to Amtrak for obligation or expenditure under subsection (a)--*

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

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

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

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

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

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

*(3) obtain financial contributions or commitments from such other rail carriers at levels reflecting the extent of their use or planned use of the tunnels, if feasible.*

## **SEC. 104. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.**

*(a) SECURITY IMPROVEMENT GRANTS- The Secretary, through the Assistant Secretary of Homeland Security (Transportation Security Administration) and other appropriate agencies or officials, is authorized to make grants to freight railroads, the Alaska Railroad, hazardous materials offerers, owners of rail cars used in the transportation of hazardous materials, universities, colleges and research centers, State and local governments (for rail passenger facilities and infrastructure not owned by Amtrak), and, through the Secretary of Transportation, to Amtrak, for full or partial reimbursement of costs incurred in the conduct of activities to prevent or respond to acts of terrorism, sabotage, or other intercity passenger rail and freight rail security risks identified under section 101, including--*

*(1) security and redundancy for critical communications, computer, and train control systems essential for secure rail operations;*

*(2) accommodation of rail cargo or passenger screening equipment at the United States-Mexico border, the United States-Canada border, or other ports of entry;*

*(3) the security of hazardous material transportation by rail;*

*(4) secure intercity passenger rail stations, trains, and infrastructure;*

*(5) structural modification or replacement of rail cars transporting high*

*hazard materials to improve their resistance to acts of terrorism;*

*(6) employee security awareness, preparedness, passenger evacuation, and emergency response training;*

*(7) public security awareness campaigns for passenger train operations;*

*(8) the sharing of intelligence and information about security threats;*

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

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

*(11) other improvements recommended by the report required by section 101, including infrastructure, facilities, and equipment upgrades.*

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

*(c) ALLOCATION- The Secretary shall distribute the funds authorized by this section based on risk as determined under section 101, and shall encourage non-Federal financial participation in projects funded by grants awarded under this section. With respect to grants for intercity passenger rail security, the Secretary shall also take into account passenger volume and whether stations or facilities are used by commuter rail passengers as well as intercity rail passengers.*

*(d) CONDITIONS- The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless Amtrak meets the conditions set forth in section 102(b) of this Act.*

*(e) ALLOCATION BETWEEN RAILROADS AND OTHERS- Unless as a result of the assessment required by section 101 the Secretary determines that critical rail transportation security needs require reimbursement in greater amounts to any eligible entity, no grants under this section may be made cumulatively over the period authorized by this Act--*

(1) *in excess of \$45,000,000 to Amtrak; or*

(2) *in excess of \$80,000,000 for the purposes described in paragraphs (3) and (5) of subsection (a).*

*(f) AUTHORIZATION OF APPROPRIATIONS- Out of funds appropriated pursuant to section 114(u) of title 49, United States Code, as amended by section 116 of this Act, there shall be made available to the Secretary to carry out this section--*

(1) *\$100,000,000 for fiscal year 2008;*

(2) *\$100,000,000 for fiscal year 2009; and*

(3) *\$100,000,000 for fiscal year 2010.*

*Amounts made available pursuant to this subsection shall remain available until expended.*

## **SEC. 105. RAIL SECURITY RESEARCH AND DEVELOPMENT.**

*(a) ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM- The Secretary, through the Under Secretary for Science and Technology and the Assistant Secretary of Homeland Security (Transportation Security Administration), in consultation with the Secretary of Transportation shall carry out a research and development program for the purpose of improving freight and intercity passenger rail security that may include research and development projects to--*

(1) *reduce the risk of terrorist attacks on rail transportation, including risks posed by explosives and hazardous chemical, biological, and radioactive substances to intercity rail passengers, facilities, and equipment;*

(2) *test new emergency response techniques and technologies;*

(3) *develop improved freight rail security technologies, including--*

(A) *technologies for sealing rail cars;*

*(B) automatic inspection of rail cars;*

*(C) communication-based train controls; and*

*(D) emergency response training;*

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

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

*(A) technologies to detect a breach in a tank car or other rail car used to transport hazardous materials and transmit information about the integrity of cars to the train crew or dispatcher;*

*(B) research to improve tank car integrity, with a focus on tank cars that carry high hazard materials (as defined in section 104 (g) of this Act); and*

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

*(6) other projects that address risks identified under section 101.*

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

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

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

*(c) GRANTS AND ACCOUNTABILITY- To carry out the research and development program, the Secretary may award grants to the entities*

*described in section 104(a) and shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this title and the priorities and other criteria developed by the Secretary.*

*(d) AUTHORIZATION OF APPROPRIATIONS- Out of funds appropriated pursuant to section 114(u) of title 49, United States Code, as amended by section 116 of this Act, there shall be made available to the Secretary to carry out this section--*

*(1) \$33,000,000 for fiscal year 2008;*

*(2) \$33,000,000 for fiscal year 2009; and*

*(3) \$33,000,000 for fiscal year 2010.*

*Amounts made available pursuant to this subsection shall remain available until expended.*

## **SEC. 106. OVERSIGHT AND GRANT PROCEDURES.**

*(a) SECRETARIAL OVERSIGHT- The Secretary may award contracts to audit and review the safety, security, procurement, management, and financial compliance of a recipient of amounts under this Act.*

