

HR 5959

Intelligence Authorization Act for Fiscal Year 2009

Congress: 110 (2007–2009, Ended)

Chamber: House

Policy Area: Armed Forces and National Security

Introduced: May 5, 2008

Current Status: Received in the Senate. Read twice. Placed on Senate Legislative Calendar under General Orders. Cale

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Calendar No. 888. (Jul 17, 2008)

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Sponsor

Name: Rep. Reyes, Silvestre [D-TX-16]

Party: Democratic • **State:** TX • **Chamber:** House

Cosponsors

No cosponsors are listed for this bill.

Committee Activity

| Committee | Chamber | Activity | Date |
|---|---------|-----------|--------------|
| Intelligence (Permanent Select) Committee | House | Markup By | Jul 17, 2008 |

Subjects & Policy Tags

Policy Area:

Armed Forces and National Security

Related Bills

| Bill | Relationship | Last Action |
|---------------|----------------------|---|
| 110 HRES 1343 | Procedurally related | Jul 16, 2008: Motion to reconsider laid on the table Agreed to without objection. |
| 110 S 2996 | Companion bill | May 8, 2008: Placed on Senate Legislative Calendar under General Orders. Calendar No. 730. |

Intelligence Authorization Act for Fiscal Year 2009 - **Title I: Budget and Personnel Authorizations** - (Sec. 101) Authorizes appropriations for FY2009 for the conduct of intelligence and intelligence-related activities of the: (1) Office of the Director of National Intelligence; (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) Coast Guard; (8) Departments of State, the Treasury, Energy, and Justice; (9) Federal Bureau of Investigation (FBI); (10) Drug Enforcement Administration (DEA); (11) National Reconnaissance Office; (12) National Geospatial-Intelligence Agency; and (13) Department of Homeland Security.

(Sec. 102) Specifies that the amounts authorized and the authorized personnel ceilings as of September 30, 2009, for such activities are those specified in the classified Schedule of Authorizations, which shall be made available to the congressional appropriations committees and the President.

(Sec. 103) Allows the Director of National Intelligence (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 FY2009 (by not more than 3%) when necessary for the performance of important intelligence functions. Requires notification of the intelligence committees on the use of such authority.

(Sec. 104) Authorizes appropriations for the Intelligence Community Management Account for FY2009, as well as for full-time personnel for elements within such Account.

(Sec. 105) Prohibits: (1) more than 25% of the funds authorized by this Act for the National Intelligence Program (NIP) for covert actions from being obligated or expended until each member of the intelligence committees has been fully and currently briefed on all authorizations for covert actions in effect on April 24, 2008; and (2) any funds from this Act from being used to implement an FBI program requiring the mandatory reassignment of a supervisor that serves in a management position for five years (known as the "5 and out" program).

Title II: Central Intelligence Agency Retirement and Disability System - (Sec. 201) Authorizes appropriations for FY2009 for the Central Intelligence Agency Retirement and Disability Fund.

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

(Sec. 302) Allows an officer or employee of the United States or member of the Armed Forces to be detailed in any fiscal year after 2008 to the staff of an element of the IC funded through the Community Management Account, on a reimbursable or nonreimbursable basis as jointly agreed to by the DNI and the head of the detailing IC element, for a period not to exceed two years.

(Sec. 303) Amends the National Security Act of 1947 to make the DNI responsible for ensuring that IC elements adopt a multi-level security clearance approach to enable the IC to make effective and efficient use of persons proficient in foreign languages or with cultural, linguistic, or other subject matter expertise critical to national security.

(Sec. 304) Permits the DNI to delegate to IC heads, and IC heads to delegate to senior officials within such IC element, the authority to approve certain employee travel on common carriers. Requires the DNI to submit to the intelligence

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

(Sec. 305) 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 for the fiscal year following the fiscal year in which the assessment is submitted.

(Sec. 306) Requires the DNI to report to the intelligence committees describing the personal services activities performed by contractors across the IC, the impact of such contractors on the IC workforce, plans for conversion of contractor employment into government employment, and accountability mechanisms that govern the performance of such contractors.

