

109TH CONGRESS
2^D SESSION

H. R. 4871

To ensure the coordination and integration of Indian tribes in the National Homeland Security strategy and to establish an Office of Tribal Government Homeland Security within the Department of Homeland Security, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 2, 2006

Mr. PALLONE introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To ensure the coordination and integration of Indian tribes in the National Homeland Security strategy and to establish an Office of Tribal Government Homeland Security within the Department of Homeland 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 “Tribal Government Homeland Security Coordination and
6 Integration Act”.

1 (b) TABLE OF CONTENTS.—The table of contents for
2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Definitions.
- Sec. 4. Office of tribal government homeland security.
- Sec. 5. Report to congress.
- Sec. 6. Authorization of appropriations.

3 **SEC. 2. FINDINGS AND PURPOSES.**

4 (a) FINDINGS.—Congress finds the following:

5 (1) Since the terrorist attacks of September 11,
6 2001, and the subsequent introduction of weapons
7 grade anthrax into the United States Postal System
8 and Congressional office buildings in Washington,
9 D.C., the President and the Congress have worked
10 closely to respond to the need to rebuild and
11 strengthen the nation’s public health, national secu-
12 rity, and emergency response systems.

13 (2) Based on Article I, section 8 of the United
14 States Constitution, treaties, Federal statutes, and
15 court decisions, the United States has a unique his-
16 torical and legal relationship with American Indian
17 and Alaska Native people, which serves as the basis
18 for the Federal Government’s trust responsibility
19 and obligations. There are currently 558 federally-
20 recognized Indian tribes in the United States, with
21 some 40 percent of Indian tribes located in the State

1 of Alaska. Indian tribes have principle responsibility
2 for lands and people within their jurisdiction.

3 (3) Despite the government-to-government rela-
4 tionship between Indian tribes and the United
5 States, the United States has failed to include and
6 consult with Indian tribes with regard to homeland
7 security prevention, protection, and response activi-
8 ties planning. Moreover, there are no specific provi-
9 sions for the Bureau of Indian Affairs or the Indian
10 Health Service to participate in homeland security
11 programs and funding.

12 (4) Throughout many areas of the United
13 States, facilities operated, and services, activities
14 and government functions carried out, by Indian
15 tribes, the Bureau of Indian Affairs and the Indian
16 Health Service are the only sources available to pro-
17 vide emergency health services, disaster response,
18 and law enforcement to the tribal and non-tribal
19 community, thus serving the role as “first respond-
20 ers” in the event of a terrorist attack.

21 (5) To provide for the public health and safety
22 on tribal lands and in the surrounding communities,
23 it is imperative to establish tribal participation in
24 homeland security initiatives. Indian tribes must be
25 included in the national strategy for homeland secu-

1 rity and receive an appropriate share of related
2 funding.

3 (6) The treatment of Indian tribes as State
4 governments, as appropriate, for developing funding
5 methodologies, planning, consultation, coordination,
6 and for eligibility for grant monies will ensure In-
7 dian tribes are adequately prepared to respond to
8 Homeland Security threats.

9 (7) Indian tribes shall be treated as State, as
10 appropriate, for purposes of planning, consultation,
11 coordination, eligibility for grant monies and other
12 purposes to improve the United States capacity to
13 prepare, prevent and respond to terrorist activities.

14 (b) PURPOSES.—The purposes of this Act are as fol-
15 lows:

16 (1) To establish within the Department of
17 Homeland Security an office known as the Office of
18 Tribal Government Homeland Security.

19 (2) To authorize the Secretary of Homeland Se-
20 curity to appoint, in consultation with Indian tribes,
21 a Director of Tribal Government Homeland Secu-
22 rity.

23 (3) To provide for more effective management
24 of, and accountability for the proper discharge of,
25 the Secretary's trust responsibility to Indian tribes

1 and individual American Indians and Alaska Natives
2 by establishing in the Department of Homeland Se-
3 curity an Office of Tribal Government Homeland Se-
4 curity.

