

108TH CONGRESS
2D SESSION

H. R. 5082

To authorize the Secretary of Transportation to award grants to public transportation agencies and over-the-road bus operators to improve security, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 15, 2004

Mr. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. PETRI, Mr. LIPINSKI, Mr. SHUSTER, and Mr. MENENDEZ) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To authorize the Secretary of Transportation to award grants to public transportation agencies and over-the-road bus operators 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.**

4 This Act may be cited as the “Public Transportation
5 Terrorism Prevention and Response Act of 2004”.

1 **TITLE I—PUBLIC**
2 **TRANSPORTATION SECURITY**

3 **SEC. 101. FINDINGS; PURPOSE; PUBLIC TRANSPORTATION**

4 **DEFINED.**

5 (a) FINDINGS.—Congress finds that—

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

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

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

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

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

20 (6) the Federal Government appropriately in-
21 vested \$11,000,000,000 in fiscal years 2002 and
22 2003 to protect our Nation’s aviation system and its
23 1,800,000 daily passengers;

24 (7) the Federal Government invested
25 \$115,000,000 in fiscal years 2003 and 2004 to pro-

1 tect public transportation systems in the United
2 States;

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

7 (9) the General Accounting Office, the Mineta
8 International Institute for Surface Transportation
9 Policy Studies, the American Public Transportation
10 Association, and other experts have reported an ur-
11 gent need for significant investment in transit secu-
12 rity improvements;

13 (10) Federal financial assistance for transit se-
14 curity improvements should be separate from and
15 supplementary to funding for longstanding Federal
16 programs for investment in public transportation in-
17 frastructure;

18 (11) the Final Report of the National Commis-
19 sion on Terrorist Attacks Upon the United States
20 (also known as the “9/11 Commission”) found that
21 the Government should—

22 (A) identify and evaluate the transpor-
23 tation assets that need to be protected, set risk-
24 based priorities for defending them, and select

1 the most practical and cost-effective ways of
2 doing so;

3 (B) develop a plan, a budget, and funding
4 to implement the effort; and

5 (C) assign roles and missions to the rel-
6 evant authorities (Federal, State, regional, and
7 local) and to private stakeholders;

8 (12) the Final Report of the 9/11 Commission
9 also found that homeland security assistance should
10 be based strictly on an assessment of risks and
11 vulnerabilities; and

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

16 (b) PURPOSE.—The purpose of this Act is to award
17 grants to public transportation agencies and over-the-road
18 bus operators to improve security in a manner consistent
19 with the recommendations of the 9/11 Commission de-
20 scribed in subsections (a)(11) and (a)(12).

21 (c) PUBLIC TRANSPORTATION DEFINED.—In this
22 title, the term “public transportation” has the meaning
23 given such term in section 5302(a) of title 49, United
24 States Code.

1 **SEC. 102. MEMORANDUM OF UNDERSTANDING.**

2 (a) IN GENERAL.—Not later than 45 days after the
3 date of enactment of this Act, the Secretary of Transpor-
4 tation shall enter into a memorandum of understanding
5 with the Secretary of Homeland Security to define and
6 clarify the respective public transportation security roles
7 and responsibilities of the Department of Transportation
8 and the Department of Homeland Security.

9 (b) CONTENTS.—The memorandum of understanding
10 described in subsection (a) shall—

11 (1) establish a process to develop security
12 standards for public transportation agencies;

13 (2) establish funding priorities for grants for
14 security improvements from the Department of
15 Transportation to public transportation agencies;

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

18 (4) address any other issues determined to be
19 appropriate by the Secretary of Transportation and
20 the Secretary of Homeland Security; and

21 (5) include a formal and permanent mechanism
22 to ensure coordination and involvement by the De-
23 partment of Transportation, as appropriate, in pub-
24 lic transportation security.

1 **SEC. 103. SECURITY ASSESSMENTS.**

2 (a) PUBLIC TRANSPORTATION SECURITY ASSESS-
3 MENTS.—

4 (1) SUBMISSION.—The Federal Transit Admin-
5 istration of the Department of Transportation shall
6 submit all public transportation security assessments
7 conducted by the Federal Transit Administration
8 and all other relevant information to the Depart-
9 ment of Homeland Security.

10 (2) REVIEW.—

11 (A) IN GENERAL.—Not later than 180
12 days after the date of enactment of this Act,
13 the Secretary of Transportation and the Sec-
14 retary of Homeland Security shall review and
15 modify, as appropriate, the security assess-
16 ments received under paragraph (1).

