

108TH CONGRESS
2D SESSION

H. R. 4930

To amend the Homeland Security Act of 2002 to enhance homeland security information sharing and analysis, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 22, 2004

Mr. COX (for himself and Mr. GIBBONS) introduced the following bill; which was referred to the Select Committee on Intelligence (Permanent Select), and in addition to the Committees on Government Reform and Select 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 amend the Homeland Security Act of 2002 to enhance homeland security information sharing and analysis, 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 “Homeland Security
5 Information Sharing and Analysis Enhancement Act of
6 2004”.

1 **SEC. 2. INFORMATION COLLECTION REQUIREMENTS AND**
2 **PRIORITIES.**

3 (a) IN GENERAL.—Section 102 of the Homeland Se-
4 curity Act of 2002 (6 U.S.C. 112) is amended—

5 (1) by redesignating subsections (e), (f), and
6 (g), as subsections (f), (g), and (h), respectively; and

7 (2) by inserting after subsection (d) the fol-
8 lowing new subsection (e):

9 “(e) PARTICIPATION IN FOREIGN COLLECTION RE-
10 QUIREMENTS AND MANAGEMENT PROCESSES.—The Sec-
11 retary shall be a member of any Federal Government
12 interagency board, established by executive order or any
13 other binding interagency directive, that is responsible for
14 establishing foreign collection information requirements
15 and priorities for estimative analysis.”.

16 (b) HOMELAND SECURITY INFORMATION REQUIRE-
17 MENTS BOARD.—

18 (1) IN GENERAL.—Title I of such Act (6 U.S.C.
19 111 et seq.) is amended by adding at the end the
20 following new section:

21 **“SEC. 104. HOMELAND SECURITY INFORMATION REQUIRE-**
22 **MENTS BOARD.**

23 “(a) ESTABLISHMENT OF BOARD.—There is estab-
24 lished an interagency Homeland Security Information Re-
25 quirements Board (hereinafter in this section referred to
26 as the ‘Information Requirements Board’).

1 “(b) MEMBERSHIP.—The following officials are mem-
2 bers of the Information Requirements Board:

3 “(1) The Secretary of Homeland Security, who
4 shall serve as the chairman of the Information Re-
5 quirements Board.

6 “(2) The Attorney General.

7 “(3) The Secretary of Commerce.

8 “(4) The Secretary of the Treasury.

9 “(5) The Secretary of Defense.

10 “(6) The Secretary of Energy.

11 “(7) The Secretary of State.

12 “(8) The Director of Central Intelligence.

13 “(9) The Director of the Federal Bureau of In-
14 vestigation.

15 “(10) The Director of the Terrorist Threat In-
16 tegration Center or any successor entity.

17 “(11) The Chief Privacy Officer of the Depart-
18 ment of Homeland Security.

19 “(c) FUNCTIONS.—

20 “(1) OVERSIGHT OF HOMELAND SECURITY RE-
21 QUIREMENTS.—The Information Requirements
22 Board shall oversee the process for establishing
23 homeland security requirements and collection man-
24 agement for all terrorism-related information and all

1 other homeland security information (as defined in
2 section 892(g)) collected within the United States.

3 “(2) DETERMINATION OF COLLECTION PRIOR-
4 ITIES.—The Information Requirements Board
5 shall—

6 “(A) determine the domestic information
7 collection requirements for information relevant
8 to the homeland security mission; and

9 “(B) prioritize the collection and use of
10 such information.

11 “(3) COORDINATION OF COLLECTION REQUIRE-
12 MENTS AND MANAGEMENT ACTIVITIES.—

13 “(A) COORDINATION WITH COUNTERPART
14 AGENCIES.—The Chairman shall ensure that
15 the Information Requirements Board carries
16 out its activities in a manner that is fully co-
17 ordinated with Board’s counterpart entities.

18 “(B) PARTICIPATION OF COUNTERPART
19 ENTITIES.—The Chairman and the Director of
20 Central Intelligence shall ensure that each
21 counterpart entity—

22 “(i) has at least one representative on
23 the Information Requirement Board and
24 on every sub-component of the Board; and

1 “(ii) meets jointly with the Informa-
2 tion Requirements Board (and, as appro-
3 priate, with any sub-component of the
4 Board) as often as the Chairman and the
5 Director of Central Intelligence determine
6 appropriate.

