

## Calendar No. 480

111TH CONGRESS  
2D SESSION**S. 3638**

To establish a national safety plan for public transportation, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 22, 2010

Mr. DODD, from the Committee on Banking, Housing, and Urban Affairs, reported the following original bill; which was read twice and placed on the calendar

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**A BILL**

To establish a national safety plan for public transportation, 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 “Public Transportation  
5 Safety Act of 2010”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds the following:

1           (1) In the United States, more than  
2           10,000,000,000 trips are taken on public transpor-  
3           tation each year, and more than 14,000,000 trips  
4           are taken on rail fixed guideway systems every week-  
5           day.

6           (2) Greater investment by the Federal Govern-  
7           ment in transit safety is necessary to better protect  
8           public transportation passengers and keep the econ-  
9           omy of the United States operating efficiently  
10          through the safe movement of goods and people.

11          (3) The Federal Transit Administration lacks  
12          the authority to implement and enforce national  
13          public transportation safety standards.

14          (4) State safety oversight agencies often lack  
15          the authority, expertise, and resources to effectively  
16          monitor the safety of rail fixed guideway public  
17          transportation systems.

18          (5) According to the Federal Transit Adminis-  
19          tration, more than  $\frac{1}{3}$  of the assets of the largest rail  
20          transit systems in the United States are in either  
21          marginal or poor condition, and the estimated main-  
22          tenance backlog for public transportation systems is  
23          nearly \$80,000,000,000, contributing to unsafe con-  
24          ditions for passengers and workers.

25          (b) PURPOSES.—The purposes of this Act are—

1           (1) to establish a national public transportation  
2           safety plan to improve the safety of public transpor-  
3           tation systems;

4           (2) to assist States in developing, implementing,  
5           and enforcing rail fixed guideway public transpor-  
6           tation safety oversight programs; and

7           (3) to ensure that public transportation agen-  
8           cies develop a process for prioritizing asset invest-  
9           ment in order to bring their systems into a state of  
10          good repair.

11 **SEC. 3. PUBLIC TRANSPORTATION SAFETY.**

12          (a) PUBLIC TRANSPORTATION SAFETY PROGRAM ES-  
13          TABLISHED.—Section 5329 of title 49, United States  
14          Code, is amended to read as follows:

15 **“§ 5329. Public transportation safety program**

16          “(a) DEFINITION.—In this section, the term ‘recipi-  
17          ent’ means a State or local governmental authority, or any  
18          other operator of a public transportation system, that re-  
19          ceives financial assistance under this chapter.

20          “(b) NATIONAL PUBLIC TRANSPORTATION SAFETY  
21          PLAN.—

22                 “(1) IN GENERAL.—The Secretary shall create  
23                 and implement a national public transportation safe-  
24                 ty plan to improve the safety of all public transpor-

1       tation systems that receive funding under this chap-  
2       ter.

3               “(2) CONTENTS OF PLAN.—The national public  
4       transportation safety plan under paragraph (1) shall  
5       include—

6               “(A) safety performance criteria for all  
7       modes of public transportation;

8               “(B) a definition for the term ‘state of  
9       good repair’ for public transportation systems,  
10      including equipment, rolling stock, infrastruc-  
11      ture, and facilities;

12              “(C) minimum safety performance stand-  
13      ards for public transportation vehicles used in  
14      revenue operations that—

15              “(i) do not apply to rolling stock oth-  
16      erwise regulated by the Secretary or any  
17      other Federal agency; and

18              “(ii) to the extent practicable, take  
19      into consideration—

20              “(I) relevant recommendations of  
21      the National Transportation Safety  
22      Board; and

23              “(II) recommendations of, and  
24      best practices standards developed by,

1                   the public transportation industry;  
2                   and

3                   “(D) a public transportation safety certifi-  
4                   cation training program, as described in sub-  
5                   section (c).

6                   “(c) PUBLIC TRANSPORTATION SAFETY CERTIFI-  
7                   CATION TRAINING PROGRAM.—

8                   “(1) IN GENERAL.—The Secretary shall estab-  
9                   lish a public transportation safety certification train-  
10                  ing program for Federal and State employees, or  
11                  other designated personnel, who conduct safety au-  
12                  dits and examinations of public transportation sys-  
13                  tems and employees of public transportation agen-  
14                  cies directly responsible for safety oversight.

15                  “(2) INTERIM PROVISIONS.—Not later than 90  
16                  days after the date of enactment of the Public  
17                  Transportation Safety Act of 2010, the Secretary  
18                  shall establish interim provisions for the certification  
19                  and training of the personnel described in paragraph  
20                  (1), which shall be in effect until the effective date  
21                  of the final rule issued by the Secretary to imple-  
22                  ment this subsection.

