

PUBLIC TRANSIT SECURITY AND LOCAL LAW
ENFORCEMENT SUPPORT ACT

MAY 30, 2012.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. KING of New York, from the Committee on Homeland Security,
submitted the following

R E P O R T

[To accompany H.R. 3857]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 3857) to amend the Implementing Recommendations of the 9/11 Commission Act of 2007 to require the Secretary of Homeland Security to include as an eligible use the sustainment of specialized operational teams used by local law enforcement under the Transit Security Grant Program, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Public Transit Security and Local Law Enforcement Support Act”.

SEC. 2. CLARIFICATION REGARDING USE OF GRANT FUNDS RELATING TO OPERATIONAL COSTS OF PUBLIC TRANSIT SECURITY.

(a) IN GENERAL.—Section 1406(b)(2) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1135(b)(2)) is amended—

(1) by redesignating subparagraphs (E) through (H) as subparagraphs (F) through (I), respectively; and

(2) by inserting after subparagraph (D) the following new subparagraph (E):

“(E) specialized patrol teams, as defined by the Secretary in coordination with the recipients of grants under this section, including the sustainment of such teams without fiscal year limitation, as long as the eligible public transportation agency applying for grant funds to fund a specialized patrol team submits a sustainment plan for maintaining in future years the capability or capacity achieved with the grant funds;”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act and shall apply to grants made under section 1406 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1135) on or after such date.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1406(m)(1) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1135(m)(1)) is amended—

(1) in subparagraph (D) by striking “and” at the end;

(2) in subparagraph (E)—

(A) by striking “10 percent” and inserting “50 percent”; and

(B) by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(F) \$400,000,000 for each of fiscal years 2012 and 2013, except that not more than 50 percent of such funds in each of such fiscal years may be used for operational costs under subsection (b)(2).”.

PURPOSE AND SUMMARY

The purpose of H.R. 3857 is to amend the Implementing Recommendations of the 9/11 Commission Act of 2007 to require the Secretary of Homeland Security to include as an eligible use the statement of specialized operational teams used by local law enforcement under the Transit Security Grant Program, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

This bill directs the Secretary of Homeland Security to allow Transit Security Grant Program (TSGP) funds to be used for specialized patrol teams without fiscal year limitation. In past years, transit systems could not allocate TSGP funding toward the sustainment of specialized patrol teams without a waiver from the Secretary of Homeland Security. After this bill was introduced, the Department of Homeland Security (DHS) modified its policy in the TSGP grant guidance for FY 2012, to allow TSGP funds to be used for the sustainment of specialized patrol teams. This bill codifies what DHS has agreed is necessary through its grant guidance, and allows for future TSGP funds to be used for the sustainment of specialized patrol teams. H.R. 3857 eliminates the needless bureaucratic step of forcing a transit agency to request a waiver in order to apply for funds to sustain critical manpower to help deter a terrorist attack. In doing so, it allows transit systems and the police departments that secure them to have more certainty in their planning of future security initiatives.

As amended, this bill requires TSGP recipients to submit sustainment plans for maintaining the capability of the specialized

patrol teams in future years. The Committee notes that these teams must be flexible to respond to changing threats. Therefore, the Department should take this into account as operational needs may change in future years. Further, the Committee recognizes that grant recipients are already required to submit lengthy, detailed justifications with their grant applications for the projects they seek to fund. These reports require significant man-hours and planning. The sustainment plan requirement in this bill is not intended to require grant recipients to provide written plans through an additional duplicative process but to submit plans through the DHS reporting process that currently exists. The Department should take steps to streamline the reporting process and provide guidance to grant recipients on the information to be included in the sustainment plans.

As amended, the bill also raises the cap on operational expenses from 10 percent to 50 percent of TSGP funds, consistent with the percentage allowable under the State Homeland Security Grant Program and Urban Area Security Initiative. In the five years since TSGP was authorized in the Implementing Recommendations of the 9/11 Commission Act of 2007, transit agencies and local law enforcement have expressed growing concern over the cap on operational expenses imposed by the Congress. The important security benefit of patrol teams and other operational assets has increased, not decreased, and in most instances the Secretary of Homeland Security has used vested authority to waive the 10 percent cap given the realities on the ground. By making this a statutory change, grantees would no longer have to seek waivers that require additional man-hours, create difficulties in planning, and serve to delay the expenditure of these vital security grants.

