

S 1538

Intelligence Authorization Act for Fiscal Year 2008

Congress: 110 (2007–2009, Ended)

Chamber: Senate

Policy Area: Armed Forces and National Security

Introduced: May 31, 2007

Current Status: See also H.R.2082.

Latest Action: See also H.R.2082. (Oct 3, 2007)

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Sponsor

Name: Sen. Rockefeller, John D., IV [D-WV]

Party: Democratic • **State:** WV • **Chamber:** Senate

Cosponsors

No cosponsors are listed for this bill.

Committee Activity

| Committee | Chamber | Activity | Date |
|---------------------------------|---------|---------------------------|--------------|
| Armed Services Committee | Senate | Reported By | Jun 26, 2007 |
| Intelligence (Select) Committee | Senate | Reported Original Measure | May 31, 2007 |

Subjects & Policy Tags

Policy Area:

Armed Forces and National Security

Related Bills

| Bill | Relationship | Last Action |
|-------------|------------------|--|
| 110 HR 2082 | Related document | Mar 11, 2008: On motion to refer the bill and the accompanying veto message to the Permanent Select Committee on Intelligence. Agreed to without objection. |

Intelligence Authorization Act for Fiscal Year 2008 - **Title I: Intelligence Activities** - (Sec. 101) Authorizes appropriations for FY2008 for the conduct of intelligence and intelligence-related activities of the: (1) Office of the Director of National Intelligence (DNI); (2) Central Intelligence Agency (CIA); (3) Department of Defense (DOD); (4) Defense Intelligence Agency (DIA); (5) National Security Agency (NSA); (6) Departments of the Army, Navy, and Air Force; (7) Departments of State, the Treasury, Energy, and Justice; (8) Federal Bureau of Investigation (FBI); (9) National Reconnaissance Office (NRO); (10) National Geospatial-Intelligence Agency (NGIA); (11) Coast Guard; (12) Department of Homeland Security; and (13) Drug Enforcement Administration (DEA).

(Sec. 102) Specifies that the amounts authorized and the authorized personnel ceilings as of September 30, 2008, for such activities are those specified in the classified Schedule of Authorizations, which shall be made available to the Senate and House Appropriations Committees and the President.

(Sec. 103) Allows the DNI, with the approval of the Director of the Office of Management and Budget (OMB), to authorize employment of civilian personnel in excess of the number authorized for FY2008 (by not more than 5%) when necessary to the performance of important intelligence functions. Authorizes the DNI to convert to performance by intelligence community (IC) personnel activities currently performed by contractor employees. Requires notification of the congressional intelligence committees in either case.

(Sec. 104) Authorizes appropriations for the Intelligence Community Management Account of the DNI for FY2008, as well as for full-time personnel for elements within such Account.

(Sec. 105) Incorporates into this Act each requirement to submit a report to the intelligence committees that is included in the joint explanatory statement to accompany the conference report on this bill, or in the classified annex to this Act.

(Sec. 106) Requires the DNI to transfer an amount specified in the classified annex to fund the development and acquisition of a classified intelligence program specified in the annex.

(Sec. 107) Directs the: (1) President to disclose to the public for each fiscal year after 2008 the appropriations requested for the National Intelligence Program; and (2) Congress to disclose to the public for each fiscal year after 2007 the amount of funds authorized and appropriated for such Program.

Title II: Central Intelligence Agency Retirement and Disability System - (Sec. 201) Authorizes appropriations for FY2008 for the Central Intelligence Agency Retirement and Disability Fund.

Title III: Intelligence and General Intelligence Community Matters - (Sec. 301) Permits appropriations authorized by this Act for salary, pay, retirement, and other benefits for federal employees to be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

(Sec. 302) Specifies that the authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

(Sec. 304) Authorizes the DNI to delegate to the head of any other IC element (currently, the DNI may delegate only to either the Principal Deputy Director of National Intelligence or the CIA Director) the authority to authorize travel on common carriers for intelligence collection personnel. Authorizes any such IC element head to further delegate such authority to senior officials within such element as specified by the DNI. Requires the DNI to submit to the intelligence

committees the guidelines for determining the senior officials to whom such further delegation is authorized.

