
TEXT OF AMENDMENTS MADE IN ORDER UNDER THE RULE

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
Thompson OF Mississippi, OR HIS
DESIGNEE, DEBATABLE FOR 10 MINUTES:

~~Revised #18~~

~~AMENDMENT TO H.R. 1401, AS REPORTED
OFFERED BY MR. THOMPSON OF MISSISSIPPI~~

Section 2(2)(E), strike “railroad and transit cars” and insert “railroad cars, public transportation cars and buses, and over-the-road buses”.

Section 2(6)(B), strike “the public transportation designated recipient providing the transportation” and insert “ the designated recipient”.

Section 2(14), strike the period after “over-the-road bus” and insert “—”.

After section 2, insert the following:

1 SEC. 3. NO PREEMPTION OF STATE LAW.

2 (a) NO PREEMPTION OF STATE LAW.—Nothing in
3 section 20106 of title 49, United States Code, preempts
4 a State cause of action, or any damages recoverable in
5 such an action, including negligence, recklessness, and in-
6 tentional misconduct claims, unless compliance with State
7 law would make compliance with Federal requirements im-
8 possible. Nothing in section 20106 of title 49, United
9 States Code, confers Federal jurisdiction of a question for
10 such a cause of action.

1 (b) SECRETARIAL POWER.—Section 20106 of title
2 49, United States Code, preempts only positive laws, regu-
3 lations, or orders by executive or legislative branch offi-
4 cials that expressly address railroad safety or security.
5 The Secretary and the Secretary of Transportation have
6 the power to preempt such positive enactments by sub-
7 stantially subsuming the same subject matter, pursuant
8 to proper administrative procedures.

Section 101(a), strike “, in consultation with the Secretary of Transportation,”.

Section 103, strike “, in consultation with the Secretary of Transportation,” each place it appears, except subsection (o).

Section 103(c)(1), strike “high-or” and insert “high-or”.

Section 103(e), strike “vulnerabilities and security plans” and insert “a vulnerability assessment and security plan”.

Section 103(k)(3)—

(1) strike “those submissions” and insert “such submission”; and

(2) strike “vulnerability assessments and security plans” and insert “the vulnerability assessment and security plan”.

Section 103(o), strike “, hereinafter referred to as ‘Amtrak’ ”.

Section 104(a), strike “, in consultation with the Secretary of Transportation,”.

Section 105(a), strike “, in consultation with the Secretary of Transportation,”.

Section 105(b)(2), strike “rail” and insert “railroad”.

Section 105(b)(3), strike “redevelopment and”.

Section 105(b)(4), insert “, including stations and other railroad transportation infrastructure owned by State or local governments” before the period.

Section 105(b)(12) insert “security” before “inspection” each places it appears.

Section 105(b)(16), strike “front-line railroad employees” and insert “railroad employees, including front-line employees”.

Strike section 105(c) and insert the following:

1 (c) DEPARTMENT OF HOMELAND SECURITY RE-
2 SPONSIBILITIES.—In carrying out the responsibilities
3 under subsection (a), the Secretary shall—

1 (1) determine the requirements for recipients of
2 grants under this section, including application re-
3 quirements;

4 (2) pursuant to subsection (f), determine who
5 are the recipients of grants under this section;

6 (3) pursuant to subsection (b), determine the
7 uses for which grant funds may be used under this
8 section;

9 (4) establish priorities for uses of funds for
10 grant recipients under this section; and

11 (5) not later than 5 business days after making
12 determinations under paragraphs (1) through (4),
13 transfer grant funds under this section to the Sec-
14 retary of Transportation for distribution to the re-
15 cipients of grants determined by the Secretary under
16 paragraph (2).

Section 105—

(1) strike subsection (f);

(2) redesignate subsections (d) through (m) as
subsections (g) through (o), respectively;

(3) insert after subsection (c), as amended, the
following:

17 (d) DEPARTMENT OF TRANSPORTATION RESPON-
18 SIBILITIES.—The Secretary of Transportation shall dis-

1 tribute grant funds under this section to the recipients of
2 grants determined by the Secretary under subsection (f).

3 (e) MONITORING AND AUDITING.—The Department
4 of Homeland Security and the Department of Transpor-
5 tation jointly shall monitor and audit the use of funds
6 under this section.

