

PERSONNEL REIMBURSEMENT FOR INTELLIGENCE CO-
OPERATION AND ENHANCEMENT OF HOMELAND SEC-
URITY ACT

JULY 10, 2008.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. THOMPSON of Mississippi, from the Committee on Homeland
Security, submitted the following

R E P O R T

[To accompany H.R. 6098]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 6098) to amend the Homeland Security Act of 2002 to improve the financial assistance provided to State, local, and tribal governments for information sharing activities, 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 “Personnel Reimbursement for Intelligence Cooperation and Enhancement of Homeland Security Act” or the “PRICE of Homeland Security Act”.

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) After the terrorist attacks on September 11, 2001, State, local, and tribal governments redoubled their efforts to combat terrorism and expended tremendous energy and financial resources to help the Federal Government fight the terrorist threat.

(2) States and localities have formed fusion centers, hired intelligence analysts, and contributed a significant amount of resources to the expansion of Federal homeland security efforts.

(3) These actions, in conjunction with the efforts of the Federal Government and private industry, have materially contributed to the common defense of this Nation and have helped keep our homeland secure.

(4) The National Strategy for Information Sharing issued by the President in October 2007 plainly states that “The Federal Government may need to provide financial and technical assistance, as well as human resource support, to these fusion centers if they are to achieve and sustain a baseline level of capability. The objective is to assist State and local governments in the establishment and the sustained operation of these fusion centers. A sustained Federal partnership with State and major urban area fusion centers is critical to the safety of our Nation, and therefore a national priority.”

(5) The Federal Government has endeavored to support these State efforts through the State Homeland Security Grant Program and other methods of Federal assistance but have placed restrictions on the use of these funds that make long-term planning for fusion centers unmanageable.

(6) It is vital to the security of our homeland that States and localities are able to continue to receive funding for the participation of State and local analysts in fusion centers and in their State and local efforts to combat terrorism and terrorist-related activities.

SEC. 3. GRANT ELIGIBILITY FOR ANALYSTS.

Section 2008(a) of the Homeland Security Act of 2002 (6 U.S.C. 609(a)) is amended—

(1) in the matter preceding paragraph (1) by striking “Grants” and all that follows through “plans, through” and inserting the following: “The Administrator shall permit grant recipients under section 2003 or 2004 to use grant funds to achieve and sustain target capabilities related to preventing, preparing for, protecting against, and responding to acts of terrorism, consistent with a State homeland security plan and relevant local, tribal, and regional homeland security plans, through”; and

(2) in paragraph (10) by inserting the following after “analysts”: “regardless of whether such analysts are current or new full-time employees or contract employees and such funding shall be made available without time limitations placed on the period of time that such analyst can serve under awarded grants.”.

SEC. 4. USE OF FUNDS FOR PERSONNEL AND OPERATIONAL COSTS.

Section 2008(b)(2) of the Homeland Security Act of 2002 (6 U.S.C. 609(b)(2)) is amended by striking so much as precedes subparagraph (B) and inserting the following:

“(2) PERSONNEL AND OPERATIONAL COSTS.—

“(A) IN GENERAL.—The recipient of a grant under section 2003 or 2004 may, at the recipient’s discretion, use up to 50 percent of the amount of the grant awarded for any fiscal year to pay for personnel and operational costs, including overtime and backfill costs, in support of the uses authorized under subsection (a).”.

PURPOSE AND SUMMARY

The purpose of H.R. 6098 is to amend the Homeland Security Act of 2002 to improve the financial assistance provided to State, local,

and tribal governments for information sharing activities, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

A “fusion center” has been defined as “a collaborative effort of two or more agencies that provide resources, expertise, and information to the center with the goal of maximizing its ability to detect, prevent, investigate, and respond to criminal and terrorist activity.” Fusion centers have been established by State and local governments to address gaps in information sharing with the Federal Government and to provide a conduit for information within a particular State or locality. Fusion centers may include a range of Federal, State, and local entities that collect and analyze information related to homeland security. There is no one fusion center “model”. The potential value of fusion centers is clear: by integrating the various streams of information and intelligence from the Federal, State, local, and tribal governments, as well as the private sector, a more accurate picture of risks to people, economic infrastructure and communities can be developed and translated into protective action. The ultimate goal of this information fusion is to prevent terrorist attacks and to respond to natural disasters and manmade threats quickly and efficiently should they occur.

