S. 1052

To improve transportation security, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 17, 2005

Mr. STEVENS (for himself, Mr. INOUYE, Mr. ROCKEFELLER, Mr. DORGAN, Ms. SNOWE, Mrs. BOXER, Ms. CANTWELL, Mr. LAUTENBERG, Mr. PRYOR, Mrs. CLINTON, and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To improve transportation security, and for other purposes.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the
“Transportation Security Improvement Act of 2005”.
(b) Table of Contents.—The table of contents for
this Act is as follows:

TITLE I—AUTHORIZATIONS

Sec. 101. Transportation Security Administration authorization.
Sec. 102. Department of Transportation authorization.
Sec. 103. Certain personnel limitations not to apply.
Sec. 104. Intermodal regional security managers.
Sec. 105. Security threat assessment coordination policy.
Sec. 106. Reorganizations.

TITLE II—IMPROVED AVIATION SECURITY

Sec. 201. Post-fiscal year 2006 air carrier security fees.
Sec. 203. Screener training review.
Sec. 204. Employee retention internship program.
Sec. 205. Repair station security.
Sec. 206. Waiver process for certain employment disqualifications.

TITLE III—IMPROVED RAIL SECURITY

Sec. 301. Short title.
Sec. 302. Rail transportation security risk assessment.
Sec. 303. Systemwide Amtrak security upgrades.
Sec. 304. Fire and life-safety improvements.
Sec. 305. Freight and passenger rail security upgrades.
Sec. 306. Rail security research and development.
Sec. 307. Oversight and grant procedures.
Sec. 308. Amtrak plan to assist families of passengers involved in rail passenger accidents.
Sec. 309. Northern Border rail passenger report.
Sec. 310. Rail worker security training program.
Sec. 311. Whistleblower protection program.
Sec. 312. High hazard material security threat mitigation plans.
Sec. 313. Memorandum of agreement.
Sec. 314. Rail security enhancements.
Sec. 315. Welded rail and tank car safety improvements.
Sec. 316. Report regarding impact on security of train travel in communities without grade separation.
Sec. 317. Study of foreign rail transport security programs.
Sec. 318. Passenger, baggage, and cargo screening.
Sec. 319. Public awareness.
Sec. 320. Railroad high hazard material tracking.

TITLE IV—IMPROVED MOTOR CARRIER, BUS, AND HAZARDOUS MATERIAL SECURITY

Sec. 401. Background checks for drivers hauling hazardous materials.
Sec. 402. Written plans for hazardous materials highway routing.
Sec. 403. Motor carrier high hazard material tracking.
Sec. 404. Truck leasing security training guidelines.
Sec. 405. Hazardous materials security inspections and enforcement.
Sec. 406. Pipeline security and incident recovery plan.
Sec. 407. Pipeline security inspections and enforcement.
Sec. 408. Memorandum of agreement.
Sec. 409. National public sector response system.
Sec. 410. Over-the-road bus security assistance.

TITLE V—IMPROVED MARITIME SECURITY

Sec. 501. Establishment of additional joint operational centers for port security.
Sec. 502. AMTS plan to include salvage response plan.
Sec. 503. Priority to certain vessels in post-incident resumption of trade.
Sec. 504. Assistance for foreign ports.
Sec. 505. Improved data used for targeted cargo searches.
Sec. 506. Increase in number of customs inspectors assigned overseas.
Sec. 507. Random inspection of containers.
Sec. 508. Cargo security.
Sec. 509. Secure systems of international intermodal transportation.
Sec. 510. Technology for maritime transportation security.
Sec. 511. Deadline for transportation security cards.
Sec. 512. Evaluation and report.
Sec. 513. Port security grants.
Sec. 514. Work stoppages and employee-employer disputes.
Sec. 515. Appeal of denial of waiver for transportation security card.

TITLE I—AUTHORIZATIONS

SEC. 101. 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, (Transportation Security Administration)—

“(1) for Aviation Security—

“(A) $5,000,000,000 for fiscal year 2006;
“(B) $5,250,000,000 for fiscal year 2007;

and

“(C) $5,500,000,000 for fiscal year 2008;

“(2) for Maritime and Land Security—

“(A) $394,000,000 for fiscal year 2006;
“(B) $354,000,000 for fiscal year 2007;

and

“(C) $354,000,000 for fiscal year 2008;

“(3) for Intelligence—
“(A) $30,000,000 for fiscal year 2006;
“(B) $32,000,000 for fiscal year 2007; and
“(C) $34,000,000 for fiscal year 2008;
“(4) for Research and Development—
“(A) $30,000,000 for fiscal year 2006;
“(B) $32,000,000 for fiscal year 2007; and
“(C) $34,000,000 for fiscal year 2008; and
“(5) for Administration—
“(A) $530,000,000 for fiscal year 2006;
“(B) $535,000,000 for fiscal year 2007;
and
“(C) $540,000,000 for fiscal year 2008.”.

SEC. 102. DEPARTMENT OF TRANSPORTATION AUTHORIZATION.

There are authorized to be appropriated to the Secretary of Transportation to carry out title III of this Act and sections 20118 and 24316 of title 49, United States Code, as added by title III of this Act—

(1) $261,000,000 for fiscal year 2006;
(2) $258,000,000 for fiscal year 2007; and
(3) $258,000,000 for fiscal year 2008.

SEC. 103. CERTAIN PERSONNEL LIMITATIONS NOT TO APPLY.

(a) In General.—Any statutory limitation on the number of employees in the Transportation Security Ad-
ministration of the Department of Transportation, before
or after its transfer to the Department of Homeland Secu-

rity, does not apply to the extent that any such employees
are responsible for implementing the provisions of this
Act.

(b) AVIATION SECURITY.—Notwithstanding any
provision of law imposing a limitation on the recruiting
or hiring of personnel into the Transportation Security
Administration to a maximum number of permanent posi-
tions, the Secretary of Homeland Security shall recruit
and hire such personnel into the Administration as may
be necessary—

(1) to provide appropriate levels of aviation se-
curity; and

(2) to accomplish that goal in such a manner
that the average aviation security-related delay expe-
rienced by airline passengers is reduced.

SEC. 104. INTERMODAL REGIONAL SECURITY MANAGERS.

(a) Establishment, Designation, and Sta-
tioning.—The Under Secretary of Homeland Security for
Border and Transportation Security, acting through the
Transportation Security Administration, is authorized to
establish the position of Intermodal Manager within each
of at least 8 regional areas of the nation, as divided on
a geographical basis. The Under Secretary shall designate
individuals as Managers for, and station those Managers within, those regions.

(b) Duties and Powers.—The regional offices shall—

(1) receive intelligence information related to maritime and land security within the region;

(2) assist in the development and implementation of vulnerability, threat, and risk assessments, security plans, the identification of critical infrastructure for the region undertaken by the Transportation Security Administration and the Department of Homeland Security, or other public or private entity when appropriate;

(3) serve as the regional coordinator of the Assistant Secretary’s response to terrorist incidents and threats to maritime and land assets, operations and infrastructure within the region;

(4) coordinate efforts related to maritime and land security with other Department officials, State and local law enforcement, and other public and private entities;

(5) coordinate with other regional managers;

(6) assist the Assistant Secretary in prioritizing maritime and land security improvements, grants, and other efforts funded by the Transportation Se-
security Administration or the Department of Homeland Security within the region; and

(7) engage in outreach and promote public awareness of maritime and land security efforts when appropriate.

SEC. 105. SECURITY THREAT ASSESSMENT COORDINATION POLICY.


(b) 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. 106. REORGANIZATIONS.

The Secretary of Homeland Security shall notify the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Homeland Security and Governmental Affairs, and the House of Representatives Committee on Homeland Security in writing not less than 15 days before—

(1) reorganizing or renaming offices;
(2) reorganizing programs or activities; or
(3) contracting out or privatizing any functions
or activities presently performed by Federal employ-
ees.

TITLE II—IMPROVED AVIATION
SECURITY

SEC. 201. POST-FISCAL YEAR 2006 AIR CARRIER SECURITY
FEES.

