

MASS TRANSIT INTELLIGENCE PRIORITIZATION ACT

MAY 8, 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. 3140]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 3140) to amend the Homeland Security Act of 2002 to direct the Secretary of Homeland Security to prioritize the assignment of officers and analysts to certain State and urban area fusion centers to enhance the security of mass transit systems, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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## PURPOSE AND SUMMARY

The purpose of H.R. 3140 is to amend the Homeland Security Act of 2002 to direct the Secretary of Homeland Security to prioritize the assignment of officers and analysts to certain State and urban area fusion centers to enhance the security of mass transit systems.

## BACKGROUND AND NEED FOR LEGISLATION

This bill directs the Secretary of Homeland Security to prioritize the assignment of intelligence officers and analysts, including those from the Transportation Security Administration (TSA), to participate at State and urban area fusion centers located in high-risk jurisdictions with mass transit systems.

Mass transit systems have consistently been targets for terrorists and have been the site of some of the most horrific acts of terror since 9/11. In 2004, al Qaeda detonated multiple explosives during morning rush hour on the packed commuter trains of Madrid, Spain, killing 191 people. A little more than a year later, in July 2005 in London, a terrorist cell linked to al Qaeda carried out four-suicide bombings—three on the London Underground and one on a double decker bus—killing more than 50 individuals. In September 2009, Najibullah Zazi was arrested in New York City for allegedly plotting to blow up New York City subways. In addition, intelligence gathered from Osama bin Laden's compound showed al Qaeda's continued intent to strike mass transit.

This bill further requires that the officers assigned to these fusion centers have, as a primary responsibility, the production of mass transit intelligence products in coordination with officials from the State, local, and tribal law enforcement agencies. Such a requirement will help them better deploy their resources to most efficiently detect and stop acts of terrorism against mass transit systems.

## HEARINGS

No hearings were held on H.R. 3140 in the 112th Congress; however the Committee conducted oversight hearings on the issues involved.

On March 4, 2011 the Committee on Homeland Security held a hearing entitled, "Securing Our Nation's Mass Transit Systems Against a Terrorist Attack." The Committee received testimony from the Honorable John S. Pistole, Administrator, Transportation Security Administration, Department of Homeland Security; The Honorable 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; Mr. Daniel O. Hartwig, Deputy Chief for Operations, BART Police Department, San Francisco Bay Area Rapid Transit (BART).

On July 12, 2011 the Subcommittee on Transportation Security held a hearing entitled, "Industry Perspectives: Authorizing the Transportation Security Administration for FY 2012 and 2013." The Subcommittee received testimony from Mr. Tom Farmer, Assistant Vice President, Security Safety & Operations, American As-

sociation of Railroads; Mr. Martin Rojas, Vice President, Security and Operations, American Trucking Association; Ms. Wanda Dunham, Chief of Police and Emergency Management, Metropolitan Atlanta Rapid Transit Authority, MARTA Police Headquarters; Mr. Raymond Reese, Corporate Health, Safety and Security Leader, Colonial Pipeline Company; Mr. John Risch, Alternate National Legislative Director, United Transportation Union; Mr. Mark Van Tine, Chief Executive Officer, Jeppesen; Mr. Nicholas E. Calio, President & Chief Executive Officer, Air Transport Association; Mr. Steve Alterman, President, Cargo Airline Association; and Mr. Christopher Witkowski, Director, Air Safety, Health, and Security, Association of Flight Attendants.

On October 5, 2011 the Subcommittee on Counterterrorism and Intelligence held a hearing entitled, “Intelligence Sharing and Terrorist Travel: How DHS Addresses the Mission of Providing Security, Facilitating Commerce and Protecting Privacy for Passengers Engaged in International Travel.” The Subcommittee received testimony from Ms. Mary Ellen Callahan, Chief Privacy Officer, Department of Homeland Security; Mr. Thomas Bush, Executive Director of Automation and Targeting, Office of Intelligence and Investigative Liaison, Customs and Border Protection; and Hon. David Heyman, Assistant Secretary for Policy, Department of Homeland Security.

On May 3, 2011 the Subcommittee on Counterterrorism and Intelligence held a hearing entitled, “The Threat to the U.S. Homeland Emanating from Pakistan.” The Subcommittee received testimony from Dr. Seth Jones, Senior Political Scientist, The RAND Corporation; Mr. Shuja Nawaz, Director, South Asia Center, The Atlantic Council; Mr. Stephen Tankel, Visiting Fellow, South Asia Program, The Carnegie Endowment for International Peace; and Dr. Frederick Kagan, Resident Scholar and Director, American Enterprise Institute Critical Threats Project.

#### COMMITTEE CONSIDERATION

The Subcommittee on Counterterrorism and Intelligence met on November 15, 2011, to consider H.R. 3140, and ordered the measure to be reported to the Full Committee with a favorable recommendation, without amendment, by voice vote.

The Committee met on March 28, 2012, to consider H.R. 3140, and ordered the measure to be reported to the House with a favorable recommendation, without amendment, by voice vote.