7 (f) ELIGIBILITY.—A railroad carrier is eligible for a
8 grant under this section if the carrier has completed a vul-
9 nerability assessment and developed a security plan that
10 the Secretary has approved under section 103. Grant
11 funds may only be used for permissible uses under sub-
12 section (b) to further a rail security plan.

Section 105(j), as redesignated (relating to stand-
ards)—

- (1) strike “The Secretary shall require a” and
insert “A”;
- (2) after “108” insert “shall be required”; and
- (3) strike “Amtrak” and insert “the National
Railroad Passenger Corporation”.

Section 105(m), as redesignated (relating to guide-
lines)—

- (1) strike “, in consultation with the Secretary
of Transportation,”; and
- (2) strike “recipients of grants under this sec-
tion” the first place it appears and insert “, to the

extent that recipients of grants under this section use contractors or subcontractors, such recipients”

Section 105 strike subsection (n), as redesignated.

Section 105, redesignate subsection (o), as redesignated, as subsection (n).

Section 106, strike “, in consultation with the Secretary of Transportation,” each place it appears.

Section 106(b)(2), insert “, including stations and other public transportation infrastructure owned by State or local governments” before the period.

Section 106(b)—

(1) redesignate paragraphs (10) through (17) as paragraphs (11) through (18), respectively; and

(2) after paragraph (9) insert the following:

- 1 (10) Purchase and placement of bomb-resistant
- 2 trash cans throughout public transportation facili-
- 3 ties, including subway exits, entrances, and tunnels.

Section 106(b)(15), as redesignated—

(1) strike “front-line” before “public”; and

(2) insert “, including front-line employees” after “employees”.

Section 106(b)(16), as redesignated, after “reimbursement” insert “, including reimbursement of State, local, and tribal governments for costs,”.

Section 106(b)(17), as redesignated, after “costs” insert “, including reimbursement of State, local, and tribal governments for costs”.

At the end of section 106(b), strike paragraph (18), as redesignated, and insert the following:

(18) Such other security improvements as the Secretary considers appropriate, including security improvements for newly completed public transportation systems that are not yet operable for passenger use.

Section 106—

(1) strike subsections (c) and (d);

(2) redesignate subsections (e) through (j) as subsections (g) through (l), respectively; and

(3) insert after subsection (b) the following:

1 (c) DEPARTMENT OF HOMELAND SECURITY RE-
2 SPONSIBILITIES.—In carrying out the responsibilities
3 under subsection (a), the Secretary shall—

4 (1) determine the requirements for recipients of
5 grants under this section, including application re-
6 quirements;

1 (2) pursuant to subsection (f), determine who
2 are the recipients of grants under this section;

3 (3) pursuant to subsection (b), determine the
4 uses for which grant funds may be used under this
5 section;

6 (4) establish priorities for uses of funds for
7 grant recipients under this section; and

8 (5) not later than 5 business days after making
9 determinations under paragraphs (1) through (4),
10 transfer grant funds under this section to the Sec-
11 retary of Transportation for distribution to the re-
12 cipients of grants determined by the Secretary under
13 paragraph (2).

14 (d) DEPARTMENT OF TRANSPORTATION RESPON-
15 SIBILITIES.—The Secretary of Transportation shall dis-
16 tribute grant funds under this section to the recipients of
17 grants determined by the Secretary under subsection (f).

18 (e) MONITORING AND AUDITING.—The Department
19 of Homeland Security and the Department of Transpor-
20 tation shall jointly monitor and audit the use of funds
21 under this section.

22 (f) ELIGIBILITY.—A designated recipient is eligible
23 for a grant under this section if the recipient has com-
24 pleted a vulnerability assessment and developed a security
25 plan that the Secretary has approved under section 103.

1 Grant funds may only be used for permissible uses under
2 subsection (b) to further a public transportation security
3 plan.

Section 106, subsection (g), as redesignated (relating to terms and conditions), strike “under effect” and insert “as in effect”.

Section 106, subsection (j), as redesignated (relating to guidelines), strike “recipients of grants under this section” the first place it appears and insert “, to the extent that recipients of grants under this section use contractors or subcontractors, such recipients shall”.

Section 106, strike subsection (k), as redesignated (relating to monitoring).

Section 106, redesignate subsection (l), as redesignated (relating to authorization of appropriations), as subsection (k).

Section 107, strike “, in consultation with the Secretary of Transportation,” each place it appears.