7 “(C) COUNTERPART ENTITY DEFINED.—In
8 this section, the term ‘counterpart entity’
9 means an entity of the Federal Government
10 that is responsible for foreign intelligence collec-
11 tion requirements and management, including
12 the Office of the Deputy Director of Central In-
13 telligence for Community Management and sen-
14 ior collection managers of each of the agencies
15 under the National Foreign Intelligence Pro-
16 gram (as defined in section 3(6) of the National
17 Security Act of 1947 (50 U.S.C. 401a(6))).

18 “(d) MEETINGS.—

19 “(1) IN GENERAL.—The Information Require-
20 ments Board shall meet regularly at such times and
21 places as its Chairman may direct.

22 “(2) INVITED REPRESENTATIVES.—The chair-
23 man may invite representatives of Federal agencies
24 not specified in subsection (b) to attend meetings of
25 the Information Requirements Board.”.

1 (2) CLERICAL AMENDMENT.—The table of con-
 2 tents of the Homeland Security Act of 2002 is
 3 amended by inserting after the item relating to sec-
 4 tion 103 the following new item:

“104. Homeland Security Information Requirements Board.”.

5 **SEC. 3. ACCESS TO INFORMATION.**

6 (a) IMPROVEMENTS TO SECURE COMMUNICATIONS
 7 AND INFORMATION TECHNOLOGY INFRASTRUCTURE.—
 8 Paragraph (14) of section 201(d) of the Homeland Secu-
 9 rity Act of 2002 (6 U.S.C. 121(d)) is amended by striking
 10 “in furtherance of the responsibilities under this section,
 11 and to disseminate information acquired and analyzed by
 12 the Department, as appropriate” and inserting “with max-
 13 imum flexibility and speed, in furtherance of the respon-
 14 sibilities under this section, and to ensure the simulta-
 15 neous dissemination of such data and information to all
 16 appropriate personnel”.

17 (b) IMPROVEMENT IN ACCESS TO INFORMATION BY
 18 DEPARTMENT PERSONNEL.—Subsection (a) of section
 19 202 of such Act (6 U.S.C. 122) is amended by adding
 20 at the end the following new paragraph:

21 “(3) UTILIZATION.—Subject to the require-
 22 ments of section 201(d)(12), the Secretary may pro-
 23 vide access to any of the information and materials
 24 described in this subsection to any personnel of the
 25 Department that the Secretary determines requires

1 such access to discharge duties assigned to such per-
2 sonnel.”.

3 (c) ESTABLISHMENT OF PROCEDURES FOR AUTO-
4 MATIC AND IMMEDIATE TRANSFER OF INFORMATION TO
5 THE DEPARTMENT.—Subsection (b) of such section is
6 amended—

7 (1) by striking “and” at the end of paragraph
8 (1);

9 (2) by striking the period at the end of para-
10 graph (2) and inserting “; and”; and

11 (3) by adding at the end the following new
12 paragraph:

13 “(3) the Secretary, in consultation with the ap-
14 propriate Federal Government officials, shall identify
15 and put into place systems, protocols, and proce-
16 dures to ensure that appropriate personnel of the
17 Department are provided access to such information
18 automatically and immediately.”.

19 (d) EFFECT OF PROVISION OF INFORMATION TO THE
20 TERRORIST THREAT INTEGRATION CENTER.—Subsection
21 (d) of such section is amended by adding at the end the
22 following new paragraph:

23 “(3) OBLIGATION TO SHARE INFORMATION.—
24 Except as otherwise directed by the President or
25 with the specific written agreement of the Secretary,

1 no Federal agency or official shall be deemed to have
2 discharged any obligation to share any information,
3 report, assessment, or other material, including
4 unevaluated intelligence information, with the De-
5 partment solely by virtue of having provided that in-
6 formation, report, assessment, or other material to
7 the Terrorist Threat Integration Center or to any
8 entity that succeeds to any of the functions of the
9 Terrorist Threat Integration Center.”.

10 **SEC. 4. HOMELAND SECURITY ADVISORY SYSTEM.**

11 (a) COORDINATION OF ADVISORIES.—Section
12 201(d)(7) of the Homeland Security Act of 2002 (6
13 U.S.C. 121(d)(7)) is amended—

14 (1) by striking “and” after the semicolon at the
15 end of subparagraph (A);

16 (2) by striking the period at the end of sub-
17 paragraph (B) and inserting “; and”; and

18 (3) by adding at the end the following:

19 “(C) except as otherwise directed by the
20 President, coordinating the issuance of home-
21 land security advisories, warnings, and advice
22 from other Federal agencies to State and local
23 government agencies and authorities, the pri-
24 vate sector, other entities, and the public.”.