While fusion centers are increasingly seen as national assets given their central role in sharing information across the country, the cost of their operation has been a continuing concern. Both Congress, in the Implementing Recommendations of the 9/11 Commission Act of 2007 (P.L. 110–53) (“Implementing 9/11 Commission Act”), and the Administration in its October 2007 National Strategy for Information Sharing, recognized that sustainment funding for fusion centers necessarily involves Federal support for the hiring and retention of intelligence analysts at fusion centers.

Section 101 of the Implementing 9/11 Commission Act amended section 2006 of the Homeland Security Act of 2002 (P.L. 107–296) to allow terrorism prevention funds to be used for paying salaries and benefits for personnel, including individuals employed by the grant recipient on the date of the relevant grant application, to serve as qualified intelligence analysts. Congress’ intent was to allow State and local grant recipients to have flexibility to use Federal funds to pay for both new and existing intelligence analysts. The Federal Emergency Management Agency (FEMA) issued grant guidance in early 2008, however, that limited to two years the period during which grant funds could be allocated to pay the salary and benefits for a specific intelligence analyst. Although the guidance was subsequently revised to allow for a third year of funding for this purpose, Congress’ intent was to allow continued use of Federal funds to fund specific analysts regardless of their date of hire or their time in service. Moreover, FEMA’s grant guidance limited to 25 percent the amount of State Homeland Security Grant Program (SHSGP) and Urban Area Security Initiative (UASI) funding that could be used for fusion center and other personnel costs. The 9/11 Commission Act had included a cap of 50 percent for those costs.

H.R. 6098 clarifies that SHSGP and UASI funds may be used by States and localities to pay the salaries and benefits of both new and existing intelligence analysts, without time limitations. It like-

wise clarifies that grant recipients may use up to 50 percent of an awarded grant for any fiscal year to pay for personnel and associated operational costs.

HEARINGS

No hearings were held on H.R. 6098, however, the Committee held oversight hearings listed below.

In the 109th Congress, the Subcommittee on Intelligence, Information Sharing, and Terrorism Risk Assessment held a hearing on September 7, 2006, entitled "State and Local Fusion Centers and the Role of DHS." The Subcommittee received testimony from Mr. Charles E. Allen, Chief Intelligence Officer, Department of Homeland Security; Col. Kenneth Bouche, Deputy Director, Information & Technology Command, Illinois State Police; Ms. Amy Whitmore, Analyst Supervisor, Virginia Fusion Center, Virginia State Police; and Mr. Richard L. Cañas, Director, New Jersey Office of Homeland Security and Preparedness.

On September 27, 2007, the Subcommittee on Intelligence, Information Sharing, and Terrorism Risk Assessment held a hearing entitled "The Way Forward With Fusion Centers: Challenges and Strategies for Change." The Subcommittee received testimony from Ms. Eileen Larence, Director, Homeland Security and Justice, Government Accountability Office; Mr. Todd Masse, Specialist, Domestic Intelligence and Counterterrorism, Congressional Research Service; Mr. John Rollins, Specialist, Terrorism, International Crime, Intelligence, and Homeland Security, Congressional Research Service; Mr. Jack Tomarchio, Principal Deputy Assistant Secretary, Intelligence and Analysis, Department of Homeland Security; Mr. Michael Mines, Deputy Assistant Director, Directorate of Intelligence, Federal Bureau of Investigation, Department of Justice; Mr. Norman Beasley, Coordinator for Counter Terrorism, Maricopa County Sheriff's Office.