*(b) PROCEDURES FOR GRANT AWARD- The Secretary shall, within 180 days after the date of enactment of this Act, prescribe procedures and schedules for the awarding of grants under this title, including application and qualification procedures (including a requirement that the applicant have a security plan), and a record of decision on applicant eligibility. The procedures shall include the execution of a grant agreement between the grant recipient and the Secretary and shall be consistent, to the extent practicable, with the grant procedures established under section 70107 of title 46, United States Code.*

*(c) ADDITIONAL AUTHORITY- The Secretary may issue nonbinding letters under similar terms to those issued pursuant to section 47110(e) of title 49, United States Code, to sponsors of rail projects funded under this Act.*

## **SEC. 107. AMTRAK PLAN TO ASSIST FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.**

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

***Sec. 24316. Plans to address needs of families of passengers involved in rail passenger accidents***

*(a) SUBMISSION OF PLAN- Not later than 6 months after the date of the enactment of the Surface Transportation and Rail Security Act of 2007, Amtrak shall submit to the Chairman of the National Transportation Safety Board, the Secretary of Transportation, and the Secretary of Homeland Security a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving an Amtrak intercity train and resulting in a loss of life.*

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

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

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

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

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

*(5) A process by which the family of each passenger will be consulted*

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

*^ (6) A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.*

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

*^ (c) USE OF INFORMATION- Neither National Transportation Safety Board, the Secretary of Transportation, the Secretary of Homeland Security, nor Amtrak may release any personal information on a list obtained under subsection (b)(1) but may provide information on the list about a passenger to the family of the passenger to the extent that the Board or Amtrak considers appropriate.*

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

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

*^ (f) FUNDING- Out of funds appropriated pursuant to section 116(b) of the Surface Transportation and Rail Security Act of 2007, there shall be made available to the Secretary of Transportation for the use of Amtrak \$500,000 for fiscal year 2008 to carry out this section. Amounts made available pursuant to this subsection shall remain available until expended.'*

*(b) CONFORMING AMENDMENT- The chapter analysis for chapter 243 of title*

49, *United States Code*, is amended by adding at the end the following:

*24316. Plan to assist families of passengers involved in rail passenger accidents.'*

## **SEC. 108. NORTHERN BORDER RAIL PASSENGER REPORT.**

*Within 1 year after the date of enactment of this Act, the Secretary, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration), the Secretary of Transportation, heads of other appropriate Federal departments, and agencies and the National Railroad Passenger Corporation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security that contains--*

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

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

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

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

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

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

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

*(8) an analysis of the feasibility of reinstating in-transit inspections onboard international Amtrak trains.*

## **SEC. 109. RAIL WORKER SECURITY TRAINING PROGRAM.**

*(a) In General-* Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Transportation, appropriate law enforcement, security, and terrorism experts, representatives of railroad carriers and shippers, and nonprofit employee organizations that represent rail workers, shall develop and issue detailed guidance for a rail worker security training program to prepare front-line workers for potential threat conditions. The guidance shall take into consideration any current security training requirements or best practices.

*(b) Program Elements-* The guidance developed under subsection (a) shall include elements appropriate to passenger and freight rail service that address the following:

*(1) Determination of the seriousness of any occurrence.*

*(2) Crew communication and coordination.*

*(3) Appropriate responses to defend or protect oneself.*

*(4) Use of protective devices.*

*(5) Evacuation procedures.*

*(6) Psychology, behavior, and methods of terrorists.*

*(7) Situational training exercises regarding various threat conditions.*

*(8) Any other subject the Secretary considers appropriate.*

*(c) Railroad Carrier Programs- Not later than 90 days after the Secretary issues guidance under subsection (a) in final form, each railroad carrier shall develop a rail worker security training program in accordance with that guidance and submit it to the Secretary for review. Not later than 90 days after receiving a railroad carrier's program under this subsection, the Secretary shall review the program and transmit comments to the railroad carrier concerning any revisions the Secretary considers necessary for the program to meet the guidance requirements. A railroad carrier shall respond to the Secretary's comments within 90 days after receiving them.*

*(d) Training- Not later than 1 year after the Secretary reviews the training program developed by a railroad carrier under this section, the railroad carrier shall complete the training of all front-line workers in accordance with that program. The Secretary shall review implementation of the training program of a representative sample of railroad carriers and report to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security on the number of reviews conducted and the results. The Secretary may submit the report in both classified and redacted formats as necessary.*

*(e) Updates- The Secretary shall update the training guidance issued under subsection (a) as appropriate to reflect new or different security threats. Railroad carriers shall revise their programs accordingly and provide additional training to their front-line workers within a reasonable time after the guidance is updated.*

*(f) Front-Line Workers Defined- In this section, the term `front-line workers' means security personnel, dispatchers, locomotive engineers, conductors, trainmen, other onboard employees, maintenance and maintenance support personnel, bridge tenders, as well as other appropriate employees of railroad carriers, as defined by the Secretary.*

*(g) Other Employees- The Secretary shall issue guidance and best practices for a rail shipper employee security program containing the elements listed under subsection (b) as appropriate.*

## **SEC. 110. WHISTLEBLOWER PROTECTION PROGRAM.**

*(a) IN GENERAL- Subchapter A of chapter 201 of title 49, United States Code, is amended by inserting after section 20117 the following:*

**Sec. 20118. Whistleblower protection for rail security matters**

*(a) DISCRIMINATION AGAINST EMPLOYEE- A railroad carrier engaged in interstate or foreign commerce may not discharge or in any way discriminate against an employee because the employee, whether acting for the employee or as a representative, has--*