(a) Air Carrier Security Service Fees Subject
to Congressional Review.—Section 44940(a)(2) of
title 49, United States Code, is amended by adding at the
end the following:

“(D) Fiscal Years 2007 and Later.—
The Under Secretary may not impose a fee
under subparagraph (A) after September 30,
2006, unless—

“(i) the fee is imposed by rule promul-
gated by the Under Secretary; and

“(ii) the Under Secretary submits the
rule to the Senate Committee on Com-
merce, Science, and Transportation and
the House of Representatives Committee
on Transportation and Infrastructure not
less than 60 days before its proposed effec-
tive date.
“(E) Application of Chapter 8 of Title 5.—Chapter 8 of title 5 applies to any rule promulgated by the Under Secretary imposing a fee under subparagraph (A) after September 30, 2006.”.

(b) Report on Transportation Security Service Fees.—Each year, beginning with calendar year 2006, the Secretary of Homeland Security, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on fees, substantially similar to the fee imposed under section 44940(a)(2) of title 49, United States Code, that are imposed under authority of law on competing modes of regularly-scheduled commercial passenger transportation by rail, vessel, or over-the-road bus to pay for the difference between the Transportation Security Administration’s costs of providing transportation security services in connection with those modes of transportation and amounts collected from fees imposed under authority of law on passengers using those modes of transportation, taking into account costs that are the same as or similar to the costs described in 44940(a)(1) of that title that are appropriate to the respective modes of transportation.
SEC. 202. ALTERNATIVE COLLECTION METHODS FOR PASSENGER SECURITY FEE.

(a) IN GENERAL.—

(1) STUDY.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall study the feasibility of collecting the passenger security service fee authorized by section 44940(a) of title 49, United States Code, directly from passengers at, or before they reach, the airport through a system developed or approved by the Assistant Secretary, including the use of vending kiosks, other automated vending devices, the Internet, or other remote vending sites.

(2) SOLICITATION OF PROPOSALS.—In carrying out this subsection the Secretary shall solicit proposals for such alternative collection mechanisms.

(3) DEVELOPMENT OF ALTERNATIVES.—Based on the study conducted under paragraph (1) and an evaluation of proposals submitted pursuant to the solicitation under paragraph (2), the Assistant Secretary shall develop such alternative collection systems as the Assistant Secretary determines to be feasible, including schedules and methods to ensure the efficiency of such systems.

(b) REPORT.—The Secretary shall report the results of the study, together with any recommendations the Sec-
(c) **Demonstration Projects.**—If the Secretary determines that a system of direct collection of such fees from passengers at airports is feasible, the Secretary shall conduct demonstration projects at no fewer than 3 airports within 1 year after submitting the report required by subsection (b) to the Congress.

**SEC. 203. Screener Training Review.**

Within 6 months after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration), shall transmit a report on the adequacy of training for Transportation Security Administration screeners to the Congress. In addition to other issues, the Assistant Secretary shall specifically address any multi-hour weekly training requirement for such screeners, including an assessment of the degree to which such a requirement is observed and whether the requirement is appropriate, workable, and desirable. The Inspector General of the Department of Homeland Security shall review the report submitted under this section.

**SEC. 204. Employee Retention Internship Program.**

The Assistant Secretary of Homeland Security (Transportation Security Administration), shall establish a pilot program at no fewer than 3 airports for training
students to perform screening of passengers and property
under section 44901 of title 49, United States Code. The
program shall be an internship for pre-employment train-
ing of final-year students from public and private sec-
ondary schools located in nearby communities. Under the
program, participants—

(1) shall be compensated for training and serv-
ices time while participating in the program, and

(2) shall be required to agree, as a condition of
participation in the program, to accept employment
as a screener upon successful completion of the inter-
ernship and upon graduation from the secondary
school.

SEC. 205. REPAIR STATION SECURITY.

(a) Certification of Foreign Repair Stations
Suspension.—If the Under Secretary of Homeland Secu-
rity for Border and Transportation Security does not issue
the regulations required by section 44924(e) of title 49,
United States Code, within 90 days after the date of en-
actment of this Act, the Administrator of the Federal
Aviation Administration may not certify any foreign repair
station under part 145 of title 14, Code of Federal Regu-
lations after such 90th day.

(b) 6-Month Deadline for Security Review
and Audit.—Subsections (a) and (d) of section 44924
of title 49, United States Code, are each amended by strik-
ing “18 months” and inserting “6 months”.

SEC. 206. WAIVER PROCESS FOR CERTAIN EMPLOYMENT
DISQUALIFICATIONS.

Section 44936 of title 49, United States Code, is
amended by adding at the end the following:

“(f) Waiver Process.—

“(1) In general.—The Under Secretary for
Border and Transportation Security of the Depart-
ment of Homeland Security shall establish a process
to permit an individual who was convicted of a crime
listed in subsection (b) to obtain a waiver from the
Under Secretary to permit that individual’s employ-
ment.

“(2) Factors.—In deciding whether to grant a
waiver under this subsection, the Under Secretary
shall give consideration to the circumstances of the
disqualifying crime, restitution made by the indi-
vidual, and other factors that would tend to indicate
that the individual does not pose a security or ter-
rorism risk.

“(3) Appeals process.—The Under Secretary
shall establish a process that includes an opportunity
for a hearing for individuals who are denied waivers
under this subsection.
“(4) Restrictions on use and maintenance of information.—

“(A) Information submitted to or obtained by the Attorney General or the Secretary under this section about an individual may not be made available to the public, including the individual’s employer.

“(B) Any information submitted to or obtained under this section shall be maintained confidentially by the Under Secretary and may be used only for making determinations under this section. The Under Secretary may share any such information with other Federal law enforcement agencies. An individual’s employer may only be informed whether or not the individual has been granted unescorted access under this section.

“(5) Appeal.—An individual denied a waiver under this subsection may file a civil action appealing that denial in any United States District Court and those courts shall have jurisdiction of the appeal.”.
TITLE III—IMPROVED RAIL SECURITY

SEC. 301. SHORT TITLE.
This title may be cited as the “Rail Security Act of 2005”.

SEC. 302. RAIL TRANSPORTATION SECURITY RISK ASSESSMENT.

(a) IN GENERAL.—

(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—

(A) identification and evaluation of critical assets and infrastructures;

(B) identification of vulnerabilities and risks to those assets and infrastructures;

(C) identification of vulnerabilities and risks that are specific to the transportation of hazardous materials via railroad; and
(D) identification of security weaknesses in passenger and cargo security, transportation infrastructure, protection systems, procedural policies, communications systems, employee training, emergency response planning, and any other area identified by the assessment.

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

(3) RECOMMENDATIONS.—Based on the assessment conducted under paragraph (1), the 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;

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

(C) training appropriate railroad or rail-
road shipper employees in terrorism prevention,
passenger evacuation, and response activities;

(D) conducting public outreach campaigns
on passenger railroads;

(E) deploying surveillance equipment; and

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

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

(A) a plan, developed in consultation with
the freight and intercity passenger railroads,
and State and local governments, for the Fed-
eral government to provide increased 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 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—

(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 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.

(c) Report.—
(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 and the House of Representatives Committee on Transportation and Infrastructure 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)(2) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security to carry out this section $5,000,000 for fiscal year 2006.
SEC. 303. SYSTEMWIDE AMTRAK SECURITY UPGRADES.

(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—

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

(2) to secure Amtrak trains;

(3) to secure Amtrak stations;

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

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

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

(7) to expand emergency preparedness efforts.

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

AVAILABILITY OF FUNDS.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, 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—

(1) $63,500,000 for fiscal year 2006;
(2) $30,000,000 for fiscal year 2007; and
(3) $30,000,000 for fiscal year 2008.

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

SEC. 304. FIRE AND LIFE-SAFETY IMPROVEMENTS.

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

(b) AUTHORIZATION OF APPROPRIATIONS.—Out of funds appropriated pursuant to section 102 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 tunnels to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers—

(A) $190,000,000 for fiscal year 2006;

(B) $190,000,000 for fiscal year 2007; and

(C) $190,000,000 for fiscal year 2008.

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

(A) $19,000,000 for fiscal year 2006;

(B) $19,000,000 for fiscal year 2007; and

(C) $19,000,000 for fiscal year 2008.