COMMITTEE CONSIDERATION

H.R. 6098 was introduced in the House on May 20, 2008, by Mr. Reichert and referred solely to the Committee on Homeland Security. Within the Committee, H.R. 6098 was referred to the Subcommittee on Intelligence, Information Sharing, and Terrorism Risk Assessment.

The Subcommittee on Intelligence, Information Sharing and Terrorism Risk Assessment considered H.R. 6098 on June 11, 2008, and ordered the measure favorably forwarded to the Full Committee for consideration, amended, by unanimous consent.

The following amendment was offered:

An Amendment in the Nature of a Substitute offered by Mr. Reichert (#1), was AGREED TO by unanimous consent.

On June 26, 2008, the Full Committee considered H.R. 6098 and ordered the measure to be reported to the House favorably, as amended, by voice vote.

The following amendment was offered:

An amendment offered by Mr. Reichert (#1); was AGREED TO by unanimous consent.

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 Committee consideration.

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. 6098, the Personnel Reimbursement for Intelligence Cooperation and Enhancement of Homeland Security 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.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 8, 2008.

Hon. BENNIE G. THOMPSON,
*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. 6098, the PRICE of Homeland Security Act.

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

Sincerely,

ROBERT A. SUNSHINE
(For Peter R. Orszag, Director).

Enclosure.

H.R. 6098—PRICE of Homeland Security Act

CBO estimates that implementing H.R. 6098 would have no significant cost over the next five years. Enacting this legislation would not affect direct spending or revenues.

H.R. 6098 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 bill would benefit those governments by authorizing grant programs for homeland security; any costs to those governments would be incurred voluntarily.

H.R. 6098 would permit state and local governments to use funds provided through the State Homeland Security Grant Program (SHSP) and the Urban Area Security Initiative (UASI) to pay the salaries and expenses of individual intelligence analysts beyond two years. The bill also would allow recipients to use such funding to pay for operational costs incurred under the grant.

The SHSP provides grants to states for identified planning, equipment, and training needs in preparation for recovery from acts of terrorism and other catastrophic events. The UASI provides grants to high-threat, high-density urban areas for similar purposes. Grant funds from either program may be used to pay for personnel costs, including the salaries and expenses of intelligence analysts; however, under rules implemented by the Department of Homeland Security (DHS), costs must be assumed by the grantee following a period of two years. After this period, grant funds may be used to hire a new analyst but may not be used to continue funding an existing analyst. H.R. 6098 would prevent DHS from continuing this requirement as a condition of a grant award.

Under current law, the Congress has authorized appropriations totaling \$8.25 billion for SHSP and UASI through fiscal year 2012 and such sums as may be necessary thereafter (see Public Law 110–53). CBO does not expect that the changes included in H.R. 6098 would significantly alter the expenditures of the grantees or the federal grant programs. As such, we estimate that implementing the bill would have no effect on the federal budget over the next five years.

The CBO staff contact for this estimate is Daniel Hoople. This estimate was approved by Peter H. Fontaine, 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. 6098, contains the following general performance goals, and objectives, including outcome related goals and objectives authorized.

H.R. 6098 ensures that the will of both the Congress and the Administration are properly executed by FEMA and the Department of Homeland Security generally when it comes to funding State and local fusion centers. In order to sustain fusion centers going forward, and to help solidify their critical information sharing role as part of the Nation's overall homeland security effort, this measure will allow States and locals to use homeland security grant funding to hire and keep intelligence analysts in fusion centers for however long they deem necessary. Consistent with the requirements of the Implementing 9/11 Commission Act (P.L. 110–53), moreover, they will be required to provide rigorous privacy and civil liberties training to all intelligence analysts at fusion centers to ensure fusion centers strictly adheres to all privacy, civil liberties, and other applicable Constitutional requirements. This will ensure more and better information sharing to make the Nation safer while safeguarding the rights of all Americans in the process.

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(d), 9(e), or 9(f) 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.