23                  “(d) PUBLIC TRANSPORTATION AGENCY SAFETY  
24                  PLAN.—

1           “(1) IN GENERAL.—Effective 1 year after the  
2 effective date of a final rule issued by the Secretary  
3 to carry out this subsection, each recipient shall cer-  
4 tify that the recipient has established a comprehen-  
5 sive agency safety plan that includes, at a min-  
6 imum—

7           “(A) a requirement that the board of di-  
8 rectors, or equivalent entity, of the recipient ap-  
9 prove the agency safety plan and any updates  
10 to the agency safety plan;

11           “(B) methods for identifying and evalu-  
12 ating safety risks throughout all elements of the  
13 public transportation system of the recipient;

14           “(C) strategies to minimize the exposure of  
15 the public, personnel, and property to hazards  
16 and unsafe conditions;

17           “(D) a process and timeline for conducting  
18 an annual review and update of the safety plan  
19 of the recipient;

20           “(E) assignment of an adequately trained  
21 safety officer who reports directly to the general  
22 manager, president, or equivalent officer of the  
23 recipient; and

24           “(F) a comprehensive staff training pro-  
25 gram for the operations personnel and per-

1           sonnel directly responsible for safety of the re-  
2           cipient that includes—

3                   “(i) the completion of a safety train-  
4                   ing program; and

5                   “(ii) continuing safety education and  
6                   training.

7           “(2) INTERIM AGENCY SAFETY PLAN.—A sys-  
8           tem safety plan developed pursuant to part 659 of  
9           title 49, Code of Federal Regulations shall remain in  
10          effect until such time as this subsection takes effect.

11          “(e) STATE SAFETY OVERSIGHT PROGRAM.—

12                  “(1) DEFINITION.—In this subsection, the term  
13          ‘eligible State’ means a State that has—

14                          “(A) a rail fixed guideway public transpor-  
15                          tation system within the jurisdiction of the  
16                          State that is not subject to regulation by the  
17                          Federal Railroad Administration; or

18                          “(B) a rail fixed guideway public transpor-  
19                          tation system in the design or construction  
20                          phase of development within the jurisdiction of  
21                          the State that will not be subject to regulation  
22                          by the Federal Railroad Administration.

23          “(2) IN GENERAL.—In order to obligate funds  
24          apportioned under section 5338 to carry out this  
25          chapter, effective 3 years after the date on which a

1 final rule under this subsection becomes effective, an  
2 eligible State shall have in effect a State safety over-  
3 sight program approved by the Secretary under  
4 which the State—

5 “(A) assumes responsibility for overseeing  
6 rail fixed guideway public transportation safety;

7 “(B) adopts and enforces Federal law on  
8 rail fixed guideway public transportation safety;

9 “(C) establishes a State safety oversight  
10 agency;

11 “(D) determines, in consultation with the  
12 Secretary, an appropriate staffing level for the  
13 State safety oversight agency that is commensu-  
14 rate with the number, size and complexity of  
15 the rail fixed guideway public transportation  
16 systems in the eligible State;

17 “(E) requires that employees and other  
18 designated personnel of the eligible State safety  
19 oversight agency who are responsible for rail  
20 fixed guideway public transportation safety  
21 oversight are qualified to perform such func-  
22 tions through appropriate training, including  
23 successful completion of the public transpor-  
24 tation safety certification training program es-  
25 tablished under subsection (c); and

1           “(F) prohibits any public transportation  
2 agency from providing funds to the State safety  
3 oversight agency or an entity designated by the  
4 eligible State as the State safety oversight  
5 agency under paragraph (5).

6           “(3) STATE SAFETY OVERSIGHT AGENCY.—

7           “(A) IN GENERAL.—Each State safety  
8 oversight program shall establish a State safety  
9 oversight agency that—

10           “(i) is an independent legal entity re-  
11 sponsible for the safety of rail fixed guide-  
12 way public transportation systems;

13           “(ii) is financially and legally inde-  
14 pendent from any public transportation en-  
15 tity that the State safety oversight agency  
16 oversees;

17           “(iii) does not fund, promote, or pro-  
18 vide public transportation services;

19           “(iv) does not employ any individual  
20 who is also responsible for the administra-  
21 tion of public transportation programs;

22           “(v) has the authority to review, ap-  
23 prove, oversee, and enforce the implemen-  
24 tation by the rail fixed guideway public  
25 transportation agency of the public trans-

1           portation agency safety plan required  
2           under subsection (d);