Section 107(b)(1), insert: “, including terminals and other over-the-road bus facilities owned by State or local governments” before the period.

Section 107(b)(8) strike—

- (1) strike “front-line” before “over-the-road”;
- and
- (2) insert “, including front-line employees” after “employees”.

Section 107(b)(10), after “reimbursement” insert “including reimbursement of State, local, and tribal governments for costs,”.

Section 107(b)(12), after “costs” insert “, including reimbursement of State, local, and tribal governments for such costs.”.

Section 107—

- (1) redesignate subsections (e) through (j) as subsections (g) through (l), respectively; and
- (2) strike subsections (c) and (d) and insert the following:

1 (c) DEPARTMENT OF HOMELAND SECURITY RE-
2 SPONSIBILITIES.—In carrying out the responsibilities
3 under subsection (a), the Secretary shall—

4 (1) determine the requirements for recipients of
5 grants under this section, including application re-
6 quirements;

7 (2) pursuant to subsection (f), determine who
8 are the recipients of grants under this section;

1 (3) pursuant to subsection (b), determine the
2 uses for which grant funds may be used under this
3 section;

4 (4) establish priorities for uses of funds for
5 grant recipients under this section; and

6 (5) not later than 5 business days of making
7 determinations under paragraphs (1) through (4),
8 transfer grant funds under this section to the Sec-
9 retary of Transportation for distribution to the re-
10 cipients of grants determined by the Secretary under
11 paragraph (2).

12 (d) DEPARTMENT OF TRANSPORTATION RESPON-
13 SIBILITIES.—The Secretary of Transportation shall dis-
14 tribute grant funds under this section to the recipients of
15 grants determined by the Secretary under subsection (f).

16 (e) MONITORING AND AUDITING.—The Department
17 of Homeland Security and the Department of Transpor-
18 tation shall jointly monitor and audit the use of funds
19 under this section.

20 (f) ELIGIBILITY.—A private operator providing
21 transportation by an over-the-road bus is eligible for a
22 grant under this section if the operator has completed a
23 vulnerability assessment and developed a security plan
24 that the Secretary has approved under section 103. Grant

1 funds may only be used for permissible uses under sub-
2 section (b) to further an over-the-road bus security plan.

Section 107, subsection (i), as redesignated (relating to annual reports), after “funds” insert a period.

Section 107, subsection (j), as redesignated (relating to guidelines), strike “recipients of grants under this section the first place it appears” and insert “to the extent that recipients of grants under this section use contractors or subcontractors, such recipients shall”.

Section 107, strike subsection (k) as redesignated (relating to monitoring).

Section 107, redesignate subsection (l), as redesignated (relating to authorization), as subsection (k).

Section 108(a), strike “Amtrak” the first place it appears and insert “the National Railroad Passenger Corporation”.

Section 108(c) strike “recipients of grants under this section” the first place it appears and insert “, to the extent that recipients of grants under this section use contractors or subcontractors, such recipients shall”.

Section 109(a), strike “, in consultation with the Secretary of Transportation,”

Section 109(a)(1), insert a comma after “employees”.

Section 109(b)(3) strike “and fire fighter workers” and insert “or emergency response personnel”.

Section 109(c)(9), strike “Any other subject” and insert “Other security training activities that”.

Section 109(d)(1), strike “in final form”.

Section 109(d)(2), insert “proposal” after “training program”.

Section 109(d)(3), insert “proposal” after “training program”.

Section 109(d)(4), insert “as necessary” after “workers”.

Section 110(a), strike “, in consultation with the Secretary of Transportation,”.

Section 110(c), strike “, in consultation with the Secretary of Transportation,”.

Section 110(c)(1), insert “working jointly with the Secretary of Transportation,” before “consolidates”.

Section 111(b)(3) strike “freight”.

Section 111(b), strike “and” at the end of paragraph (6), redesignate paragraph (7) as paragraph (8), and insert the following after paragraph (6):

1 (7) to assess the vulnerabilities and risks asso-
2 ciated with new rail and public transportation con-
3 struction projects prior to their completion; and

Section 111(c)(2)(E)—

(1) strike “including,” and insert “, including”;
and

(2) strike “Institution or Tribal University”
and insert “Institutions or Tribal Universities”.