The bill also authorizes \$400 million for TSGP grants for each of fiscal years 2012 and 2013, except that no more than 50 percent of those funds in each of the fiscal years may be used for operational costs. This vital grant program necessitates a dedicated funding stream each year. Given the expiration of the TSGP authorization in FY 2011, this bill would reauthorize the program for FY 2012 and FY 2013 at the same level it received in FY 2009.

HEARINGS

Although no hearings were directly held on H.R. 3857 in the 112th Congress, TSGP was discussed at multiple hearings.

The Committee on Homeland Security hearing entitled “Securing Our Nation’s Mass Transit Systems Against a Terrorist Attack” on May 4, 2011. The Committee received testimony from Hon. John S. Pistole, Administrator, Transportation Security Administration, Department of Homeland Security; Hon. W. Craig Fugate, Administrator, Federal Emergency Management Agency, Department of Homeland Security; Mr. Richard Daddario, Deputy Commissioner for Counterterrorism, New York City Police Department; Mr. Richard L. Rodriguez, President, Chicago Transit Authority; and Mr. Daniel O. Hartwig, Deputy Chief—Operations, BART Police Department, San Francisco Bay Area Rapid Transit (BART).

The Subcommittee on Transportation Security hearing entitled “Industry Perspectives: Authorizing the Transportation Security Administration for FY 2012 and 2013” on July 12, 2011. The Subcommittee received testimony from Mr. Stephen Sadler, Deputy As-

sistant Administrator, Transportation Threat Assessment and Credentialing, Transportation Security Administration, Department of Homeland Security; Mr. Darrell S. Bowman, Group Leader, Advanced Systems & Applications, Virginia Tech Transportation Institute; Ms. Jeanne M. Olivier, A.A.E., Assistant Director, Aviation Security & Technology, Aviation Department, The Port Authority of New York & New Jersey *testifying on behalf of the American Association of Airport Executives*; Mr. Martin Rojas, Vice President, Security & Operations, American Trucking Association; and Mr. Randall H. Walker, Director of Aviation, Las Vegas McCarran International Airport, Clark County Department of Aviation, *testifying on behalf of the Airports Council International—North America*.

In addition, the Subcommittee on Emergency Preparedness, Response, and Communications has also held hearings focusing on homeland security grants at which the TSGP was discussed. On March 20, 2012, the Subcommittee on Emergency Preparedness, Response, and Communications convened a hearing, “Ensuring the Efficiency, Effectiveness, and Transparency of Homeland Security Grants (Part I).” The Subcommittee received testimony from Ms. Elizabeth Harman, Assistant Administrator, Grant Programs Directorate, Federal Emergency Management Agency, Department of Homeland Security; Mr. Corey Gruber, Assistant Administrator, National Preparedness Directorate, Federal Emergency Management Agency, Department of Homeland Security; Ms. Anne L. Richards, Assistant Inspector General for Audits, Office of Inspector General, Department of Homeland Security; Mr. William O. Jenkins, Jr., Director, Homeland Security and Justice Issues, U.S. Government Accountability Office; and Hon. Michael A. Nutter, Mayor of Philadelphia, Pennsylvania.

The Subcommittee held a follow up hearing, “Ensuring the Efficiency, Effectiveness, and Transparency of Homeland Security Grants (Part II),” on April 26, 2012. The Subcommittee received testimony from Mr. James H. Davis, Executive Director, Colorado Department of Public Safety, *testifying on behalf of the National Governor’s Association*; Mr. Bryan Koon, Director, Florida Division of Emergency Management, *testifying on behalf of the National Emergency Management Association*; Ms. Hui-Shan Walker, Emergency Management Coordinator, City of Hampton, Virginia, *testifying on behalf of the International Association of Emergency Managers*; Mr. Judson Freed, Director of Emergency Management and Homeland Security, Ramsey County, Minnesota, *testifying on behalf of the National Association of Counties*; Mr. Richard Daddario, Deputy Commissioner, Counterterrorism Bureau, New York City Police Department; Mr. Robert M. Maloney, Director, Office of Emergency Management, Baltimore, Maryland; Chief Hank Clemensen, Palatine Rural Fire Protection District, *testifying on behalf of the International Association of Fire Chiefs*; Mr. Richard A. Wainio, President and CEO, Tampa Port Authority, *testifying on behalf of the American Association of Port Authorities*; and Mr. Michael DePallo, Director and General Manager, The Port Authority Trans Hudson (PATH) Corporation, *testifying on behalf of the American Public Transportation Association*, who discussed TSGP at length.

