

S. 2701

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ``Homeland Security Interagency and Interjurisdictional Information Sharing Act of 2004''.

SECTION 2. FINDINGS.

Congress finds the following:

1. The effective use of information is essential to the Nation's efforts to protect the homeland. Information that may prove important to those efforts, however, is often widely dispersed and may be uncovered or held by any of a number of Federal agencies, by 50 States or by the Nation's 650,000 local law enforcement officers who form the front lines of the war against terrorism, among others. Finding ways to share this information in an efficient and timely manner with those who need it is central to both preventing and responding to potential terrorist attacks on our Nation.
2. Current approaches to information sharing are woefully inadequate and largely ad hoc. State and local officials frequently report that they do not receive adequate homeland security information from Federal officials, nor is there a consistent, easy way for State and local officials to effectively provide homeland security information in their possession to Federal officials. Federal agencies have often not shared information even with other Federal agencies, and State and local governments have few formalized means to share information with other States and localities.
3. There are a number of barriers, both structural and cultural, to the more effective sharing of homeland security information including—
 - (A) a lingering cold war paradigm that emphasizes information security and maintaining strict limits on access to information;
 - (B) mistrust among historically rival agencies and between Federal and State officials; and
 - (C) few incentives to reward Government employees who share information outside their agencies.
4. A further barrier to information sharing among police, firefighters and others who may be called on to respond to terrorist attacks and other large-scale emergencies is the lack of interoperable communications systems, which can enable public safety agencies to communicate and share important, sometimes critical, information in an emergency.
5. **A new approach to the sharing of homeland security information (a new ``information architecture'') is urgently needed to overcome these barriers and to meet the homeland security needs of the Nation. One useful model for such a network is the Systemwide Homeland Analysis and Resource Exchange Network (SHARE) proposed by the Markle Foundation in reports issued in October 2002 and December 2003. Like the envisioned SHARE Network, a new approach, to be successful, must be comprehensive, encompassing the many participants, at many levels of government, who strive to**

protect the homeland, and the system should be largely decentralized, permitting participants throughout the system to exchange information directly in a timely and effective matter without having to go through a central hub.

SECTION 3. DEFINITIONS.

In this Act:

- (1) Secretary.--The term "Secretary" means the Secretary of Homeland Security.
- (2) Department.--The term "Department" means the Department of Homeland Security.
- (3) Homeland security information.--The term "homeland security information" means information relevant to, or of potential use in, the prevention of, preparation for, or response to, terrorist attacks upon the United States.
- (4) Network.--The term "Network" means the Homeland Security Information Sharing Network established under section 4.

SECTION 4. HOMELAND SECURITY INFORMATION SHARING NETWORK.

(a) In General.--

- (1) Establishment.--The Secretary shall establish a Homeland Security Information Sharing Network.
- (2) Functions.--The Network shall--
 - (A) to the maximum extent possible, consistent with national security requirements and the protection of civil liberties, foster the sharing of homeland security information—
 - (i) among offices and divisions within the Department;
 - (ii) between the Department and other Federal agencies;
 - (iii) between the Department and State, local, and tribal governments;
 - (iv) among State, local, and tribal governments; and
 - (B) provide for the analysis of homeland security information obtained or made available through the Network.

(b) Cooperative Developments.--In developing the Network, the Secretary shall work with representatives of other governmental entities that possess homeland security information or will otherwise participate in the network, including the Intelligence Community, the Department of Justice and Federal Bureau of Investigation, and the Department of Health and Human Services, and State, local government and tribal officials.

(c) Reports.--

- (1) In general.--The Secretary shall submit status reports on the development and implementation of the Network to—
 - (A) the Committee on Governmental Affairs of the Senate;
 - (B) the Select Committee on Homeland Security of the House of Representatives; and
 - (C) the Committee on Government Reform of the House of Representatives.

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- (2) Contents.--The status reports shall include--

- (A) a detailed description of the work completed to date with attached relevant documents produced in the development of the Network, including documents describing the strategy for the Network and the Network's design or architecture; and
- (B) a detailed timetable and implementation plan for remaining work.
- (3) Submission.--Status reports under this subsection shall be submitted—
 - (A) not later than 6 months after the date of enactment of this Act;
 - (B) not later than 12 months after the date of enactment of this Act; and
 - (C) at 1-year intervals thereafter.