17 (B) COMPONENTS.—In conducting the re-
18 views, the Secretaries shall ensure that the as-
19 sessment of each public transportation system
20 identifies—

- 21 (i) the critical assets of the system;
22 (ii) threats to those assets;
23 (iii) security weaknesses in the system
24 and its assets; and
25 (iv) redundant and backup systems
26 required to ensure the continued operation

1 of critical elements of the system in the
2 event of an attack or other incident.

3 (3) ALLOCATIONS.—

4 (A) IN GENERAL.—The Secretary of
5 Transportation shall allocate grants under
6 paragraph (5) among public transportation
7 agencies receiving an assessment referred to in
8 paragraph (1) based on the results of the as-
9 sessment, as modified under paragraph (2).

10 (B) RESPONSE TO URGENT THREATS.—

11 After providing written notice to the Committee
12 on Transportation and Infrastructure of the
13 House of Representatives and the Committee
14 on Banking, Housing, and Urban Affairs of the
15 Senate, the Secretary of Transportation may
16 adjust grant allocations under this paragraph if
17 the Secretary determines that the adjustment is
18 necessary to respond to an urgent threat or
19 other significant factors.

20 (4) SECURITY IMPROVEMENT PRIORITIES.—The

21 Secretary of Transportation shall establish security
22 improvement priorities, in consultation with the
23 management and employee representatives of each
24 public transportation system receiving an assess-

1 ment. Such priorities shall apply to funds provided
2 to a public transportation agency under section 104.

3 (5) UPDATES.—The Secretary of Transpor-
4 tation and the Secretary of Homeland Security shall
5 update the assessments referred to in this subsection
6 at least once every 3 years and may conduct addi-
7 tional assessments of public transportation agencies
8 considered to be at greatest risk of a terrorist at-
9 tack.

10 (b) USE OF ASSESSMENT INFORMATION.—The Sec-
11 retary of Transportation shall use the information col-
12 lected under subsection (a)—

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

15 (2) to design a security improvement strategy
16 that minimizes terrorist threats to public transpor-
17 tation systems; and

18 (3) to design a security improvement strategy
19 that maximizes the efforts of public transportation
20 systems to mitigate damage from terrorist attacks.

21 **SEC. 104. SECURITY ASSISTANCE GRANTS.**

22 (a) CAPITAL SECURITY ASSISTANCE PROGRAM.—

23 (1) IN GENERAL.—The Secretary of Transpor-
24 tation shall award grants directly to public transpor-

1 tation agencies for allowable capital security im-
2 provements.

3 (2) PRIORITIES.—A public transportation agen-
4 cy receiving a grant under this subsection shall use
5 the grant to fund projects based on the priorities es-
6 tablished under section 103(a)(4).

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

9 (A) tunnel protection systems;

10 (B) perimeter protection systems;

11 (C) redundant critical operations control
12 systems;

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

15 (E) surveillance equipment;

16 (F) communications equipment;

17 (G) emergency response equipment;

18 (H) fire suppression and decontamination
19 equipment;

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

22 (J) evacuation improvements; and

23 (K) other capital security improvements.

24 (4) GOVERNMENT'S SHARE.—A grant for a cap-
25 ital security improvement project under this sub-

1 section shall be for 80 percent of the net project cost
2 of the project. The recipient may provide additional
3 local matching amounts.

4 (b) OPERATIONAL SECURITY ASSISTANCE PRO-
5 GRAM.—

6 (1) IN GENERAL.—The Secretary of Transpor-
7 tation shall award grants directly to public transpor-
8 tation agencies for allowable operational security im-
9 provements.

10 (2) PRIORITIES.—A public transportation agen-
11 cy receiving a grant under this subsection shall use
12 the grant to fund projects based on the priorities es-
13 tablished under section 103(a)(4).

14 (3) ALLOWABLE USE OF FUNDS.—Grants
15 awarded under paragraph (1) may be used for—

16 (A) security training for transit employees,
17 including bus and rail operators, mechanics,
18 customer service, maintenance employees, tran-
19 sit police, and security personnel;

20 (B) live or simulated drills;

21 (C) public awareness campaigns for en-
22 hanced public transportation security;

23 (D) canine patrols for chemical, biological,
24 or explosives detection;

1 (E) overtime reimbursement for enhanced
2 security personnel during significant national
3 and international public events, consistent with
4 the priorities established under section
5 103(a)(4); and

6 (F) other appropriate security improve-
7 ments identified under section 103(a)(4), ex-
8 cluding routine, ongoing personnel costs.