(Sec. 306) Amends the National Security Act of 1947 to increase the maximum terms of imprisonment for the disclosure of agent information after access to either agent identifying information or classified information.

(Sec. 307) Extends to IC elements current federal authority to delete from federal gift listing requirements (the listing of gifts received as part of federal employment) information concerning the receipt and disposition of foreign gifts and decorations, if the IC element head certifies to the Secretary of State that publication of such information could adversely affect U.S. intelligence sources or methods.

(Sec. 308) Amends the Public Interest Declassification Act of 2002 to: (1) authorize the Public Interest Declassification Board, upon congressional request, to review and make recommendations with respect to the declassification of information contained in two reports on prewar intelligence regarding Iraq; (2) require any such recommendations submitted to the President to also be submitted to the chairman and ranking minority member of the requesting committee; and (3) extend such Board through 2012.

(Sec. 309) Extends from one year to up to three years the length of time that a government employee or member of the Armed Forces may be detailed to an IC element funded through the Community Management Account. Requires joint agreement on such detail by the DNI and the head of the detailing department or agency.

(Sec. 310) Requires a report from the DNI to the defense and intelligence committees on measures taken by the DNI and each IC element to comply with provisions of the Detainee Treatment Act of 2005 and related provisions of the Military Commissions Act of 2006.

(Sec. 311) Amends the National Security Intelligence Reform Act of 2004 to allow the President to continue the tenures of the Program Manager for the Information Sharing Environment and the Information Sharing Council beyond their currently-authorized two-year period.

(Sec. 312) Requires that, if the DNI or the head of any other department, agency, or entity of the government does not provide to the intelligence committees information required under the National Security Act of 1947 relating to covert and non-covert actions, the DNI shall notify such committees of the determination not to provide such information, including the reasons therefor. Revises the form and content of certain reports required under such Act.

(Sec. 313) States that an intelligence committee shall be considered to be "fully and currently informed" of an intelligence-related activity only if a notification providing the main features of the activity or covert action has been provided.

(Sec. 314) Requires the DNI to: (1) conduct an initial vulnerability assessment for any major system (and its items of supply) that is proposed for inclusion in the National Intelligence Program; (2) conduct subsequent periodic assessments of each such system; (3) give due consideration to such assessments when developing and determining the annual consolidated National Intelligence Program budget; and (4) provide the intelligence committees with a copy of each assessment and a proposed schedule for subsequent assessments.

(Sec. 315) Directs the DNI to prepare and submit to the intelligence committees an annual personnel assessment for the IC that assesses the personnel levels for each IC element.

(Sec. 316) Prohibits, after April 1, 2008, any funds appropriated to any IC element from being obligated for an IC business system modernization unless: (1) the approval authority designated by the DNI certifies that the modernization

complies with an integrated enterprise architecture covering all IC business systems; and (2) the certification is approved by the Intelligence Community Business Systems Management Committee (established under this section). Directs the DNI to: (1) develop and implement an enterprise architecture to cover all IC business systems, as well as the functions and activities supported by such systems; and (2) be responsible for an IC business system modernization if more than 50% of the cost of the modernization is funded by amounts appropriated for the National Intelligence Program. Requires the designated approval authority to establish and implement a process to review the planning, design, development, deployment, operation, maintenance, and modernization of the IC business systems for which the approval authority is responsible. Requires the DNI to: (1) include IC business system proposed funding in annual budget materials submitted to Congress; and (2) establish an Intelligence Community Business Systems Management Committee. Directs the Committee to recommend to the DNI policies and procedures to integrate all IC business activities and any reform, reorganization, or process improvement initiatives undertaken within the IC. Requires annual reports from the DNI to the intelligence committees, in 2009 through 2014, on IC compliance with requirements of this section.

(Sec. 317) Requires the DNI to report annually to the intelligence committees on each acquisition of a major system by an IC element.