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

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

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

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

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

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

*(e) Disclosure of Identity-*

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

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

*(b) CONFORMING AMENDMENT- The chapter analysis for chapter 201 of title 49, United States Code, is amended by inserting after the item relating to section 20117 the following:*

*^ 20118. Whistleblower protection for rail security matters.'*

## **SEC. 111. HIGH HAZARD MATERIAL SECURITY RISK MITIGATION PLANS.**

*(a) IN GENERAL- The Secretary, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration) and the Secretary of Transportation, shall require rail carriers transporting a high hazard material, as defined in section 104(g) of this Act to develop a high hazard material security risk mitigation plan containing appropriate measures, including alternative routing and temporary shipment suspension options, to address assessed risks to high consequence targets. The plan, and any information submitted to the Secretary under this section shall be protected as sensitive security information under the regulations prescribed under section 114(s) of title 49, United States Code.*

*(b) IMPLEMENTATION- A high hazard material security risk mitigation plan shall be put into effect by a rail carrier for the shipment of high hazardous materials by rail on the rail carrier's right-of-way when the threat levels of the Homeland Security Advisory System are high or severe or specific intelligence of probable or imminent threat exists towards--*

*(1) a high-consequence target that is within the catastrophic impact zone of a railroad right-of-way used to transport high hazardous material; or*

*(2) rail infrastructure or operations within the immediate vicinity of a*

*high-consequence target.*

*(c) COMPLETION AND REVIEW OF PLANS-*

*(1) PLANS REQUIRED- Each rail carrier shall--*

*(A) submit a list of routes used to transport high hazard materials to the Secretary within 60 days after the date of enactment of this Act;*

*(B) develop and submit a high hazard material security risk mitigation plan to the Secretary within 180 days after it receives the notice of high consequence targets on such routes by the Secretary that includes an operational recovery plan to expedite, to the maximum extent practicable, the return of an adversely affected rail system or facility to its normal performance level following a major terrorist attack or other security incident; and*

*(C) submit any subsequent revisions to the plan to the Secretary within 30 days after making the revisions.*

*(2) REVIEW AND UPDATES- The Secretary, with assistance of the Secretary of Transportation, shall review the plans and transmit comments to the railroad carrier concerning any revisions the Secretary considers necessary. A railroad carrier shall respond to the Secretary's comments within 30 days after receiving them. Each rail carrier shall update and resubmit its plan for review not less than every 2 years.*

*(d) DEFINITIONS- In this section:*

*(1) The term `high-consequence target' means property, infrastructure, public space, or natural resource designated by the Secretary that is a viable terrorist target of national significance, the attack of which could result in--*

*(A) catastrophic loss of life;*

*(B) significant damage to national security or defense capabilities; or*

*(C) national economic harm.*

(2) *The term `catastrophic impact zone' means the area immediately adjacent to, under, or above an active railroad right-of-way used to ship high hazard materials in which the potential release or explosion of the high hazard material being transported would likely cause--*

*(A) loss of life; or*

*(B) significant damage to property or structures.*

(3) *The term `rail carrier' has the meaning given that term by section 10102(5) of title 49, United States Code.*

## **SEC. 112. ENFORCEMENT AUTHORITY.**

*(a) IN GENERAL- Section 114 of title 49, United States Code, as amended by section 116 of this Act, is further amended by adding at the end thereof the following:*

*`(v) ENFORCEMENT OF REGULATIONS AND ORDERS OF THE SECRETARY OF HOMELAND SECURITY ISSUED UNDER THIS TITLE-*

*`(1) Application of subsection-*

*`(A) IN GENERAL- This subsection applies to the enforcement of regulations prescribed, and orders issued, by the Secretary of Homeland Security under a provision of this title other than a provision of chapter 449.*

*`(B) Violations of chapter 449- The penalties for violations of regulations prescribed, and orders issued, by the Secretary of Homeland Security under chapter 449 of this title are provided under chapter 463 of this title.*

*`(C) Nonapplication to certain violations-*

*`(i) Paragraphs (2) through (5) of this subsection do not apply to violations of regulations prescribed, and orders issued, by the Secretary of Homeland Security under a provision of this title--*

*` (I) involving the transportation of personnel or shipments of materials by contractors where the Department of Defense has assumed control and responsibility;*

*` (II) by a member of the armed forces of the United States when performing official duties; or*

*` (III) by a civilian employee of the Department of Defense when performing official duties.*

*` (ii) Violations described in subclause (I), (II), or (III) of clause (i) shall be subject to penalties as determined by the Secretary of Defense or the Secretary's designee.*

*` (2) CIVIL PENALTY-*

*` (A) IN GENERAL- 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 this title.*

*` (B) REPEAT 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 this title. The Secretary shall give written notice of the finding of a violation and the penalty.*

*` (B) SCOPE OF CIVIL ACTION- In a civil action to collect a civil penalty imposed by the Secretary under this subsection, the court may not re-examine issues of liability or the amount of the penalty.*

*` (C) JURISDICTION- The district courts of the United States have exclusive jurisdiction of civil actions to collect a civil penalty imposed by the Secretary under this subsection 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 PENALTY- The maximum 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.*

*` (4) COMPROMISE AND SETOFF-*

*` (A) The Secretary may compromise the amount of a civil penalty imposed under this subsection. If the Secretary compromises the amount of a civil penalty under this subparagraph, the Secretary shall--*

*` (i) notify the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Homeland Security of the compromised penalty and explain the rationale therefor; and*