Strike section 112 of the bill and insert the following (and make all necessary technical and conforming changes):

4 **SEC. 112. WHISTLEBLOWER PROTECTIONS.**

5 (a) IN GENERAL.—No covered individual may be dis-
6 charged, demoted, suspended, threatened, harassed, rep-
7 rimanded, investigated, or in any other manner discrimi-
8 nated against, including by a denial, suspension, or rev-
9 ocation of a security clearance or by any other security
10 access determination, if such discrimination is due, in
11 whole or in part, to any lawful act done, perceived to have
12 been done, or intended to be done by the covered indi-
13 vidual—

1 (1) to provide information, cause information to
2 be provided, or otherwise assist in an investigation
3 regarding any conduct which the covered individual
4 reasonably believes constitutes a violation of any
5 law, rule, or regulation relating to rail, public trans-
6 portation, or over-the-road-bus security, which the
7 covered individual reasonably believes constitutes a
8 threat to rail, public transportation, or over-the-
9 road-bus security, or which the covered individual
10 reasonably believes constitutes fraud, waste, or mis-
11 management of Government funds intended to be
12 used for rail, public transportation, or over-the-road-
13 bus security, if the information or assistance is pro-
14 vided to or the investigation is conducted by—

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

20 (B) any Member of Congress, any com-
21 mittee of Congress, or the Government Ac-
22 countability Office; or

23 (C) a person with supervisory authority
24 over the covered individual (or such other per-

1 son who has the authority to investigate, dis-
2 cover, or terminate);

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

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

11 (b) ENFORCEMENT ACTION.—

12 (1) IN GENERAL.—A covered individual who al-
13 leges discharge or other discrimination by any per-
14 son in violation of subsection (a) may—

15 (A) in the case of a covered individual who
16 is employed by the Department or the Depart-
17 ment of Transportation, seek relief in accord-
18 ance with—

19 (i) the provisions of title 5, United
20 States Code, to the same extent and in the
21 same manner as if such individual were
22 seeking relief from a prohibited personnel
23 practice described in section 2302(b)(8) of
24 such title; and

1 (ii) the amendments made by section
2 112A;

3 except that, if the disclosure involved consists in
4 whole or in part of classified or sensitive infor-
5 mation, clauses (i) and (ii) shall not apply, and
6 such individual may seek relief in the same
7 manner as provided by section 112B;

8 (B) in the case of a covered individual who
9 is a contractor or subcontractor of the Depart-
10 ment or the Department of Transportation,
11 seek relief in accordance with section 112B;
12 and

13 (C) in the case of any other covered indi-
14 vidual, seek relief in accordance with the provi-
15 sions of this section, with any petition or other
16 request for relief under this section to be initi-
17 ated by filing a complaint with the Secretary of
18 Labor.

19 (2) PROCEDURE.—

20 (A) IN GENERAL.—An action under para-
21 graph (1)(C) shall be governed under the rules
22 and procedures set forth in section 42121(b) of
23 title 49, United States Code.

24 (B) EXCEPTION.—Notification made under
25 section 42121(b)(1) of title 49, United States

1 Code, shall be made to the person named in the
2 complaint and to the person's employer.

3 (C) BURDENS OF PROOF.—An action
4 brought under paragraph (1)(C) shall be gov-
5 erned by the legal burdens of proof set forth in
6 section 42121(b) of title 49, United States
7 Code.

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

12 (3) DE NOVO REVIEW.—With respect to a com-
13 plaint under paragraph (1)(C), if the Secretary of
14 Labor has not issued a final decision within 180
15 days after the filing of the complaint (or, in the
16 event that a final order or decision is issued by the
17 Secretary of Labor, whether within the 180-day pe-
18 riod or thereafter, then, not later than 90 days after
19 such an order or decision is issued), the covered in-
20 dividual may bring an original action at law or eq-
21 uity for de novo review in the appropriate district
22 court of the United States, which shall have jurisdic-
23 tion over such an action without regard to the
24 amount in controversy, and which action shall, at

1 the request of either party to such action, be tried
2 by the court with a jury.

3 (c) REMEDIES.—

4 (1) IN GENERAL.—A covered individual pre-
5 vailing in any action under subsection (b)(1)(C)
6 shall be entitled to all relief necessary to make the
7 covered individual whole.