(Sec. 318) Requires the DNI: (1) on a continuing basis, to determine if the acquisition cost of a major system has increased by at least 20% compared to its baseline cost; and (2) if so, notify the intelligence committees, providing a description of the amount of the increase and a certification that such system is essential to national security, there are no alternatives to such system, the new estimates are reasonable, and the management structure for the acquisition of the system is adequate to manage and control its full life-cycle cost. Requires that, if the DNI determines an acquisition cost increase of 40% or more, the President must make the same certification as above to the intelligence committees. Prohibits the obligation of funds for the acquisition of a major system if the appropriate certification is not submitted within 30 days after the determination of the cost increase.

(Sec. 319) Amends the Foreign Intelligence Surveillance Act of 1978 to direct the Attorney General to submit to the intelligence and judiciary committees copies of decisions, orders, or opinions of the Foreign Intelligence Surveillance Court or the Foreign Intelligence Surveillance Court of Review that include significant construction or interpretation of such Act.

(Sec. 320) Requires the DNI to submit to the intelligence committees any President's Daily Brief (or portion thereof) of the CIA Director during the period beginning on January 20, 1997, and ending on March 19, 2003, that refers to Iraq or otherwise addresses Iraq in any fashion.

(Sec. 321) Directs the DNI to submit to Congress a national intelligence estimate on the anticipated geopolitical effects of global climate change and the implications of such effects on U.S. national security. Authorizes appropriations.

(Sec. 322) Amends the National Security Act of 1947, the Intelligence Authorization Act for Fiscal Year 2003, and the Combatting Proliferation of Weapons of Mass Destruction Act of 1996 to repeal various intelligence-related reporting requirements.

Title IV: Matters Relating to Elements of the Intelligence Community - Subtitle A: Office of the Director of National Intelligence - (Sec. 401) Requires the DNI to: (1) conduct accountability reviews of IC elements or personnel in relation to significant failures or deficiencies within the IC; and (2) establish guidelines and procedures for conducting such reviews.

(Sec. 402) Authorizes the DNI to expend funds, and make funds available to other federal departments and agencies, to

address deficiencies or needs that arise in intelligence information access or sharing capabilities. Authorizes department or agency heads to use funds made available by the DNI for such purposes.

(Sec. 403) Permits the DNI to delegate the authority to protect intelligence sources and methods from unauthorized disclosure to any Deputy DNI or the Chief Information Officer of the IC.

(Sec. 404) Authorizes the DNI to approve interagency financing of national intelligence centers established under authority of the National Security Act of 1947, as well as for boards, commissions, councils, or similar groups established by the DNI for a period not to exceed two years.

(Sec. 405) Authorizes the DNI, as part of a flexible personnel management system among IC elements, to: (1) convert competitive service positions within an IC element to excepted service positions; and (2) establish the classification and ranges of pay for the converted positions. Sets as level III of the Executive Schedule the maximum pay authorized for the converted positions. Authorizes the DNI to grant authority to fix a higher rate of pay, but only: (1) with respect to a position which requires an extremely high level of expertise and is critical to the successful accomplishment of an important mission; and (2) to the extent necessary to recruit or retain an individual exceptionally well qualified for the position. Allows the DNI to authorize one or more elements of the IC to adopt compensation authority, performance management authority, and scholarship authority with respect to IC personnel that have been authorized for another element of the IC, after prior notification of the intelligence committees.

(Sec. 407) Directs the DNI's Science and Technology Committee to identify basic, advanced, and applied research programs to be carried out by IC elements. Provides additional duties of and goals for the DNI's Director of Science and Technology with regard to IC technology needs. Requires the DNI to report to Congress a strategy for the development and use of technology in the IC through 2021.

(Sec. 408) Renames the DNI's Chief Information Officer as the Chief Information Officer of the Intelligence Community.

(Sec. 409) Establishes a Reserve for Contingencies of the Office of the Director of National Intelligence. Requires that, before funds from the Reserve are used: (1) the DNI notify the intelligence committees; and (2) 15 days elapse after such notification.