9 (4) GOVERNMENT'S SHARE.—A grant for an
10 operating security improvement project under this
11 subsection may not exceed 50 percent of the net
12 project cost of the project.

13 (c) TRANSIT AGENCY RESPONSIBILITIES.—Each
14 public transportation agency that receives a grant under
15 this section shall—

16 (1) identify a security coordinator to coordinate
17 security improvements;

18 (2) develop a comprehensive plan that dem-
19 onstrates the agency's capacity for operating and
20 maintaining the equipment purchased under this
21 section; and

22 (3) report annually to the Department of
23 Transportation on the use of grant funds received
24 under this section.

1 **SEC. 105. 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 Secretary of Trans-
9 portation shall fund the reasonable costs of the In-
10 formation Sharing and Analysis Center for Public
11 Transportation (referred to in this subsection as the
12 “ISAC”) established pursuant to Presidential Direc-
13 tive 63 to protect critical infrastructure.

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

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. 106. REPORTING REQUIREMENT.**

2 (a) IN GENERAL.—Not later than September 30,
3 2006, the Secretary of Transportation shall submit to the
4 Committee on Transportation and Infrastructure of the
5 House of Representatives and the Committee on Banking,
6 Housing, and Urban Affairs of the Senate a report that
7 describes the implementation of sections 103 through 105.
8 The Secretary may submit the report in classified and un-
9 classified forms.

10 (b) CONTENTS.—Based on security assessments and
11 updates conducted under section 103, the report shall in-
12 clude—

13 (1) a description of the state of public transpor-
14 tation security in the United States; and

15 (2) a description of actions taken by Federal,
16 State, regional, and local governments and private
17 stakeholders to address threats to, and security
18 weaknesses in, the public transportation system and
19 its assets.

20 **SEC. 107. AUTHORIZATION OF APPROPRIATIONS.**

21 (a) CAPITAL SECURITY ASSISTANCE PROGRAM.—
22 There is authorized to be appropriated to carry out section
23 104(a)—

24 (1) \$775,000,000 for fiscal year 2005;

25 (2) \$825,000,000 for fiscal year 2006; and

26 (3) \$880,000,000 for fiscal year 2007.

1 (b) OPERATIONAL SECURITY ASSISTANCE PRO-
2 GRAM.—There is authorized to be appropriated to carry
3 out section 104(b)—

4 (1) \$500,000,000 for fiscal year 2005;

5 (2) \$300,000,000 for fiscal year 2006; and

6 (3) \$100,000,000 for fiscal year 2007.

7 (c) INFORMATION SHARING AND ANALYSIS CEN-
8 TER.—There is authorized to be appropriated to carry out
9 section 105(b) \$1,000,000 for each of fiscal years 2005
10 through 2007.

11 (d) PERIOD OF AVAILABILITY.—Sums appropriated
12 pursuant to this section shall remain available until ex-
13 pended.

14 **TITLE II—OVER-THE-ROAD BUS**
15 **SECURITY ASSISTANCE**

16 **SEC. 201. EMERGENCY OVER-THE-ROAD BUS SECURITY AS-**
17 **SISTANCE.**

18 (a) IN GENERAL.—The Secretary of Transportation,
19 acting through the Administrator of the Federal Motor
20 Carrier Safety Administration, shall establish a program
21 for making grants to private operators of over-the-road
22 buses for system-wide security improvements to their oper-
23 ations, including—

- 1 (1) constructing and modifying terminals, ga-
2 rages, facilities, or over-the-road buses to assure
3 their security;
- 4 (2) protecting or isolating the driver;
- 5 (3) acquiring, upgrading, installing, or oper-
6 ating equipment, software, or accessorial services for
7 collection, storage, or exchange of passenger and
8 driver information through ticketing systems or oth-
9 erwise, and information links with government agen-
10 cies;
- 11 (4) training employees in recognizing and re-
12 sponding to security threats, evacuation procedures,
13 passenger screening procedures, and baggage inspec-
14 tion;
- 15 (5) hiring and training security officers;
- 16 (6) installing cameras and video surveillance
17 equipment on over-the-road buses and at terminals,
18 garages, and over-the-road bus facilities;
- 19 (7) creating a program for employee identifica-
20 tion or background investigation;
- 21 (8) establishing an emergency communications
22 system linked to law enforcement and emergency
23 personnel; and

1 (9) implementing and operating passenger
2 screening programs at terminals and on over-the-
3 road buses.