1 (b) USE OF HOMELAND SECURITY ADVISORY SYS-
2 TEM.—

3 (1) IN GENERAL.—Subtitle A of title II of the
4 Homeland Security Act of 2002 (6 U.S.C. 121 et
5 seq.) is amended by adding at the end the following:

6 **“SEC. 203. USE OF HOMELAND SECURITY ADVISORY SYS-**
7 **TEM.**

8 “(a) PUBLIC ADVISORIES.—If the Secretary con-
9 cludes that credible information indicates a potential ter-
10 rorist threat to the United States that is not or cannot,
11 on the basis of the information available, be limited to one
12 or more States, regions, localities, facilities, sites, elements
13 of the population, critical infrastructure sectors, or public
14 or private sector activities or events, the Secretary shall,
15 as appropriate—

16 “(1) use the Homeland Security Advisory Sys-
17 tem administered under section 201(d)(7) to inform
18 the public of the existence and nature of the threat
19 and to convey information about the risk it poses to
20 the population and territory of the United States;

21 “(2) provide specific unclassified warning infor-
22 mation and advice about appropriate protective
23 measures and countermeasures pursuant to section
24 201(d)(7)(B), to State and local government agen-

1 cies and authorities, the private sector, other enti-
2 ties, and the public; and

3 “(3) provide specific classified warning informa-
4 tion and advice about appropriate protective meas-
5 ures and countermeasures pursuant to section
6 201(d)(7)(B) to State and local government officials
7 and individuals in the private sector, who—

8 “(A) have the appropriate security clear-
9 ance; and

10 “(B) in the Secretary’s judgment, need to
11 have access to such information and advice in
12 order to discharge their homeland security-re-
13 lated functions.

14 “(b) LIMITED ADVISORIES.—If the Secretary con-
15 cludes that credible information indicates a potential ter-
16 rorist threat to one or more particular States, regions, lo-
17 calities, facilities, sites, elements of the population, critical
18 infrastructure sectors, public or private sector activities or
19 events, or any combination of the foregoing, the Sec-
20 retary—

21 “(1) shall, as appropriate, inform officials of
22 the affected entities and provide specific warning in-
23 formation and advice about protective measures and
24 countermeasures to those officials pursuant to sec-
25 tion 201(d)(7)(B); and

1 “(2) may, in the Secretary’s discretion, issue a
2 public advisory relating to such threat.”.

3 (2) CLERICAL AMENDMENT.—The table of con-
4 tents in section 1(b) of such Act is amended by in-
5 serting after the item relating to section 202 the fol-
6 lowing:

“203. Use of Homeland Security Advisory System.”.

7 **SEC. 5. HOMELAND SECURITY INFORMATION SHARING.**

8 (a) ADMINISTRATION OF THE HOMELAND SECURITY
9 INFORMATION NETWORK.—Section 201(d) of the Home-
10 land Security Act of 2002 (6 U.S.C. 121(d)) is amended
11 by adding at the end the following new paragraph:

12 “(20) To administer the homeland security in-
13 formation network, including—

14 “(A) exercising primary responsibility for
15 creating a secure nationwide real-time home-
16 land security information sharing network for
17 Federal, State, and local government agencies
18 and authorities, the private sector, and other
19 governmental and private entities involved in
20 receiving, analyzing, and distributing informa-
21 tion related to threats to homeland security;
22 and

23 “(B) ensuring that the information sharing
24 systems, developed in connection with the net-
25 work created under subparagraph (A), utilize

1 and are compatible with, to the greatest extent
2 practicable, Federal, State, and local govern-
3 ment and private sector antiterrorism systems
4 and protocols that have been or are being devel-
5 oped.”.

6 (b) COORDINATION OF DISSEMINATION OF INFORMA-
7 TION TO NON-FEDERAL ENTITIES.—

8 (1) IN GENERAL.—Section 892 of such Act (6
9 U.S.C. 482) is amended—

10 (A) by redesignating subsections (f) and
11 (g) as subsections (g) and (h), respectively; and

12 (B) by inserting after subsection (e) the
13 following new subsection (f):

14 “(f) REQUIREMENT FOR COORDINATION OF DISSEMI-
15 NATION OF INFORMATION TO NON-FEDERAL ENTITIES.—

16 “(1) IN GENERAL.—Except as otherwise di-
17 rected by the President or with the specific written
18 agreement of the Secretary, no element of the intel-
19 ligence community nor any department, agency, or
20 other entity having Federal law enforcement respon-
21 sibilities, nor any partnership or joint venture con-
22 sisting wholly or in part of such entities, shall dis-
23 seminate its analytic products or conclusions related
24 to threats to homeland security to State, local, or
25 private sector officials without the prior approval of