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

(A) $13,333,000 for fiscal year 2006;

(B) $13,333,000 for fiscal year 2007; and

(C) $13,333,000 for fiscal year 2008.
(c) INFRASTRUCTURE UPGRADES.—Out of funds appropriated pursuant to section 102 of this Act, there shall be made available to the Secretary of Transportation for fiscal year 2006 $3,000,000 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

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

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

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

(2) unless, for each project funded pursuant to this section, the Secretary has approved a project management plan prepared by Amtrak addressing appropriate project budget, construction schedule, recipient staff organization, document control and record keeping, change order procedure, quality control and assurance, periodic plan updates, 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 and the House of Representatives Committee on Transportation and Infrastructure the portions of the plan the Secretary finds incomplete or deficient, approve all other portions of the plan, obligate the funds associated with those other portions, and execute an agreement with Amtrak within 15 days thereafter on a process for resolving the remaining portions of the plan.

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

(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 302, including—

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

(2) accommodation of cargo or passenger screening equipment at the United States-Mexico border or the United States-Canada border;

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

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

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

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

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

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

(9) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;
(10) to hire additional police and security officers, including canine units; and

(11) other improvements recommended by the report required by section 302, 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 Act 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 and vulnerability as determined under section 302, and shall encourage non-Federal financial participation in awarding grants. With respect to grants for 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.

(d) CONDITIONS.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless Amtrak meets the conditions set forth in section 303(b) of this Act.

(e) ALLOCATION BETWEEN RAILROADS AND OTHERS.—Unless as a result of the assessment required by section 302 the Secretary of Homeland Security deter-
mines that critical rail transportation security needs require reimbursement in greater amounts to any eligible entity, no grants under this section may be made—

(1) in excess of $65,000,000 to Amtrak; or

(2) in excess of $100,000,000 for the purposes described in paragraphs (3) and (5) of subsection (a).

(f) **Authorization of Appropriations.**—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security to carry out this section—

(1) $120,000,000 for fiscal year 2006;

(2) $120,000,000 for fiscal year 2007; and

(3) $120,000,000 for fiscal year 2008.

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

(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.
SEC. 306. RAIL SECURITY RESEARCH AND DEVELOPMENT.

(a) Establishment of Research and Development Program.—The Secretary of Transportation, in conjunction with the Under Secretary of Homeland Security for Science and Technology and the Assistant Secretary of Homeland Security (Transportation Security Administration), shall carry out a research and development program for the purpose of improving freight and intercity passenger rail security that may include research and development projects to—

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

(2) test new emergency response techniques and technologies;

(3) develop improved freight technologies, including—

(A) technologies for sealing rail cars;

(B) automatic inspection of rail cars;

(C) communication-based train controls;

and

(D) emergency response training;

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

(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 305(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 vulnerabilities and risks identified under section 302.

(b) Coordination With Other Research Initiatives.—The Secretary of Transportation shall ensure that the research and development program authorized by this section is coordinated with other research and development initiatives at the Department of Transportation and the Department of Homeland Security. The Secretary shall carry out any research and development project authorized by this section through a reimbursable agreement with the Under Secretary of Homeland Security for Science and Technology, if the Under Secretary—
(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 305(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 Act and the priorities and other criteria developed by the Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—Out of funds appropriated pursuant to section 102 of this Act, there shall be made available to the Secretary of Transportation to carry out this section—

(1) $35,000,000 for fiscal year 2006;

(2) $35,000,000 for fiscal year 2007; and

(3) $35,000,000 for fiscal year 2008.

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

SEC. 307. OVERSIGHT AND GRANT PROCEDURES.

(a) SECRETARIAL OVERSIGHT.—The Secretary of Homeland Security, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration), may use up to 0.5 percent of amounts
made available for capital projects under the Rail Security
Act of 2005 to enter into contracts for the review of pro-
posed capital projects and related program management
plans and to oversee construction of such projects.

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

(c) PROCEDURES FOR GRANT AWARD.—The Sec-
retary shall prescribe procedures and schedules for the
awarding of grants under this Act, including application
and qualification procedures (including a requirement that
the applicant have a security plan), and a record of deci-
sion on applicant eligibility. The procedures shall include
the execution of a grant agreement between the grant re-
cipient 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. The
Secretary shall issue a final rule establishing the proce-
dures not later than 90 days after the date of enactment
of this Act.
SEC. 308. AMTRAK PLAN TO ASSIST FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“(f) FUNDING.—Out of funds appropriated pursuant to section 102 of the Rail Security Act of 2005, there shall be made available to the Secretary of Transportation for the use of Amtrak $500,000 for fiscal year 2006 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. 309. NORTHERN BORDER RAIL PASSENGER REPORT.

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

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

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

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

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

(5) a description of legislative, regulatory, budgetary, or policy barriers within the United States Government to providing pre-screened passenger lists for rail passengers 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 United States Customs and Border Patrol rolling inspections onboard international Amtrak trains.

SEC. 310. RAIL WORKER SECURITY TRAINING PROGRAM.

(a) IN GENERAL.—Not later than 60 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 work-
ers, shall develop and issue detailed guidance for a rail
worker security training program to prepare front-line
workers for potential threat conditions.
(b) PROGRAM ELEMENTS.—The guidance developed
under subsection (a) shall require such a program to in-
clude, at a minimum, elements as appropriate to pas-
senger and freight rail service, that address the following:
(1) Determination of the seriousness of any oc-
currence.
(2) Crew communication and coordination.
(3) Appropriate responses to defend oneself.
(4) Use of protective devices.
(5) Evacuation procedures.
(6) Psychology of terrorists to cope with hi-
jacker behavior and passenger responses.
(7) Live situational training exercises regarding
various threat conditions, including tunnel evacu-
ation procedures.
(8) Any other subject the Secretary considers
appropriate.
(c) RAILROAD CARRIER PROGRAMS.—Not later than
60 days after the Secretary issues guidance under sub-
section (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 approval.
Not later than 30 days after receiving a railroad carrier’s program under this subsection, the Secretary shall review the program and approve it or require the railroad carrier to make any revisions the Secretary considers necessary for the program to meet the guidance requirements.

(d) Training.—Not later than 180 days after the Secretary approves 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.

(e) Updates.—The Secretary shall update the training guidance issued under subsection (a) from time to time to reflect new or different security threats, and require railroad carriers to revise their programs accordingly and provide additional training to their front-line workers.

(f) Front-Line Workers Defined.—In this section, the term “front-line workers” means security personnel, dispatchers, train operators, other onboard employees, maintenance and support personnel, bridge tenders, and other appropriate employees of railroad carriers.

(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.
SEC. 311. 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:

“§20118. Whistleblower protection for rail security matters

“(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)—

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

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

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

“(b) DISPUTE RESOLUTION.—A dispute, grievance, or claim arising under this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153).

In a proceeding by the National Railroad Adjustment Board, a division or delegate of the Board, or another
board of adjustment established under section 3 to resolve
the dispute, grievance, or claim the proceeding shall be
expedited and the dispute, grievance, or claim shall be re-
solved not later than 180 days after it is filed. If the viola-
tion is a form of discrimination that does not involve dis-
charge, 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 pro-
vided in subsection (b), the procedure set forth in section
42121(b)(2)(B) of this title, including the burdens of
proof, applies to any complaint brought under this section.

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

“(e) DISCLOSURE OF IDENTITY.—

“(1) Except as provided in paragraph (2) of
this subsection, or with the written consent of the
employee, the Secretary of Transportation may not
disclose the name of an employee of a railroad car-
rier 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. 312. HIGH HAZARD MATERIAL SECURITY THREAT MITIGATION PLANS.

(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 305(g) of this Act and of a quantity equal or exceeding the quantities of such material listed in subpart 172.800, title 49, Federal Code of Regulations, to develop a high hazard material security threat mitigation plans containing appropriate measures, including alternative routing and temporary shipment suspension options, to address assessed risks to high consequence targets.

(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—

   (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 trans-
port high hazard materials to the Secretary of
Homeland Security within 60 days after the
date of enactment of this Act; and

     (B) develop and submit a high hazard ma-
terial security threat mitigation plan to the Sec-
retary within 180 days after it receives the no-
tice of high consequence targets on such routes
by the Secretary.

   (2) REVIEW AND UPDATES.—The Secretary,
with assistance of the Secretary of Transportation,
shall review and approve the plans. 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 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—

(A) catastrophic loss of life; and

(B) significantly damaged national security and 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. 313. MEMORANDUM OF AGREEMENT.

(a) MEMORANDUM OF AGREEMENT.—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.

