

April 2, 2012

The Honorable Mary Bono Mack
Chairman of the Subcommittee on Commerce, Manufacturing and Trade
House Energy and Commerce Committee
2125 Rayburn House Office Building
Washington, DC 20515

Dear Representative Bono Mack:

The undersigned organizations dedicated to government openness and accountability are writing to let you know of our serious concerns with provisions of HR 4263, Strengthening and Enhancing Cybersecurity by Using Research, Education, Information, and Technology Act (SECURE IT), that create unnecessary, overbroad and unwise exemptions to the Freedom of Information Act (FOIA).

Section 106 of the bill, titled "Technical Amendments," significantly modifies the FOIA by creating a new exemption that gives the government the authority to withhold information shared with or to a cybersecurity center. This "technical amendment" would be one of the most far-reaching substantive amendment of the Act's exemptions since 1986. Any amendment to the Freedom of Information Act, especially an amendment of this scope, should be referred to the Senate Judiciary Committee, which has jurisdiction over FOIA. Careful consideration by that Committee of FOIA-related legislation, including public hearings, is necessary to ensure that the bill promotes transparency and public accountability while allowing the government to withhold only that information which truly requires protection. Time again over the past quarter-century, proposals to amend the Act's existing exemptions have been rejected as unwise; this proposal, even more dangerously, would add an exemption rather than merely modify one, a fact that itself risks repercussions.

Moreover, Section 105 of the bill refers back to troubling provisions in Section 102 of the bill that expand the authority of the federal government to withhold under the FOIA any and all "voluntarily shared information" given to the cybersecurity centers, create a non-discretionary (b)(3) for all such information, preempt state and local laws, and envision that procedures will be implemented without opportunities for notice and comment.

As drafted, HR 4263 cuts off **all** public access to information in cybersecurity centers before the public has the chance to understand the types of information that are covered by the bill. Much of the sensitive information likely to be shared in the cybersecurity centers is already protected from disclosure under the FOIA; other information that may be shared could be critical for the public to ensure its safety. Unnecessarily wide-ranging exemptions of this type have the potential to harm public safety and the national defense more than they enhance those interests; the public is unable to assess whether the government is adequately combating cybersecurity threats and, therefore, unable to assess whether or how to participate in that process.

We look forward to working with you and the bill's cosponsors to ensure the legislation both protects our nation's computer networks and promotes transparency and accountability to the public. If you would like to discuss these issues further, please contact Patrice McDermott, Executive Director of OpenTheGovernment.org, at 202-332-6736 or pmcdermott@openthegovernment.org.

Sincerely,

Alliance for Nuclear Accountability
American Association of Law Libraries
American Booksellers Foundation for Free Expression
American Library Association
American Society on News Editors
Arizona Newspapers Association
Association of Research Libraries
Bahr Law Offices
Bill of Rights Defense Committee
Center for Democracy and Technology
Center for Media and Democracy
Citizens for Responsibility and Ethics in Washington – CREW
Council on American-Islamic Relations – CAIR
Defending Dissent Foundation
Electronic Frontier Foundation
Essential Information
Freedom of Information Center at the Missouri School of Journalism
Government Accountability Project – GAP
iSolon.org
James Madison Project
Mine Safety and Health News
MuckRock
National Coalition Against Censorship
National Freedom of Information Coalition
Nuclear Watch New Mexico
OMB Watch
OpenTheGovernment.org
Progressive Librarians Guild
Project On Government Oversight – POGO
Public Citizen
Public Employees for Environmental Responsibility – PEER
Reporters Committee for Freedom of the Press
Society of American Archivists
Society of Professional Journalists
Sunlight Foundation

Targeted News Service LLC
Tri-Valley CAREs (Communities Against a Radioactive Environment)
Tully Center for Free Speech at Syracuse University
Understanding Government
Utah Foundation for Open Government
Virginia Coalition for Open Government
Washington Coalition for Open Government

Individuals (additional information for identification purposes only)

Mark Tapscott
Editorial Page Editor, Washington Examiner

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Brian R. Hook
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cc: Representative Marsha Blackburn
Chairman Darrell Issa, House Oversight and Government Reform Committee
Ranking Member Elijah Cummings, House Oversight and Government Reform Committee