

108TH CONGRESS
1ST SESSION

H. R. 2570

To direct the Secretary of Homeland Security to reimburse States for direct expenses and losses incurred by State and local government entities during the effective period of a high threat condition (Code Orange) or severe threat condition (Code Red) declared by the Secretary of Homeland Security, that are in excess of normal operating expenses.

IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 2003

Mr. DEFAZIO (for himself, Mr. MARKEY, Mr. FRANK of Massachusetts, Mr. CARDIN, Ms. SLAUGHTER, Mrs. CHRISTENSEN, Mr. ETHERIDGE, Ms. DELAURO, Mr. CASE, Mr. GRIJALVA, Mr. McDERMOTT, Mr. CROWLEY, Mr. BELL, Mr. BALLANCE, Mr. RAHALL, Mr. MCGOVERN, Ms. LINDA T. SÁNCHEZ of California, Mr. DOYLE, Ms. JACKSON-LEE of Texas, Mr. STARK, Ms. CARSON of Indiana, Mrs. MALONEY, Mr. HASTINGS of Florida, Ms. SOLIS, Ms. HOOLEY of Oregon, Mr. SANDERS, Mr. LIPINSKI, Mr. COSTELLO, Mr. GUTIERREZ, Mr. GEORGE MILLER of California, Mr. FARR, Mr. THOMPSON of California, Mr. KUCINICH, Mrs. DAVIS of California, Mr. BLUMENAUER, Mr. HINCHEY, Mr. CAPUANO, Mr. TIERNEY, Mr. KENNEDY of Rhode Island, Mr. HONDA, Ms. BERKLEY, Ms. KAPTUR, and Ms. BALDWIN) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committees on Energy and Commerce, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To direct the Secretary of Homeland Security to reimburse States for direct expenses and losses incurred by State and local government entities during the effective period of a high threat condition (Code Orange) or severe threat

condition (Code Red) declared by the Secretary of Homeland Security, that are in excess of normal operating expenses.

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 “State Threat Alert Re-
 5 imbursement (STAR) Act of 2003”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) States and local governments are acting on
 9 behalf of the Federal Government to protect and de-
 10 fend our homeland.

11 (2) States and local governments are in the
 12 midst of the worst budget crisis since the Great De-
 13 pression.

14 (3) Cash-strapped States and local governments
 15 are further burdened by expenditures relating to in-
 16 creased homeland security threat alert mitigation.

17 (4) According to a survey by the United States
 18 Conference of Mayors, cities nationwide with popu-
 19 lations of between 30,000 and 8,000,000 are
 20 spending more than \$70,000,000 per week on addi-
 21 tional homeland security measures during the effec-
 22 tive period of a high threat condition (Code Orange)

1 or severe threat condition (Code Red) declared by
2 the Secretary of Homeland Security.

3 (5) These direct costs are in addition to exist-
4 ing homeland security spending (or spending com-
5 mitments) since the terrorist attacks on New York
6 City and the Washington metropolitan area on Sep-
7 tember 11, 2001.

8 **SEC. 3. REIMBURSEMENT.**

9 (a) IN GENERAL.—The Secretary of Homeland Secu-
10 rity shall pay to a State in accordance with this section
11 reimbursement for the direct expenses and losses incurred
12 by State or local government entities of the State in the
13 course of duty during the effective period of an increased
14 threat alert, that are in excess of normal operating ex-
15 penses.

16 (b) SUBMISSION OF REQUESTS.—

17 (1) IN GENERAL.—The Governor of any State
18 may submit to the Secretary of Homeland Security
19 a request for reimbursement under this section—

20 (A) by not later than 90 days after the
21 declaration of an elevated threat condition with
22 respect to which the reimbursement is re-
23 quested; and

24 (B) in the case of such a condition that is
25 in effect for more than 90 days, at such times

1 thereafter as may be prescribed by the Sec-
2 retary.

3 (2) SUPPORTING INFORMATION.—A Governor
4 shall include in a request under this subsection such
5 supporting information as the Secretary may pre-
6 scribe.

7 (3) APPLICATION BY INTERNET.—The Sec-
8 retary shall provide for the submission of requests
9 under this subsection by use of the Internet.

10 (c) DETERMINATION AND PAYMENT.—

11 (1) IN GENERAL.—Upon receipt of a request
12 under subsection (b), the Secretary shall—

13 (A) determine the amount of direct ex-
14 penses and losses that may be reimbursed
15 under this section pursuant to the request; and

16 (B) pay that amount to the State.

17 (2) SUBJECT TO APPROPRIATIONS.—The re-
18 quirement to make payments under this section is
19 subject to the availability of appropriations for such
20 payments.

21 (3) CONGRESSIONAL NOTIFICATION.—Before
22 making any payment to a State under this section
23 in an amount greater than \$20,000,000, the Sec-
24 retary shall notify—

1 (A) the Select Committee on Homeland Se-
2 curity of the House of Representatives; and

3 (B) the Committee on Governmental Af-
4 fairs of the Senate.

5 **SEC. 4. DEFINITIONS.**

6 In this Act:

7 (1) DIRECT EXPENSES AND LOSSES.—The term
8 “direct expenses and losses”—

9 (A) means expenses and losses that would
10 not have been incurred if there had not been in
11 effect an elevated threat condition; and

12 (B) includes (subject to subparagraph
13 (A))—

14 (i) salaries for specially employed per-
15 sonnel;

16 (ii) overtime pay;

17 (iii) the cost of supplies expended; and

18 (iv) the depreciated value of equip-
19 ment destroyed or damaged; and

20 (C) does not include—

21 (i) the costs of ordinary wages of per-
22 sonnel of a State or local government enti-
23 ty;

24 (ii) overhead costs; or

1 (iii) depreciation (if calculated in ways
2 other than use during an emergency).

3 (2) IN EXCESS OF NORMAL OPERATING EX-
4 PENSES.—The term “in excess of normal operating
5 expenses”—

6 (A) means costs, losses, and expenses
7 that—

8 (i) are not ordinarily and necessarily
9 associated with the maintenance, adminis-
10 tration, and day-to-day operations of a
11 State or local government entity; and

12 (ii) would not have been incurred if
13 there were not in effect an elevated threat
14 condition;

15 (B) includes (subject to subparagraph
16 (A)—

17 (i) administrative expenses;

18 (ii) costs of employee benefits, insur-
19 ance, disability, death, litigation, or health
20 care; and

21 (iii) costs associated with obtaining a
22 payment under this Act.

23 (3) STATE OR LOCAL GOVERNMENT ENTITY.—
24 The term “State or local government entity” means
25 any agency or authority of—

1 (A) a State government; or

2 (B) any county, city, or other local govern-
3 mental administrative body that has fiscal re-
4 sponsibility and budgetary authority over the
5 provision of governmental services.

6 (4) ELEVATED THREAT CONDITION.—The term
7 “elevated threat condition” means any high threat
8 condition (Code Orange) or severe threat condition
9 (Code Red) declared by the Secretary of Homeland
10 Security.

11 (5) NORMAL OPERATING COSTS.—The term
12 “normal operating costs” means costs ordinarily in-
13 curred in performing functions of a State or local
14 government entity.

○