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

SEC. 314. 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”;

(2) by striking “the rail carrier” each place it appears and inserting “any rail carrier”; and

(3) by adding at the end the following:
“(b) LIMITATION.—Except to the extent necessary to carry out subsection (a), a rail police officer employed by a Class I or Class II railroad as identified by the Surface Transportation Board has no authority to enforce any rule, policy, or practice of, or labor agreement by, a rail carrier relating to personnel management or labor relations other than those involving safety or security. Nothing in this subsection shall preclude a rail police officer from performing any activities not covered by subsection (a) that may be performed by any other employee of a railroad, provided that the rail police officer does not use his or her position as a rail police officer in performing such activities.”.

(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.

SEC. 315. WELDED RAIL AND TANK CAR SAFETY IMPROVEMENTS.

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

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

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

(C) establish a program to review continuous welded rail joint bar inspection data from railroads and Administration track inspectors periodically.

(2) INSPECTION.—Whenever the Administration determines that it is necessary or appropriate the Administration may require railroads to increase the frequency of inspection, or improve the methods of inspection, of joint bars in continuous welded rail.
(b) TANK CAR STANDARDS.—The Federal Railroad Administration shall—

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

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

(c) OLDER TANK CAR IMPACT RESISTANCE ANALYSIS AND REPORT.—Within 1 year after the date of enactment of this Act the Federal Railroad Administration shall conduct a comprehensive analysis to determine the impact resistance of the steels in the shells of pressure tank cars constructed before 1989. Within 6 months after completing that analysis the Administration shall—

(1) establish a program to rank those cars according to their risk of catastrophic fracture and separation;

(2) implement measures to eliminate or mitigate this risk; and

(3) transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transpor-
tation and Infrastructure setting forth the measures implemented.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Railroad Administration $1,000,000 for fiscal year 2006 to carry out this section, such sums to remain available until expended.

SEC. 316. REPORT REGARDING IMPACT ON SECURITY OF TRAIN TRAVEL IN COMMUNITIES WITHOUT GRADE SEPARATION.

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

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

SEC. 317. STUDY OF FOREIGN RAIL TRANSPORT SECURITY
PROGRAMS.

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

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

(c) REPORT.—The Comptroller General shall submit
a report on the results of the study to the Senate Com-
mittee on Commerce, Science, and Transportation and the
House of Representatives Committee on Transportation
and Infrastructure. The report shall include the Compt-
troller General’s assessment regarding whether it is fea-
sible to implement within the United States any of the
same or similar security measures that are determined ef-
fective under the study.
SEC. 318. PASSENGER, BAGGAGE, AND CARGO SCREENING.

(a) REQUIREMENT FOR STUDY AND REPORT.—The Secretary of Homeland Security, in cooperation with the Secretary of Transportation through the Assistant Secretary of Homeland Security (Transportation Security Administration) and other appropriate agencies, shall—

(1) study the cost and feasibility of requiring security screening for passengers, baggage, and cargo on passenger trains including an analysis of any passenger train screening pilot programs undertaken by the Department of Homeland Security; and

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

(b) AUTHORIZATION OF APPROPRIATIONS.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security to carry out this section $1,000,000 for fiscal year 2006.
SEC. 319. PUBLIC AWARENESS.

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 Transportation shall implement the plan developed under this section.

SEC. 320. RAILROAD HIGH HAZARD MATERIAL TRACKING.

(a) Wireless Communications.—

(1) In general.—Within 6 months after the date of enactment of this Act, the Secretary of Transportation shall develop a program that will encourage the equipping of rail cars transporting high hazard materials (as defined in section 305(g) of this Act) in quantities equal to or greater than the quantities specified in subpart 171.800 of title 49, Code of Federal Regulations, with wireless terres-
trial or satellite communications technology that pro-
vides—

(A) car position location and tracking ca-
pabilities;

(B) notification of rail car depressuriza-
tion, breach, or unsafe temperature; and

(C) notification of hazardous material re-
lease.

(2) COORDINATION.—In developing the pro-
gram required by paragraph (1), the Secretary
shall—

(A) consult with the Secretary of Home-
land Security and the Assistant Secretary of
Homeland Security (Transportation Security
Administration) to coordinate the program with
any ongoing or planned efforts for rail car
tracking at the Department of Homeland Secu-

ity; and

(B) ensure that the program is consistent
with recommendations and findings of the De-
partment of Homeland Security’s hazardous
material tank rail car tracking pilot programs.

(b) FUNDING.—Out of funds appropriated pursuant
to section 102 of this Act, there shall be made available
to the Secretary of Homeland Security through the Assis-
Title IV—Improved Motor Carrier, Bus, and Hazardous Material Security

Sec. 401. Background Checks for Drivers Hauling Hazardous Materials.

(a) Foreign Drivers.—

(1) In general.—No commercial motor vehicle operator registered to operate in Mexico or Canada may operate a commercial motor vehicle transporting a hazardous material in commerce in the United States until the operator has undergone a background records check similar to the background records check required for commercial motor vehicle operators licensed in the United States to transport hazardous materials in commerce.

(2) Definitions.—In this subsection:

(A) Hazardous Materials.—The term “hazardous material” has the meaning given that term in section 5102(2) of title 49, United States Code.

(B) Commercial Motor Vehicle.—The term “commercial motor vehicle” has the mean-
ing given that term by section 31101 of title 49, United States Code.

(b) Other Drivers.—

(1) Employer Notification.—Within 90 days after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration), shall develop and implement a process for the notification of a hazmat employer (as defined in section 5102(4) of title 49, United States Code), if appropriate considering the potential security implications, designated by an applicant seeking a threat assessment under part 1572 of title 49, Code of Federal Regulations, if the Transportation Security Administration, in an initial notification of threat assessment or a final notification of threat assessment, served on the applicant determines that the applicant does not meet the standards set forth in section 1572.5(d) of title 49, Code of Federal Regulations.

(2) Relationship to Other Background Records Checks.—

(A) Elimination of Redundant Checks.—An individual with respect to whom the Transportation Security Administration—
(i) has performed a security threat assessment under part 1572 of title 49, Code of Federal Regulations, and
(ii) has issued a notification of no security threat under section 1572.5(g) of that title, is deemed to have met the requirements of any other background check that is equivalent to, or less stringent than, the background check performed under section 5103a of title 49, United States Code, that is required for purposes of any Federal law applicable to transportation workers.

(B) Determination by Assistant Secretary.—Within 30 days after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall initiate a rulemaking proceeding, including notice and opportunity for comment, that sets forth the background checks and other similar security or threat assessment requirements applicable to transportation workers under Federal law to which subparagraph (A) applies.
(C) Future Rulemakings.—The Assistant Secretary shall make a determination under the criteria established under subparagraph (B) with respect to any rulemaking proceeding to establish or modify required background checks for transportation workers initiated after the date of enactment of this Act.

(c) Appeals Process for More Stringent State Procedures.—If a State establishes standards for applicants for a hazardous materials endorsement to a commercial driver’s license that, as determined by the Secretary of Homeland Security, are more stringent than the standards set forth in section 1572.5(d) of title 49, Code of Federal Regulations, then the State shall also provide an appeals process similar to the process provided under section 1572.141 of title 49, Code of Federal Regulations, by which an applicant denied a hazardous materials endorsement to a commercial driver’s license by that State may appeal that denial in a manner substantially similar to, and to the same extent as, an individual who received an initial notification of threat assessment under part 1572 of that title.

(d) Clarification of Term Defined in Regulations.—The term “severe transportation security incident”, as defined in section 1572.3 of title 49, Code of
Federal Regulations, does not include a work stoppage or other nonviolent employee-related action resulting from an employer-employee dispute. Within 30 days after the date of enactment of this Act, the Secretary of Homeland Security shall modify the definition of that term to reflect the preceding sentence.

(e) BACKGROUND CHECK CAPACITY.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall transmit a report by October 1, 2005, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Homeland Security on the implementation of fingerprint-based security threat assessments and the adequacy of fingerprinting locations, personnel, and resources to accomplish the timely processing of fingerprint-based security threat assessments for individuals holding commercial driver’s licenses who are applying to renew hazardous materials endorsements.

SEC. 402. WRITTEN PLANS FOR HAZARDOUS MATERIALS HIGHWAY ROUTING.