1 the Secretary, except that the head of such an ele-
2 ment, department, agency, or other entity may dis-
3 seminate an analytic product or conclusion without
4 the Secretary's approval—

5 “(A) when and to the extent that exigent
6 circumstances require that a specific analytic
7 product or conclusion be disseminated in order
8 to prevent, preempt, or disrupt an imminent
9 threat of death or serious bodily injury or sig-
10 nificant damage to United States persons, in-
11 frastructure or other interests; or

12 “(B) when it is necessary to share an ana-
13 lytic product or conclusion with Federal, State,
14 and local law enforcement officials relating to a
15 law enforcement activity, if—

16 “(i) the Department is provided, as
17 soon as feasible, notice of the potential of
18 such a communication and is, to the extent
19 practicable, included in the development of
20 such communication through the Depart-
21 ment's liaison at the headquarters of the
22 Federal Bureau of Investigation; and

23 “(ii) the Secretary must approve any
24 further dissemination of such analytic
25 product or conclusion to non-law enforce-

1 ment State and local officials, the private
2 sector, or the public.

3 “(2) When an analytic product or conclusion is
4 disseminated pursuant to paragraph (1)(A), the Sec-
5 retary and the appropriate entities or officials in
6 other United States Government agencies shall be
7 notified immediately of that dissemination.”.

8 (2) DEFINITION.—Subsection (g) of such sec-
9 tion (as redesignated by paragraph (1)(A)) is
10 amended by adding at the end the following new
11 paragraph:

12 “(5) ANALYTIC PRODUCT OR CONCLUSION.—
13 The term ‘analytic product or conclusion’ means any
14 product of the analysis of one or more pieces of
15 homeland security information in which inferences
16 have been drawn from such information to arrive at
17 a determination about a fact (including a potential
18 threat) that was not explicit or apparent on the face
19 of the information itself, but does not include mere
20 summaries of homeland security information.”.

21 **SEC. 6. IAIP PERSONNEL RECRUITMENT.**

22 (a) IN GENERAL.—Chapter 97 of title 5, United
23 States Code, is amended by adding after section 9701 the
24 following:

1 **“§ 9702. Recruitment bonuses**

2 “(a) IN GENERAL.—Notwithstanding any provision
3 of chapter 57, the Secretary of Homeland Security, acting
4 through the Under Secretary for Information Analysis and
5 Infrastructure Protection, may pay a bonus to an indi-
6 vidual in order to recruit such individual for a position
7 that—

8 “(1) is within the Directorate for Information
9 Analysis and Infrastructure Protection; and

10 “(2) would otherwise be difficult to fill in the
11 absence of such a bonus.

12 “(b) BONUS AMOUNT.—

13 “(1) IN GENERAL.—The amount of a bonus
14 under this section shall be determined under regula-
15 tions of the Secretary of Homeland Security, but
16 may not exceed 50 percent of the annual rate of
17 basic pay of the position involved.

18 “(2) FORM OF PAYMENT.—A bonus under this
19 section shall be paid in the form of a lump-sum pay-
20 ment and shall not be considered to be part of basic
21 pay.

22 “(3) COMPUTATION RULE.—For purposes of
23 paragraph (1), the annual rate of basic pay of a po-
24 sition does not include any comparability payment
25 under section 5304 or any similar authority.

1 “(c) SERVICE AGREEMENTS.—Payment of a bonus
2 under this section shall be contingent upon the employee
3 entering into a written service agreement with the Depart-
4 ment of Homeland Security. The agreement shall in-
5 clude—

6 “(1) the period of service the individual shall be
7 required to complete in return for the bonus; and

8 “(2) the conditions under which the agreement
9 may be terminated before the agreed-upon service
10 period has been completed, and the effect of the ter-
11 mination.

12 “(d) ELIGIBILITY.—A bonus under this section may
13 not be paid to recruit an individual for—

14 “(1) a position to which an individual is ap-
15 pointed by the President, by and with the advice and
16 consent of the Senate;

17 “(2) a position in the Senior Executive Service
18 as a noncareer appointee (as defined in section
19 3132(a)); or

20 “(3) a position which has been excepted from
21 the competitive service by reason of its confidential,
22 policy-determining, policy-making, or policy-advo-
23 cating character.