*` (ii) make the explanation available to the public to the extent feasible without compromising security.*

*` (B) 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- Chapter 461 of this title shall apply to investigations and proceedings brought under this subsection to the same extent that it applies to investigations and proceedings brought with respect to aviation security duties designated to be carried out by the Secretary.*

*` (6) DEFINITIONS- In this subsection:*

*` (A) PERSON- The term `person' does not include--*

*` (i) the United States Postal Service; or*

*` (ii) the Department of Defense.*

*` (B) SMALL BUSINESS CONCERN- 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'.*

*(c) RAIL SAFETY REGULATIONS- Section 20103(a) of title 49, United States Code, is amended by striking `safety' the first place it appears, and inserting `safety, including security,'.*

## **SEC. 113. RAIL SECURITY ENHANCEMENTS.**

*(a) RAIL POLICE OFFICERS- Section 28101 of title 49, United States Code, is amended--*

*(1) by inserting `(a) IN GENERAL- ' before `Under'; and*

*(2) by adding at the end the following:*

*` (b) ASSIGNMENT- A rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State may be temporarily assigned to assist a second rail carrier in carrying out law enforcement duties upon the request of the second rail carrier, at which time the police officer shall be considered to be an employee of the second rail carrier and shall have authority to enforce the laws of any jurisdiction in*

*which the second rail carrier owns property to the same extent as provided in subsection (a).'*

*(b) MODEL STATE LEGISLATION- By no later than September 7, 2007, the Secretary of Transportation shall develop model State legislation to address the problem of entities that claim to be rail carriers in order to establish and run a police force when the entities do not in fact provide rail transportation and shall make it available to State governments. In developing the model State legislation the Secretary shall solicit the input of the States, railroad companies, and railroad employees. The Secretary shall review and, if necessary, revise such model State legislation periodically.*

## **SEC. 114. PUBLIC AWARENESS.**

*Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Transportation, shall develop a national plan for public outreach and awareness. Such plan shall be designed to increase awareness of measures that the general public, railroad passengers, and railroad employees can take to increase railroad system security. Such plan shall also provide outreach to railroad carriers and their employees to improve their awareness of available technologies, ongoing research and development efforts, and available Federal funding sources to improve railroad security. Not later than 9 months after the date of enactment of this Act, the Secretary shall implement the plan developed under this section.*

## **SEC. 115. RAILROAD HIGH HAZARD MATERIAL TRACKING.**

*(a) Wireless Communications-*

*(1) IN GENERAL- In conjunction with the research and development program established under section 105 and consistent with the results of research relating to wireless tracking technologies, the Secretary, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration), shall develop a program that will encourage the equipping of rail cars transporting high hazard materials (as defined in section 104(g) of this Act) with technology that provides--*

*(A) car position location and tracking capabilities; and*

*(B) notification of rail car depressurization, breach, unsafe*

*temperature, or release of hazardous materials.*

*(2) COORDINATION- In developing the program required by paragraph (1), the Secretary shall--*

*(A) consult with the Secretary of Transportation to coordinate the program with any ongoing or planned efforts for rail car tracking at the Department of Transportation; and*

*(B) ensure that the program is consistent with recommendations and findings of the Department of Homeland Security's hazardous material tank rail car tracking pilot programs.*

*(b) FUNDING- Out of funds appropriated pursuant to section 114(u) of title 49, United States Code, as amended by section 116 of this Act, there shall be made available to the Secretary to carry out this section \$3,000,000 for each of fiscal years 2008, 2009, and 2010.*

## **SEC. 116. AUTHORIZATION OF APPROPRIATIONS.**

*(a) TRANSPORTATION SECURITY ADMINISTRATION AUTHORIZATION- Section 114 of title 49, United States Code, is amended by adding at the end thereof the following:*

*^ (u) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated to the Secretary of Homeland Security for rail security--*

*^ (1) \$205,000,000 for fiscal year 2008;*

*^ (2) \$166,000,000 for fiscal year 2009; and*

*^ (3) \$166,000,000 for fiscal year 2010.'.*

*(b) DEPARTMENT OF TRANSPORTATION- There are authorized to be appropriated to the Secretary of Transportation to carry out this title and sections 20118 and 24316 of title 49, United States Code, as added by this Act--*

*(1) \$121,000,000 for fiscal year 2008;*

*(2) \$118,000,000 for fiscal year 2009;*

(3) \$118,000,000 for fiscal year 2010; and

(4) \$118,000,000 for fiscal year 2011.

## **TITLE II--IMPROVED MOTOR CARRIER, BUS, AND HAZARDOUS MATERIAL SECURITY**

### **SEC. 201. HAZARDOUS MATERIALS HIGHWAY ROUTING.**

*(a) ROUTE PLAN GUIDANCE- Within one year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary, shall--*

*(1) document existing and proposed routes for the transportation of radioactive and non-radioactive hazardous materials by motor carrier, and develop a framework for using a Geographic Information System-based approach to characterize routes in the National Hazardous Materials Route Registry;*

*(2) assess and characterize existing and proposed routes for the transportation of radioactive and non-radioactive hazardous materials by motor carrier for the purpose of identifying measurable criteria for selecting routes based on safety and security concerns;*

*(3) analyze current route-related hazardous materials regulations in the United States, Canada, and Mexico to identify cross-border differences and conflicting regulations;*