3           “(vi) has investigative and enforce-  
4           ment authority with respect to the safety  
5           of rail fixed guideway public transportation  
6           systems of the eligible State;

7           “(vii) audits, at least once triennially,  
8           the compliance of the rail fixed guideway  
9           public transportation systems in the eligi-  
10          ble State subject to this subsection with  
11          the public transportation agency safety  
12          plan required under subsection (d); and

13          “(viii) provides, at least once annu-  
14          ally, a status report on the safety of the  
15          rail fixed guideway public transportation  
16          systems the State safety oversight agency  
17          oversees to—

18                  “(I) the Federal Transit Admin-  
19                  istration;

20                  “(II) the Governor of the eligible  
21                  State or States; and

22                  “(III) the board of directors, or  
23                  equivalent entity, of any rail fixed  
24                  guideway public transportation system

1                   that the State safety oversight agency  
2                   oversees.

3                   “(B) WAIVER.—At the request of an eligi-  
4                   ble State, the Secretary may waive clauses (i)  
5                   and (iii) of subparagraph (A) for eligible States  
6                   with 1 or more rail fixed guideway systems in  
7                   revenue operations, design, or construction,  
8                   that—

9                   “(i) have fewer than 1,000,000 com-  
10                  bined actual and projected rail fixed guide-  
11                  way revenue miles per year; or

12                  “(ii) provide fewer than 10,000,000  
13                  combined actual and projected unlinked  
14                  passenger trips per year.

15                  “(4) ENFORCEMENT.—Each State safety over-  
16                  sight agency shall have the authority to request the  
17                  Secretary take enforcement actions available under  
18                  subsection (g) against a rail fixed guideway public  
19                  transportation system that is not in compliance with  
20                  Federal safety laws.

21                  “(5) PROGRAMS FOR MULTI-STATE RAIL FIXED  
22                  GUIDEWAY PUBLIC TRANSPORTATION SYSTEMS.—An  
23                  eligible State that has within the jurisdiction of the  
24                  eligible State a rail fixed guideway public transpor-

1       tation system that operates in more than 1 eligible  
2       State shall—

3               “(A) jointly with all other eligible States in  
4               which the rail fixed guideway public transpor-  
5               tation system operates, to ensure uniform safe-  
6               ty standards and enforcement procedures that  
7               shall be in compliance with this section, estab-  
8               lish and implement a State safety oversight pro-  
9               gram approved by the Secretary; or

10              “(B) jointly with all other eligible States in  
11              which the rail fixed guideway public transpor-  
12              tation system operates, designate an entity hav-  
13              ing characteristics consistent with the charac-  
14              teristics described in paragraph (3) to carry out  
15              the State safety oversight program approved by  
16              the Secretary.

17              “(6) GRANTS.—

18              “(A) IN GENERAL.—The Secretary may  
19              make a grant to an eligible State to develop or  
20              carry out a State safety oversight program, if  
21              the eligible State submits—

22                      “(i) a proposal for the establishment  
23                      of a State safety oversight program to the  
24                      Secretary for review and written approval

1 before implementing a State safety over-  
2 sight program; and

3 “(ii) any amendment to the State  
4 safety oversight program of the eligible  
5 State to the Secretary for review not later  
6 than 60 days before the effective date of  
7 the amendment.

8 “(B) DETERMINATION BY SECRETARY.—

9 “(i) IN GENERAL.—The Secretary  
10 shall transmit written approval to an eligi-  
11 ble State that submits a State safety over-  
12 sight program, if the Secretary determines  
13 the State safety oversight program meets  
14 the requirements of this subsection and the  
15 State safety oversight program is adequate  
16 to promote the purposes of this section.

17 “(ii) AMENDMENT.—The Secretary  
18 shall transmit to an eligible State that sub-  
19 mits an amendment under subparagraph  
20 (A)(ii) a written determination with re-  
21 spect to the amendment.

22 “(iii) NO WRITTEN DECISION.—If an  
23 eligible State does not receive a written de-  
24 cision from the Secretary with respect to  
25 an amendment submitted under subpara-

1 graph (A)(ii) before the end of the 60-day  
2 period beginning on the date on which the  
3 eligible State submits the amendment, the  
4 amendment shall be deemed to be ap-  
5 proved.

6 “(iv) DISAPPROVAL.—If the Secretary  
7 determines that a State safety oversight  
8 program does not meet the requirements of  
9 this subsection, the Secretary shall trans-  
10 mit to the eligible State a written expla-  
11 nation and allow the eligible State to mod-  
12 ify and resubmit the State safety oversight  
13 program for approval.