(Sec. 307) Prohibits the DNI or any IC element head from implementing a plan that provides compensation to personnel of that element based on performance until 45 days after the DNI reports to Congress on such performance-based compensation.

(Sec. 308) Requires the DNI to report to the intelligence committees on the plans of each IC element to increase diversity within the IC.

(Sec. 309) Requires the OMB Director to report annually to Congress on security clearance determinations that have taken longer than one year to complete.

(Sec. 310) Expresses the sense of Congress that the DNI should work cooperatively with other federal agencies responsible for programs related to space and the aerospace industry to develop and implement policies to sustain and expand the diverse workforce available to the IC.

Subtitle B: Other Matters - (Sec. 311) 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. 313) Amends the National Security Act of 1947 to allow funds available to an intelligence agency to be obligated or expended for a different intelligence activity if the activity supports an emergent need, improves program effectiveness, or increases efficiency.

(Sec. 314) Increases the maximum terms of imprisonment for the disclosure of agent information after access to either agent identifying information or classified information.

(Sec. 315) 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. 316) 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. 317) Incorporates into this Act each requirement to submit a report to the intelligence committees that is included in the classified annex to this Act.

(Sec. 318) Amends the National Security Act of 1947 and the Intelligence Authorization Act for Fiscal Year 2003 to repeal certain intelligence-related reporting requirements.

(Sec. 319) Deletes the requirement that the NSA must publicly identify to educational institutions students who are NSA employees participating in an undergraduate training program to facilitate the recruitment of individuals with skills critical to its mission.

Authorizes the appropriate department head to assign civilian employees of an IC element as students at accredited professional, technical, and other institutions of higher learning for undergraduate training in skills critical to effective performance of the mission of that IC element. Requires a participating employee, in return for the payment of such educational expenses, to agree to: (1) complete the training; (2) continue to serve in that IC element for one and one half years for each year of such assignment; and (3) reimburse the United States on a pro rata basis for failure to complete the training or to serve for the agreed-upon period.

(Sec. 320) Directs the President to report to Congress on options for creating an advisory panel for national cybersecurity, including federal information security and critical infrastructure.

(Sec. 321) Amends the Energy Independence and Security Act of 2007 to provide an exception to such Act's provisions concerning the procurement of alternative fuel by an IC element of a generally available fuel that is not an alternative or synthetic fuel or predominantly produced from a nonconventional petroleum source.

Title IV: Matters Relating to Elements of the Intelligence Community - Subtitle A: Office of the Director of National Intelligence - (Sec. 401) Makes the ban on co-location of the Office of the DNI with any other IC element applicable to the co-location of the headquarters of the Office of the DNI with the headquarters of any other IC element.

(Sec. 402) Replaces the CIA Director with the DNI on the membership of the Transportation Security Oversight Board.

(Sec. 403) Provides additional duties for the Director of Science and Technology within the Office of the DNI, including an annual report on science and technology strategy that shows resources mapped to IC goals.

Sec. 404) 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. 405) Directs the DNI to develop and report to Congress on a plan to implement across the IC the recommendations of a specified report concerning the use of energy-efficient computer servers in the United States.

(Sec. 406) Requires semiannual reports from the DNI to the intelligence committees on the intentions and capabilities of Iran, Syria, and North Korea with regard to their nuclear programs.

(Sec. 407) Renames the DNI's Chief Information Officer as the Chief Information Officer of the Intelligence Community.

(Sec. 408) Establishes an Office of the Inspector General of the Intelligence Community. Requires: (1) semiannual reports from the Inspector General to the DNI summarizing Office activities; (2) the DNI to transmit such reports to the intelligence committees; and (3) the DNI to include in the NIP budget a separate account for the Office of the Inspector General. Repeals superseded authority under the Inspector General Act of 1978.

(Sec. 409) Requires the DNI to report annually to the intelligence committees on the foreign language proficiency of each IC element.