(Sec. 410) Codifies under the National Security Act of 1947 the authority of the DNI to establish an Office of the Inspector General of the Intelligence Community. Outlines required duties. Requires semiannual Inspector General reports to the DNI (and to the Secretary of Defense, with respect to portions of the report involving DOD components) summarizing Office activities. Requires an immediate report from the Inspector General to the DNI whenever the Inspector General becomes aware of serious or flagrant problems, abuses, or deficiencies relating to matters within the authority and responsibility of the DNI. Allows an IC employee or contractor who intends to report to Congress a complaint or information with respect to an urgent concern to report such complaint or information to the Inspector General. Requires the Inspector General to then determine whether such complaint or information appears credible, and to forward such findings to the DNI, who shall forward them to the intelligence committees. Directs the Inspector General to report to the Attorney General information relating to violations of federal criminal law that involve a program or operation of an IC element, or in relationships between IC elements. Requires the DNI to include in the National Intelligence Program budget a separate account for the Office of the Inspector General. Repeals superseded authority under the Inspector General Act of 1978.

(Sec. 411) Designates as the head of the National Counter Proliferation Center the Director of the National Counter Proliferation Center, who shall be appointed by the DNI. Locates such Center within the Office of the DNI.

(Sec. 412) Establishes within the Office of the DNI a National Space Intelligence Office, to be directed by the National Intelligence Officer for Science and Technology. Outlines Office duties, including coordinating and providing policy direction for the management of space-related assets and fields relating to space intelligence. Requires a report from the Office Director to the intelligence committees on Office organizational structure.

(Sec. 413) Exempts from search, review, publication, and disclosure requirements of the Freedom of Information Act certain operational files in the Office of the DNI that were provided by IC elements. Provides exemption exceptions. Requires the DNI, at least once every ten years, to review the exempted operational files to determine whether such files, or any portion thereof, may be removed from the exemption. Provides judicial review of an allegation of the improper withholding of records through the use of such exemption.

(Sec. 414) Repeals certain administrative authorities within the Office of the National Counterintelligence Executive.

(Sec. 415) Makes provisions of the Federal Advisory Committee Act inapplicable to advisory committees of the Office of the DNI.

(Sec. 416) Replaces the CIA Director with the DNI on the membership of the Transportation Security Oversight Board.

(Sec. 417) Authorizes the DNI to prescribe regulations to exempt any system of records within the Office of the DNI from certain Privacy Act requirements.

Subtitle B: Central Intelligence Agency - (Sec. 421) Establishes the position of Deputy Director of the Central Intelligence Agency, who shall be appointed by the President. Outlines Deputy Director duties. Requires the DNI to recommend to the President a nominee to fill any vacancy in such position. States that the commissioned officer currently performing the duties of the Deputy Director shall neither be subject to the supervision or control of the Secretary of Defense nor exercise any supervision or control over DOD personnel.

(Sec. 422) Makes inapplicable to the CIA Director a requirement to submit to the intelligence committees an annual report on actions taken to ensure the auditability of CIA financial statements.

(Sec. 423) Amends the Central Intelligence Agency Act of 1949 to authorize CIA protective detail personnel to make arrests without a warrant: (1) for any offense against the United States committed in their presence; or (2) when having reasonable cause to believe that the person to be arrested has committed or is committing a felony. Authorizes the CIA Director to make such personnel available to the DNI.

(Sec. 424) Requires the CIA Director to prepare and make available to the public a version of of the Executive Summary of a report concerning CIA accountability before and after the terrorist attacks of September 11, 2001.

(Sec. 425) Requires a report from the CIA Director to Congress on the advisability of providing federal retirement benefits to U.S. citizens for their service before 1977 as employees of Air America or an associated company while such company was owned or controlled by the U.S. government and operated or managed by the CIA.

Subtitle C: Defense Intelligence Components - (Sec. 431) Amends the National Security Agency Act of 1959 to authorize the NSA to recoup educational costs expended for the benefit of employees who are terminated for failure to maintain an appropriate level of academic standing.