14 “(C) FEDERAL SHARE.—

15 “(i) IN GENERAL.—The Federal share  
16 of the reasonable cost of a State safety  
17 oversight program developed or carried out  
18 using a grant under this paragraph shall  
19 be 80 percent.

20 “(ii) IN-KIND CONTRIBUTIONS.—Any  
21 calculation of the non-Federal share of a  
22 State safety oversight program shall in-  
23 clude in-kind contributions by an eligible  
24 State.

1           “(iii) NON-FEDERAL SHARE.—The  
2 non-Federal share of the cost of a State  
3 safety oversight program developed or car-  
4 ried out using a grant under this para-  
5 graph may not be met by—

6                   “(I) any Federal funds;

7                   “(II) any funds received from a  
8 public transportation agency; or

9                   “(III) any revenues earned by a  
10 public transportation agency.

11           “(iv) SAFETY TRAINING PROGRAM.—  
12 The Secretary may reimburse an eligible  
13 State or a recipient for the full costs of  
14 participation in the public transportation  
15 safety certification training program estab-  
16 lished under subsection (c) by an employee  
17 of a State safety oversight agency or a re-  
18 cipient who is directly responsible for safe-  
19 ty oversight.

20           “(7) CONTINUAL EVALUATION OF PROGRAM.—  
21 The Secretary shall continually evaluate the imple-  
22 mentation of a State safety oversight program by a  
23 State safety oversight agency, on the basis of—

1           “(A) reports submitted by the State safety  
2 oversight agency under paragraph (3)(A)(viii);  
3 and

4           “(B) audits carried out by the Secretary.

5           “(8) INADEQUATE PROGRAM.—

6           “(A) IN GENERAL.—If the Secretary finds  
7 that a State safety oversight program approved  
8 by the Secretary is not being carried out in ac-  
9 cordance with this section or has become inad-  
10 equate to ensure the enforcement of Federal  
11 safety regulations, the Secretary shall—

12           “(i) transmit to the eligible State a  
13 written explanation of the reason the pro-  
14 gram has become inadequate and inform  
15 the State of the intention to withhold  
16 funds, including the amount of funds pro-  
17 posed to be withheld under this section, or  
18 withdraw approval of the State safety over-  
19 sight program; and

20           “(ii) allow the eligible State a reason-  
21 able period of time to modify the State  
22 safety oversight program or implementa-  
23 tion of the program and submit an up-  
24 dated proposal for the State safety over-

1           sight program to the Secretary for ap-  
2           proval.

3           “(B) FAILURE TO CORRECT.—If the Sec-  
4           retary determines that a modification by an eli-  
5           gible State of the State safety oversight pro-  
6           gram is not sufficient to ensure the enforcement  
7           of Federal safety regulations, the Secretary  
8           may—

9                   “(i) withhold funds available under  
10                   this section in an amount determined by  
11                   the Secretary; or

12                   “(ii) provide written notice of with-  
13                   drawal of State safety oversight program  
14                   approval.

15           “(C) TEMPORARY OVERSIGHT.—In the  
16           event the Secretary takes action under subpara-  
17           graph (B)(ii), the Secretary shall provide over-  
18           sight of the rail fixed guideway systems in an  
19           eligible State until the State submits a State  
20           safety oversight program approved by the Sec-  
21           retary.

22           “(D) RESTORATION.—

23                   “(i) CORRECTION.—The eligible State  
24                   shall address any inadequacy to the satis-  
25                   faction of the Secretary prior to the Sec-

1           retary restoring funds withheld under this  
2           paragraph.

3                   “(ii) AVAILABILITY AND REALLOCA-  
4                   TION.—Any funds withheld under this  
5                   paragraph shall remain available for res-  
6                   toration to the eligible State until the end  
7                   of the first fiscal year after the fiscal year  
8                   in which the funds were withheld, after  
9                   which time the funds shall be available to  
10                  the Secretary for allocation to other eligi-  
11                  ble States under this section.

12                  “(9) FEDERAL OVERSIGHT.—The Secretary  
13                  shall—

14                          “(A) oversee the implementation of each  
15                          State safety oversight program under this sub-  
16                          section;

17                          “(B) audit the operations of each State  
18                          safety oversight agency at least once triennially;  
19                          and

20                          “(C) issue regulations to carry out this  
21                          subsection.