ADVISORY COMMITTEE STATEMENT

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

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 1, which grants Congress the power to provide for the common Defense of the United States.

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 states that this measure may be cited as the “Personnel Reimbursement for Intelligence Cooperation and Enhancement of Homeland Security Act” or the “PRICE of Homeland Security Act”.

Section 2. Findings

This section outlines a series of Congressional findings, including: (1) since the 9/11 attacks, State, local, and tribal governments have expended tremendous energy and financial resources to help the Federal Government fight terrorism; (2) among other things, they have established fusion centers, hired intelligence analysts, and contributed a significant amount of resources to the expansion of Federal homeland security efforts; (3) these efforts have materially contributed to the common defense and security of the homeland; (4) the Administration’s October 2007 National Strategy for Information Sharing States that the Federal Government may need to provide financial and other support—including human resources support—to fusion centers in order to help establish and sustain them going forward; (5) restrictions on Federal funding have made long-term planning for fusion centers unmanageable; and (6) States and localities need to continue to receive funding for intelligence

analysts in fusion centers in order to combat terrorism and terrorist-related activities.

Section 3. Grant eligibility for analysts

This section modifies Section 2008(a) of the Homeland Security Act of 2002 (P.L. 107–296) to permit States and localities receiving funds under either State Homeland Security Grant Program (SHSGP) and the Urban Area Security Initiative (UASI) grant program to use grant funds to achieve and sustain target capabilities related to preventing, preparing for, protecting against, and responding to acts of terrorism, consistent with State homeland security plan and relevant local, tribal, and regional homeland security plans. The section further allows such funding to be used towards salaries for analysts regardless of whether such analysts are current or new full-time employees or contract employees and without limitations on the period of time that such analysts can serve under awarded grants.

Section 4. Use of funds for personnel and operational costs

This section modifies Section 2008(b)(2) of the Homeland Security Act of 2002 (P.L. 107–296) to clarify that a recipient of a grant under the aforementioned programs may use up to 50 percent of the amount of the grant awarded for any fiscal year to pay for personnel and operating costs, including overtime and backfill costs, in support of the uses authorized in this measure.

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 XX—HOMELAND SECURITY GRANTS

* * * * *

Subtitle A—Grants to States and High-Risk Urban Areas

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SEC. 2008. USE OF FUNDS.

(a) PERMITTED USES.—[Grants awarded under section 2003 or 2004 may be used to achieve target capabilities related to preventing, preparing for, protecting against, and responding to acts of terrorism, consistent with a State homeland security plan and relevant local, tribal, and regional homeland security plans, through] *The Administrator shall permit grant recipients under*

section 2003 or 2004 to use grant funds to achieve and sustain target capabilities related to preventing, preparing for, protecting against, and responding to acts of terrorism, consistent with a State homeland security plan and relevant local, tribal, and regional homeland security plans, through—

(1) developing and enhancing homeland security, emergency management, or other relevant plans, assessments, or mutual aid agreements;

* * * * *

(10) paying salaries and benefits for personnel, including individuals employed by the grant recipient on the date of the relevant grant application, to serve as qualified intelligence analysts *regardless of whether such analysts are current or new full-time employees or contract employees and such funding shall be made available without time limitations placed on the period of time that such analyst can serve under awarded grants;*

* * * * *

(b) LIMITATIONS ON USE OF FUNDS.—

(1) * * *

[(2) PERSONNEL.—

[(A) IN GENERAL.—Not more than 50 percent of the amount awarded to a grant recipient under section 2003 or 2004 in any fiscal year may be used to pay for personnel, including overtime and backfill costs, in support of the permitted uses under subsection (a).]

(2) PERSONNEL AND OPERATIONAL COSTS.—

(A) IN GENERAL.—*The recipient of a grant under section 2003 or 2004 may, at the recipient's discretion, use up to 50 percent of the amount of the grant awarded for any fiscal year to pay for personnel and operational costs, including overtime and backfill costs, in support of the uses authorized under subsection (a).*

* * * * *