SECTION 5. HOMELAND SECURITY INFORMATION COORDINATING COUNCIL.

(a) In General.--The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding at the end the following:

TITLE XVIII--HOMELAND SECURITY INFORMATION COORDINATING COUNCIL

SECTION 1801. HOMELAND SECURITY INFORMATION COORDINATING COUNCIL.

(a) Definition.--In this section, the term 'homeland security information' means information relevant to, or of potential use in, the prevention of, preparation for, or response to, terrorist attacks upon the United States.

(b) Establishment.--

- (1) In general.--The Secretary, in coordination with the Attorney General, the Director of Central Intelligence, the Secretary of Health and Human Services, and other Federal departments and agencies in possession of homeland security information, as identified by the President, shall establish the Homeland Security Information Coordinating Council (in this section referred to as the 'Coordinating Council').
- (2) Composition.--The Coordinating Council shall be composed of--
 - (A) a representative of the Department;
 - (B) a representative of the Department of Justice;
 - (C) a representative of the Central Intelligence Agency;
 - (D) a representative of the Department of Health and Human Services;
 - (E) a representative of any other Federal department or agency in possession of homeland security information, as identified by the President; and
 - (F) not fewer than 2 representatives of State and local governments, to be selected by the Secretary.
- (3) Responsibilities.--The Coordinating Council shall—
 - (A) develop, monitor, and update procedures and protocols for sharing homeland security information among Federal departments and agencies;
 - (B) develop, monitor, and update procedures and protocols for sharing homeland security information with State and local governments so as to minimize the difficulties of State and local governments in receiving information that may reside in multiple departments or agencies;

- (C) establish a dispute resolution process to resolve disagreements among departments and agencies about whether particular homeland security information should be shared and in what manner;
 - (D) review, on an ongoing basis, current issues related to homeland security information sharing among Federal departments and agencies and between those departments and agencies and State and local governments;
 - (E) where appropriate, promote the compatibility and accessibility of technology, including computer hardware and software, used by Federal departments and agencies to facilitate the sharing of homeland security information; and
 - (F) ensure that there is coordination--
 - (i) among Federal departments and agencies that maintain homeland security information;
 - (ii) multi-organization entities that maintain homeland security information, including the Terrorist Threat Integration Center and Joint Terrorism Task Forces; and
 - (iii) the Homeland Security Information Network, in actions and policies relating to the sharing of homeland security information.
- (c) Administration.--The Department shall provide administrative support to the Coordinating Council, which shall include—
- (1) scheduling meetings;
 - (2) preparing agenda;
 - (3) maintaining minutes and records; and
 - (4) producing reports.
- (d) Chairperson.--The Secretary shall designate a chairperson of the Coordinating Council.
- (e) Meetings.--The Coordinating Council shall meet--
- (1) at the call of the Secretary; or
 - (2) not less frequently than once a month."
- (b) Technical and Conforming Amendment.--The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 note) is amended by adding at the end the following:

TITLE XVIII--HOMELAND SECURITY INFORMATION COORDINATING COUNCIL

SECTION 1801. Homeland Security Information Coordinating Council.

SECTION 6. INCENTIVES TO PROMOTE SHARING OF HOMELAND SECURITY INFORMATION.

- (a) Agency Performance Measures.--
 - (1) Performance plan.--Consistent with the requirements of section 1115 of title 5, United States Code, the Secretary shall prepare an annual performance plan that establishes measurable goals and objectives for information sharing between the Department and other appropriate entities in Federal, State, local, and tribal governments. The plans shall identify action steps necessary to achieve such goals.
 - (2) Performance report.--Consistent with the requirements of section 1116 of title 5, United States Code, the Secretary shall prepare and submit to Congress an annual report including

an evaluation of the extent the Department's information sharing goals and objectives were met. The report shall include the results achieved during the year relative to the goals established in the previous year's performance plan.

