

107TH CONGRESS
2D SESSION

H. R. 5490

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

SEPTEMBER 26, 2002

Mr. PALLONE introduced the following bill; which was referred to the Committee on Resources

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.**

4 This Act may be cited as the “Tribal Government
5 Homeland Security Coordination and Integration Act”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

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

1 (1) Since the terrorist attacks of September 11,
2 2001, and the subsequent introduction of weapons
3 grade anthrax into the United States Postal System
4 and Congressional office buildings in Washington,
5 D.C., the President and the Congress have worked
6 closely to respond to the need to rebuild and
7 strengthen the nation's public health, national secu-
8 rity, and emergency response systems.

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

20 (3) Despite the government-to-government rela-
21 tionship between Indian tribes and the United
22 States, the United States has failed to include and
23 consult with Indian tribes with regard to homeland
24 security prevention, protection, and response activi-
25 ties planning. Moreover, there are no specific provi-

1 sions for the Bureau of Indian Affairs or the Indian
2 Health Service to participate in homeland security
3 programs and funding.

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

13 (5) To provide for the public health and safety
14 on tribal lands and in the surrounding communities,
15 it is imperative to establish tribal participation in
16 homeland security initiatives. Indian tribes must be
17 included in the national strategy for homeland secu-
18 rity and receive an appropriate share of related
19 funding.

20 (6) The treatment of Indian tribes as State
21 governments, as appropriate, for developing funding
22 methodologies, planning, consultation, coordination,
23 and for eligibility for grant monies will ensure In-
24 dian tribes are adequately prepared to respond to
25 Homeland Security threats.

1 (7) Indian tribes shall be treated as State, as
2 appropriate, for purposes of planning, consultation,
3 coordination, eligibility for grant monies and other
4 purposes to improve the United States' capacity to
5 prepare, prevent and respond to terrorist activities.

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

8 (1) To establish within the Department of
9 Homeland Security an office known as the Office of
10 Tribal Government Homeland Security.

11 (2) To authorize the Secretary of Homeland Se-
12 curity to appoint, in consultation with Indian tribes,
13 a Director of Tribal Government Homeland Secu-
14 rity.

15 (3) To provide for more effective management
16 of, and accountability for the proper discharge of,
17 the Secretary's trust responsibility to Indian tribes
18 and individual American Indians and Alaska Natives
19 by establishing in the Department of Homeland Se-
20 curity an Office of Tribal Government Homeland Se-
21 curity.

22 (4) To integrate and coordinate the efforts of
23 the Department of Homeland Security and Indian
24 tribes to prepare for, prevent, protect against, re-
25 spond to, and recover from terrorist attacks.

1 (5) To provide strategic integration of the
2 Homeland Security activities of Indian tribes that
3 will complement the operational consolidation of the
4 various directorates within the Department.

5 (6) To supplement the capacity of the Indian
6 Health Service and the Bureau of Indian Affairs to
7 respond to the homeland security needs of American
8 Indians and Alaska Natives, without jeopardizing
9 their nonsecurity missions.

10 (7) To serve as an information clearinghouse
11 and to enhance the integration and coordination of
12 Indian tribes and in the activities of the Department
13 of Homeland Security.

14 (8) To establish an organizational framework
15 within the Department of Homeland Security
16 through which the Federal Government, Indian
17 tribes, and State and local governments can work ef-
18 fectively and collaboratively on public health and
19 safety, terrorism detection, prevention, response, and
20 protection of critical infrastructure.

21 **SEC. 3. DEFINITIONS.**

22 In this Act:

23 (1) DIRECTOR.—The term “Director” means
24 the Director of the Office of Tribal Government
25 Homeland Security.

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

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

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

10 **SEC. 4. OFFICE OF TRIBAL GOVERNMENT HOMELAND SE-**
11 **CURITY.**

12 (a) IN GENERAL.—

13 (1) ESTABLISHMENT.—There is hereby estab-
14 lished within the Department of Homeland Security
15 an office to be known as the “Office of Tribal Gov-
16 ernment Homeland Security”.

17 (2) DIRECTOR.—The Office shall be headed by
18 a Director, appointed by the Secretary in consulta-
19 tion with Indian tribes, whose title shall be the Di-
20 rector of Tribal Government Homeland Security.
21 The Director shall be equal in pay and authority of
22 an Assistant Secretary.