22                  “(f) AUTHORITY OF SECRETARY.—In carrying out  
23                  this section, the Secretary may—

24                          “(1) conduct inspections, investigations, audits,  
25                          examinations, and testing of the equipment, facili-

1 ties, rolling stock, and operations of the public  
2 transportation system of a recipient;

3 “(2) make reports and issue directives with re-  
4 spect to the safety of the public transportation sys-  
5 tem of a recipient;

6 “(3) issue subpoenas to, and take depositions  
7 of, any employee of a recipient or a State safety  
8 oversight agency;

9 “(4) require the production of documents by,  
10 and prescribe recordkeeping and reporting require-  
11 ments for, a recipient or a State safety oversight  
12 agency;

13 “(5) investigate public transportation accidents  
14 and incidents and provide guidance to recipients re-  
15 garding prevention of accidents and incidents;

16 “(6) at reasonable times and in a reasonable  
17 manner, enter and inspect equipment, facilities, roll-  
18 ing stock, operations, and relevant records of the  
19 public transportation system of a recipient; and

20 “(7) issue regulations to carry out this section.

21 “(g) ENFORCEMENT ACTIONS.—

22 “(1) TYPES OF ENFORCEMENT ACTIONS.—The  
23 Secretary may take enforcement action against a re-  
24 cipient that does not comply with Federal law with

1 respect to the safety of the public transportation  
2 system, including—

3 “(A) issuing directives;

4 “(B) requiring more frequent oversight of  
5 the recipient by a State safety oversight agency  
6 or the Secretary;

7 “(C) imposing more frequent reporting re-  
8 quirements;

9 “(D) requiring that Federal transit for-  
10 mula grant funds be spent on correcting safety  
11 deficiencies identified by the Secretary or the  
12 State safety oversight agency before such funds  
13 are spent on other projects;

14 “(E) subject to paragraph (2), withholding  
15 Federal financial assistance, in an amount to be  
16 determined by the Secretary, from the recipient,  
17 until such time as the recipient comes into com-  
18 pliance with this section; and

19 “(F) subject to paragraph (3), imposing a  
20 civil penalty, in an amount to be determined by  
21 the Secretary.

22 “(2) USE OR WITHHOLDING OF FUNDS.—

23 “(A) IN GENERAL.—The Secretary may re-  
24 quire the use of funds in accordance with para-  
25 graph (1)(D), or withhold funds under para-

1 graph (1)(E), only if the Secretary finds that a  
2 recipient is engaged in a pattern or practice of  
3 serious safety violations or has otherwise re-  
4 fused to comply with Federal law relating to the  
5 safety of the public transportation system.

6 “(B) NOTICE.—Before withholding funds  
7 from a recipient under paragraph (1)(E), the  
8 Secretary shall provide to the recipient—

9 “(i) written notice of a violation and  
10 the amount proposed to be withheld; and

11 “(ii) a reasonable period of time with-  
12 in which the recipient may address the vio-  
13 lation or propose and initiate an alter-  
14 native means of compliance that the Sec-  
15 retary determines is acceptable.

16 “(C) FAILURE TO ADDRESS.—If the recipi-  
17 ent does not address the violation or propose an  
18 alternative means of compliance that the Sec-  
19 retary determines is acceptable within the pe-  
20 riod of time specified in the written notice, the  
21 Secretary may withhold funds under paragraph  
22 (1)(E).

23 “(D) RESTORATION.—

24 “(i) CORRECTION.—The recipient  
25 shall address any violation to the satisfac-

1           tion of the Secretary prior to the Secretary  
2           restoring funds withheld under paragraph  
3           (1)(E).

4           “(ii) AVAILABILITY AND REALLOCA-  
5           TION.—Any funds withheld under para-  
6           graph (1)(E) shall remain available for res-  
7           toration to the recipient until the end of  
8           the first fiscal year after the fiscal year in  
9           which the funds were withheld, after which  
10          time the funds shall be available to the  
11          Secretary for allocation to other eligible re-  
12          cipients.

13          “(E) NOTIFICATION.—Not later than 3  
14          days before taking any action under subpara-  
15          graph (C), the Secretary shall notify the Com-  
16          mittee on Banking, Housing, and Urban Affairs  
17          of the Senate and the Committee on Transpor-  
18          tation and Infrastructure of the House of Rep-  
19          resentatives of such action.

20          “(3) CIVIL PENALTIES.—

21                 “(A) IMPOSITION OF CIVIL PENALTIES.—

22                         “(i) IN GENERAL.—The Secretary  
23                         may impose a civil penalty under para-  
24                         graph (1)(F), only if—

1                   “(I) the Secretary has exhausted  
2                   the enforcement actions available  
3                   under subparagraphs (A) through (E)  
4                   of paragraph (1); and

5                   “(II) the recipient continues to  
6                   be in violation of Federal safety law.

7                   “(ii) EXCEPTION.—The Secretary  
8                   may waive the requirement under clause  
9                   (i)(I), if the Secretary determines that  
10                  such a waiver is in the public interest.