- (3) Performance management.--The Secretary shall incorporate the performance measures in the performance plan required under paragraph (1) into the Department's performance appraisal system. These performance measures shall be used in evaluating the performance of appropriate managers and employees. If appropriate, determinations for performance awards, bonuses, achievement awards, and other incentives for Departmental managers and employees shall include consideration of these performance measures.

(b) Incentives Programs.--

- (1) In general.--Chapter 45 of title 5, United States Code, is amended by adding at the end the following:

SUBCHAPTER IV--AWARDS TO PROMOTE HOMELAND SECURITY INFORMATION SHARING

Sec. 4521. Awards to promote homeland security information sharing

(a) In this section--

- (1) the terms 'agency' and 'employee' have the meanings given under paragraphs (1) and (2) of section 4501, respectively; and
- (2) the term 'homeland security information' means information relevant to, or of potential use in, the prevention of, preparation for, or response to, terrorist attacks upon the United States.

(b) The head of an agency may pay a cash award to, grant time-off without charge to leave or loss of pay, or incur necessary expense for the honorary recognition of, an employee who--

- (A) develops and implements innovative policies, practices, procedures, or technologies to foster appropriate sharing of homeland security information with other agencies and with State, local, and tribal governments; and
- (B) through such innovations, achieves measurable results.
- (3) A cash award under this section may not exceed the greater of--
- (C) \$10,000; or
- (D) 20 percent of the basic pay of the employee.
- (E) A cash award may not be paid under this section to an individual who is appointed to, or who holds--

- (A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;
- (B) a position in the Senior Executive Service as a noncareer appointee (as such term is defined under section 3132(a)); or
- (C) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.
- (4) Consistent with paragraphs (1), (2), and (3), the Secretary of Homeland Security shall establish an awards program specifically designed to recognize and reward employees (including managers) of the Department of Homeland Security. An employee of the Department of Homeland Security may not receive an award under paragraph (1).

- (5) Not later than 1 year after the date of enactment of this section, and annually for 5 years thereafter, the Secretary of Homeland Security shall submit to the Committee on Governmental Affairs of the Senate, the Select Committee on Homeland Security of the House of Representatives, and the Committee on Government Reform of the House of Representatives a report detailing the implementation of programs under this section, including--
- (A) the number of managers and employees recognized;
 - (B) the type of recognition given;
 - (C) the number and dollar amount of awards paid to individuals holding positions within each pay grade, pay level or other pay classification;
 - (D) the relationship between awards under this program and other incentive or awards programs; and
 - (E) the extent to which the program is assisting in overcoming cultural and other barriers to sharing homeland security information."
- (2) Technical and conforming amendment.--The table of sections for chapter 45 of title 5, United States Code, is amended by adding at the end the following:

SUBCHAPTER IV--AWARDS TO PROMOTE HOMELAND SECURITY INFORMATION SHARING

4521. Awards to promote homeland security information sharing."

SECTION 7. OFFICE OF INFORMATION SHARING.

(a) In General.--The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding after section 801 the following:

SECTION 802. OFFICE OF INFORMATION SHARING.

(a) Definitions.--In this section, the following definitions shall apply:

- (1) Communications interoperability.--The term `communications interoperability'

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means the ability of public safety service and support providers, including law enforcement, firefighters, and emergency management, to communicate with other responding agencies and Federal agencies if necessary, through information technology systems and radio communications systems, and to exchange voice, data, or video with one another on demand, in real time, as necessary.

(2) Director.--The term `Director' means the Director of the Office of Information Sharing.

(3) Eligible state.--The term `eligible State' means a State that--

- (A) has submitted a plan under subsection (d)(3); and
- (B) the Secretary determines has not achieved adequate statewide communications interoperability.