COMMITTEE CONSIDERATION

The Committee met on May 9, 2012, to consider H.R. 3857, and ordered the measure to be reported to the House with a favorable recommendation, amended, by voice vote. The Committee took the following actions:

The Committee adopted H.R. 3857, as amended, by voice vote.

The following amendments were offered:

An amendment offered by Ms. Richardson (#1); was NOT AGREED TO, by voice vote.

Page 2, line 12, strike “, as defined” and all that follows through “this section” on line 14.

Page 2, line 17, redesignate subsection (b) as subsection (c).

Page 2, after line 16, insert a new paragraph “(b) Specialized Patrol Teams Defined”

An amendment offered by Mr. Cuellar (#2); was AGREED TO, by a recorded vote of 15 yeas and 9 nays (Roll Call Vote No. 53).

Page 2, line 16, after “limitation” insert the following: “, as long as the eligible public transportation agency applying for grant funds to fund a specialized patrol team submits a sustainment plan for maintaining the capability of capacity achieved with the grant funds in future years”.

An amendment offered by Ms. Jackson Lee (#3); was AGREED TO, by unanimous consent.

Page 2, line 16, strike “or other”.

An amendment offered by Ms. Jackson Lee (#4); was AGREED TO, by unanimous consent.

Page 2, after line 22, insert a new paragraph “C) Authorization of Appropriations”

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto.

The Committee on Homeland Security considered H.R. 3857 on May 9, 2012. The following recorded votes were requested:

An amendment offered by Mr. CUELLAR (#2); was AGREED TO by a recorded vote of 15 yeas and 9 nays (Roll Call Vote No. 53). The vote was as follows:

YEAS

Mr. Daniel E. Lungren
Mrs. Candice S. Miller
Mr. Tim Walberg
Mr. Chip Cravaack
Mr. Joe Walsh
Mr. Patrick Meehan
Mr. E. Scott Rigell
Mr. Blake Farenthold
Mr. Bennie G. Thompson
Ms. Sheila Jackson Lee
Mr. Henry Cuellar
Ms. Yvette D. Clarke
Ms. Laura Richardson
Mr. Danny K. Davis
Ms. Janice Hahn

NAYS

Mr. Peter T. King
Mr. Mike Rogers
Mr. Michael T. McCaul
Mr. Gus M. Bilirakis
Mr. Paul C. Broun
Mr. Benjamin Quayle
Mr. Billy Long
Mr. Jeff Duncan
Mr. Robert L. Turner

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held oversight hearings and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 3857, the Public Transit Security and Local Law Enforcement Support Act, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

MAY 25, 2012.

Hon. PETER T. KING,
Chairman, Committee on Homeland Security,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3857, the Public Transit Security and Local Law Enforcement Support Act.

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

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 3857—Public Transit Security and Local Law Enforcement Support Act

Summary: H.R. 3857 would authorize appropriations for the Department of Homeland Security (DHS) to make grants to state and local governments to support security improvements to public transportation systems. CBO estimates that implementing the bill would cost \$702 million over the 2012–2017 period, assuming appropriation of the authorized amounts. Pay-as-you-go procedures do not apply to this legislation because it would not affect direct spending or revenues.

H.R. 3857 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 3857 is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

	By fiscal year, in millions of dollars—						
	2012	2013	2014	2015	2016	2017	2012–2017
CHANGES IN SPENDING SUBJECT TO APPROPRIATION							
Authorization Level ^a	302	400	0	0	0	0	702
Estimated Outlays	15	266	246	119	35	21	702

^a While H.R. 3857 would authorize the appropriation of \$400 million for 2012, \$98 million has already been appropriated for that year.

Basis of estimate: H.R. 3857 would authorize the appropriation of \$400 million in each of fiscal years 2012 and 2013 for DHS to provide grants to public transportation agencies to enhance the security of public transportation systems. Under current law, recipients of such grants can use funds for a variety of purposes, including capital improvements to infrastructure, training programs for staff, and public awareness campaigns. H.R. 3857 would specify that such grants could also be used for specialized patrol teams.