Within 180 days after the date of enactment of this Act, the Secretary of Transportation shall require 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 a written 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.

SEC. 403. MOTOR CARRIER HIGH HAZARD MATERIAL TRACKING.

(a) Wireless Communications.—Within 2 years after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration), in consultation with the Secretary of Transportation, shall require, consistent with the recommendations and finding contained in the report on the Hazardous Material Safety and Security Operation Field Test released by the Federal Motor Carrier Safety Administration on November 11, 2004, commercial motor vehicles transporting high hazard materials (as defined in section 305(g) of this Act) in quantities equal to or greater than the quantities specified in subpart 171.800 of title 49, Code of Federal Regulations, to be equipped with wireless terrestrial or satellite communications technology that provides—

(1) continuous communications;

(2) vehicle position location and tracking capabilities; and

(3) a feature that allows a driver of such vehicles to broadcast an emergency message.
(b) **EXEMPTIONS.**—The Assistant Secretary may grant a 2-year waiver of this requirement for a motor carrier for the commercial motor vehicles it operates if—

(1) adequate technology is not readily available;

(2) available technology is not sufficiently reliable; or

(3) the size of a motor carrier or the infrequency with which it transports high hazard material shipments makes the requirement overly burdensome.

(c) **ASSISTANCE PROGRAM.**—The Assistant Secretary may develop an assistance program to provide technical guidance and grants to motor carriers who receive waivers under subsection (b)(3) to expedite compliance with subsection (a) of this section.

**SEC. 404. TRUCK LEASING SECURITY TRAINING GUIDELINES.**

(a) **IN GENERAL.**—Within 180 days after the date of enactment of this Act the Assistant Secretary of Homeland Security (Transportation Security Administration), in consultation with the Federal Motor Carrier Safety Administration, shall develop and make available in written or electronic form security training guidelines for short-term truck leasing operations.
(b) CONTENTS.—The truck leasing security training guidelines shall—

(1) include information for short-term truck leasing companies on the appropriate contents of employee security training efforts designed to enable employees to recognize terrorist threats and criminal activity; and

(2) contain a list of best practices developed by the Assistant Secretary.

c) OUTREACH.—The Assistant Secretary, through each Federal maritime and land regional security manager, shall hold public information and outreach sessions to present the truck leasing security training guidelines to short-term truck leasing companies.

d) FUNDING.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Assistant Secretary of Homeland Security (Transportation Security Administration), to carry out this section $1,000,000 for fiscal year 2006.

SEC. 405. HAZARDOUS MATERIALS SECURITY INSPECTIONS AND ENFORCEMENT.

(a) IN GENERAL.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall establish a program within the Transportation Secu-
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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.

(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 Assistant Secretary of such failure to comply, is punishable by a civil penalty imposed by the Assistant 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 pipeline operator received notice of the failure shall constitute a separate failure.

(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 Assistant Secretary shall utilize risk assessment methodologies to prioritize vulnerabilities and to target review and enforcement actions to the most vulnerable and critical hazardous materials transportation operations.
(d) FUNDING.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Assistant Secretary of Homeland Security (Transportation Security Administration), to carry out this section—

1. $2,000,000 for fiscal year 2006;
2. $2,000,000 for fiscal year 2007; and
3. $2,000,000 for fiscal year 2008.

SEC. 406. PIPELINE SECURITY AND INCIDENT RECOVERY PLAN.

(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 under section 408, 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 407—

(A) at high or severe security threat levels of alert; and
(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 public and private entities to address identified pipeline security issues and assess the effective integration of such actions.

(e) Consultation.—In developing the plan under subsection (a), the Secretary shall consult with interstate and intrastate transmission and distribution pipeline oper-
ators, pipeline labor, first responders, shippers of hazardous materials, State Departments of Transportation, public safety officials, and other relevant parties.

(d) REPORT.—

(1) CONTENTS.—Not later than 180 days 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 cost 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.

(e) FUNDING.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security to carry out this section $1,000,000 for fiscal year 2006.
SEC. 407. PIPELINE SECURITY INSPECTIONS AND ENFORCEMENT.

(a) In General.—Within 180 days after the date of enactment of this Act the Assistant Secretary of Homeland Security (Transportation Security Administration), in consultation with the Secretary of Transportation, shall establish a program within the Transportation Security Administration 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, as determined by the Assistant Secretary.

(b) Review and Inspection.—Within 9 months after the date of enactment of this Act the Assistant Secretary shall complete a review of the pipeline security plan and an inspection of the critical facilities of the 100 most critical pipeline operators, as determined by the Assistant Secretary, covered by the September 5, 2002, circular.

(c) Compliance Review Methodology.—In reviewing pipeline operator compliance under subsections (a) and (b), the Assistant Secretary shall utilize risk assessment methodologies to prioritize vulnerabilities and to target inspection and enforcement actions to the most vulnerable and critical pipeline assets.
(d) Regulations.—Within 1 year after the date of enactment of this Act, the Assistant Secretary shall issue security regulations for natural gas and hazardous liquid pipelines and pipeline facilities. The 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. The Assistant Secretary shall publish a schedule of those civil penalties.

(e) Funding.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Assistant Secretary of Homeland Security (Transportation Security Administration), to carry out this section—

(1) $2,000,000 for fiscal year 2006;

(2) $2,000,000 for fiscal year 2007; and

(3) $2,000,000 for fiscal year 2008.

SEC. 408. MEMORANDUM OF AGREEMENT.

Within 1 year after the date of enactment of this Act, the Secretary of Transportation and the Assistant Secretary of Homeland Security (Transportation Security Ad-
ministration), 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 pipeline security and hazardous material transportation security matters, including the processes the departments will follow to promote communications, efficiency, and nonduplication of effort.

SEC. 409. NATIONAL PUBLIC SECTOR RESPONSE SYSTEM.

(a) DEVELOPMENT.—The Secretary of Homeland Security, in conjunction with the Secretary of Transportation, shall develop a national public sector response system to receive security alerts, emergency messages, and other information generated by various wireless terrestrial or satellite communications technologies 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 developing this system, they shall consult with law enforcement and public safety officials, hazardous material shippers, motor carriers, railroads, or-
ganizations representing hazardous material employees,
State transportation and hazardous materials officials,
Operation Respond, and commercial motor vehicle and
hazardous material safety groups. The development of the
national public sector response system shall be based upon
the public sector response center developed for the haz-
ardous material safety and security operational field test
undertaken by the Federal Motor Carrier Safety Adminis-
tration.

(b) CAPABILITY.—The national public sector re-
response system 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.

(e) CHARACTERISTICS.—The national public sector
response system 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 sys-
tems or centers (including the National Response
Center); and
(3) provide users the ability to create rules for
alert notification messages.
(d) Carrier Participation.—Within 180 days after the national public sector response system is operational, as determined by the Secretary, each motor carrier and railroad transporting high hazard materials, or entities acting on their behalf who receive such wireless communication alerts from motor carriers or railroads, shall provide the information listed in subsection (b) to the national public sector response system and vehicle or rail car location information to extent possible with the wireless communication technology used by the motor carrier or railroad.

(e) Call-In Number.—The national public sector response system shall be designed to include an automated call-in system that allows commercial motor vehicle drivers, railroad employees, and hazardous material employees involved in the transportation of high hazard materials to report accidents, threats, thefts, or other safety and security risks or incidents to the national public sector response system using cellular or other telephone technology.

(f) Data Privacy.—The national public sector response system shall be designed to ensure appropriate protection of data and information relating to motor carriers and drivers.
(g) 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 and the House of Representatives Committee on Transportation and Infrastructure a report on the estimated total cost to establish and annually operate the national public sector response system under subsection (a), together with any recommendations for generating private sector participation and investment in the development and operation of the national public sector response system.

(h) FUNDING.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security to carry out this section—

1. $1,000,000 for fiscal year 2006;
2. $1,000,000 for fiscal year 2007; and
3. $1,000,000 for fiscal year 2008.

SEC. 410. OVER-THE-ROAD BUS SECURITY ASSISTANCE.

(a) IN GENERAL.—The Assistant Secretary of Homeland Security (Transportation Security Administration), shall establish a program for making grants to private operators of over-the-road buses for system-wide security improvements to their operations, 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 threats, 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 an emergency communications system linking operational headquarters, over-the-road buses, law enforcement, and emergency personnel; and
implementing and operating passenger screening programs at terminals and on over-the-road buses.