- (4) Office.--The term 'Office' means the Office of Information Sharing established under subsection (b).
- (5) Public safety agencies.--The term 'public safety agencies' means law enforcement, firefighters, emergency technicians, public health officials, and such other persons that the Secretary determines must communicate effectively with one another to respond to emergencies.
- (b) Establishment.--
- (1) In general.--There is established the Office of Information Sharing within the Office for State and Local Government Coordination and Preparedness, which shall be headed by a Director of Information Sharing appointed by the Secretary.
- (2) Administration.--The Secretary shall provide the Office with the resources and staff necessary to carry out the purposes of this section, including sufficient staff to provide support to each State, consistent with the responsibilities set forth in paragraph (3)
- (3) Responsibilities.--The Office established under paragraph (1) shall--
- (A) foster the sharing of homeland security information among State and local governments and public safety agencies, and regional consortia thereof, and between these entities and the Federal Government by--
- (i) facilitating the creation of regional task forces with representation from State and local governments and public safety agencies and from the Federal Government to address information sharing needs; and
- (ii) facilitating the establishment of 24-hour operations centers in each State to provide a hub for Federal and State and local government intelligence and public safety agencies to share information;
- (B) foster the development of interoperable communications systems by State and local governments and public safety agencies, and by regional consortia thereof, by--
- (i) developing and implementing a national strategy to achieve communications interoperability;
- (ii) developing and maintaining a task force that represents the broad customer base of State and local governments, public safety agencies, as well as Federal agencies, involved in public safety disciplines such as law enforcement, firefighting, public health, and disaster recovery, in order to receive input and coordinate efforts to achieve communications interoperability;
- (iii) promoting a greater understanding of the importance of interoperability among all levels of Federal, State and local government;
- (iv) facilitating collaborative planning and partnerships among Federal, State, and local government agencies in all States where necessary;
- (v) facilitating the sharing of information on best practices for achieving interoperability;
- (vi) identifying and working to overcome the cultural, political, institutional, and geographic barriers within the public safety community that can impede interoperability among public safety agencies, including among Federal agencies;
- (vii) developing appropriate performance measures and systematically measuring the Nation's progress toward interoperability;
- (viii) coordinating with other offices in the Department and other Federal agencies providing grants for communications interoperability or for other equipment and training necessary to prevent, respond to, or recover from terrorist attacks, including

- the development of common guidance for such grants and consistent technical advice; and
- (ix) making recommendations to Congress about any changes in Federal law necessary to remove barriers to achieving communications interoperability;
- (C) provide technical assistance to State and local governments and public safety agencies, and regional consortia thereof, on the design of regional information sharing networks and technology needed to support such governments, agencies, and consortia;
 - (D) provide technical assistance to State and local governments and public safety agencies, and regional consortia thereof, on planning, interoperability architectures, acquisition strategies, and other functions necessary to achieve communications interoperability;
 - (E) in conjunction with the Directorate for Science and Technology--
 - (i) provide research, development, testing, and evaluation for public safety communications technologies and equipment;
 - (ii) evaluate and validate new technology concepts, and promote the deployment of advanced broadband communications technologies; and
 - (iii) encourage the development of flexible and open architectures and standards, with appropriate levels of security, for short- and long-term solutions to interoperability; and
 - (F) in coordination with State and local governments, develop a system for collecting and distributing best practices in homeland security.
- (c) Baseline Assessment.--
- (1) In general.--The Secretary, acting through the Director, shall conduct a nationwide assessment to determine the degree to which communications interoperability has been achieved to date and to ascertain the needs that remain for interoperability to be achieved.
 - (2) Reports.--The Secretary, acting through the Director, shall submit to the Committee on Governmental Affairs of the Senate, the Select Committee on Homeland Security of the House of Representatives, and the Committee on Government Reform of the House of Representatives--
 - (A) not later than 1 year after the date of enactment of this section, a report of the findings of the assessment required by subsection (c); and
 - (B) not later than 18 months after the date of enactment of this section, a plan for achieving all necessary communications interoperability throughout the Nation.
- (d) Preparedness Grant Program.--
- (1) In general.--The Secretary, through the Office, shall make grants to—
 - (A) eligible States for initiatives necessary to achieve interoperability within each State, including—
 - (i) statewide communications planning;
 - (ii) system design and engineering;
 - (iii) procurement and installation of equipment;
 - (iv) operations and maintenance of equipment; and
 - (v) testing and technology development initiatives; and
 - (B) local governments (including a consortium of local governments), and public safety agencies within eligible States, to assist with any aspect of the communications life-cycle, including—
 - (i) planning, system design, and engineering;
 - (ii) procurement and installation of equipment;

