

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> 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.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 26, 2002

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

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## 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-

1           ties and to work with Indian tribes and execu-  
2           tive agencies in promoting homeland security;

3           (E) serve as the coordinating center in-  
4           tended to facilitate communication between and  
5           integration with Indian tribes and other Fed-  
6           eral departments that have homeland security  
7           responsibilities, including but not limited to  
8           health surveillance, emergency preparation and  
9           response, border security, critical infrastructure  
10          protection, technology, and communication;

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

17          (G) establish a mechanism for the distribu-  
18          tion of warnings and information to tribal com-  
19          munities.

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

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

22           (A) treat Indian tribes as States, as appro-  
23           priate, for the purpose of homeland security  
24           consultation, planning, coordination; bioter-  
25           rorism 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           propriate 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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