*(4) document the concerns of the public, motor carriers, and State, local, territorial, and tribal governments about the highway routing of hazardous materials for the purpose of identifying and mitigating security risks associated with hazardous material routes;*

*(5) prepare guidance materials for State officials to assist them in identifying and reducing both safety concerns and security risks when designating highway routes for hazardous materials consistent with the 13 safety-based non-radioactive materials routing criteria and radioactive materials routing criteria in Subpart C part 397 of title 49, Code of Federal Regulations;*

*(6) develop a tool that will enable State officials to examine potential*

*routes for the highway transportation of hazardous material and assess specific security risks associated with each route and explore alternative mitigation measures; and*

*(7) transmit to the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure a report on the actions taken to fulfill paragraphs (1) through (6) of this subsection and any recommended changes to the routing requirements for the highway transportation of hazardous materials in part 397 of title 49, Code of Federal Regulations.*

**(b) ROUTE PLANS-**

*(1) ASSESSMENT- Within one year after the date of enactment of this Act, the Secretary of Transportation shall complete an assessment of the safety and national security benefits achieved under existing requirements for route plans, in written or electronic format, for explosives and radioactive materials. The assessment shall, at a minimum--*

*(A) compare the percentage of Department of Transportation recordable incidents and the severity of such incidents for shipments of explosives and radioactive materials for which such route plans are required with the percentage of recordable incidents and the severity of such incidents for shipments of explosives and radioactive materials not subject to such route plans; and*

*(B) quantify the security and safety benefits, feasibility, and costs of requiring each motor carrier that is required to have a hazardous material safety permit under part 385 of title 49, Code of Federal Regulations, to maintain, follow, and carry such a route plan that meets the requirements of section 397.101 of that title when transporting the type and quantity of hazardous materials described in section 385.403 of that title, taking into account the various segments of the trucking industry, including tank truck, truckload and less than truckload carriers.*

*(2) REPORT- Within one year after the date of enactment of this Act, the Secretary of Transportation shall submit a report to the Senate Committee on Commerce, Science, and Transportation, and the House*

*of Representatives Committee on Transportation and Infrastructure containing the findings and conclusions of the assessment.*

*(c) REQUIREMENT- The Secretary shall require motor carriers that have a hazardous material safety permit under part 385 of title 49, Code of Federal Regulations, to maintain, follow, and carry a route plan, in written or electronic format, that meets the requirements of section 397.101 of that title when transporting the type and quantity of hazardous materials described in section 385.403 of that title if the Secretary determines, under the assessment required in subsection (b), that such a requirement would enhance the security and safety of the nation without imposing unreasonable costs or burdens upon motor carriers.*

## **SEC. 202. MOTOR CARRIER HIGH HAZARD MATERIAL TRACKING.**

*(a) Communications--*

*(1) IN GENERAL- Consistent with the findings of the Transportation Security Administration's Hazmat Truck Security Pilot Program and within 6 months after the date of enactment of this Act, the Secretary, through the Transportation Security Administration and in consultation with the Secretary of Transportation, shall develop a program to encourage the tracking of motor carrier shipments of high hazard materials as defined in this Act with communications technology that provides--*

*(A) frequent or continuous communications;*

*(B) vehicle position location and tracking capabilities; and*

*(C) a feature that allows a driver of such vehicles to broadcast an emergency message.*

*(2) CONSIDERATIONS- In developing the program required by paragraph (1), the Secretary shall--*

*(A) consult with the Secretary of Transportation to coordinate the program with any ongoing or planned efforts for motor carrier or high hazardous materials tracking at the Department of Transportation;*

*(B) take into consideration the recommendations and findings of*

*the report on the Hazardous Material Safety and Security Operation Field Test released by the Federal Motor Carrier Safety Administration on November 11, 2004;*

*(C) evaluate--*

*(i) any new information related to the cost and benefits of deploying and utilizing tracking technology for motor carriers transporting high hazard materials not included in the Hazardous Material Safety and Security Operation Field Test Report released by the Federal Motor Carrier Safety Administration on November 11, 2004;*

*(ii) the ability of tracking technology to resist tampering and disabling;*

*(iii) the capability of tracking technology to collect, display, and store information regarding the movements of shipments of high hazard materials by commercial motor vehicles;*

*(iv) the appropriate range of contact intervals between the tracking technology and a commercial motor vehicle transporting high hazard materials; and*

*(v) technology that allows the installation by a motor carrier of concealed electronic devices on commercial motor vehicles that can be activated by law enforcement authorities and alert emergency response resources to locate and recover security sensitive material in the event of loss or theft of such material.*

*(b) FUNDING- There are authorized to be appropriated to the Secretary to carry out this section \$3,000,000 for each of fiscal years 2008, 2009, and 2010.*

## **SEC. 203. MEMORANDUM OF AGREEMENT.**

*Similar to the other security annexes between the two departments, within 1 year after the date of enactment of this Act, the Secretary of Transportation and the Secretary shall execute and develop an annex to the memorandum of agreement between the two departments signed on September 28, 2004,*

*governing the specific roles, delineations of responsibilities, resources and commitments of the Department of Transportation and the Department of Homeland Security, respectively, in addressing motor carrier transportation security matters, including the processes the departments will follow to promote communications, efficiency, and nonduplication of effort.*

