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SENATE

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110-32

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### PUBLIC TRANSPORTATION TERRORISM PREVENTION ACT OF 2007

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MARCH 5, 2007.—Ordered to be printed

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Mr. DODD, from the Committee on Banking, Housing, and Urban  
Affairs, submitted the following

### R E P O R T

[To accompany S. 763]

The Committee on Banking, Housing and Urban Affairs which considered the original bill (S. 763) to provide the resources to protect public transportation from terrorism, having considered the same, reports favorably thereon and recommends that the original bill do pass.

#### INTRODUCTION

On February 8, 2007, the Senate Committee on Banking, Housing and Urban Affairs considered a Committee Print entitled, “The Public Transportation Terrorism Prevention Act of 2007,” a bill to provide the resources to better protect public transportation from terrorism. The Committee passed the bill by voice vote.

#### PURPOSE OF THE LEGISLATION

Public transit has been a consistent target for terrorist attacks throughout the world. Current resources dedicated to protecting transit systems from terrorist attack are inadequate. The purpose of this legislation is to provide additional resources, distributed on the basis of risk, directly to public transit systems to better protect against terrorist attacks and mitigate the damage from any attack.

#### HEARINGS

The Committee heard testimony in the 110th Congress on January 18, 2007 regarding transit security. The witnesses testifying were: The Honorable Dannel Malloy, Mayor of Stamford, Connecticut and a member of the Executive Committee of the U.S.

Conference of Mayors; Mr. William (Bill) Millar, President of the American Public Transit Association (APTA); Mr. Warren George, President of the Amalgamated Transit Union (ATU); Mr. Aurelio Garrido, Operational Director of Metro Madrid and the Secretary General of the Association of Latin American Metros and Subways (ALAMYS); and Mr. Tim O'Toole, Managing Director of Transport, City of London.

The Committee also held hearings in the 107th Congress. On October 4, 2001 the Housing and Transit Subcommittee conducted a hearing entitled, "Transit Safety in the Wake of September 11th." The witnesses testifying were: The Honorable Jennifer L. Dorn, Federal Transit Administrator, Department of Transportation; Mr. William W. Millar, President, APTA; Mr. Richard White, General Manager, Washington Metropolitan Area Transit Authority; and Mr. Robert A. Molofsky, General Counsel, ATU. On September 18, 2002, the Subcommittee on Housing and Transit conducted a hearing entitled, "Transit Security: One Year Later". The witnesses testifying were: The Honorable Jennifer L. Dorn, Federal Transit Administrator, Department of Transportation; and Peter Guerrero, Director of Physical Infrastructure, General Accounting Office.

#### PREVIOUS COMMITTEE ACTION

In the 109th Congress, on November 16, 2005, the Committee passed "The Public Transportation Terrorism Prevention Act of 2005." In the 108th Congress, on May 6, 2004, the Committee passed "The Public Transportation Terrorism Prevention Act of 2004." Both bills passed unanimously.

#### SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

##### *Section 1: Short title*

The section provides a short title.

##### *Section 2: Findings of the Congress*

The findings illustrate the importance of public transit to our nation and the significant investment that the Federal government has made to these public transit systems. They also detail the current level of transit security investment as compared to that for aviation. The point of noting this disparity is to highlight that there has been too little investment in protecting our transit systems.

##### *Section 3: Security assessments*

This section requires security assessments conducted by the Federal Transit Administration to be turned over to the Department of Homeland Security within 30 days. DHS shall then augment these assessments with their own information. For each transit agency on which DHS has conducted an assessment, they shall also augment their assessment with direct consultation with both management and employee representatives of the transit system and relevant State and local officials. These assessments shall be the basis for establishing security improvements for each transit system. Security assessment information shall also be used to establish a process for developing security guidelines and designing a security strategy that minimizes the potential for terrorist threats

and maximizes efforts to mitigate damage from attacks. The assessments and the security improvements will be the basis for the grant allocations. The assessments and identified security improvements are to be updated on an annual basis.

*Section 4: Security assistance grants*

Grants shall be awarded directly to public transportation agencies for allowable capital and operating security improvement priorities. Allowable capital grants include, but are not limited to, tunnel protection systems, perimeter protection systems, fire protection equipment and closed circuit television monitoring systems. Allowable operating grants include, but are not limited to, security training for transit employees through qualified training programs, including the programs offered by the Transportation Technology Center in Pueblo, Colorado. Overtime reimbursement for enhanced security personnel during significant national and international events, which could include events like presidential inaugurations, meeting of international political or policy bodies, international sporting events (Olympics), or other major events that are potential targets for terrorist attacks are also eligible for operating grants. The purchase and training of canine patrols are considered capital expenses, while the use of these patrols are covered by operating assistance. Both are eligible under the program.