24 “(e) TERMINATION.—The authority to pay bonuses
25 under this section shall terminate on September 30, 2007.

1 **“§ 9703. Reemployed annuitants**

2 “(a) IN GENERAL.—If an annuitant receiving an an-
3 nuity from the Civil Service Retirement and Disability
4 Fund becomes employed in a position within the Depart-
5 ment of Homeland Security, the annuitant’s annuity shall
6 continue. An annuitant so reemployed shall not be consid-
7 ered an employee for the purposes of chapter 83 or 84.

8 “(b) APPLICABILITY.—This section shall apply—

9 “(1) during the 3-year period beginning on the
10 date of the enactment of this section, to annuitants
11 holding positions within the Directorate for Informa-
12 tion Analysis and Infrastructure Protection; and

13 “(2) after the end of the 3-year period de-
14 scribed in paragraph (1), to annuitants holding posi-
15 tions within such directorate or other parts of the
16 Department of Homeland Security as the Secretary
17 of Homeland Security may designate.

18 “(c) DEFINITION.—For purposes of this section, the
19 term ‘annuitant’ has the meaning given such term under
20 section 8331 or 8401, whichever is appropriate.

21 **“§ 9704. Regulations**

22 “The Secretary of Homeland Security, in consulta-
23 tion with the Director of the Office of Personnel Manage-
24 ment, may prescribe any regulations necessary to carry
25 out section 9702 or 9703.”.

1 (b) CLERICAL AMENDMENT.—The analysis for chap-
 2 ter 97 of title 5, United States Code, is amended by add-
 3 ing after the item relating to section 9701 the following:

“9702. Recruitment bonuses.

“9703. Reemployed annuitants.

“9704. Regulations.”.

4 **SEC. 7. PARTICIPATION OF THE DEPARTMENT IN THE TER-**
 5 **RORIST THREAT INTEGRATION CENTER.**

6 (a) ASSIGNMENT OF PERSONNEL.—Section 201(e) of
 7 the Homeland Security Act of 2002 (6 U.S.C. 121(e)) is
 8 amended by adding at the end the following new para-
 9 graph:

10 “(4) ASSIGNMENT OF PERSONNEL TO TTIC.—
 11 Personnel of the Department may be assigned to the
 12 Terrorist Threat Integration Center (or any suc-
 13 cessor entity) only for the purpose of performing
 14 analytic functions and related duties.”.

15 (b) REPORT ON PARTICIPATION IN TERRORIST
 16 THREAT INTEGRATION CENTER.—

17 (1) IN GENERAL.—Not later than one year
 18 after the date of the enactment of this Act, the Sec-
 19 retary of Homeland Security shall submit to each
 20 appropriate congressional committee an unclassified
 21 report that describes in detail the nature and scope
 22 of the participation of the Department of Homeland
 23 Security in, and interaction with, the Terrorist
 24 Threat Integration Center.

1 (2) CONTENTS.—The report required by para-
2 graph (1) shall include the following information:

3 (A) The total funding that has been pro-
4 vided by the Department to the Center and the
5 cost of any personnel, services, or materials the
6 Department has provided to the Center.

7 (B) The number, expertise, and employing
8 component of Department personnel assigned to
9 the Center.

10 (C) Any non-Department regulation, policy
11 or directive that governs the qualifications, job
12 performance, or conduct of Department per-
13 sonnel assigned to the Center.

14 (D) A description of all analytic products
15 originated by the Center that are routinely dis-
16 seminated to the Department, including the en-
17 tities or officials within the Department that
18 routinely receive such products, and the means
19 by which such products are disseminated.

20 (E) A description of how each analytic
21 product provided to the Department by the
22 Center is utilized by the Department, including
23 a specification of which, if any, such products
24 the Department routinely disseminates to State,
25 local, or private sector officials.

1 (3) FORM OF SUBMISSION.—The report re-
2 quired by this section shall be submitted in unclassi-
3 fied form, but may include a classified annex.

4 (4) DEFINITIONS.—In this subsection:

5 (A) SECRETARY.—The term “Secretary”
6 means the Secretary of Homeland Security.

7 (B) APPROPRIATE CONGRESSIONAL COM-
8 MITTEES.—The term “appropriate congres-
9 sional committee” has the meaning given that
10 term in section 2(2) of the Homeland Security
11 Act of 2002 (6 U.S.C. 101(2)).

12 (C) CENTER.—The term “Center” means
13 the Terrorist Threat Integration Center.

○