11                  “(B) NOTICE.—Before imposing a civil  
12                  penalty on a recipient under paragraph (1)(F),  
13                  the Secretary shall provide to the recipient—

14                         “(i) written notice of any violation  
15                         and the penalty proposed to be imposed;  
16                         and

17                         “(ii) a reasonable period of time with-  
18                         in which the recipient may address the vio-  
19                         lation or propose and initiate an alter-  
20                         native means of compliance that the Sec-  
21                         retary determines is acceptable.

22                  “(C) FAILURE TO ADDRESS.—If the recipi-  
23                  ent does not address the violation or propose an  
24                  alternative means of compliance that the Sec-  
25                  retary determines is acceptable within the pe-

1           riod of time specified in the written notice, the  
2           Secretary may impose a civil penalty under  
3           paragraph (1)(F).

4           “(D) NOTIFICATION.—Not later than 3  
5           days before taking any action under subpara-  
6           graph (C), the Secretary shall notify the Com-  
7           mittee on Banking, Housing, and Urban Affairs  
8           of the Senate and the Committee on Transpor-  
9           tation and Infrastructure of the House of Rep-  
10          representatives of such action.

11          “(E) DEPOSIT OF CIVIL PENALTIES.—Any  
12          amounts collected by the Secretary under this  
13          paragraph shall be deposited into the Mass  
14          Transit Account of the Highway Trust Fund.

15          “(4) ENFORCEMENT BY THE ATTORNEY GEN-  
16          ERAL.—At the request of the Secretary, the Attor-  
17          ney General may bring a civil action—

18                 “(A) for appropriate injunctive relief to en-  
19                 sure compliance with this section;

20                 “(B) to collect a civil penalty imposed  
21                 under paragraph (1)(F); and

22                 “(C) to enforce a subpoena, request for ad-  
23                 missions, request for production of documents  
24                 or other tangible things, or request for testi-

1 mony by deposition issued by the Secretary  
2 under this section.

3 “(h) COST-BENEFIT ANALYSIS.—

4 “(1) ANALYSIS REQUIRED.—In carrying out  
5 this section, the Secretary shall take into consider-  
6 ation the costs and benefits of each action the Sec-  
7 retary proposes to take under this section.

8 “(2) WAIVER.—The Secretary may waive the  
9 requirement under this subsection, if the Secretary  
10 determines that such a waiver is in the public inter-  
11 est.

12 “(i) CONSULTATION BY THE SECRETARY OF HOME-  
13 LAND SECURITY.—The Secretary of Homeland Security  
14 shall consult with the Secretary of Transportation before  
15 the Secretary of Homeland Security prescribes a regula-  
16 tion or issues an order that the Secretary of Transpor-  
17 tation determines affects the safety of public transpor-  
18 tation design, construction, or operations.

19 “(j) PREEMPTION OF STATE LAW.—

20 “(1) NATIONAL UNIFORMITY OF REGULA-  
21 TION.—Laws, regulations, and orders related to pub-  
22 lic transportation safety shall be nationally uniform  
23 to the extent practicable.

24 “(2) IN GENERAL.—A State may adopt or con-  
25 tinue in force a law, regulation, or order related to

1 the safety of public transportation until the Sec-  
2 retary promulgates a regulation or issues an order  
3 covering the subject matter of the State require-  
4 ment.

5 “(3) MORE STRINGENT LAW.—A State may  
6 adopt or continue in force a law, regulation, or order  
7 related to the safety of public transportation that is  
8 consistent with, in addition to or more stringent  
9 than a regulation or order of the Secretary, if the  
10 Secretary determines that the law, regulation, or  
11 order—

12 “(A) has a safety benefit;

13 “(B) is not incompatible with a law, regu-  
14 lation, or order, or the terms and conditions of  
15 a financial assistance agreement of the United  
16 States Government; and

17 “(C) does not unreasonably burden inter-  
18 state commerce.

19 “(4) ACTIONS UNDER STATE LAW.—

20 “(A) RULE OF CONSTRUCTION.—Nothing  
21 in this section shall be construed to preempt an  
22 action under State law seeking damages for  
23 personal injury, death, or property damage al-  
24 leging that a party has failed to comply with—

1           “(i) a Federal standard of care estab-  
2           lished by a regulation or order issued by  
3           the Secretary under this section;

4           “(ii) its own program, rule, or stand-  
5           ard that it created pursuant to a regula-  
6           tion or order issued by the Secretary; or

7           “(iii) a State law, regulation, or order  
8           that is not incompatible with paragraph  
9           (2).