(b) REIMBURSEMENT.—A grant under this section may be used to provide reimbursement to private operators of over-the-road buses for extraordinary security-related costs for improvements described in paragraphs (1) through (9) of subsection (a), determined by the Assistant Secretary to have been incurred by such operators since September 11, 2001.

(c) FEDERAL SHARE.—The Federal share of the cost for which any grant is made under this section shall be 90 percent.

(d) DUE CONSIDERATION.—In making grants under this section, the Assistant 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.

(e) 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 Trans-

(f) PLAN REQUIREMENT.—

(1) IN GENERAL.—The Assistant 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 Assistant Secretary—

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

(B) such additional information as the Assistant 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 Assistant Secretary that the applicant has coordinated the security improvements for the terminal with that entity.

(g) OVER-THE-ROAD BUS DEFINED.—In this section, the term “over-the-road bus” means a bus character-
ized by an elevated passenger deck located over a baggage compartment.

(h) **Bus Security Assessment.**—

(1) **In general.**—Not later than 180 days after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration), shall transmit to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, a preliminary report in accordance with the requirements of this section.

(2) **Contents of preliminary report.**—The preliminary 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; and

(F) an assessment of industry best practices to enhance security.

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

(i) FUNDING.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Assistant Secretary of Homeland Security (Transportation Security Administration), to carry out this section—

(1) $50,000,000 for fiscal year 2006;

(2) $50,000,000 for fiscal year 2007; and
(3) $50,000,000 for fiscal year 2008.

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

**TITLE V—IMPROVED MARITIME SECURITY**

**SEC. 501. ESTABLISHMENT OF ADDITIONAL JOINT OPERATIONAL CENTERS FOR PORT SECURITY.**

(a) In General.—In order to improve interagency cooperation, unity of command, and the sharing of intelligence information in a common mission to provide greater protection for port and intermodal transportation systems against acts of terrorism, the Secretary of Homeland Security, acting through the Commandant of the Coast Guard, shall establish joint operational centers for port security at all Tier 1 ports to the extent practicable within 2 years after the date of enactment of this Act.

(b) Characteristics.—The joint operational centers shall—

(1) be based on the most appropriate compositional and operational characteristics of the pilot project joint operational centers for port security in Miami, Florida, Norfolk/Hampton Roads, Virginia, Charleston, South Carolina, and San Diego, California;
(2) be adapted to meet the security needs, require-
ments, and resources of the individual port area
at which each is operating;

(3) provide for participation by the United
States Customs and Border Protection Agency, the
Transportation Security Administration, the Depart-
ment of Defense, and other Federal agencies, as de-
termined to be appropriate by the Secretary of
Homeland Security, and State and local law enforce-
ment or port security agencies and personnel; and

(4) be incorporated in the implementation of—

(A) maritime transportation security plans
developed under section 70103 of title 46, United States Code;

(B) maritime intelligence activities under
section 70113 of that title;

(C) short and long range vessel tracking
under sections 70114 and 70115 of that title;

(D) secure transportation systems under
section 70116 of that title;

(E) the Bureau of Customs and Border
Protection’s screening and high-risk cargo in-
spection programs; and
(F) the transportation security incident re-
response plans required by section 70104 of that
title.

d) 2005 Act Report Requirement.—Nothing in
this section relieves the Commandant of the Coast Guard
from compliance with the requirements of section 807 of
the Coast Guard and Maritime Transportation Act of
2004. The Commandant shall utilize the information de-
veloped in making the report required by that section in
carrying out the requirements of this section.

d) Budget and Cost-Sharing Analysis.—Within
180 days after the date of enactment of this Act, the Sec-
retary shall transmit to the Senate Committee on Com-
merce, Science, and Transportation and the House of Rep-
resentatives Committee on Transportation and Infrastruc-
ture a proposed budget analysis for implementing sub-
section (a), including cost-sharing arrangements with
other Federal departments and agencies involved in the
joint operation of the centers.

SEC. 502. AMTS PLAN TO INCLUDE SALVAGE RESPONSE

PLAN.

Section 70103(b)(2) of title 46, United States Code,
is amended—

(1) by striking “and” after the semicolon in
subparagraph (E);
(2) by redesignating subparagraph (F) as subparagraph (G); and

(3) by inserting after subparagraph (E) the following:

“(F) include a salvage response plan—

“(i) to identify salvage equipment capable of restoring operational trade capacity; and

“(ii) to ensure that the flow of cargo through United States ports is re-established as efficiently and quickly as possible after a transportation security incident.”.

SEC. 503. PRIORITY TO CERTAIN VESSELS IN POST-INCI-
DENT RESUMPTION OF TRADE.

Section 70103(a)(2)(J) of title 46, United States Code, is amended by inserting after “incident.” the follow-

ing: “The plan shall provide, to the extent practicable, preference in the reestablishment of the flow of cargo through United States ports after a transportation secu-

rity incident to—

“(i) vessels that have a vessel security plan approved under subsection (c); and

“(ii) vessels manned by individuals who are described in section 70105(b)(2)(B) and who have undergone a background records check
under section 70105(d) or who hold transpor-
tation security cards issued under section
70105.”

SEC. 504. ASSISTANCE FOR FOREIGN PORTS.

(a) IN GENERAL.—Section 70109 of title 46, United
States Code, is amended—

(1) by adding at the end the following:

“(c) FOREIGN ASSISTANCE PROGRAMS.—

“(1) IN GENERAL.—The Administrator of the
Maritime Administration, in coordination with the
Secretary of State and the Secretary of Energy,
shall identify foreign assistance programs that could
facilitate implementation of port security
antiterrorism measures in foreign countries. The Ad-
ministrator and the Secretary shall establish a pro-
gram to utilize those programs that are capable of
implementing port security antiterrorism measures
at ports in foreign countries that the Secretary
finds, under section 70108, to lack effective
antiterrorism measures.

“(2) CARIBBEAN BASIN.—The Administrator,
in coordination with the Secretary of State and in
consultation with the Organization of American
States, shall place particular emphasis on utilizing
programs to facilitate the implementation of port se-
curity antiterrorism measures at the ports located in
the Caribbean Basin, as such ports pose unique se-
curity and safety threats to the United States due
to—

“(A) the strategic location of such ports
between South America and United States;
“(B) the relative openness of such ports;
and
“(C) the significant number of shipments
of narcotics to the United States that are
moved through such ports.”.

(b) REPORT ON SECURITY AT PORTS IN THE CARIB-
BEAN BASIN.—Not later than 60 days after the date of
enactment of this Act, the Secretary of Homeland Security
shall submit to the Committee on Commerce, Science, and
Transportation of the Senate and Committee on Trans-
portation and Infrastructure of the House of Representa-
tives a report on the security of ports in the Caribbean
Basin. The report shall include the following:

(1) An assessment of the effectiveness of the
measures employed to improve security at ports in
the Caribbean Basin and recommendations for any
additional measures to improve such security.

(2) An estimate of the number of ports in the
Caribbean Basin that will not be secured by January
1, 2006, and an estimate of the financial impact in
the United States of any action taken pursuant to
section 70110 of title 46, United States Code, that
affects trade between such ports and the United
States.

(3) An assessment of the additional resources
and program changes that are necessary to maxi-
mize security at ports in the Caribbean Basin.

SEC. 505. IMPROVED DATA USED FOR TARGETED CARGO
SEARCHES.

(a) IN GENERAL.—In order to provide the best pos-
sible data for the automated target system that identifies
high-risk cargo for inspection, the Secretary of Homeland
Security shall require importers shipping goods to the
United State via cargo container to supply entry data
under the advance notification requirements under section
4.7 of the Customs Regulations (19 C.F.R. 4.7).

(b) DEADLINE.—The requirement imposed under
subsection (a) shall apply to goods entered after December
31, 2006.

(c) AUTHORIZATION OF APPROPRIATIONS.—There
are authorized to be appropriated to the Secretary of
Homeland Security $5,000,000 for each of fiscal years
2006, 2007, and 2008 to carry out the automated tar-
geting system program to identify high-risk oceanborne
container cargo for inspection. The amounts authorized by this subsection shall be in addition to any other amounts authorized to be appropriated to carry out that program.