(Sec. 432) Authorizes the NSA Director to designate NSA personnel to perform protective functions for the Director and any NSA personnel designated by the Director. Authorizes such protective personnel to make arrests without a warrant:

(1) for any offense against the United States committed in their presence; or (2) when having reasonable cause to believe that the person to be arrested has committed or is committing a felony.

(Sec. 433) Amends the Inspector General Act of 1978 to require the heads of the NRO, DIA, NSA, and NGIA to appoint an independent inspector general for their agency (thus giving such inspectors general the same information-gathering power and independence as is currently held by inspectors general of other federal agencies). Allows the DNI or the Secretary of Defense to prohibit the inspector general of an IC element from initiating, carrying out, or completing any audit or investigation if the DNI or Secretary determines that the prohibition is necessary to protect vital U.S. national security interests. Requires notification of such determination to the defense and intelligence committees.

(Sec. 434) Requires the directors of the NSA, NGIA, and NRO to be appointed by the President, by and with the advice and consent of the Senate.

(Sec. 435) Requires the NGIA, as directed by the DNI, to analyze, disseminate, and incorporate into the National System for Geospatial-Intelligence likenesses, videos, and presentations produced by ground-based platforms, including handheld or clandestine photography taken by or on behalf of human intelligence collection organizations or available as open-source information.

(Sec. 436) Directs the Secretary of Defense, during the period beginning on the date of enactment of this Act and ending on December 31, 2008, to delegate to the NGIA Director personnel security clearance authority with respect to NGIA personnel that is identical to the authority held by the NSA Director over NSA personnel.

Subtitle D: Other Elements - (Sec. 441) Includes appropriate elements of the Coast Guard and DEA within the definition of "intelligence community."

(Sec. 442) Amends the Intelligence Authorization Act for Fiscal Year 2004 to replace the CIA Director with the DNI for responsibility over the Office of Intelligence and Analysis.

Title V: Other Matters - (Sec. 501) Makes technical and/or clarifying amendments to the National Security Act of 1947, provisions relating to the Intelligence Reform and Terrorism Prevention Act of 2004, the Central Intelligence Agency Act of 1949, provisions relating to the Multiyear National Intelligence Program, provisions relating to pay levels of certain intelligence officials, provisions relating to the redesignation of the National Geospatial-Intelligence Agency, and provisions relating to the responsibility of the DNI, rather than the CIA Director, as the head of the IC.

Actions Timeline

- **Oct 3, 2007:** Measure laid before Senate by unanimous consent. (consideration: CR S12456-12476; text of measure as reported in Senate: CR S12457-12474)
- **Oct 3, 2007:** The committee reported amendments agreed to by Unanimous Consent.
- **Oct 3, 2007:** The bill was read the third time.
- **Oct 3, 2007:** Senate incorporated this measure in H.R. 2082 as an amendment.
- **Oct 3, 2007:** Returned to the Calendar. Calendar No. 222.
- **Oct 3, 2007:** See also H.R.2082.
- **Jun 26, 2007:** Committee on Armed Services. Ordered to be reported with amendments favorably.
- **Jun 26, 2007:** Committee on Armed Services. Reported by Senator Levin with amendments. With written report No. 110-92.
- **Jun 26, 2007:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 222.
- **Jun 15, 2007:** Referred to the Committee on Armed Services pursuant to S.Res.445, 108th Congress, for an additional 5 days of session.
- **Jun 4, 2007:** Referred to the Committee on Armed Services pursuant to section 3(b) of S.Res. 400, 94th Congress, as amended by S.Res. 445, 108th Congress, for a period not to exceed 10 days of session.
- **May 31, 2007:** Introduced in Senate
- **May 31, 2007:** Select Committee on Intelligence. Original measure reported to Senate by Senator Rockefeller under authority of the order of the Senate of 05/25/2007. With written report No. 110-75. Additional views filed.
- **May 31, 2007:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 181.
- **May 23, 2007:** Select Committee on Intelligence ordered to be reported an original measure.