10          “(B) EFFECTIVE DATE.—This paragraph  
11          shall apply to any cause of action under State  
12          law arising from an event or activity occurring  
13          on or after the date of enactment of the Public  
14          Transportation Safety Act of 2010.

15          “(5) JURISDICTION.—Nothing in this section  
16          may be construed to create a cause of action under  
17          Federal law on behalf of an injured party or confers  
18          Federal question jurisdiction for such State law  
19          causes of action.

20          “(k) ANNUAL REPORT.—The Secretary shall submit  
21          to the Committee on Banking, Housing, and Urban Af-  
22          fairs of the Senate and the Committee on Transportation  
23          and Infrastructure of the House of Representatives an an-  
24          nual report that—

1           “(1) analyzes public transportation safety  
2 trends among the States and documents the most ef-  
3 fective safety programs implemented using grants  
4 under this section; and

5           “(2) describes the effect on public transpor-  
6 tation safety of activities carried out using grants  
7 under this section.

8           “(1) AUTHORIZATION OF APPROPRIATIONS.—There  
9 are authorized to be appropriated to carry out this sec-  
10 tion—

11           “(1) \$10,000,000 for fiscal year 2011;

12           “(2) \$20,000,000 for fiscal year 2012; and

13           “(3) \$30,000,000 for fiscal year 2013.”.

14           (b) REVIEWS AND REPORTS BY THE COMPTROLLER  
15 GENERAL.—

16           (1) REVIEW OF IMPLEMENTATION OF THIS  
17 ACT.—

18           (A) REVIEW.—The Comptroller General of  
19 the United States shall conduct a review of the  
20 status of the implementation of this Act.

21           (B) REPORT.—Not later than 2 years after  
22 the date of enactment of this Act, the Comp-  
23 troller General shall submit to the Committee  
24 on Banking, Housing, and Urban Affairs of the  
25 Senate and the Committee on Transportation

1 and Infrastructure of the House of Representa-  
2 tives a report on the results of the review under  
3 subparagraph (A).

4 (2) REVIEW OF IMPLEMENTATION OF STATE  
5 SAFETY OVERSIGHT PROGRAMS.—

6 (A) REVIEW.—The Comptroller General of  
7 the United States shall conduct a review of the  
8 status of the implementation of section 5329(e)  
9 of title 49, United States Code, as added by  
10 this Act.

11 (B) REPORT.—Not later than 1 year after  
12 section 5330 of title 49, United States Code, is  
13 repealed under section 6(f) of this Act, the  
14 Comptroller General shall submit to the Com-  
15 mittee on Banking, Housing, and Urban Affairs  
16 of the Senate and the Committee on Transpor-  
17 tation and Infrastructure of the House of Rep-  
18 resentatives a report on the results of the re-  
19 view under subparagraph (A).

20 **SEC. 4. TRANSIT ASSET MANAGEMENT.**

21 Section 5326 of title 49, United States Code, is  
22 amended to read as follows:

23 **“§ 5326. Transit asset management**

24 “(a) DEFINITIONS.—In this section the following  
25 definitions shall apply:

1           “(1) CAPITAL ASSET.—The term ‘capital asset’  
2 includes equipment, rolling stock, infrastructure, and  
3 facilities for use in public transportation and owned  
4 or leased by a recipient or subrecipient of Federal fi-  
5 nancial assistance under this chapter.

6           “(2) TRANSIT ASSET MANAGEMENT SYSTEM.—  
7 The term ‘transit asset management system’ means  
8 a strategic and systematic process of operating,  
9 maintaining, and improving public transportation  
10 capital assets effectively throughout the life cycle of  
11 such assets.

12          “(b) TRANSIT ASSET MANAGEMENT SYSTEM.—The  
13 Secretary shall establish and implement a national transit  
14 asset management system, which shall include—

15           “(1) a definition of the term ‘state of good re-  
16 pair’ that includes objective standards for measuring  
17 the condition of capital assets of recipients;

18           “(2) a requirement that recipients and sub-  
19 recipients of funds under this chapter develop capital  
20 asset inventories and condition assessments;

21           “(3) a requirement that each recipient of fund-  
22 ing under this chapter report on the condition of the  
23 system of the recipient and provide a description of  
24 the change in condition since the last report;

1           “(4) an analytical process or decision support  
2           tool for use by public transportation systems that—

3                   “(A) allows for the estimation of capital  
4           investment needs of such systems over time;  
5           and

6                   “(B) assists with asset investment  
7           prioritization by such systems; and

8           “(5) technical assistance to recipients of finan-  
9           cial assistance under this chapter.