The Secretary of the Department of Homeland Security shall ensure that the Department's actions are consistent with relevant State Homeland Security Plans. Where there are multi-state transportation systems, the Secretary must consider the risks of the entire system when it crosses state lines when awarding grants. No later than three days before the award of a grant, the Secretary must notify the Congress of the intent to award such a grant. Public transportation agencies must identify a security coordinator to develop a plan to operate and maintain equipment purchased with grant funds. They must also report annually to the Secretary on the use of grant funds received under this section. If the Secretary determines that grant funds were misspent, the grantee shall return grant funds to the Treasury of the United States.

*Section 5: Public transportation security training program*

The Committee finds that the value of worker training is substantial and that each transit agency who receives a grant under this legislation shall be required to train its workers. The section details how the Secretary, in consultation with appropriate officials, shall develop and issue detailed regulations for a public transportation worker security training program. Public transportation agencies who receive security funding must develop a comprehensive worker training program and submit it to the Secretary for approval. The Secretary must review the program and make necessary revisions. No later than one year after the plan has been established and reviewed, the public transportation system must complete the training of all workers. The Secretary shall report to the Congress on the training program and update it as necessary.

*Section 6: Intelligence sharing*

The Secretary shall provide sufficient financial assistance for the reasonable costs of the Information Sharing and Analysis Center

for Public Transportation (ISAC). All transit agencies are encouraged to participate in the ISAC and those that the Secretary deems to be at significant risk shall be required to participate. No transit agency shall be charged a fee to participate in the ISAC, to prevent cost from being a reason for an agency not to participate.

*Section 7: Research, development, and demonstration grants and contracts*

The Secretary, through the Homeland Security Advanced Research Projects Agency, and in consultation with the Federal Transit Administration, shall award grants to public and private entities to conduct appropriate research into technologies or methods of deterring and mitigating the effects of terrorist attacks. The Secretary must report to the Congress on the use of these funds and if the Secretary determines that grant funds were misspent, the grantee shall return grant funds to the Treasury of the United States.

*Section 8: Reporting requirements*

The Secretary must submit a semi-annual report to the Committee on Banking, Housing and Urban Affairs, the Committee on Homeland Security and Governmental Affairs and the Committee on Appropriations, on the implementation of the program, the use of funds and the state of public transportation security in the United States. The Secretary must submit an annual report to the Governor of each State with a public transportation agency that has received a grant regarding the amount and use of such grant funds.

*Section 9: Authorization of appropriations*

This section details the size of the Capital Security Assistance Program, Operational Security Assistance Program and Research Program for each of the three fiscal years that the bill authorizes grants. The higher initial operating grants reflect the need to conduct initial worker training. The increasing capital grants will allow systems to more adequately address their more capital intensive needs. The section also authorizes necessary sums for the intelligence sharing program (ISAC) described in section 6. It is the Committee's understanding that funding the ISAC will be on the order of well less than a million dollars a year.

*Section 10: Sunset provision*

This section sunsets the authorization to make grants on October 1, 2011.

FEBRUARY 22, 2007.

Hon. CHRISTOPHER J. DODD,  
*Chairman, Committee on Banking, Housing, and Urban Affairs,  
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for the Public Transportation Terrorism Prevention Act of 2007.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

PETER R. ORSZAG.

Enclosure.

*S. 763—Public Transportation Terrorism Prevention Act of 2007*

**Summary:** The Public Transportation Terrorism Prevention Act of 2007 would authorize the Department of Homeland Security (DHS) to provide \$3.5 billion in grants over the 2008–2010 period to public transportation agencies to improve the security of transit systems, and grants and contracts to public and private entities to study methods of deterring terrorist attacks against transit systems and mitigating damages from such attacks. Assuming appropriation of the amounts specified in the bill for those grants, CBO estimates that implementing those provisions would cost about \$2.9 billion over the 2007–2012 period and about \$570 million after 2012.

In addition to authorizing appropriations for grants, the bill would require DHS to create a public transportation training program, review security assessments submitted by public transportation agencies, assess the security of bus and rural transportation systems, and report to the Congress and to the governor of each state on the use of the grants for security improvements. Finally, the legislation would authorize grants for the Information Sharing and Analysis Center (ISAC) for Public Transportation. Assuming appropriation of the necessary amounts, CBO estimates that implementing those provisions would cost about \$5 million each year over the 2008–2012 period.

The bill contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that the costs to public transportation agencies would be minimal and would not exceed the threshold established in UMRA (\$66 million in 2007, adjusted annually for inflation). The legislation contains no new private-sector mandates as defined in UMRA.