#### 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.

No recorded votes were requested during consideration of H.R. 3140.

#### 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. 3140, the Mass Transit Intelligence Prioritization 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.

APRIL 19, 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. 3140, the Mass Transit Intelligence Prioritization 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. 3140—Mass Transit Intelligence Prioritization Act*

Under current law, the Department of Homeland Security (DHS) assigns federal officers and analysts to work at state and local “fusion centers,” which are hubs for gathering and sharing information about potential threats to public safety. H.R. 3140 would direct the Secretary of Homeland Security to make it a priority to assign federal staff to fusion centers in high-risk areas with mass transit systems.

Based on information from DHS, CBO estimates that implementing H.R. 3140 would have no significant impact on the federal budget. According to the department, the requirement to prioritize staff assignments to high-risk fusion centers with mass transit systems is consistent with current administrative practices, and CBO does not expect that codifying that requirement would significantly affect the number of staff assigned to fusion centers or the federal spending for related activities. Enacting H.R. 3140 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 3140 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Megan Carroll. This estimate was 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. 3140 contains no general performance

goals, and objectives, including outcome related goals and objectives authorized.

#### 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. 3140 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 section provides that bill may be cited as the “Mass Transit Intelligence Prioritization Act.”

##### *Sec. 2. Mass transit intelligence prioritization at Department of Homeland Security fusion centers*

This section requires the Secretary of Homeland Security to prioritize the assignment of officers and analysts of the Department of Homeland Security to fusion centers in high-risk areas with mass transit systems. These officers and analysts, including employees of the Transportation Security Administration, to assist Federal, State, local, and Tribal law enforcement authorities in enhancing mass transit security.

The primary responsibility of these officers and analysts is to create and provide mass transit-related intelligence products to law enforcement authorities to ensure proper deployment of resources, promote information sharing, and enhance the Department’s situa-

tional awareness with respect to the security of mass transit systems.

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):

**HOMELAND SECURITY ACT OF 2002**

\* \* \* \* \*

**TITLE II—INFORMATION ANALYSIS AND  
INFRASTRUCTURE PROTECTION**

**Subtitle A—Information and Analysis and  
Infrastructure Protection; Access to In-  
formation**

\* \* \* \* \*

**SEC. 210A. DEPARTMENT OF HOMELAND SECURITY STATE, LOCAL,  
AND REGIONAL FUSION CENTER INITIATIVE.**

(a) \* \* \*

\* \* \* \* \*

(f) *MASS TRANSIT INTELLIGENCE PRIORITIZATION.*—

(1) *IN GENERAL.*—*The Secretary shall make it a priority to assign officers and intelligence analysts under this section from the Department, including the Transportation Security Administration, to participating State and urban area fusion centers located in high-risk jurisdictions with mass transit systems in order to enhance the security of such mass transit systems by assisting Federal, State, local, and tribal law enforcement authorities in identifying, investigating, and otherwise interdicting persons, weapons, and contraband that pose a threat to homeland security.*

(2) *MASS TRANSIT INTELLIGENCE PRODUCTS.*—*When performing the responsibilities described in subsection (d), officers and intelligence analysts assigned to participating State and urban area fusion centers under this section shall have, as a primary responsibility, the creation of mass transit intelligence products that—*

(A) *assist State, local, and tribal law enforcement agencies in deploying their resources most efficiently to help detect and interdict terrorists, weapons of mass destruction, and contraband at mass transit systems of the United States;*

(B) *promote more consistent and timely dissemination of mass transit security-relevant information among jurisdictions with mass transit systems; and*

(C) *enhance the Department's situational awareness with respect to the threat of acts of terrorism at or involving mass transit systems of the United States.*

[(f)] (g) DATABASE ACCESS.—In order to fulfill the objectives described under subsection (d), each officer or intelligence analyst assigned to a fusion center under this section shall have appropriate access to all relevant Federal databases and information systems, consistent with any policies, guidelines, procedures, instructions, or standards established by the President or, as appropriate, the program manager of the information sharing environment for the implementation and management of that environment.

[(g)] (h) CONSUMER FEEDBACK.—

(1) \* \* \*

\* \* \* \* \*

[(h)] (i) RULE OF CONSTRUCTION.—

(1) \* \* \*

\* \* \* \* \*

[(i)] (j) GUIDELINES.—The Secretary, in consultation with the Attorney General, shall establish guidelines for fusion centers created and operated by State and local governments, to include standards that any such fusion center shall—

(1) \* \* \*

\* \* \* \* \*

[(j)] (k) DEFINITIONS.—In this section—

(1) \* \* \*

\* \* \* \* \*

[(k)] (l) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$10,000,000 for each of fiscal years 2008 through 2012, to carry out this section, except for [subsection (i)] subsection (j), including for hiring officers and intelligence analysts to replace officers and intelligence analysts who are assigned to fusion centers under this section.

\* \* \* \* \*