## **SEC. 204. HAZARDOUS MATERIALS SECURITY INSPECTIONS AND ENFORCEMENT.**

*(a) IN GENERAL- The Secretary shall establish a program within the Transportation Security Administration, in consultation with the Secretary of Transportation, for reviewing hazardous materials security plans required under part 172, title 49, Code of Federal Regulations, within 180 days after the date of enactment of this Act. In establishing the program, the Secretary shall ensure that--*

*(1) the program does not subject carriers to unnecessarily duplicative reviews of their security plans by the 2 departments; and*

*(2) a common set of standards is used to review the security plans.*

*(b) CIVIL PENALTY- The failure, by an offerer, carrier, or other person subject to part 172 of title 49, Code of Federal Regulations, to comply with any applicable section of that part within 180 days after being notified by the Secretary of such failure to comply, is punishable by a civil penalty imposed by the Secretary under title 49, United States Code. For purposes of this subsection, each day of noncompliance after the 181st day following the date on which the offerer, carrier, or other person received notice of the failure shall constitute a separate failure.*

*(c) COMPLIANCE REVIEW- In reviewing the compliance of hazardous materials offerers, carriers, or other persons subject to part 172 of title 49, Code of Federal Regulations, with the provisions of that part, the Secretary shall utilize risk assessment methodologies to prioritize review and enforcement actions of the highest risk hazardous materials transportation operations.*

*(d) TRANSPORTATION COSTS STUDY- Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in conjunction with the Secretary, shall study to what extent the insurance, security, and safety costs borne by railroad carriers, motor carriers, pipeline carriers, air carriers, and maritime carriers associated with the transportation of hazardous*

*materials are reflected in the rates paid by offerers of such commodities as compared to the costs and rates respectively for the transportation of non-hazardous materials.*

*(e) FUNDING- There are authorized to be appropriated to the Secretary to carry out this section--*

*(1) \$2,000,000 for fiscal year 2008;*

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

*(3) \$2,000,000 for fiscal year 2010.*

## **SEC. 205. TRUCK SECURITY ASSESSMENT.**

*Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Transportation, shall transmit to the Senate Committee on Commerce, Science, and Transportation, Senate Committee on Finance, the House of Representatives Committee on Transportation and Infrastructure, the House of Representatives Committee on Homeland Security, and the House of Representatives Committee on Ways and Means, a report on security issues related to the trucking industry that includes--*

*(1) an assessment of actions already taken to address identified security issues by both public and private entities;*

*(2) an assessment of the economic impact that security upgrades of trucks, truck equipment, or truck facilities may have on the trucking industry and its employees, including independent owner-operators;*

*(3) an assessment of ongoing research and the need for additional research on truck security;*

*(4) an assessment of industry best practices to enhance security; and*

*(5) an assessment of the current status of secure motor carrier parking.*

## **SEC. 206. NATIONAL PUBLIC SECTOR RESPONSE SYSTEM.**

*(a) DEVELOPMENT- The Secretary, in conjunction with the Secretary of Transportation, shall consider the development of a national public sector response system to receive security alerts, emergency messages, and other information used to track the transportation of high hazard materials which can provide accurate, timely, and actionable information to appropriate first responder, law enforcement and public safety, and homeland security officials, as appropriate, regarding accidents, threats, thefts, or other safety and security risks or incidents. In considering the development of this system, they shall consult with law enforcement and public safety officials, hazardous material shippers, motor carriers, railroads, organizations representing hazardous material employees, State transportation and hazardous materials officials, private for-profit and non-profit emergency response organizations, and commercial motor vehicle and hazardous material safety groups. Consideration of development of the national public sector response system shall be based upon the public sector response center developed for the Transportation Security Administration hazardous material truck security pilot program and hazardous material safety and security operational field test undertaken by the Federal Motor Carrier Safety Administration.*

*(b) CAPABILITY- The national public sector response system to be considered shall be able to receive, as appropriate--*

- (1) negative driver verification alerts;*
- (2) out-of-route alerts;*
- (3) driver panic or emergency alerts; and*
- (4) tampering or release alerts.*

*(c) CHARACTERISTICS- The national public sector response system to be considered shall--*

- (1) be an exception-based system;*
- (2) be integrated with other private and public sector operation reporting and response systems and all Federal homeland security threat analysis systems or centers (including the National Response Center); and*
- (3) provide users the ability to create rules for alert notification*

*messages.*

*(d) CARRIER PARTICIPATION- The Secretary shall coordinate with motor carriers and railroads transporting high hazard materials, entities acting on their behalf who receive communication alerts from motor carriers or railroads, or other Federal agencies that receive security and emergency related notification regarding high hazard materials in transit to facilitate the provisions of the information listed in subsection (b) to the national public sector response system to the extent possible if the system is established.*

*(e) DATA PRIVACY- The national public sector response system shall be designed to ensure appropriate protection of data and information relating to motor carriers, railroads, and employees.*

*(f) REPORT- Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security a report on whether to establish a national public sector response system and the estimated total public and private sector costs to establish and annually operate such a system, together with any recommendations for generating private sector participation and investment in the development and operation of such a system.*

*(g) FUNDING- There are authorized to be appropriated to the Secretary to carry out this section--*

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

*(2) \$1,000,000 for fiscal year 2009; and*

*(3) \$1,000,000 for fiscal year 2010.*

## **SEC. 207. OVER-THE-ROAD BUS SECURITY ASSISTANCE.**

*(a) IN GENERAL- The Secretary shall establish a program within the Transportation Security Administration for making grants to private operators of over-the-road buses or over-the-road bus terminal operators for the purposes of emergency preparedness drills and exercises, protecting high risk/high consequence assets identified through system-wide risk assessment, counter-terrorism training, visible/unpredictable deterrence, public awareness and preparedness campaigns, and including--*