According to DHS, the Congress has already provided \$98 million in 2012 for grants to public transportation agencies, including Amtrak. CBO therefore estimates that fully funding H.R. 3857 would require additional appropriations totaling \$302 million in 2012 and \$400 million in 2013. Assuming that H.R. 3857 is enacted in 2012 and that supplemental appropriations are provided for 2012 as specified by the bill, CBO estimates that resulting outlays would total \$15 million in 2012 and \$702 million over the 2012–2017 period. That estimate is based on historical spending patterns for existing grant programs administered by DHS.

Pay-as-you-go considerations: None.

Estimated impact on State, local, and tribal governments: H.R. 3857 contains no intergovernmental or private-sector mandates as defined in UMRA and would expand the authorized uses of transportation security grants.

Estimate prepared by: Federal Costs: Megan Carroll; Impact on State, Local, and Tribal Governments: J'nell L. Blanco; Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 3857 contains the following general performance goals, and objectives, including outcome related goals and objectives authorized.

H.R. 3857 provides grant recipients with an additional allowable use of TSGP funds without having to request a waiver from the Department of Homeland Security.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the rule XXI.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

PREEMPTION CLARIFICATION

In compliance with section 423 of the Congressional Budget Act of 1974, requiring the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or

joint resolution is intended to preempt State, local, or Tribal law, the Committee finds that H.R. 3857 does not preempt any State, local, or Tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This Act may be cited as the “Public Transit Security and Local Law Enforcement Support Act”

Section 2. Clarification regarding use of grant funds relating to operational costs of public transit security

This section amends Section 1406(b)(2) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. Law 110–53) to allow Transit Security Grant Program funds to be used for the sustainment of specialized patrol teams without fiscal year limitation, as long as the eligible public transportation agency applying for the grant funds submits a sustainment plan for maintaining the capability or capacity achieved in future years.

Effective Date.—This section is required to take effect on the date of enactment and will apply to grants made under Section 1406 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. Law 110–53) on or after such date.

Authorization of Appropriations.—This section authorizes \$400,000,000 for TSGP grants for each of Fiscal Years 2012 and 2013, except that no more than 50 percent of those funds in each of the fiscal years may be used for operational costs.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

IMPLEMENTING RECOMMENDATIONS OF THE 9/11 COMMISSION ACT OF 2007

* * * * *

TITLE XIV—PUBLIC TRANSPORTATION SECURITY

* * * * *

SEC. 1406. PUBLIC TRANSPORTATION SECURITY ASSISTANCE.

(a) * * *

(b) USES OF FUNDS.—A recipient of a grant under subsection (a) shall use the grant funds for one or more of the following:

(1) * * *

(2) Operating uses of funds, including—

(A) * * *

* * * * *

(E) specialized patrol teams, as defined by the Secretary in coordination with the recipients of grants under this section, including the sustainment of such teams without fiscal year limitation, as long as the eligible public transportation agency applying for grant funds to fund a specialized patrol team submits a sustainment plan for maintaining in future years the capability or capacity achieved with the grant funds;

[(E)] *(F) development of security plans under section 1405;*

[(F)] *(G) overtime reimbursement including reimbursement of State, local, and tribal governments, for costs for enhanced security personnel during significant national and international public events;*

[(G)] *(H) operational costs, including reimbursement of State, local, and tribal governments for costs for personnel assigned to full-time or part-time security or counterterrorism duties related to public transportation, provided that this expense totals no more than 10 percent of the total grant funds received by a public transportation agency in any 1 year; and*

[(H)] *(I) other operational security costs determined appropriate by the Secretary, excluding routine, ongoing personnel costs, other than those set forth in this section.*

* * * * *

(m) AUTHORIZATION OF APPROPRIATIONS.—

(1) There are authorized to be appropriated to the Secretary to make grants under this section—

(A) * * *

* * * * *

*(D) \$900,000,000 for fiscal year 2010, except that not more than 20 percent of such funds may be used for operational costs under subsection (b)(2); **[and]***

*(E) \$1,100,000,000 for fiscal year 2011, except that not more than **[10 percent]** 50 percent of such funds may be used for operational costs under subsection (b)(2)**[,]**; and*

(F) \$400,000,000 for each of fiscal years 2012 and 2013, except that not more than 50 percent of such funds in each of such fiscal years may be used for operational costs under subsection (b)(2).

* * * * *