(d) Evaluation by Comptroller General.—

(1) In general.—The Comptroller General shall evaluate action taken by the Department of Homeland Security to address the deficiencies in its automated targeting system strategy identified in the Government Accountability Office’s report entitled “Homeland Security Challenges Remain in the Targeting of Oceangoing Cargo Containers for Inspection” (GAO-04-352NI). In making the evaluation, the Comptroller General shall assess whether all key elements of a risk management framework and recognized modeling practices have been incorporated in the Department’s strategy, including—

(A) threat, criticality, vulnerability, and risk assessments;

(B) external peer review of the automated targeting system;

(C) a mandatory random sampling program;

(D) simulated events to test the targeting strategy; and
(E) effectiveness reviews of risk mitigation actions.

(2) REPORT.—The Comptroller General shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act containing the results of the evaluation, together with any recommendations the Comptroller General deems appropriate.

SEC. 506. INCREASE IN NUMBER OF CUSTOMS INSPECTORS ASSIGNED OVERSEAS.

(a) IN GENERAL.—The Secretary of Homeland Security shall substantially increase the number of United States Customs Service inspectors assigned to duty outside the United States under the Container Security Initiative of the United States Customs Service with responsibility for inspecting intermodal shipping containers being shipped to the United States.

(b) STAFFING CRITERIA.—In carrying out subsection (a) the Secretary of Homeland Security shall determine the appropriate level for assignment and density of customs inspectors at selected international port facilities by a threat, vulnerability, and risk analysis which, at a minimum, considers—
(1) the volume of containers shipped;
(2) the ability of the host government to assist in both manning and providing equipment and resources;
(3) terrorist intelligence known of importer vendors, suppliers or manufactures; and
(4) other criteria as determined in consult with experts in the shipping industry, terrorism, and shipping container security.

(c) MINIMUM NUMBER.—The total number of customs inspectors assigned to international port facilities shall not be less than the number determined as a result of the threat, vulnerability, and risk assessment analysis which is validated by the Administrator of the Transportation Security Administration within 180 days after the date of enactment of this Act.

(d) PLAN.—The Secretary shall submit a plan to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure, with timelines, for phasing inspectors into selected port facilities within 180 days after the enactment of this Act.

SEC. 507. RANDOM INSPECTION OF CONTAINERS.

(a) IN GENERAL.—The Under Secretary of Homeland Security for Border and Transportation Security
shall develop and implement a plan for random inspection of shipping containers in addition to any targeted or preshipment inspection of such containers required by law or regulation or conducted under any other program conducted by the Under Secretary.

(b) Civil Penalty for Erroneous Manifest.—

(1) In general.—Except as provided in paragraph (2), if the Under Secretary determines on the basis of an inspection conducted under subsection (a) that there is a discrepancy between the contents of a shipping container and the manifest for that container, the Under Secretary may impose a civil penalty.

(2) Manifest Discrepancy Reporting.—The Under Secretary may not impose a civil penalty under paragraph (1) if a manifest discrepancy report is filed with respect to the discrepancy within the time limits established by Customs Directive No. 3240–067A (or any subsequently issued directive governing the matters therein) for filing a manifest discrepancy report.

SEC. 508. CARGO SECURITY.

(a) In General.—Chapter 701 of title 46, United States Code, is amended—
(1) by redesignating the second section 70118
(relating to firearms, arrests, and seizure of prop-
erty), as added by section 801(a) of the Coast Guard
and Maritime Transportation Act of 2004, as sec-
section 70119;

(2) by redesignating the first section 70119 (re-
lating to enforcement by State and local officers), as
added by section 801(a) of the Coast Guard and
Maritime Transportation Act of 2004, as section
70120;

(3) by redesignating the second section 70119
(relating to civil penalty), as redesignated by section
802(a)(1) of the Coast Guard and Maritime Trans-
portation Act of 2004, as section 70122; and

(4) by inserting after section 70120 the fol-
lowing:

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§ 70121. Container security initiative

(a) IN GENERAL.—Pursuant to the standards estab-
lished under subsection (b)(1) of section 70116—

“(1) the Secretary of Homeland Security shall
promulgate standards and procedures for—

“(A) the inspection of cargo in a foreign
port intended for shipment to the United States
by physical examination or nonintrusive exam-
ination by technological means; and
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“(B) evaluating and screening cargo prior to loading in a foreign port for shipment to the United States, either directly or via a foreign port; and

“(2) the Commissioner of Customs and Border Protection shall—

“(A) execute inspection and screening protocols with authorities in foreign ports to ensure that the standards and procedures promulgated under paragraph (1) are implemented in an effective manner; and

“(B) in consultation with the Transportation Security Oversight Board, develop and maintain an antiterrorism cargo identification, tracking, and screening system for containerized cargo shipped to and from the United States, either directly or via a foreign port.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security such sums as may be necessary to carry out this section.”.

(b) CONFORMING AMENDMENTS.—

(1) The chapter analysis for chapter 701 of title 46, United States Code, is amended by striking the
items following the item relating to section 70116 and inserting the following:

“70117. In rem liability for civil penalties and certain costs
“70118. Withholding of clearance
“70119. Firearms, arrests, and seizure of property
“70120. Enforcement by State and local officers
“70121. Container security initiative
“70122. Civil penalty”.

(2) Section 70117(a) of title 46, United States Code, as redesignated by subsection (a)(3) of this section, is amended by striking “section 70120” and inserting “section 70122”.

(3) Section 70118(a) of such title is amended by striking “under section 70120,” and inserting “under that section,”.

(4) Section 111 of the Maritime Transportation Security Act of 2002 is repealed.

SEC. 509. SECURE SYSTEMS OF INTERNATIONAL INTER-MODAL TRANSPORTATION.

(a) In General.—Section 70116(a) of title 46, United States Code, is amended—

(1) by striking “transportation.” and inserting “transportation—

“(1) to ensure the security and integrity of shipments of goods to the United States from the point at which such goods are initially packed or loaded for international shipment until they reach their ultimate destination; and
“(2) to facilitate the movement of such goods through the entire supply chain through an expedited security and clearance program.”.

(b) PROGRAM ENHANCEMENTS.—Section 70116(b) of title 46, United States Code, is amended to read as follows:

“(b) PROGRAM ELEMENTS.—In establishing and conducting the program under subsection (a) the Assistant Secretary shall—

“(1) establish standards and procedures for verifying, at the point at which goods are placed in a cargo container for shipping, that the container is free of unauthorized hazardous chemical, biological, or nuclear material and for securely sealing such containers after the contents are so verified;

“(2) establish standards and procedures for securing cargo and monitoring that security while in transit from the point at which it is loaded to the point at which it is finally unloaded;

“(3) develop performance standards to enhance the physical security of shipping containers, including performance standards for seals and locks as part of the container security initiative;
“(4) establish standards and procedures for allowing the United States Government to ensure and validate compliance with this program; and
“(5) incorporate any other measures the Assistant Secretary considers necessary to ensure the security and integrity of international intermodal transport movements.”.

(c) PORT SECURITY USER FEE STUDY.—The Secretary of Homeland Security shall conduct a study of the feasibility and desirability of establishing a system of oceanborne and port-related intermodal transportation user fees that could be imposed and collected as a dedicated revenue source, on a temporary or continuing basis, to provide necessary funding for the improvement and maintenance of enhanced port security. The Assistant Secretary shall submit a report containing the Assistant Secretary’s findings, conclusions, and recommendations (including legislative recommendations if appropriate) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after date of enactment of this Act.
SEC. 510. TECHNOLOGY FOR MARITIME TRANSPORTATION SECURITY.

(a) Minimum Technology Implementation Authorization.—Section 70107(i)(2)(B) of title 46, United States Code, is amended by inserting “not less than” after “Secretary”.

(b) Set-Asides for Research and Development.—Notwithstanding any provision of law to the contrary, in the administration of the Department of Homeland Security, the Secretary of Homeland Security shall ensure that, for each fiscal year beginning after the date of enactment of this Act, not less than—

(1) 8 percent of the amounts appropriated to the Transportation Security Administration and the Directorate of Science and Technology for research and development for the fiscal year are obligated or expended for maritime security related projects or programs; and

(2) 2 percent of such amounts are obligated or expended for rail security related projects or programs.