**Estimated cost to the Federal Government:** The estimated budgetary impact of the legislation is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

	By fiscal year, in millions of dollars—					
	2007	2008	2009	2010	2011	2012
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Capital Security Assistance Grants:						
Authorization Level .....	0	536	772	1,062	0	0
Estimated Outlays .....	0	80	277	498	533	393
Operational Security Assistance Grants:						
Authorization Level .....	0	534	333	133	0	0
Estimated Outlays .....	0	401	357	193	43	7
Research Grants and Contracts:						
Authorization Level .....	0	30	45	55	0	0
Estimated Outlays .....	0	8	25	43	38	17
Information Sharing and Analysis Center (ISAC) for Public Transportation:						
Estimated Authorization Level .....	1	1	1	1	1	1
Estimated Outlays .....	1	1	1	1	1	1
Guidance, Assessments, and Reports:						
Estimated Authorization Level .....	4	4	4	4	4	4

	By fiscal year, in millions of dollars—					
	2007	2008	2009	2010	2011	2012
Estimated Outlays .....	2	4	4	4	4	4
Total Changes:						
Estimated Authorization Level .....	5	1,105	1,155	1,255	5	5
Estimated Outlays .....	3	494	663	739	640	421

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted in fiscal year 2007 and that the authorized amounts will be appropriated for each year. Estimates of spending are based on information from the ISAC for Public Transportation and historical spending patterns of similar programs.

#### *Capital security assistance grants*

The bill would authorize the appropriation of \$536 million for 2008, \$772 million for 2009, and \$1,062 million in 2010 for grants to public transportation agencies for capital security assistance grants to improve the security of their transit systems. This would include funds for tunnel and perimeter protection; surveillance, communications, and emergency response equipment; chemical, biological, radiological, and explosive detection systems; and evacuation improvements. Assuming appropriation of the authorized amounts, CBO estimates that implementing those provisions would cost about \$80 million in 2008 and about \$1.8 billion over the 2008–2012 period.

#### *Operational security assistance grants*

The bill would authorize the appropriation of \$534 million for 2008, \$333 million for 2009, and \$133 million in 2010 for grants to public transportation agencies for operational security improvements to improve the security of their transit systems. This would include funds for security training and emergency drills. Assuming appropriation of the authorized amounts, CBO estimates implementing those provisions would cost \$401 million in 2008 and \$1 billion over the 2008–2012 period.

#### *Research grants*

The legislation would authorize the appropriation of \$30 million for 2008, \$45 million for 2009, and \$55 million in 2010 for grants or contracts to public and private entities to research methods of deterring terrorist attacks against public transportation systems and mitigating damages from such attacks. Research projects could include studying chemical, biological, radiological, or explosive detection systems, or conducting product evaluations and testing. Assuming appropriation of the authorized amounts, CBO estimates that providing those grants would cost \$8 million in 2008 and \$130 million over the 2008–2012 period.

#### *ISAC for public transportation*

The ISAC for Public Transportation (a private entity) distributes information to public transportation agencies on security threats and helps transit agencies share security-related information. The bill would require the Secretary of Homeland Security to cover the costs of the ISAC. Based on information from the ISAC and assuming appropriation of the necessary amounts, CBO estimates that

implementing this provision would cost about \$1 million each year beginning in 2007.

*Guidance, assessments, and reports*

The legislation would require DHS to review all security assessments submitted by public transportation agencies, evaluate the security of bus and rural public transportation systems, establish a public transportation training program, and report to the Congress and to the governor of each state on the use of the grants for security improvements. Based on information from DHS and assuming appropriation of the necessary amounts, CBO estimates that implementing those provisions would cost \$2 million in 2007 and about \$4 million each year over the 2008–2012 period.

Estimated impact on state, local, and tribal governments: The bill contains an intergovernmental mandate as defined in UMRA. Section 6 would require certain public transportation agencies to participate in the ISAC. While the Department of Homeland Security would fund the ISAC, the requirement on certain public transportation agencies to participate in the ISAC would constitute a mandate as defined in UMRA. Since most public transportation agencies that could be at significant risk of a terrorist attack already participate in the ISAC, CBO estimates that the additional costs to public transportation agencies would be minimal and would not exceed the threshold established in UMRA (\$66 million in 2007, adjusted annually for inflation).

Eligible public transit agencies also would benefit from more than \$3 billion in grants authorized by the bill to upgrade transit security. Any requirements associated with those grants would be conditions of receiving federal assistance.

Estimated impact on the private sector: The legislation contains no new private-sector mandates as defined in UMRA.

Estimate prepared by: Federal Costs: Matthew Pickford. Impact on State, Local, and Tribal Governments: Sarah Puro. Impact on the Private Sector: Fatimot Ladipo.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.