*(1) constructing and modifying terminals, garages, facilities, or over-the-road buses to assure their security;*

*(2) protecting or isolating the driver;*

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

*(4) training employees in recognizing and responding to security risks, evacuation procedures, passenger screening procedures, and baggage inspection;*

*(5) hiring and training security officers;*

*(6) installing cameras and video surveillance equipment on over-the-road buses and at terminals, garages, and over-the-road bus facilities;*

*(7) creating a program for employee identification or background investigation;*

*(8) establishing and upgrading emergency communications tracking and control systems; and*

*(9) implementing and operating passenger screening programs at terminals and on over-the-road buses.*

*(b) DUE CONSIDERATION-* In making grants under this section, the Secretary shall give due consideration to private operators of over-the-road buses that have taken measures to enhance bus transportation security from those in effect before September 11, 2001, and shall prioritize grant funding based on the magnitude and severity of the security risks to bus passengers and the ability of the funded project to reduce, or respond to, that risk.

*(c) GRANT REQUIREMENTS-* A grant under this section shall be subject to all the terms and conditions that a grant is subject to under section 3038(f) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 393).

*(d) PLAN REQUIREMENT-*

*(1) IN GENERAL- The Secretary may not make a grant under this section to a private operator of over-the-road buses until the operator has first submitted to the Secretary--*

*(A) a plan for making security improvements described in subsection (a) and the Secretary has reviewed or approved the plan; and*

*(B) such additional information as the Secretary may require to ensure accountability for the obligation and expenditure of amounts made available to the operator under the grant.*

*(2) COORDINATION- To the extent that an application for a grant under this section proposes security improvements within a specific terminal owned and operated by an entity other than the applicant, the applicant shall demonstrate to the satisfaction of the Secretary that the applicant has coordinated the security improvements for the terminal with that entity.*

*(e) OVER-THE-ROAD BUS DEFINED- In this section, the term `over-the-road bus' means a bus characterized by an elevated passenger deck located over a baggage compartment.*

*(f) BUS SECURITY ASSESSMENT-*

*(1) IN GENERAL- Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security a report in accordance with the requirements of this section.*

*(2) CONTENTS OF REPORT- The report shall include--*

*(A) an assessment of the over-the-road bus security grant program;*

*(B) an assessment of actions already taken to address identified security issues by both public and private entities and recommendations on whether additional safety and security*

*enforcement actions are needed;*

*(C) an assessment of whether additional legislation is needed to provide for the security of Americans traveling on over-the-road buses;*

*(D) an assessment of the economic impact that security upgrades of buses and bus facilities may have on the over-the-road bus transportation industry and its employees;*

*(E) an assessment of ongoing research and the need for additional research on over-the-road bus security, including engine shut-off mechanisms, chemical and biological weapon detection technology, and the feasibility of compartmentalization of the driver;*

*(F) an assessment of industry best practices to enhance security; and*

*(G) an assessment of school bus security, if the Secretary deems it appropriate.*

*(3) CONSULTATION WITH INDUSTRY, LABOR, AND OTHER GROUPS- In carrying out this section, the Secretary shall consult with over-the-road bus management and labor representatives, public safety and law enforcement officials, and the National Academy of Sciences.*

*(g) FUNDING- There are authorized to be appropriated to the Secretary to carry out this section--*

*(1) \$12,000,000 for fiscal year 2008;*

*(2) \$25,000,000 for fiscal year 2009; and*

*(3) \$25,000,000 for fiscal year 2010.*

*Amounts made available pursuant to this subsection shall remain available until expended.*

## **SEC. 208. PIPELINE SECURITY AND INCIDENT RECOVERY PLAN.**

*(a) IN GENERAL- The Secretary, in consultation with the Secretary of Transportation and the Pipeline and Hazardous Materials Safety Administration, and in accordance with the Memorandum of Understanding Annex executed on August 9, 2006, shall develop a Pipeline Security and Incident Recovery Protocols Plan. The plan shall include--*

*(1) a plan for the Federal Government to provide increased security support to the most critical interstate and intrastate natural gas and hazardous liquid transmission pipeline infrastructure and operations as determined under section 209--*

*(A) at severe security threat levels of alert; or*

*(B) when specific security threat information relating to such pipeline infrastructure or operations exists; and*

*(2) an incident recovery protocol plan, developed in conjunction with interstate and intrastate transmission and distribution pipeline operators and terminals and facilities operators connected to pipelines, to develop protocols to ensure the continued transportation of natural gas and hazardous liquids to essential markets and for essential public health or national defense uses in the event of an incident affecting the interstate and intrastate natural gas and hazardous liquid transmission and distribution pipeline system, which shall include protocols for granting access to pipeline operators for pipeline infrastructure repair, replacement or bypass following an incident.*

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

*(c) CONSULTATION- In developing the plan under subsection (a), the Secretary shall consult with the Secretary of Transportation, interstate and intrastate transmission and distribution pipeline operators, pipeline labor, first responders, shippers, State pipeline safety agencies, public safety officials, and other relevant parties.*

*(d) REPORT-*

*(1) CONTENTS- Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to the Committee on Commerce,*

*Science, and Transportation of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives a report containing the plan required by subsection (a), along with an estimate of the private and public sector costs to implement any recommendations.*

