

108TH CONGRESS
2D SESSION

S. 2884

AN ACT

To authorize the Secretary of Homeland Security to award grants to public transportation agencies to improve security, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Public Transportation Terrorism Prevention Act of
6 2004”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purpose.
- Sec. 3. Memorandum of understanding.
- Sec. 4. Security assessments.
- Sec. 5. Security assistance grants.
- Sec. 6. Intelligence sharing.
- Sec. 7. Research, development, and demonstration grants.
- Sec. 8. Reporting requirements.
- Sec. 9. Authorization of appropriations.
- Sec. 10. Sunset provision.

3 **SEC. 2. FINDINGS AND PURPOSE.**

4 (a) FINDINGS.—Congress finds that—

5 (1) throughout the world, public transportation
 6 systems have been a primary target of terrorist at-
 7 tacks, causing countless death and injuries;

8 (2) 6,000 public transportation agencies operate
 9 in the United States;

10 (3) 14,000,000 people in the United States ride
 11 public transportation each work day;

12 (4) safe and secure public transportation sys-
 13 tems are essential to the Nation’s economy and for
 14 significant national and international public events;

15 (5) the Federal Transit Administration has in-
 16 vested \$68,700,000,000 since 1992 for construction
 17 and improvements to the Nation’s public transpor-
 18 tation systems;

19 (6) the Federal Government appropriately in-
 20 vested \$11,000,000,000 in fiscal years 2002 and

1 2003 to protect our Nation's aviation system and its
2 1,800,000 daily passengers;

3 (7) the Federal Government invested
4 \$115,000,000 in fiscal years 2003 and 2004 to pro-
5 tect public transportation systems in the United
6 States;

7 (8) the Federal Government has invested \$9.16
8 in aviation security improvements per passenger, but
9 only \$0.006 in public transportation security im-
10 provements per passenger;

11 (9) the General Accounting Office, the Mineta
12 Institute for Surface Transportation Policy Studies,
13 the American Public Transportation Association,
14 and other experts have reported an urgent need for
15 significant investment in transit security improve-
16 ments; and

17 (10) the Federal Government has a duty to
18 deter and mitigate, to the greatest extent prac-
19 ticable, threats against the Nation's public transpor-
20 tation systems.

21 **SEC. 3. MEMORANDUM OF UNDERSTANDING.**

22 (a) IN GENERAL.—Not later than 45 days after the
23 date of enactment of this Act, the Secretary of Transpor-
24 tation shall enter into a memorandum of understanding
25 with the Secretary of Homeland Security to define and

1 clarify the respective public transportation security roles
 2 and responsibilities of the Department of Transportation
 3 and the Department of Homeland Security.

4 (b) CONTENTS.—The memorandum of understanding
 5 described in subsection (a) shall—

6 (1) establish a process to develop security
 7 standards for public transportation agencies;

8 (2) establish funding priorities for grants from
 9 the Department of Homeland Security to public
 10 transportation agencies;

11 (3) create a method of direct coordination with
 12 public transportation agencies on security matters;

13 (4) address any other issues determined to be
 14 appropriate by the Secretary of Transportation and
 15 the Secretary of Homeland Security; and

16 (5) include a formal and permanent mechanism
 17 to ensure coordination and involvement by the De-
 18 partment of Transportation, as appropriate, in pub-
 19 lic transportation security.

20 **SEC. 4. SECURITY ASSESSMENTS.**

21 (a) PUBLIC TRANSPORTATION SECURITY ASSESS-
 22 MENTS.—

23 (1) SUBMISSION.—Not later than 30 days after
 24 the date of enactment of this Act, the Federal Tran-
 25 sit Administration of the Department of Transpor-

1 tation shall submit all public transportation security
2 assessments and all other relevant information to
3 the Department of Homeland Security.

4 (2) REVIEW.—The Secretary of Homeland Se-
5 curity shall review and augment the security assess-
6 ments received under paragraph (1).

7 (3) ALLOCATIONS.—The assessments described
8 in paragraph (1) shall be used as the basis for allo-
9 cating grant funds under section 5, unless the Sec-
10 retary of Homeland Security determines that an ad-
11 justment is necessary to respond to an urgent threat
12 or other significant factors, after notification to the
13 Committee on Banking, Housing, and Urban Affairs
14 of the Senate.

15 (4) SECURITY IMPROVEMENT PRIORITIES.—The
16 Secretary of Homeland Security shall establish secu-
17 rity improvement priorities, in consultation with the
18 management and employee representatives of each
19 public transportation system receiving an assessment
20 that will be used by public transportation agencies
21 for any funding provided under section 5.