5 (4) To integrate and coordinate the efforts of
6 the Department of Homeland Security and Indian
7 tribes to prepare for, prevent, protect against, re-
8 spond to, and recover from terrorist attacks.

9 (5) To provide strategic integration of the
10 Homeland Security activities of Indian tribes that
11 will complement the operational consolidation of the
12 various directorates within the Department.

13 (6) To supplement the capacity of the Indian
14 Health Service and the Bureau of Indian Affairs to
15 respond to the homeland security needs of American
16 Indians and Alaska Natives, without jeopardizing
17 the nonsecurity missions of the Indian Health Serv-
18 ice and the Bureau of Indian Affairs.

19 (7) To serve as an information clearinghouse
20 and to enhance the integration and coordination of
21 Indian tribes and in the activities of the Department
22 of Homeland Security.

23 (8) To establish an organizational framework
24 within the Department of Homeland Security
25 through which the Federal Government, Indian

1 tribes, and State and local governments can work ef-
2 fectively and collaboratively on public health and
3 safety, terrorism detection, prevention, response, and
4 protection of critical infrastructure.

5 **SEC. 3. DEFINITIONS.**

6 In this Act:

7 (1) DIRECTOR.—The term “Director” means
8 the Director of the Office of Tribal Government
9 Homeland Security.

10 (2) INDIAN TRIBE.—The term “Indian tribe”
11 has the meaning given that term in section 4(e) of
12 the Indian Self-Determination and Education Assist-
13 ance Act (25 U.S.C. 450b(e)).

14 (3) OFFICE.—The term “Office” means the Of-
15 fice of Tribal Government Homeland Security estab-
16 lished in section 4.

17 (4) SECRETARY.—The term “Secretary” means
18 the Secretary of Homeland Security.

19 **SEC. 4. OFFICE OF TRIBAL GOVERNMENT HOMELAND SE-**
20 **CURITY.**

21 (a) IN GENERAL.—

22 (1) ESTABLISHMENT.—There is hereby estab-
23 lished within the Department of Homeland Security
24 an office to be known as the “Office of Tribal Gov-
25 ernment Homeland Security”.

1 (2) DIRECTOR.—The Office shall be headed by
2 a Director, appointed by the Secretary in consulta-
3 tion with Indian tribes, whose title shall be the Di-
4 rector of Tribal Government Homeland Security.
5 The Director shall be equal in pay and authority of
6 an Assistant Secretary.

7 (b) DUTIES OF SECRETARY; DIRECTOR.—

8 (1) DUTIES OF THE SECRETARY.—The Sec-
9 retary shall—

10 (A) ensure the coordination of Federal pro-
11 grams that provide assistance (including finan-
12 cial and technical assistance) to eligible Indian
13 tribes and provide those governments with
14 treatment as State governments, as appro-
15 priate, for planning, consultation, and coordina-
16 tion and for eligibility for Federal grant monies
17 and funds to improve capacity and help pre-
18 pare, prevent, and respond to terrorist activi-
19 ties, and for other related purposes in and near
20 tribal communities;

21 (B) ensure Indian tribes are included in
22 the coordination activities of the Homeland Se-
23 curity Department's Border and Transportation
24 functions in the same manner as State and
25 local law enforcement entities;

1 (C) ensure Indian tribes with jurisdiction
2 over lands adjacent to the Canadian and Mexi-
3 can borders are adequately prepared to help
4 protect United States borders, territorial wa-
5 ters, waterways, and other transportation sys-
6 tems;

7 (D) ensure the broad spectrum of infra-
8 structure throughout Indian Country, including
9 nuclear and electrical power plants, water and
10 sanitation facilities, agricultural, food proc-
11 essing, oil, timber, and other natural resources
12 is adequately protected against terrorist
13 threats;

14 (E) ensure that Indian tribes are properly
15 equipped to prepare for, prevent, and respond
16 to terrorist activities in the same manner as
17 State and local governments;

18 (F) provide Indian tribes the necessary
19 equipment for detection, protection, and decon-
20 tamination in emergencies involving weapons of
21 mass destruction;

22 (G) provide Indian tribes with emergency
23 preparedness training and exercise programs
24 and further assistance for any emergency, in-
25 cluding natural disasters or disease;

1 (H) include Indian tribes in all facets of
2 research, development, resource assessment,
3 and risk analysis in the same manner as State
4 and local governments; and

5 (I) include Indian tribes, as appropriate, in
6 the coordination of the Homeland Security De-
7 partment's Immigration and Nationality func-
8 tions in the same manner as State and local law
9 enforcement entities.