23 (b) DUTIES OF SECRETARY; DIRECTOR.—

24 (1) DUTIES OF THE SECRETARY.—The Sec-
25 retary shall—

1 (A) ensure the coordination of Federal pro-
2 grams that provide assistance (including finan-
3 cial and technical assistance) to eligible Indian
4 tribes and provide those governments with
5 treatment as State governments, as appro-
6 priate, for planning, consultation, and coordina-
7 tion and for eligibility for Federal grant monies
8 and funds to improve capacity and help pre-
9 pare, prevent, and respond to terrorist activi-
10 ties, and for other related purposes in and near
11 tribal communities;

12 (B) ensure Indian tribes are included in
13 the coordination activities of the Homeland Se-
14 curity Department's Border and Transportation
15 functions in the same manner as State and
16 local law enforcement entities;

17 (C) ensure Indian tribes with jurisdiction
18 over lands adjacent to the Canadian and Mexi-
19 can borders are adequately prepared to help
20 protect United States borders, territorial wa-
21 ters, waterways, and other transportation sys-
22 tems;

23 (D) ensure the broad spectrum of Infra-
24 structure throughout Indian Country, including
25 nuclear and electrical power plants, water and

1 sanitation facilities, agricultural, food proc-
2 essing, oil, timber and other natural resources
3 is adequately protected against terrorist
4 threats;

5 (E) ensure that Indian tribes are properly
6 equipped to prepare for, prevent, and respond
7 to terrorist activities in the same manner as
8 State and local governments;

9 (F) provide Indian tribes the necessary
10 equipment for detection, protection, and decon-
11 tamination in emergencies involving weapons of
12 mass destruction;

13 (G) provide Indian tribes with emergency
14 preparedness training and exercise programs
15 and further assistance for any emergency, in-
16 cluding natural disasters or disease;

17 (H) include Indian tribes in all facets of
18 research, development, resource assessment,
19 and risk analysis in the same manner as State
20 and local governments; and

21 (I) include Indian tribes, as appropriate in
22 the coordination of the Homeland Security De-
23 partment's Immigration and Nationality func-
24 tions in the same manner as State and local law
25 enforcement entities.

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

3 (A) integrate and coordinate the efforts of
4 the Department of Homeland Security and In-
5 dian tribes to prepare for, prevent, protect
6 against, respond to, and recover from terrorist
7 attacks;

8 (B) provide strategic integration to com-
9 plement the operational consolidation of the
10 various directorates within the Department of
11 Homeland Security, with respect to Indian
12 tribes;

13 (C) ensure that Indian tribes are included
14 in the gathering and analysis of terrorist
15 threats and other information in the same man-
16 ner as Federal, State, and local law enforce-
17 ment entities;

18 (D) serve as the Secretary's key point of
19 contact for Indian tribes in need of assistance
20 and information homeland security grants for
21 purposes of planning, consultation, coordina-
22 tion, eligibility for grant monies and other pur-
23 poses to improve the United States' capacity to
24 prepare, prevent and respond to terrorist activi-

ties and to work with Indian tribes and executive agencies in promoting homeland security;

(E) serve as the coordinating center intended to facilitate communication between and integration with Indian tribes and other Federal departments that have homeland security responsibilities, including but not limited to health surveillance, emergency preparation and response, border security, critical infrastructure protection, technology, and communication;

(F) establish a network through which the Federal Government, Indian tribes, and State and local governments work collaboratively on public health and safety, terrorism detection, prevention, response, and protection of critical infrastructure targets; and

(G) establish a mechanism for the distribution of warnings and information to tribal communities.

(c) TREATMENT OF INDIAN TRIBES AS STATES.—

(1) IN GENERAL.—The Secretary shall—

(A) treat Indian tribes as States, as appropriate, for the purpose of homeland security consultation, planning, coordination; bioterrorism preparedness, prevention, and response,

1 emergency preparedness and response, border
2 and transportation security, and for other pur-
3 poses related to protecting the homeland;

4 (B) include Indian tribes in funding meth-
5 odologies for purposes of allocating any finan-
6 cial resources; and

7 (C) support and facilitate the capacity nec-
8 essary for the Indian Health Service and Bu-
9 reau of Indian Affairs to respond to the home-
10 land security needs of American Indians and
11 Alaska Natives, without jeopardizing their non-
12 security missions.

13 (2) DISCRETIONARY AUTHORITY.—The Sec-
14 retary may delegate to such Indian tribes primary
15 responsibility for homeland security activities within
16 its respective jurisdiction. The Secretary shall also

17 (d) INTEGRATION AND ROLE OF BIA AND IHS.—

18 (1) FINDINGS.—Congress finds as follows:

19 (A) Based on the unique government-to-
20 government relationship between the Federal
21 Government and Indian tribes, the Bureau of
22 Indian Affairs and Indian Health Service carry
23 out certain aspects of the Federal Government’s
24 trust responsibility.