- (iii) operations and maintenance of equipment; and testing and technology development.
- (2) Coordination.--The Secretary shall ensure that the Office coordinates its activities with other entities of the Department and other Federal entities so that grants awarded under this subsection, and other grant programs related to homeland security, fulfill the purposes of this Act and facilitate the achievement of communications interoperability nationally.
- (3) Eligibility.--
 - (A) Submission of plan.--To be eligible to receive a grant under this subsection, each eligible State, or local governments or public safety agencies within an eligible State, shall submit a communications interoperability plan to the Secretary that—
 - (i) addresses any aspect of the communications life cycle, including planning, system design and engineering, procurement and installation, operations and maintenance, and testing and technology development;
 - (ii) if the applicant is not a State, includes a description of how the applicant addresses the goals specified in any applicable State plan or plans submitted under this section; and is approved by the Secretary.
 - (B) Incorporation and consistency.--A plan submitted under subparagraph (A) may be part of, and shall be consistent with, any other homeland security plans required of the submitting party by the Department.
- (4) Award of grants.—
 - (A) Considerations.--In approving plans and awarding grants under this subsection, the Secretary shall consider—
 - (i) the nature of the threat to the eligible State or local jurisdiction;
 - (ii) the location, risk, or vulnerability of critical infrastructure and key national assets;
 - (iii) the number, as well as the density, of persons who will be served by interoperable communications systems;
 - (iv) the extent of the partnerships, existing or planned, established between local jurisdictions and agencies participating in the development of interoperable communications systems, and their coordination with Federal and State agencies;
 - (v) the extent to which the communications interoperability plan submitted under paragraph (3) adequately addresses steps necessary to implement short-term or long-term solutions to communications interoperability;
 - (vi) the extent to which eligible States and local governments, in light of their financial capability, demonstrate their commitment to expeditiously achieving communications interoperability by supplementing Federal funds with non-Federal funds;
 - (vii) the extent to which grants will expedite the achievement of interoperability in the relevant jurisdiction with Federal, State, and local agencies; and
 - (viii) the extent to which grants will be utilized to implement advanced communications technologies to promote interoperability.
 - (B) Coordination.--To the maximum extent practicable, the Secretary shall ensure that any grant made under this subsection is

coordinated with neighboring jurisdictions, contiguous local governments, and within State and regional entities.

- (C) Local funding.--If the Secretary makes grants awards to States, the Secretary shall --
 - (i) make it a priority to ensure that funding or resources reach local governments; and
 - (ii) require applicants to demonstrate how such funding will reach local governments.
- (D) Allocation.--In awarding grants under this subsection, the Secretary shall ensure that --
 - (i) not less than .75 percent of the total amount appropriated for grants in any fiscal year shall be awarded, subject to clause (ii), to each eligible State, including the District of Columbia and the Commonwealth of Puerto Rico; and
 - (ii) not less than .25 percent of the total amount appropriated for grants in any fiscal year shall be awarded to the territories of the United States, including American Samoa, the Commonwealth of Northern Mariana Islands, Guam, and the United States Virgin Islands.
- (E) Process.--In awarding grants under this subsection, the Secretary shall, to the maximum extent practical, employ a peer review process such as that used to review applications awarded under the Assistance to Firefighters Grant Program.
- (e) Authorization of Appropriations.--
 - (1) In general.--There are authorized to be appropriated \$75,000,000 for each of fiscal years 2005 through 2008, and such sums as are necessary each fiscal year thereafter, for the operations of the Office, and for other entities within the Department whose activities facilitate the purposes of this section and the Homeland Security Interoperability Act of 2004.
 - (2) Preparedness grant program.--There are authorized to be appropriated to carry out the grant program under subsection (d)--
 - (A) \$400,000,000 for fiscal year 2005;
 - (B) \$500,000,000 for fiscal year 2006;
 - (C) \$600,000,000 for fiscal year 2007;
 - (D) \$800,000,000 for fiscal year 2008;
 - (E) \$1,000,000,000 for fiscal year 2009; and
 - (F) such sums as are necessary each fiscal year thereafter."
 - (b) Technical and Conforming Amendment.--The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101) is amended by striking the item relating to section 801 and inserting the following:

``801. Office for State and Local Government Coordination and Preparedness.

``802. Office of Information Sharing.".