22 (5) UPDATES.—The Secretary of Homeland Se-
23 curity shall annually update the assessments re-
24 ferred to in this subsection and conduct assessments

1 of all transit agencies considered to be at greatest
2 risk of a terrorist attack.

3 (b) USE OF ASSESSMENT INFORMATION.—The Sec-
4 retary of Homeland Security shall use the information col-
5 lected under subsection (a)—

6 (1) to establish the process for developing secu-
7 rity guidelines for public transportation security;

8 (2) to design a security improvement strategy
9 that minimizes terrorist threats to public transpor-
10 tation systems; and

11 (3) to design a security improvement strategy
12 that maximizes the efforts of public transportation
13 systems to mitigate damage from terrorist attacks.

14 (c) BUS PUBLIC TRANSPORTATION SYSTEMS.—The
15 Secretary of Homeland Security shall conduct assessments
16 of local bus-only public transportation systems to deter-
17 mine the specific needs of this form of public transpor-
18 tation that are appropriate to the size and nature of the
19 bus system.

20 (d) RURAL PUBLIC TRANSPORTATION SYSTEMS.—
21 The Secretary of Homeland Security shall conduct assess-
22 ments of selected public transportation systems that re-
23 ceive funds under section 5311 of title 49, United States
24 Code, to determine the specific needs of this form of public

1 transportation that are appropriate to the size and nature
 2 of the system.

3 **SEC. 5. SECURITY ASSISTANCE GRANTS.**

4 (a) CAPITAL SECURITY ASSISTANCE PROGRAM.—

5 (1) IN GENERAL.—The Secretary of Homeland
 6 Security shall award grants directly to public trans-
 7 portation agencies for allowable capital security im-
 8 provements based on the priorities established under
 9 section 4(a)(4).

10 (2) ALLOWABLE USE OF FUNDS.—Grants
 11 awarded under paragraph (1) may be used for—

12 (A) tunnel protection systems;

13 (B) perimeter protection systems;

14 (C) redundant critical operations control
 15 systems;

16 (D) chemical, biological, radiological, or ex-
 17 plosive detection systems;

18 (E) surveillance equipment;

19 (F) communications equipment;

20 (G) emergency response equipment;

21 (H) fire suppression and decontamination
 22 equipment;

23 (I) global positioning or automated vehicle
 24 locator type system equipment;

25 (J) evacuation improvements; and

1 (K) other capital security improvements.

2 (b) OPERATIONAL SECURITY ASSISTANCE PRO-
3 GRAM.—

4 (1) IN GENERAL.—The Secretary of Homeland
5 Security shall award grants directly to public trans-
6 portation agencies for allowable operational security
7 improvements based on the priorities established
8 under section 4(a)(4).

9 (2) ALLOWABLE USE OF FUNDS.—Grants
10 awarded under paragraph (1) may be used for—

11 (A) security training for transit employees,
12 including bus and rail operators, mechanics,
13 customer service, maintenance employees, tran-
14 sit police, and security personnel;

15 (B) live or simulated drills;

16 (C) public awareness campaigns for en-
17 hanced public transportation security;

18 (D) canine patrols for chemical, biological,
19 or explosives detection;

20 (E) overtime reimbursement for enhanced
21 security personnel during significant national
22 and international public events, consistent with
23 the priorities established under section 4(a)(4);
24 and

1 (F) other appropriate security improve-
2 ments identified under section 4(a)(4), exclud-
3 ing routine, ongoing personnel costs.

4 (c) CONGRESSIONAL NOTIFICATION.—Not later than
5 3 days before any grant is awarded under this section,
6 the Secretary of Homeland Security shall notify the Com-
7 mittee on Banking, Housing, and Urban Affairs of the
8 Senate of the intent to award such grant.

9 (d) TRANSIT AGENCY RESPONSIBILITIES.—Each
10 public transportation agency that receives a grant under
11 this section shall—

12 (1) identify a security coordinator to coordinate
13 security improvements;

14 (2) develop a comprehensive plan that dem-
15 onstrates the agency's capacity for operating and
16 maintaining the equipment purchased under this
17 subsection; and

18 (3) report annually to the Department of
19 Homeland Security on the use of grant funds re-
20 ceived under this section.

21 (e) RETURN OF MISSPENT GRANT FUNDS.—If the
22 Secretary of Homeland Security determines that a grantee
23 used any portion of the grant funds received under this
24 section for a purpose other than the allowable uses speci-
25 fied for that grant under this section, the grantee shall

1 return any amount so used to the Treasury of the United
2 States.

3 **SEC. 6. INTELLIGENCE SHARING.**

4 (a) INTELLIGENCE SHARING.—The Secretary of
5 Homeland Security shall ensure that the Department of
6 Transportation receives appropriate and timely notifica-
7 tion of all credible terrorist threats against public trans-
8 portation assets in the United States.