10          “(c) RULEMAKING.—Not later than 240 days after  
11 the date of enactment of the Public Transportation Safety  
12 Act of 2010, the Secretary shall issue a notice of proposed  
13 rulemaking to implement the transit asset management  
14 system described in subsection (b), and shall issue a final  
15 rule within a reasonable amount of time.

16          “(d) AUTHORIZATION OF APPROPRIATIONS.—There  
17 are authorized to be appropriated to carry out this sec-  
18 tion—

19                   “(1) \$2,000,000 for fiscal year 2011;

20                   “(2) \$2,000,000 for fiscal year 2012; and

21                   “(3) \$2,000,000 for fiscal year 2013.”.

22 **SEC. 5. NATIONAL TRANSIT DATABASE.**

23          (a) REPORTING REQUIREMENTS.—

1           (1) AMENDMENT.—Section 5335 of title 49,  
2           United States Code, is amended by adding at the  
3           end the following:

4           “(c) DATA REQUIRED TO BE REPORTED.—The Sec-  
5           retary may award a grant under this chapter only if the  
6           recipient of the grant reports to the Secretary, for inclu-  
7           sion in the National Transit Database, any information  
8           relating to—

9           “(1) the causes of reportable incidents, as de-  
10          fined by the Secretary; and

11          “(2) transit asset inventories and condition as-  
12          sessments conducted by the recipient.”.

13          (2) EFFECTIVE DATE.—The amendment made  
14          by this subsection shall take effect 2 years after the  
15          effective date of the final rule issued under section  
16          5326(e) of title 49, United States Code, as amended  
17          by this Act.

18          (b) CONDITIONS AND PERFORMANCE REPORTING.—  
19          Section 308(e) of title 49, United States Code, is amended  
20          by adding at the end the following:

21          “(3) In reporting to Congress under this subsection,  
22          the Secretary shall use data reported to the National  
23          Transit Database under section 5335.”.

1 **SEC. 6. ADDITIONAL SAFETY PROVISIONS.**

2 (a) OFFICE OF SAFETY AND SECURITY.—There is es-  
3 tablished within the Federal Transit Administration the  
4 Office of Safety and Security. The head of the Office of  
5 Safety and Security shall be the Associate Administrator  
6 of Safety and Security.

7 (b) PROHIBITIONS AGAINST REGULATING OPER-  
8 ATIONS AND CHARGES.—Section 5334(b)(1) of title 49,  
9 United States Code, is amended by inserting “or for pur-  
10 poses of establishing and enforcing a program to improve  
11 the safety of public transportation systems in the United  
12 States,” after “emergency,”.

13 (c) GRANT RECIPIENT REQUIREMENTS.—

14 (1) AMENDMENTS.—Section 5307(d)(1) of title  
15 49, United States Code, is amended—

16 (A) in subparagraph (K)(ii), by striking  
17 “and” at the end; and

18 (B) by adding at the end the following:

19 “(L) will comply with section 5329(d);  
20 and”.

21 (2) EFFECTIVE DATE.—The amendments made  
22 by this subsection shall take effect 1 year after the  
23 effective date of final regulations issued by the Sec-  
24 retary to carry out section 5329(d) of title 49,  
25 United States Code, as amended by this Act.

1 (d) ALCOHOL AND CONTROLLED SUBSTANCES TEST-  
2 ING.—Section 5331(b)(2) of title 49, United States Code,  
3 is amended—

4 (1) by redesignating subparagraphs (A) and  
5 (B) as subparagraphs (B) and (C), respectively; and

6 (2) by inserting before subparagraph (B), as so  
7 redesignated, the following:

8 “(A) shall establish and implement an enforce-  
9 ment program that includes the imposition of pen-  
10 alties for failure to comply with this section;”.

11 (e) CONFORMING AMENDMENT.—The analysis for  
12 chapter 53 of title 49, United States Code, is amended—

13 (1) by striking the item relating to section 5326  
14 and inserting the following:

“5326. Transit asset management.”; and

15 (2) by striking the item relating to section 5329  
16 and inserting the following:

“5329. Public transportation safety program.”.

17 (f) REPEAL.—Effective 3 years after the effective  
18 date of final regulations issued by the Secretary under sec-  
19 tion 5329(e) of title 49, United States Code, as amended  
20 by this Act, section 5330 of title 49, United States Code,  
21 is repealed.



Calendar No. 480

11<sup>TH</sup> CONGRESS  
2<sup>D</sup> Session

**S. 3638**

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**A BILL**

To establish a national safety plan for public transportation, and for other purposes.

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JULY 22, 2010

Read twice and placed on the calendar