8 (2) DAMAGES.—Relief in an action under sub-
9 section (b)(1)(C) (including an action described in
10 subsection (b)(3)) shall include—

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

14 (B) the amount of any back pay, with in-
15 terest; and

16 (C) compensation for any special damages
17 sustained as a result of the discrimination, in-
18 cluding litigation costs, expert witness fees, and
19 reasonable attorney fees.

20 (3) POSSIBLE RELIEF.—Relief in an action
21 under subsection (b)(1)(C) may include punitive
22 damages in an amount not to exceed the greater of
23 3 times the amount of any compensatory damages
24 awarded under this section or \$5,000,000.

25 (d) USE OF STATE SECRETS PRIVILEGE.—

1 (1) If, in any action for relief sought by a cov-
2 ered individual in accordance with the provisions of
3 subsection (b)(1)(A), (B), or (C), the Government
4 agency moves to withhold information from dis-
5 covery based on a claim that disclosure would be in-
6 imical to national security by asserting the privilege
7 commonly referred to as the “state secrets privi-
8 lege”, and if the assertion of such privilege prevents
9 the covered individual from establishing an element
10 in support of the covered individual’s claim, the
11 court shall resolve the disputed issue of fact or law
12 in favor of the covered individual, provided that, in
13 an action brought by a covered individual in accord-
14 ance with the provisions of subsection (b)(1)(A) or
15 (B), an Inspector General investigation under sec-
16 tion 112B has resulted in substantial confirmation
17 of that element, or those elements, of the covered in-
18 dividual’s claim.

19 (2) In any case in which the Government agen-
20 cy asserts the privilege commonly referred to as the
21 “state secrets privilege”, whether or not an Inspec-
22 tor General has conducted an investigation with re-
23 spect to the alleged discrimination, the head of the
24 Government agency involved shall, at the same time
25 it asserts the privilege, issue a report to authorized

1 Members of Congress, accompanied by a classified
2 annex if necessary, describing the reasons for the as-
3 sertion, explaining why the court hearing the matter
4 does not have the ability to maintain the protection
5 of classified information related to the assertion, de-
6 tailing the steps the agency has taken to arrive at
7 a mutually agreeable settlement with the covered in-
8 dividual, setting forth the date on which the classi-
9 fied information at issue will be declassified, and
10 providing all relevant information about the under-
11 lying substantive matter.

12 (e) CRIMINAL PENALTIES.—

13 (1) IN GENERAL.—It shall be unlawful for any
14 person employing a covered individual described in
15 subsection (b)(1)(C) to commit an act prohibited by
16 subsection (a). Any person who willfully violates this
17 section by terminating or retaliating against any
18 such covered individual who makes a claim under
19 this section shall be fined under title 18, United
20 States Code, imprisoned not more than 1 year, or
21 both.

22 (2) REPORTING REQUIREMENT.—

23 (A) IN GENERAL.—The Attorney General
24 shall submit to the appropriate congressional

1 committees an annual report on the enforce-
2 ment of paragraph (1).

3 (B) CONTENTS.—Each such report shall—

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

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

8 (iii) in any actions under subsection
9 (b)(1)(C) in which the covered individual
10 was the prevailing party or the substan-
11 tially prevailing party, indicate whether or
12 not any formal charges under paragraph
13 (1) have been brought and, if not, the rea-
14 sons therefor.

15 (f) NO PREEMPTION.—Nothing in this section, sec-
16 tion 112A, or section 112B preempts or diminishes any
17 other safeguards against discrimination, demotion, dis-
18 charge, suspension, threats, harassment, reprimand, retal-
19 iation, or any other manner of discrimination provided by
20 Federal or State law.

21 (g) RIGHTS RETAINED BY COVERED INDIVIDUAL.—
22 Nothing in this section, section 112A, or section 112B
23 shall be deemed to diminish the rights, privileges, or rem-
24 edies of any covered individual under any Federal or State
25 law or under any collective bargaining agreement. The

1 rights and remedies in this section, section 112A and sec-
2 tion 112B may not be waived by any agreement, policy,
3 form, or condition of employment.

4 (h) DEFINITIONS.—In this section, section 112A and
5 section 112B, the following definitions apply:

6 (1) COVERED INDIVIDUAL.—The term “covered
7 individual” means an employee of—

8 (A) the Department;

9 (B) the Department of Transportation;

10 (C) a contractor or subcontractor; and

11 (D) an employer within the meaning of
12 section 701(b) of the Civil Rights Act of 1964
13 (42 U.S.C. 2000e(b)) and who is a provider of
14 covered transportation.