10 (2) DUTIES OF THE DIRECTOR.—The Director
11 shall—

12 (A) coordinate homeland security activities
13 among Indian tribes and related Federal agen-
14 cies, including integration and coordination of
15 the efforts of the Department of Homeland Se-
16 curity and Indian tribes to prepare for, prevent,
17 protect against, respond to, and recover from
18 terrorist attacks;

19 (B) provide strategic integration to com-
20 plement the operational consolidation of the
21 various directorates within the Department of
22 Homeland Security, with respect to Indian
23 tribes;

24 (C) ensure that Indian tribes are included
25 in the gathering and analysis of terrorist

1 threats and other information in the same man-
2 ner as Federal, State, and local law enforce-
3 ment entities;

4 (D) serve as the Secretary's key point of
5 contact for Indian tribes in need of assistance
6 and information homeland security grants for
7 purposes of planning, consultation, coordina-
8 tion, eligibility for grant monies and other pur-
9 poses to improve the United States capacity to
10 prepare, prevent and respond to terrorist activi-
11 ties and to work with Indian tribes and execu-
12 tive agencies in promoting homeland security;

13 (E) serve as the coordinating center in-
14 tended to facilitate communication between and
15 integration with Indian tribes and other Fed-
16 eral departments that have homeland security
17 responsibilities, including but not limited to
18 health surveillance, emergency preparation and
19 response, border security, critical infrastructure
20 protection, technology, and communication;

21 (F) establish a network through which the
22 Federal Government, Indian tribes, and State
23 and local governments work collaboratively on
24 public health and safety, terrorism detection,

1 prevention, response, and protection of critical
2 infrastructure targets; and

3 (G) establish a mechanism for the distribu-
4 tion of warnings and information to tribal com-
5 munities.

6 (c) TREATMENT OF INDIAN TRIBES AS STATES.—

7 (1) IN GENERAL.—The Secretary shall—

8 (A) treat Indian tribes as States, as appro-
9 priate, for the purpose of homeland security
10 consultation, planning, coordination, bioter-
11 rorism preparedness, prevention, and response,
12 emergency preparedness and response, border
13 and transportation security, and for other pur-
14 poses related to protecting the homeland;

15 (B) include Indian tribes in funding meth-
16 odologies for purposes of allocating any finan-
17 cial resources; and

18 (C) support and facilitate the capacity nec-
19 essary for the Indian Health Service and Bu-
20 reau of Indian Affairs to respond to the home-
21 land security needs of American Indians and
22 Alaska Natives, without jeopardizing their non-
23 security missions.

24 (2) DISCRETIONARY AUTHORITY.—The Sec-
25 retary may delegate to such Indian tribes primary

1 responsibility for homeland security activities within
2 its respective jurisdiction.

3 (d) INFORMATION SHARING.—The Secretary shall
4 provide assistance to enhance information technology ca-
5 pabilities of Indian tribes and ensure—

6 (1) the active participation of Indian tribes in
7 the coordination with Federal, State, and local gov-
8 ernments and the private sector as related to Home-
9 land Security activities; and

10 (2) provide Indian tribes access to the same
11 type of information being exchanged between Fed-
12 eral, State, and local authorities for the purpose of
13 providing government personnel, agencies, and au-
14 thorities, with appropriate intelligence information,
15 including warnings, regarding threats posed by ter-
16 rorism in a timely and secure manner.

17 (e) FEDERAL GRANTS.—

18 (1) GENERAL ELIGIBILITY.—Indian tribes shall
19 be eligible to apply for, receive, direct, and supervise
20 any homeland security-related Federal grant pro-
21 grams.

