

108TH CONGRESS  
2D SESSION

# S. 2884

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

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 1, 2004

Mr. SHELBY (for himself, Mr. SARBANES, Mr. REED, Mr. BENNETT, Mr. BUNNING, Mrs. DOLE, Mr. CHAFEE, Mr. DODD, Mr. SCHUMER, Mr. BAYH, Mr. MILLER, Mr. ALLARD, Mr. ENZI, Mr. LAUTENBERG, Mrs. BOXER, Mr. CARPER, Ms. STABENOW, and Mr. CORZINE) introduced the following bill; which was read twice, considered, read the third time, and passed

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## A BILL

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”.

7 (b) TABLE OF CONTENTS.—The table of contents for  
8 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.

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—Congress finds that—

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

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

8 (3) 14,000,000 people in the United States ride  
9 public transportation each work day;

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

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

17 (6) the Federal Government appropriately in-  
18 vested \$11,000,000,000 in fiscal years 2002 and  
19 2003 to protect our Nation’s aviation system and its  
20 1,800,000 daily passengers;

1           (7) the Federal Government invested  
2           \$115,000,000 in fiscal years 2003 and 2004 to pro-  
3           tect public transportation systems in the United  
4           States;

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

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

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

19 **SEC. 3. MEMORANDUM OF UNDERSTANDING.**

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

1 and responsibilities of the Department of Transportation  
2 and the Department of Homeland Security.

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

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

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

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

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

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

19 **SEC. 4. SECURITY ASSESSMENTS.**

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

22 (1) SUBMISSION.—Not later than 30 days after  
23 the date of enactment of this Act, the Federal Tran-  
24 sit Administration of the Department of Transpor-  
25 tation shall submit all public transportation security

1 assessments and all other relevant information to  
2 the Department of Homeland Security.

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

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

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

21 (5) UPDATES.—The Secretary of Homeland Se-  
22 curity shall annually update the assessments re-  
23 ferred to in this subsection and conduct assessments  
24 of all transit agencies considered to be at greatest  
25 risk of a terrorist attack.

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

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

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

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

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

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

1 **SEC. 5. SECURITY ASSISTANCE GRANTS.**

2 (a) CAPITAL SECURITY ASSISTANCE PROGRAM.—

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

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

10 (A) tunnel protection systems;

11 (B) perimeter protection systems;

12 (C) redundant critical operations control  
13 systems;

14 (D) chemical, biological, radiological, or ex-  
15 plosive detection systems;

16 (E) surveillance equipment;

17 (F) communications equipment;

18 (G) emergency response equipment;

19 (H) fire suppression and decontamination  
20 equipment;

21 (I) global positioning or automated vehicle  
22 locator type system equipment;

23 (J) evacuation improvements; and

24 (K) other capital security improvements.

25 (b) OPERATIONAL SECURITY ASSISTANCE PRO-  
26 GRAM.—

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

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

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

12           (B) live or simulated drills;

13           (C) public awareness campaigns for en-  
14 hanced public transportation security;

15           (D) canine patrols for chemical, biological,  
16 or explosives detection;

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

22           (F) other appropriate security improve-  
23 ments identified under section 4(a)(4), exclud-  
24 ing routine, ongoing personnel costs.

1           (c) CONGRESSIONAL NOTIFICATION.—Not later than  
2 3 days before any grant is awarded under this section,  
3 the Secretary of Homeland Security shall notify the Com-  
4 mittee on Banking, Housing, and Urban Affairs of the  
5 Senate of the intent to award such grant.

6           (d) TRANSIT AGENCY RESPONSIBILITIES.—Each  
7 public transportation agency that receives a grant under  
8 this section shall—

9               (1) identify a security coordinator to coordinate  
10 security improvements;

11               (2) develop a comprehensive plan that dem-  
12 onstrates the agency’s capacity for operating and  
13 maintaining the equipment purchased under this  
14 subsection; and

15               (3) report annually to the Department of  
16 Homeland Security on the use of grant funds re-  
17 ceived under this section.

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

1 **SEC. 6. INTELLIGENCE SHARING.**

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

7 (b) INFORMATION SHARING ANALYSIS CENTER.—

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

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

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

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

23 (C) shall not charge any public transpor-  
24 tation agency a fee for participation in the  
25 ISAC.

1 **SEC. 7. RESEARCH, DEVELOPMENT, AND DEMONSTRATION**  
2 **GRANTS.**

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

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

12 (1) researching chemical, biological, radio-  
13 logical, or explosive detection systems that do not  
14 significantly impede passenger access;

15 (2) researching imaging technologies;

16 (3) conducting product evaluations and testing;  
17 and

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

22 (c) REPORTING REQUIREMENT.—Each entity that  
23 receives a grant under this section shall report annually  
24 to the Department of Homeland Security on the use of  
25 grant funds received under this section.

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

7 **SEC. 8. REPORTING REQUIREMENTS.**

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

13 (1) the Committee on Banking, Housing, and  
14 Urban Affairs of the Senate;

15 (2) the Committee on Governmental Affairs of  
16 the Senate; and

17 (3) the Committee on Appropriations of the  
18 Senate.

19 (b) ANNUAL REPORT TO GOVERNORS.—Not later  
20 than March 31 of each year, the Secretary of Homeland  
21 Security shall submit a report to the governor of each  
22 State in which a transit agency that has received a grant  
23 under this Act is operating that specifies the amount of  
24 grant funds distributed to each such transit agency and  
25 the use of such grant funds.

1 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) CAPITAL SECURITY ASSISTANCE PROGRAM.—

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

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

9 (1) \$534,000,000 for fiscal year 2005;

10 (2) \$333,000,000 for fiscal year 2006; and

11 (3) \$133,000,000 for fiscal year 2007.

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

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

19 **SEC. 10. SUNSET PROVISION.**

20 This Act is repealed on October 1, 2007.

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