(c) Strategic Plan.—

(1) In general.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall promulgate a strategic plan for transportation research and development. The
Secretary shall update the plan no less frequently than every 2 years thereafter.

(2) CONTENTS.—In the strategic plan, the Secretary shall—

(A) ensure that the research needs for security of all modes of transportation, including aviation, maritime, rail, pipeline, and transit security, are addressed;

(B) identify goals and include measurable objectives;

(C) include an adequate amount of basic research;

(D) define the research and development roles of the Transportation Security Administration and the Directorate of Science and Technology, respectively, to ensure that—

(i) they are aligned;

(ii) the efficient use of research funds is maximized; and

(iii) duplication of projects is prevented or minimized;

(E) coordinate transportation research and development under the plan with the transportation research and development activities of other Federal agencies, including the Depart-
(F) base the plan on vulnerability and criticality assessments.

(3) ANNUAL EVALUATION.—The Homeland Security Science and Technology Advisory Committee shall evaluate the plan by October 15th each year, measure progress under the plan against the goals set forth in the plan, and recommend changes to the transportation security research program under the plan.

(4) ANNUAL REPORT TO CONGRESS.—The Secretary shall transmit a copy of the strategic plan, and any revisions of that plan, and a copy of the annual evaluations and recommendations made by the Advisory Committee to the Congress.

(d) NIST TRANSPORTATION SECURITY PROGRAM.—The Secretary of Homeland Security may transfer up to $15,000,000 each fiscal year to the National Institute of Science and Technology to be obligated or expended for a focused program in transportation security under section 28 of the National Institute of Science and Technology Act (15 U.S.C. 278n).
(e) Secure Workforce Initiative.—Section 70107 of title 46, United States Code, is amended by adding at the end the following:

“(j) Secure Workforce Initiative.—

“(1) In general.—The Secretary shall develop a program in conjunction with technical and community colleges to train port security workforces. The program shall focus on teaching port workers to utilize new technologies and processes to improve port security through the use of screening technologies, information technologies, detection devices, incident response training, and other advanced technologies.

“(2) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Homeland Security $15,000,000 for each of fiscal years 2005 through 2009 to carry out the program developed under paragraph (1).”.

(f) Establishment of Competitive Research Program.—

(1) In general.—Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.) is amended by adding at the end the following:

“Sec. 314. Competitive Research Program.

“(a) In General.—
“(1) Establishment.—The Secretary, acting through the Under Secretary for Science and Technology, shall establish a competitive research program within the Directorate.

“(2) Director.—The program shall be headed by a Director, who shall be appointed by the Secretary. The Director shall report to the Under Secretary.

“(3) Duties of Director.—In the administration of the program, the Director shall—

“(A) establish a cofunding mechanism for States with academic facilities that have not fully developed security-related science and technology to support burgeoning research efforts by the faculty or link them to established investigators;

“(B) provide for conferences, workshops, outreach, and technical assistance to researchers and institutions of higher education in States on topics related to developing science and technology expertise in areas of high interest and relevance to the Department;

“(C) monitor the efforts of States to develop programs that support the Department’s mission;
“(D) implement a merit review program, consistent with program objectives, to ensure the quality of research conducted with Program funding; and

“(E) provide annual reports on the progress and achievements of the Program to the Secretary.

“(b) ASSISTANCE UNDER THE PROGRAM.—

“(1) SCOPE.—The Director shall provide assistance under the program for research and development projects that are related to, or qualify as, homeland security research (as defined in section 307(a)(2)) under the program.

“(2) FORM OF ASSISTANCE.—Assistance under the program can take the form of grants, contracts, or cooperative arrangements.

“(3) APPLICATIONS.—Applicants shall submit proposals or applications in such form, at such times, and containing such information as the Director may require.

“(c) IMPLEMENTATION.—

“(1) START-UP PHASES.—For the first 3 fiscal years beginning after the date of enactment of the Border Infrastructure and Technology Integration Act of 2004, assistance under the program shall be
limited to institutions of higher education located in States in which an institution of higher education with a grant from, or a contract or cooperative agreement with, the National Science Foundation under section 113 of the National Science Foundation Act of 1988 (42 U.S.C. 1862) is located.

“(2) SUBSEQUENT FISCAL YEARS.—

“(A) IN GENERAL.—Beginning with the 4th fiscal year after the date of enactment of this Act, the Director shall rank order the States (excluding any noncontiguous State (as defined in section 2(14)) other than Alaska, Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands) in descending order in terms of the average amount of funds received by institutions of higher education (as that term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) in each State that received financial assistance in the form of grants, contracts, or cooperative arrangements under this title during each of the preceding 3 fiscal years.

“(B) ALLOCATION.—Beginning with the 4th fiscal year after the date of enactment of this Act, assistance under the program for any
fiscal year is limited to institutions of higher education located in States in the lowest third of those ranked under subparagraph (A) for that fiscal year.

“(C) DETERMINATION OF LOCATION.—For purposes of this paragraph, an institution of higher education shall be considered to be located in the State in which its home campus is located, except that assistance provided under the program to a division, institute, or other facility located in another State for use in that State shall be considered to have been provided to an institution of higher education located in that other State.

“(D) MULTIYEAR ASSISTANCE.—For purposes of this paragraph, assistance under the program that is provided on a multi-year basis shall be counted as provided in each such year in the amount so provided for that year.

“(d) FUNDING.—The Secretary shall ensure that no less than 5 percent of the amount appropriated for each fiscal year to the Acceleration Fund for Research and Development of Homeland Security Technologies established by section 307(c)(1) is allocated to the program established by subsection (a).”
(2) CONFORMING AMENDMENT.—The table of contents of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 313 the following:

“Sec. 314. Competitive research program.”.

SEC. 511. DEADLINE FOR TRANSPORTATION SECURITY CARDS.

The Secretary shall issue a final rule under section 70105 of title 46, United States Code, no later than January 1, 2006.

SEC. 512. EVALUATION AND REPORT.

Within 90 days after the date of enactment of this Act the Secretary of Homeland Security shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure containing—

(1) an evaluation of the Operation Safe Commerce program and the Customs-Trade Partnership Against Terrorism program;

(2) a report on the establishment and implementation of performance standards for oceanborne and intermodal cargo seals and locks under section 70116(b) of title 46, United States Code;
(3) a report on progress made and current 
operational practices for monitoring oceanborne 
cargo through the entire supply chain;

(4) recommendations as to how the practices, 
programs, and procedures can be further integrated 
into a wider screening network for oceanborne cargo 
that can be applied on an international basis;

(5) recommendations as to how inspection and 
screening procedures developed for oceanborne cargo 
might be adapted for application to the shipment of 
domestically-produced cargo within the United 
States;

(6) a status report on progress in preparing the 
plan for implementing secure systems of transport-
tation required by section 809(c) of the Coast Guard 
and Maritime Transportation Act of 2004 (Pub. L. 
108–293; 118 Stat. 1086);

(7) a report on the security of noncontainerized 
cargo including roll-on roll-off cargo, break bulk 
cargo, and liquid and dry bulk cargo; and

(8) a report on whether the increased use of 
waterborne transportation in the domestic movement 
of hazardous materials would be an effective and ef-
ficient means to enhance the safety of hazardous 
material shipments.
SEC. 513. PORT SECURITY GRANTS.

(a) BASIS FOR GRANTS.—Section 70107(a) of title 46, United States Code, is amended by striking “for making a fair and equitable allocation of funds” and inserting “based on risk and vulnerability”.

(b) LETTERS OF INTENT.—Section 70107(e) of title 46, United States Code, is amended by adding at the end the following:

“(5) LETTERS OF INTENT.—The Secretary may execute letters of intent to commit funding to port sponsors from the Fund.”.

SEC. 514. WORK STOPPAGES AND EMPLOYEE-EMPLOYER DISPUTES.

Section 70101(6) is amended by inserting after “area.” the following: “In this paragraph, the term ‘economic disruption’ does not include a work stoppage or other nonviolent employee-related action resulting from an employee-employer dispute.”.

SEC. 515. APPEAL OF DENIAL OF WAIVER FOR TRANSPORTATION SECURITY CARD.

Section 70105(c)(3) of title 46, United States Code, is amended by inserting “or a waiver under paragraph (2)” after “card”.

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