22 (2) AUTHORITY TO AWARD GRANTS.—The Sec-
23 retary may award grants to Indian tribes for the fol-
24 lowing purposes:

1 (A) Planning, consultation, and coordina-
2 tion to improve infrastructure, to prevent ter-
3 rorist activities.

4 (B) Training and education of employees
5 responsible for public health, safety and emer-
6 gency response activities.

7 (C) Addressing communication gaps and
8 infrastructure needs related to homeland secu-
9 rity.

10 (D) Increasing the capacity of Indian
11 tribes to help prepare, prevent, and respond to
12 terrorist activities and other public health and
13 safety emergencies.

14 (E) Development of a comprehensive plan
15 to help prepare, prevent, and respond to ter-
16 rorist activities and other public health and
17 safety emergencies.

18 (F) Implementation of plans to help pre-
19 pare, prevent, and respond to terrorist activities
20 and other public health and safety emergencies.

21 (G) The preparation of reports assessing
22 the emergency preparedness of Indian tribes,
23 including an assessment of Indian tribes' co-
24 ordination with the Department.

1 (H) Such other purposes related to the
2 purposes of this Act the Secretary considers ap-
3 propriate.

4 (f) TECHNICAL ASSISTANCE.—The Secretary shall—

5 (1) directly or by contract, provide Indian tribes
6 with technical assistance in developing, imple-
7 menting and managing emergency response plans.

8 (2) Ensure that legal, financial, and other ex-
9 pertise of the Department of Homeland Security is
10 made fully available in an advisory capacity to In-
11 dian tribes to assist in the development, implementa-
12 tion, and management of emergency response plans.

13 (3) Provide Department of Homeland Security
14 programs designed to provide legal, accounting, fi-
15 nancial, or technical assistance to eligible Indian
16 tribes.

17 (4) Facilitate cooperation with the heads of ap-
18 propriate Federal agencies working on Homeland
19 Security initiatives.

20 (5) Any other activity that the Secretary, in
21 consultation with the Director, considers appropriate
22 to carry out this section.

23 (g) ASSESSMENT.—Not later than 6 months after the
24 date of the enactment of this Act, the Secretary shall sub-
25 mit an assessment report detailing the baseline readiness

1 of Indian tribes to the Committee on Indian Affairs of
2 the Senate and the Committee on Resources of the House
3 of Representatives. In addition to an assessment of base-
4 line readiness, the report shall contain any legislative rec-
5 ommendations necessary to improve coordination and inte-
6 gration of Indian tribes in the National Homeland Secu-
7 rity Strategy.

8 (h) REPORTING.—The Secretary shall determine the
9 effectiveness of the Office through the preparation of re-
10 ports assessing the emergency preparedness of Indian
11 tribes, including an assessment of Indian tribes' coordina-
12 tion with the Department of Homeland Security.

13 (i) PROHIBITION.—The Secretary may not provide
14 assistance under this section for any activity related to
15 the operation of a gaming activity on Indian lands pursu-
16 ant to the Indian Gaming Regulatory Act (25 U.S.C. 2701
17 et seq.).

18 **SEC. 5. REPORT TO CONGRESS.**

19 (a) IN GENERAL.—Not later than 1 year after the
20 date of the enactment of this Act, and annually thereafter,
21 the Secretary, in consultation with the Director, shall pre-
22 pare and submit to the Committee on Indian Affairs of
23 the Senate and the Committee on Resources of the House
24 of Representatives a report on the operation of the Office.

1 (b) CONTENTS OF REPORT.—Each report prepared
2 under subsection (a) shall include—

3 (1) for the period covered by the report, a sum-
4 mary of the activities conducted by the Secretary, in
5 carrying out subsections (b) through (h) of section
6 4; and

7 (2) any recommendations for legislation that
8 the Secretary, in consultation with the Director, de-
9 termines to be necessary to carry out such sections.

10 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

11 There are authorized to be appropriated such sums
12 are necessary to carry out this Act, to remain available
13 until expended.

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