15 (2) LAWFUL.—The term “lawful” means not
16 specifically prohibited by law, except that, in the
17 case of any information the disclosure of which is
18 specifically prohibited by law or specifically required
19 by Executive order to be kept classified in the inter-
20 est of national defense or the conduct of foreign af-
21 fairs, any disclosure of such information to any
22 Member of Congress, committee of Congress, or
23 other recipient authorized to receive such informa-
24 tion, shall be deemed lawful.

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

5 (4) EMPLOYEE.—The term “employee”
6 means—

7 (A) with respect to an employer referred to
8 in paragraph (1)(A) or (1)(B), an employee as
9 defined by section 2105 of title 5, United States
10 Code; and

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

14 (5) SUBCONTRACTOR.—The term “subcon-
15 tractor”—

16 (A) means any person, other than the con-
17 tractor, who offers to furnish or furnishes any
18 supplies, materials, equipment, or services of
19 any kind under a contract with the Depart-
20 ment, the Department of Transportation, or a
21 provider of covered transportation; and

22 (B) includes any person who offers to fur-
23 nish or furnishes general supplies to the con-
24 tractor or a higher tier subcontractor.

1 (6) PERSON.—The term “person” means a cor-
2 poration, partnership, State entity, business associa-
3 tion of any kind, trust, joint-stock company, or indi-
4 vidual.

Section 113(c), strike “the Secretary of Transpor-
tation and”.

Section 116(b), strike “designate the Center” and
insert “select an institution of higher education to oper-
ate the National Transportation Security Center of Ex-
cellence”.

Section 116(c)—

(1) redesignate paragraphs (1) through (3) as
paragraphs (2) through (4), respectively; and

(2) insert after the subsection heading the fol-
lowing:

5 (1) CONSORTIUM.—The institution of higher
6 education selected under subsection (b) shall execute
7 agreements with other institutions of higher edu-
8 cation to develop a consortium to assist in accom-
9 plishing the goals of the Center.

Section 116(c)(3), as redesignated, insert “or” be-
fore “Tribal”.

Section 116, strike “Consortium” each place it appears and insert “consortium”.

Section 118, after “risk” strike all that follows through “security”.

Section 120(d)(1), strike “any rule” and all that follows through “an employer” and insert the following: “if an employer performs background checks to satisfy any rule, regulation, directive, or other guidance issued by the Secretary regarding background checks of covered individuals, the employer shall be prohibited”.

Section 123(a), strike “the Committee on Homeland Security and Government Affairs of the Senate and the Committee on Homeland Security of the House of Representatives” and insert “the appropriate congressional committees”.

Section 124, strike “railcar” and insert “railroad car” each place it appears.

Section 124(b)(1), strike subparagraph (B) and insert the following:

- 1 (B) More than 25 kilograms (55 pounds)
- 2 of a division 1.1, 1.2, or 1.3 explosive, as de-
- 3 fined in section 173.50 of title 49, Code of Fed-

1 eral Regulations, in a motor vehicle, rail car, or
2 freight container.

Section 124(b)(3)(A), strike “railyards” and insert
“railroad yards”.

Section 124 (f), insert “railroad” before “carrier”.

Section 125(d)—

(1) redesignate paragraph (16) as paragraph
(17);

(2) in paragraph (15), strike “and” after the
semicolon; and

(3) after paragraph (15), insert the following:

3 (16) nonprofit employee labor organizations;
4 and

Section 124(f), insert “railroad” before “carrier”.

Section 125 at the end, insert the following:

5 (f) SAVINGS PROVISION.—An action of the Secretary
6 or the Secretary of Transportation under this Act is not
7 an exercise, under section 4(b)(1) of the Occupational
8 Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), of
9 statutory authority to prescribe or enforce standards or
10 regulations affecting occupational safety or health.

Section 126(a)(1), “The Secretary shall” and insert “The Secretary and the Secretary of Transportation shall jointly”.

Section 126(a)(2), strike “the Secretary shall” and insert “the Secretary and the Secretary of Transportation shall jointly”.

Section 126(a)(3), insert “and the Secretary of Transportation” after “Secretary”.

Section 126(b)(3), insert “and the Secretary of Transportation” after “Secretary”.