9 (b) INFORMATION SHARING ANALYSIS CENTER.—

10 (1) ESTABLISHMENT.—The Department of
11 Homeland Security shall fund the reasonable costs
12 of the Information Sharing and Analysis Center for
13 Public Transportation (referred to in this subsection
14 as the “ISAC”) established pursuant to Presidential
15 Directive 63 to protect critical infrastructure.

16 (2) PUBLIC TRANSPORTATION AGENCY PARTICI-
17 PATION.—The Secretary of Homeland Security—

18 (A) shall require those public transpor-
19 tation agencies that the Secretary determines to
20 be at significant risk of terrorist attack to par-
21 ticipate in the ISAC;

22 (B) shall encourage all other public trans-
23 portation agencies to participate in the ISAC;
24 and

1 (C) shall not charge any public transpor-
 2 tation agency a fee for participation in the
 3 ISAC.

4 **SEC. 7. RESEARCH, DEVELOPMENT, AND DEMONSTRATION**
 5 **GRANTS.**

6 (a) GRANTS AUTHORIZED.—The Secretary of Home-
 7 land Security, in consultation with the Federal Transit
 8 Administration, shall award grants to public or private en-
 9 tities to conduct research into, and demonstration of, tech-
 10 nologies and methods to reduce and deter terrorist threats
 11 or mitigate damages resulting from terrorist attacks
 12 against public transportation systems.

13 (b) USE OF FUNDS.—Grants awarded under sub-
 14 section (a) may be used for—

15 (1) researching chemical, biological, radio-
 16 logical, or explosive detection systems that do not
 17 significantly impede passenger access;

18 (2) researching imaging technologies;

19 (3) conducting product evaluations and testing;

20 and

21 (4) researching other technologies or methods
 22 for reducing or deterring terrorist attacks against
 23 public transportation systems, or mitigating damage
 24 from such attacks.

1 (c) REPORTING REQUIREMENT.—Each entity that
 2 receives a grant under this section shall report annually
 3 to the Department of Homeland Security on the use of
 4 grant funds received under this section.

5 (d) RETURN OF MISSPENT GRANT FUNDS.—If the
 6 Secretary of Homeland Security determines that a grantee
 7 used any portion of the grant funds received under this
 8 section for a purpose other than the allowable uses speci-
 9 fied under subsection (b), the grantee shall return any
 10 amount so used to the Treasury of the United States.

11 **SEC. 8. REPORTING REQUIREMENTS.**

12 (a) ANNUAL REPORT TO CONGRESS.—Not later than
 13 March 31 of each year, the Secretary of Homeland Secu-
 14 rity shall submit a report, which describes the implementa-
 15 tion of section 4 through 7, and the state of public trans-
 16 portation security in the United States, to—

17 (1) the Committee on Banking, Housing, and
 18 Urban Affairs of the Senate;

19 (2) the Committee on Governmental Affairs of
 20 the Senate; and

21 (3) the Committee on Appropriations of the
 22 Senate.

23 (b) ANNUAL REPORT TO GOVERNORS.—Not later
 24 than March 31 of each year, the Secretary of Homeland
 25 Security shall submit a report to the governor of each

1 State in which a transit agency that has received a grant
 2 under this Act is operating that specifies the amount of
 3 grant funds distributed to each such transit agency and
 4 the use of such grant funds.

5 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

6 (a) CAPITAL SECURITY ASSISTANCE PROGRAM.—

7 There are authorized to be appropriated \$2,370,000,000
 8 for fiscal year 2005 to carry out the provisions of section
 9 5(a), which shall remain available until expended.

10 (b) OPERATIONAL SECURITY ASSISTANCE PRO-
 11 GRAM.—There are authorized to be appropriated to carry
 12 out the provisions of section 5(b)—

13 (1) \$534,000,000 for fiscal year 2005;

14 (2) \$333,000,000 for fiscal year 2006; and

15 (3) \$133,000,000 for fiscal year 2007.

16 (c) INTELLIGENCE.—There are authorized to be ap-
 17 propriated such sums as may be necessary to carry out
 18 the provisions of section 6.

19 (d) RESEARCH.—There are authorized to be appro-
 20 priated \$130,000,000 for fiscal year 2005 to carry out the
 21 provisions of section 7, which shall remain available until
 22 expended.

1 **SEC. 10. SUNSET PROVISION.**

2 This Act is repealed on October 1, 2007.

 Passed the Senate October 1, 2004.

 Attest:

Secretary.

108TH CONGRESS
2D SESSION

S. 2884

AN ACT

To authorize the Secretary of Homeland Security to award grants to public transportation agencies to improve security, and for other purposes.