(Sec. 410) Repeals certain administrative authorities within the Office of the National Counterintelligence Executive.

(Sec. 411) Directs the DNI to submit to: (1) Congress a National Intelligence Estimate on the history, status, and projected development of weapons of mass destruction by Syria; and (2) the intelligence committees a report on intelligence collection and analysis resources dedicated to Iraq and Afghanistan during FY2007-FY2008.

(Sec. 413) Requires the: (1) DNI to appoint an ombudsman for IC security clearances; and (2) ombudsman to report annually to the intelligence committees on complaints received with respect to such clearances.

(Sec. 414) Directs the IC Inspector General to conduct, and report to the intelligence committees on results of, an audit of the reciprocity of security clearances in the IC.

(Sec. 415) Requires a report from the DNI to the intelligence committees assessing the threat to national security presented by efforts of foreign countries to acquire U.S. sensitive equipment and technology, and the degree to which U.S. export controls are adequate to defeat such efforts.

(Sec. 416) Directs the DNI to report to the intelligence, defense, and foreign relations committees on the illicit trade of nuclear and radiological material and equipment.

(Sec. 417) Requires the DNI to conduct a study, and report to the intelligence committees on, the feasibility of revoking the pensions of IC personnel who commit unauthorized disclosures of classified information.

(Sec. 418) Directs the DNI to issue a memorandum to holders of the National Intelligence Estimate entitled "Iran: Nuclear Intentions and Capabilities" regarding any intelligence on Iran's nuclear program that has been gathered or has emerged since the publication of that Estimate.

(Sec. 419) Requires the DNI to submit to Congress a National Intelligence Estimate on the production and sale of narcotics in support of international terrorism, including support the Taliban and al Qaeda receive from such sales, and the shift in production from opium to hashish in Afghanistan.

Subtitle B: Central Intelligence Agency - (Sec. 421) Requires the CIA Inspector General, at least every three years, to conduct, and report to the intelligence committees on, an audit of each CIA covert action.

(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) Makes technical amendments relating to the title of certain CIA positions.

(Sec. 424) 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.

(Sec. 425) Prohibits the CIA Director from expending or obligating funds for payment to any contractor to conduct the interrogation of a detainee in CIA custody or control. Allows an exception when no CIA employee is capable or available and the interrogation is in the national interest.

(Sec. 426) Requires a report from the CIA Director to the intelligence and appropriations committees on certain CIA activities in Argentina.

Subtitle C: Defense Intelligence Components - (Sec. 431) Directs the Under Secretary of Defense for Intelligence to

report to the intelligence and defense committees outlining the process by which the Counterintelligence Field Activity is to be integrated into the DIA.

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

(Sec. 442) Requires the FBI Director to report to the intelligence committees describing the long-term vision for transforming the FBI's intelligence capabilities and the progress of internal reforms intended to achieve that vision.

Title V: Other Matters - Subtitle A: General Intelligence Matters - (Sec. 501) Amends the Intelligence Authorization Act for Fiscal Year 2003 to extend until December 31, 2009, the final report requirement of the National Commission for the Review of the Research and Development Programs of the United States Intelligence Community. Provides funding.

(Sec. 502) Amends the National Security Act of 1947 to require additional congressional reporting requirements with respect to: (1) the lawfulness, effectiveness, cost, gain, budgetary authority, and risk of an intelligence activity; (2) intelligence activities other than covert actions; and (3) the approval of covert actions.

(Sec. 503) Changes from semiannual to annual required reports on financial intelligence concerning terrorist assets.

(Sec. 504) States that a notification to the intelligence committees regarding intelligence information relating to North Korea or China after all or part of such information has been conveyed to the governments of such countries shall not be construed to fulfill the requirement that the President keep such committees fully informed of U.S. intelligence activities.

(Sec. 505) Expresses the sense of Congress that resources authorized under this Act should not be diverted from human intelligence collection and other intelligence programs designed to combat al Qaeda in order to study global climate change.