4 (b) REIMBURSEMENT.—

5 (1) IN GENERAL.—A grant under this title may
6 be used to provide reimbursement to private opera-
7 tors of over-the-road buses for extraordinary secu-
8 rity-related costs for improvements described in
9 paragraphs (1) through (9) of subsection (a), deter-
10 mined by the Secretary to have been incurred by
11 such operators since September 11, 2001.

12 (2) LIMITATION.—Not more than 20 percent of
13 the amounts appropriated for a fiscal year to carry
14 out this title may be used to provide reimbursements
15 under this subsection.

16 (c) FEDERAL SHARE.—The Federal share of the cost
17 for which any grant is made under this title shall be 80
18 percent.

19 (d) DUE CONSIDERATION.—In making grants under
20 this title, the Secretary shall give due consideration to pri-
21 vate operators of over-the-road buses that have taken
22 measures to enhance bus transportation security from
23 those in effect before September 11, 2001.

24 (e) GRANT REQUIREMENTS.—A grant under this title
25 shall be subject to all the terms and conditions that a

1 grant is subject to under section 3038(f) of the Transpor-
2 tation Equity Act for the 21st Century (49 U.S.C. 5310
3 note; 112 Stat. 393).

4 **SEC. 202. PLAN REQUIREMENT.**

5 (a) IN GENERAL.—The Secretary may not make a
6 grant under this title to a private operator of over-the-
7 road buses until the operator has first submitted to the
8 Secretary—

9 (1) a plan for making security improvements
10 described in section 201 and the Secretary has ap-
11 proved the plan; and

12 (2) such additional information as the Secretary
13 may require to ensure accountability for the obliga-
14 tion and expenditure of amounts made available to
15 the operator under the grant.

16 (b) COORDINATION.—To the extent that an applica-
17 tion for a grant under this section proposes security im-
18 provements within a specific terminal owned and operated
19 by an entity other than the applicant, the applicant shall
20 demonstrate to the satisfaction of the Secretary that the
21 applicant has coordinated the security improvements for
22 the terminal with that entity.

23 (c) CONSULTATION WITH DHS.—In approving plans
24 under subsection (a)(1), the Secretary may consult with
25 the Secretary of Homeland Security.

1 **SEC. 203. OVER-THE-ROAD BUS DEFINED.**

2 In this title, the term “over-the-road bus” means a
3 bus characterized by an elevated passenger deck located
4 over a baggage compartment.

5 **SEC. 204. BUS SECURITY ASSESSMENT.**

6 (a) IN GENERAL.—Not later than 180 days after the
7 date of enactment of this Act, the Secretary of Transpor-
8 tation shall transmit to the Committee on Transportation
9 and Infrastructure of the House of Representatives and
10 the Committee on Commerce, Science, and Transportation
11 of the Senate a preliminary report in accordance with the
12 requirements of this section.

13 (b) CONTENTS OF PRELIMINARY REPORT.—The pre-
14 liminary report shall include—

15 (1) an assessment of the over-the-road bus se-
16 curity grant program;

17 (2) an assessment of actions already taken to
18 address identified security issues by both public and
19 private entities and recommendations on whether ad-
20 ditional safety and security enforcement actions are
21 needed;

22 (3) an assessment of whether additional legisla-
23 tion is needed to provide for the security of Ameri-
24 cans traveling on over-the-road buses;

25 (4) an assessment of the economic impact that
26 security upgrades of buses and bus facilities may

1 have on the over-the-road bus transportation indus-
2 try and its employees;

3 (5) an assessment of ongoing research and the
4 need for additional research on over-the-road bus se-
5 curity, including engine shut-off mechanisms, chem-
6 ical and biological weapon detection technology, and
7 the feasibility of compartmentalization of the driver;
8 and

9 (6) an assessment of industry best practices to
10 enhance security.

11 (c) CONSULTATION WITH INDUSTRY, LABOR, AND
12 OTHER GROUPS.—In carrying out this section, the Sec-
13 retary shall consult with over-the-road bus management
14 and labor representatives, public safety and law enforce-
15 ment officials, and the National Academy of Sciences.

16 **SEC. 205. FUNDING.**

17 There is authorized to be appropriated to the Sec-
18 retary of Transportation to carry out this title
19 \$50,000,000 for each of fiscal years 2005 through 2007.
20 Such sums shall remain available until expended.

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