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

## **SEC. 209. PIPELINE SECURITY INSPECTIONS AND ENFORCEMENT.**

*(a) IN GENERAL- Within 1 year after the date of enactment of this Act the Secretary, in consultation with the Secretary of Transportation, shall establish a program for reviewing pipeline operator adoption of recommendations in the September, 5, 2002, Department of Transportation Research and Special Programs Administration Pipeline Security Information Circular, including the review of pipeline security plans and critical facility inspections.*

*(b) REVIEW AND INSPECTION- Within 9 months after the date of enactment of this Act the Secretary and the Secretary of Transportation shall develop and implement a plan for reviewing the pipeline security plan and an inspection of the critical facilities of the 100 most critical pipeline operators covered by the September, 5, 2002, circular, where such facilities have not been inspected for security purposes since September 5, 2002, by either the Department of Homeland Security or the Department of Transportation.*

*(c) COMPLIANCE REVIEW METHODOLOGY--In reviewing pipeline operator compliance under subsections (a) and (b), risk assessment methodologies shall be used to prioritize risks and to target inspection and enforcement actions to the highest risk pipeline assets.*

*(d) REGULATIONS- Within 1 year after the date of enactment of this Act, the Secretary and the Secretary of Transportation shall develop and transmit to pipeline operators security recommendations for natural gas and hazardous liquid pipelines and pipeline facilities. If the Secretary determines that regulations are appropriate, the Secretary shall consult with the Secretary of Transportation on the extent of risk and appropriate mitigation measures, and the Secretary or the Secretary of Transportation, consistent with the memorandum of understanding annex signed on August 9, 2006, shall*

*promulgate such regulations and carry out necessary inspection and enforcement actions. Any regulations should incorporate the guidance provided to pipeline operators by the September 5, 2002, Department of Transportation Research and Special Programs Administration's Pipeline Security Information Circular and contain additional requirements as necessary based upon the results of the inspections performed under subsection (b). The regulations shall include the imposition of civil penalties for non-compliance.*

*(e) FUNDING- There are authorized to be appropriated to the Secretary to carry out this section--*

*(1) \$2,000,000 for fiscal year 2008; and*

*(2) \$2,000,000 for fiscal year 2009.*

## **SEC. 210. TECHNICAL CORRECTIONS.**

*(a) HAZMAT LICENSES- Section 5103a of title 49, United States Code, is amended--*

*(1) by inserting `of Homeland Security' after `Secretary' each place it appears in subsections (a)(1), (d)(1)(b), and (e); and*

*(2) by redesignating subsection (h) as subsection (i) and inserting the following after subsection (g):*

*`(h) RELATIONSHIP TO TRANSPORTATION SECURITY CARDS- Upon application, a State shall issue to an individual a license to operate a motor vehicle transporting in commerce a hazardous material without the security assessment required by this section, provided the individual meets all other applicable requirements for such a license, if the Secretary of Homeland Security has previously determined, under section 70105 of title 46, United States Code, that the individual does not pose a security risk.'*

## **SEC. 211. CERTAIN PERSONNEL LIMITATIONS NOT TO APPLY.**

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

## **SEC. 212. MARITIME AND SURFACE TRANSPORTATION SECURITY USER FEE STUDY.**

*(a) IN GENERAL- The Secretary of Homeland Security shall conduct a study of the need for, and feasibility of, establishing a system of maritime and surface transportation-related user fees that may be imposed and collected as a dedicated revenue source, on a temporary or continuing basis, to provide necessary funding for legitimate improvements to, and maintenance of, maritime and surface transportation security. In developing the study, the Secretary shall consult with maritime and surface transportation carriers, shippers, passengers, facility owners and operators, and other persons as determined by the Secretary. Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the appropriate congressional committees that contains--*

*(1) the results of the study;*

*(2) an assessment of the annual sources of funding collected through maritime and surface transportation at ports of entry and a detailed description of the distribution and use of such funds, including the amount and percentage of such sources that are dedicated to improve and maintain security;*

*(3)(A) an assessment of the fees, charges, and standards imposed on United States ports, port terminal operators, shippers, carriers, and other persons who use United States ports of entry compared with the fees and charges imposed on Canadian and Mexican ports, Canadian and Mexican port terminal operators, shippers, carriers, and other persons who use Canadian or Mexican ports of entry; and*

*(B) an assessment of the impact of such fees, charges, and standards on the competitiveness of United States ports, port terminal operators, railroads, motor carriers, pipelines, other transportation modes, and shippers;*

*(4) an assessment of private efforts and investments to secure maritime and surface transportation modes, including those that are operational and those that are planned; and*

*(5) the Secretary's recommendations based upon the study, and an assessment of the consistency of such recommendations with the*

*international obligations and commitments of the United States.*

*(b) DEFINITIONS- In this section:*

*(1) APPROPRIATE CONGRESSIONAL COMMITTEES- The term `appropriate congressional committees' has the meaning given that term by section 2(1) of the SAFE Port Act (6 U.S.C. 901(1)).*

*(2) PORT OF ENTRY- The term `port of entry' means any port or other facility through which foreign goods are permitted to enter the customs territory of a country under official supervision.*

*(3) MARITIME AND SURFACE TRANSPORTATION- The term `maritime and surface transportation' includes oceanborne, rail, and vehicular transportation.*

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**S. 184**

**A BILL**

To provide improved rail and surface transportation security.

**February 15, 2007**

**Reported with an amendment**

*END*