

# Calendar No. 540

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 1871

[Report No. 107-232]

To direct the Secretary of Transportation to conduct a rail transportation security risk assessment, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 20 (legislative day, DECEMBER 18), 2001

Mr. ROCKEFELLER introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

AUGUST 1, 2002

Reported by Mr. HOLLINGS, with amendments

[Omit the part struck through and insert the part printed in italic]

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## A BILL

To direct the Secretary of Transportation to conduct a rail transportation security risk assessment, and for other purposes.

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Safe Rails Act of  
5       ~~2001~~. 2002”.

1 **SEC. 2. RAIL TRANSPORTATION SECURITY RISK ASSESS-**  
2 **MENT.**

3 (a) **IN GENERAL.**—The Secretary of Transportation  
4 shall—

5 (1) conduct a comprehensive vulnerability as-  
6 sessment and security needs analysis of hazardous  
7 materials transportation in the railroad freight  
8 transportation industry; and

9 (2) with regard to the shipment of hazardous  
10 materials, assess the security risks associated with  
11 rail transportation and develop prioritized rec-  
12 ommendations for—

13 (A) improving the security of rail tunnels,  
14 rail bridges, rail switching areas, and other  
15 areas identified by the Secretary as posing sig-  
16 nificant rail-related risks to human health and  
17 public safety and the movement of interstate  
18 commerce, taking into account the impact that  
19 any proposed security measure might have on  
20 the provision of rail service; and

21 (B) dealing with the immediate and long-  
22 term economic impact of measures that may be  
23 required to address those risks.

24 (b) **CONSULTATION; USE OF EXISTING RE-**  
25 **SOURCES.**—In carrying out the assessment and analysis  
26 required by subsection (a), the Secretary shall—

1           (1) consult with and consider any relevant as-  
2           sessments and analyses prepared by the railroad  
3           freight transportation industry, owners or lessors of  
4           tank cars used in the transportation of hazardous  
5           materials, rail labor, or hazardous materials shippers  
6           (including officials responsible for responding to  
7           emergencies);

8           (2) consider relevant risk assessments and anal-  
9           yses prepared by State and Federal regulatory or  
10          law enforcement agencies; and

11          (3) utilize, to the maximum extent feasible, the  
12          resources and assistance of—

13                 (A) the Federal Railroad Administration’s  
14                 Rail Safety Advisory Committee; and

15                 (B) the Transportation Research Board of  
16                 the National Academy of Sciences.

17          (c) REPORT.—

18                 (1) CONTENTS.—Within 180 days after the  
19                 date of enactment of this Act the Secretary shall  
20                 transmit to the Senate Committee on Commerce,  
21                 Science, and Transportation and the House of Rep-  
22                 resentatives Committee on Transportation and In-  
23                 frastructure a report, without compromising national  
24                 security, containing—

1 (A) the assessment, analysis, and  
2 prioritized recommendations required by sub-  
3 section (a); and

4 (B) any proposals the Secretary deems ap-  
5 propriate for providing Federal financial, tech-  
6 nological, or research and development assist-  
7 ance to railroads, owners or lessors of tank cars  
8 used in the transportation of hazardous mate-  
9 rials, rail labor, or hazardous materials shippers  
10 (including officials responsible for responding to  
11 emergencies) to assist in reducing the likeli-  
12 hood, severity, and consequences of deliberate  
13 acts of crime or terrorism toward rail employ-  
14 ees, rail passengers, rail shipments, tank cars,  
15 or rail property.

16 (2) FORMAT.—The Secretary may submit the  
17 report in both classified and redacted formats if the  
18 Secretary determines that such action is appropriate  
19 or necessary to avoid compromising national secu-  
20 rity.

21 (d) CONFIDENTIALITY.—Except for the report to  
22 Congress required by subsection (c), or where limited dis-  
23 closure to law enforcement, fire, or other public safety offi-  
24 cials is required to protect human health or public safety,  
25 the Secretary may keep confidential the assessment and

1 analysis required by subsection (a), along with all related  
2 materials, and such information shall not be subject to dis-  
3 closure under section 552 of title 5, United States Code.

4 **SEC. 3. RAIL SECURITY FUND.**

5 (a) IN GENERAL.—The Secretary of the Treasury  
6 shall establish a Rail Security Fund account in the Treas-  
7 ury into which the Secretary of the Transportation shall  
8 deposit amounts appropriated under subsection (b).

9 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
10 are authorized to be appropriated to the Secretary of  
11 Transportation \$150,000,000 for each of fiscal years ~~2002~~  
12 ~~and 2003~~ *2003 and 2004* for deposit into the Rail Security  
13 Fund account established under subsection (a). Amounts  
14 appropriated pursuant to this subsection shall remain  
15 available until expended for grants under subsection (d).

16 (c) ALLOCATION BETWEEN RAILROADS AND OTH-  
17 ERS.—Unless as a result of the assessment required by  
18 section ~~1(a)~~ *2(a)* the Secretary determines that critical rail  
19 transportation security needs require reimbursement in  
20 greater amounts to any eligible entity, no grants under  
21 this section may be made to railroads in excess of  
22 \$100,000,000 annually.

23 (d) USE OF APPROPRIATED AMOUNTS.—Amounts in  
24 the account are available to the Secretary of Transpor-  
25 tation for grants to freight railroads, hazardous materials

1 shippers, or owners of tank cars used in the transportation  
2 of hazardous materials, for full or partial reimbursement  
3 of costs incurred on or after September 11, 2001, in the  
4 conduct of activities to prevent or respond to acts of ter-  
5 rorism, sabotage, or other security threats, including—

6           (1) additional operations involving rerouting,  
7           switching, and the express movement of hazardous  
8           materials to address security risks;

9           (2) hiring additional manpower required to in-  
10          crease security of the entire rail network, including  
11          rail cars on leased track;

12          (3) security and redundancy for critical commu-  
13          nications, computer, and train control systems essen-  
14          tial for secure rail operations;

15          (4) development of secure networks to enable  
16          railroads to communicate information to hazardous  
17          materials shippers and tank car owners regarding  
18          credible threats to hazardous material shipments  
19          anywhere along the rail network or on shipper facili-  
20          ties;

21          (5) development and deployment of secure glob-  
22          al positioning satellite tracking systems on all tank  
23          cars transporting high hazard materials;

24          (6) investment in the physical hardening of crit-  
25          ical railroad infrastructure;

1           (7) research and development of improved tech-  
2 nology for sealing rail cars;

3           (8) tank car modifications, or storage of addi-  
4 tional tank cars in excess of the number normally  
5 stored on-site at shippers' facilities, if required by a  
6 Federal agency or a railroad; and

7           (9) research and development otherwise sup-  
8 porting enhanced security of hazardous materials  
9 transportation by rail, including—

10                   (A) the purchase of equipment or improved  
11 training to enhance emergency response in haz-  
12 ardous materials transportation incidents;

13                   (B) research and development of tech-  
14 niques to transfer hazardous materials from rail  
15 cars that are damaged or otherwise represent  
16 an unreasonable risk to human life or public  
17 safety; and

18                   (C) research and development of systems  
19 to enhance rail car security on shipper property.

20       (e) ACCOUNTABILITY.—The Secretary of Transpor-  
21 tation shall adopt necessary procedures, including audits,  
22 to ensure that grants made under this section are ex-  
23 pended in accordance with the purposes of this Act and  
24 the priorities and other criteria adopted by the Secretary.

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