1 (B) As many programs and services are ei-
2 ther directly provided by the Federal Govern-
3 ment via the Bureau of Indian Affairs and In-
4 dian Health Service or through contracting with
5 Indian tribes, coordination of Homeland Secu-
6 rity effort is essential. The Office of Tribal
7 Homeland Security would have the authority
8 and duty, to coordinate homeland security ac-
9 tivities among Indian tribes and related Federal
10 agencies.

11 (e) INFORMATION SHARING.—The Secretary shall
12 provide assistance to enhance IT capabilities of tribes and
13 ensure—

14 (1) the active participation of Indian tribes in
15 the coordination with Federal, State, and local gov-
16 ernments and the private sector as related to Home-
17 land Security activities; and

18 (2) provide Indian tribes access to the same
19 type of information being exchanged between Fed-
20 eral, State and local authorities for the purpose of
21 providing government personnel, agencies, and au-
22 thorities, with appropriate intelligence information,
23 including warnings, regarding threats posed by ter-
24 rorism in a timely and secure manner.

25 (f) FEDERAL GRANTS.—

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

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

8 (A) Planning, consultation, and coordina-
9 tion to improve infrastructure, to prevent ter-
10 rorist activities.

11 (B) Training and education of employees
12 responsible for public health, safety and emer-
13 gency response activities.

14 (C) Addressing communication gaps and
15 infrastructure needs related to homeland secu-
16 rity.

17 (D) Increasing the capacity of Indian
18 tribes to help prepare, prevent, and respond to
19 terrorist activities and other public health and
20 safety emergencies.

21 (E) Development of a comprehensive plan
22 to help prepare, prevent, and respond to ter-
23 rorist activities and other public health and
24 safety emergencies.

1 (F) Implementation of plans to help pre-
2 pare, prevent, and respond to terrorist activities
3 and other public health and safety emergencies.

4 (G) The preparation of reports assessing
5 the emergency preparedness of Indian tribes,
6 including an assessment of Indian tribes' co-
7 ordination with the Department.

8 (H) Such other purposes related to the
9 purposes of this Act the Secretary considers ap-
10 propriate.

11 (g) TECHNICAL ASSISTANCE.—The Secretary shall—

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

15 (2) Ensure that legal, financial, and other ex-
16 pertise of the Department of Homeland Security is
17 made fully available in an advisory capacity to In-
18 dian tribes to assist in the development, implementa-
19 tion, and management of emergency response plans.

20 (3) Provide Department of Homeland Security
21 programs designed to provide legal, accounting, fi-
22 nancial, or technical assistance to eligible Indian
23 tribes.

1 (4) Facilitate cooperation with the heads of ap-
2 appropriate Federal agencies working on Homeland
3 Security initiatives.

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

7 (h) ASSESSMENT.—The Secretary shall provide funds
8 to assess the existing capacity of Indian tribes with regard
9 to Homeland Security prevention, protection, and re-
10 sponse, including but not limited to, an assessment of
11 emergency response capabilities, hospital and health facil-
12 ity preparedness, and capacity to mitigate bioterrorism
13 and other threats, vulnerabilities, and risks. For purposes
14 of carrying out this assessment, the Secretary shall utilize
15 a qualified national American Indian health organization,
16 representing all 12 areas of the Indian Health Service ex-
17 perienced in conducting research, policy analysis, program
18 assessment and technical assistance. Not later than 6
19 months after the date of the enactment of this Act, the
20 Secretary shall submit the assessment report detailing the
21 baseline readiness of Indian tribes to the Committee on
22 Indian Affairs of the Senate and the Committee on Re-
23 sources of the House of Representatives. In addition to
24 an assessment of baseline readiness, the report shall con-
25 tain any legislative recommendations necessary to improve

1 coordination and integration of Indian tribes in the Na-
2 tional Homeland Security Strategy.

3 (i) REPORTING.—The Secretary shall determine the
4 effectiveness of the Office through the preparation of re-
5 ports assessing the emergency preparedness of Indian
6 tribes, including an assessment of Indian tribes' coordina-
7 tion with the Department of Homeland Security.

8 (j) PROHIBITION.—The Secretary may not provide
9 under this section assistance for any activity related to
10 the operation of a gaming activity on Indian lands pursu-
11 ant to the Indian Gaming Regulatory Act (25 U.S.C. 2701
12 et seq.).

13 **SEC. 5. REPORT TO CONGRESS.**

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

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

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

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

4 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

5 There are authorized to be appropriated such sums
6 are necessary to carry out this Act, to remain available
7 until expended.

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