Section 128, strike “shall” and insert “should”.

Section 128, insert “(a) PREFERENCE.—” before “In”.

Section 128 at the end, insert the following:

1 (b) SAVINGS PROVISION.—Nothing in this section
2 shall affect grant recipient requirements pursuant to sec-
3 tion 5323(j) of title 49, United States Code, section
4 24305(f) of title 49, United States Code, and the Buy
5 American Act (41 U.S.C. 10).

Section 130(a), strike “undeclared passengers or contraband, including”.

Section 130 at the end, insert the following:

1 (c) USE OF TRANSPORTATION DATA.—In carrying
2 out this subsection, the Secretary shall make use of data
3 collected and maintained by the Secretary of Transpor-
4 tation.

Section 131, strike the text and insert the following:
“In carrying out section 119, the Secretary shall require
each provider of covered transportation, including con-
tractors and subcontractors, assigned to a high-risk tier
under section 102 to submit the names of their employees
to the Secretary to conduct checks of their employees
against available terrorist watchlists and immigration sta-
tus databases.”.

At the end of title I, insert the following (and con-
form the table of contents accordingly):

5 **SEC. 132. REVIEW OF GRANT-MAKING EFFICIENCY.**

6 (a) ANNUAL STUDY.—The Comptroller General of
7 the United States shall conduct an annual study for each
8 of the first 3 years after the enactment of this title regard-
9 ing the administration and use of the grants awarded
10 under sections 105, 106, and 107 of this title, including—
11 (1) the efficiency of the division of the grant-
12 making process, including whether the Department
13 of Transportation’s role in distributing, auditing,
14 and monitoring the grant funds produces efficiency

1 compared to the consolidation of these responsibil-
2 ities in the Department of Homeland Security;

3 (2) whether the roles of the Department of
4 Homeland Security and the Department of Trans-
5 portation in the administration of the grants permit
6 the grants to be awarded and used in a timely and
7 efficient manner and according to their intended
8 purposes;

9 (3) the use of grant funds, including whether
10 grant funds are used for authorized purposes.

11 (b) REPORT.—The Comptroller General of the
12 United States shall submit an annual report to the appro-
13 priate congressional committees on the results of the study
14 for each of the first 3 years after enactment of this title,
15 including any recommendations for improving the admin-
16 istration and use of the grant funds awarded under sec-
17 tions 105, 106, and 107.

18 **SEC. 133. ROLES OF THE DEPARTMENT OF HOMELAND SE-**
19 **CURITY AND THE DEPARTMENT OF TRANS-**
20 **PORTATION.**

21 The Secretary of Homeland Security is the principal
22 Federal official responsible for transportation security.
23 The roles and responsibilities of the Department of Home-
24 land Security and the Department of Transportation in
25 carrying out sections 101, 103, 104, 105, 106, 107, 109,

1 110, 111, 113, 123, 124, 125, 126, 127, 128, 129, 130,
2 131, and 201 of this Act are the roles and responsibilities
3 of such Departments pursuant to the Aviation and Trans-
4 portation Security Act (Public Law 107-71); the Intel-
5 ligence Reform and Terrorism Prevention Act of 2004
6 (Public Law 108-458); the National Infrastructure Pro-
7 tection Plan required by Homeland Security Presidential
8 Directive 7; Executive Order 13416: Strengthening Sur-
9 face Transportation Security, dated December 5, 2006;
10 the Memorandum of Understanding between the Depart-
11 ment and the Department of Transportation on Roles and
12 Responsibilities, dated September 28, 2004; the Annex to
13 the Memorandum of Understanding between the Depart-
14 ment and the Department of Transportation on Roles and
15 Responsibilities concerning Railroad Security, dated Sep-
16 tember 28, 2006; the Annex to the Memorandum of Un-
17 derstanding between the Department and the Department
18 of Transportation on Roles and Responsibilities con-
19 cerning Public Transportation Security, dated September
20 8, 2005; and any subsequent agreements between the De-
21 partment of Homeland Security and the Department of
22 Transportation.

Section 201(a), strike “ensure that canine detection teams are deployed” and insert “encourage the deployment of canine detection teams”.

Section 201(b), strike “to increase” and insert “to encourage an increase in”.

Strike “rail carrier” and insert “railroad carrier” each place it appears in the bill.