(Sec. 506) Expresses the sense of Congress that: (1) the permanent defeat of specified Colombian paramilitary organizations is in the U.S. national interest; (2) the Colombian operation that liberated certain American and Colombian hostages from the Revolutionary Armed Forces of Colombia on July 2, 2008, demonstrated the professionalism of Colombian security forces and intelligence operatives; (3) intelligence and other cooperation by the United States has played a key role in developing and reinforcing the capabilities of Colombia to address terrorist and narcoterrorist threats; and (4) it is critical that such assistance continue.

(Sec. 507) Prohibits intelligence funds from being used to prohibit or discourage the use of the words or phrases "jihadist," "jihad," "Islamofascism," "caliphate," "Islamist," or "Islamic terrorist" by or within the IC or the federal government.

Subtitle B: Technical Amendments - (Sec. 511) Makes technical and/or clarifying amendments to the Central Intelligence Agency Act of 1949, the National Defense Authorization Act for Fiscal Year 1991, the National Security Act of 1947, provisions relating to the Intelligence Reform and Terrorism Prevention Act of 2004, provisions relating to pay levels of certain intelligence officials, and provisions referring to the National Imagery and Mapping Agency (since renamed the National Geospatial-Intelligence Agency).

Actions Timeline

- **Jul 17, 2008:** Committee Consideration and Mark-up Session Held.
- **Jul 17, 2008:** Received in the Senate. Read twice. Placed on Senate Legislative Calendar under General Orders. Calendar No. 888.
- **Jul 16, 2008:** Rule H. Res. 1343 passed House.
- **Jul 16, 2008:** Considered under the provisions of rule H. Res. 1343. (consideration: CR H6599-6629)
- **Jul 16, 2008:** Rule provides for consideration of H.R. 5959 with 1 hour of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. Measure will be considered read. Specified amendments are in order. All points of order against consideration of the bill are waived except those arising under clause 9 of rule XXI. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Permanent Select Committee on Intelligence now printed in the bill.
- **Jul 16, 2008:** House resolved itself into the Committee of the Whole House on the state of the Union pursuant to H. Res. 1343 and Rule XVIII.
- **Jul 16, 2008:** The Speaker designated the Honorable John T. Salazar to act as Chairman of the Committee.
- **Jul 16, 2008:** GENERAL DEBATE - The Committee of the Whole proceeded with one hour of general debate on H.R. 5959.
- **Jul 16, 2008:** DEBATE - Pursuant to the provision of H.Res. 1343, the Committee of the Whole proceeded with 10 minutes of debate on the Reyes amendment.
- **Jul 16, 2008:** POSTPONED PROCEEDINGS - At the conclusion of debate on the Hoekstra amendment, the Chair put the question on adoption of the amendment and by voice vote, announced the ayes had prevailed. Mr. Hoekstra demanded a recorded vote and the Chair postponed further proceedings on the question of adoption of the amendment until later in the legislative day.
- **Jul 16, 2008:** DEBATE - Pursuant to the provision of H.Res. 1343, the Committee of the Whole proceeded with 10 minutes of debate on the Holt amendment.
- **Jul 16, 2008:** DEBATE - Pursuant to the provision of H.Res. 1343, the Committee of the Whole proceeded with 10 minutes of debate on the Hoekstra amendment.
- **Jul 16, 2008:** POSTPONED PROCEEDINGS - At the conclusion of debate on the Hoekstra amendment, the Chair put the question on adoption of the amendment and by voice vote, announced the noes had prevailed. Mr. Hoekstra demanded a recorded vote and the Chair postponed further proceedings on the question of adoption of the amendment until later in the legislative day.
- **Jul 16, 2008:** DEBATE - Pursuant to the provision of H.Res. 1343, the Committee of the Whole proceeded with 10 minutes of debate on the Harman amendment.
- **Jul 16, 2008:** DEBATE - Pursuant to the provision of H.Res. 1343, the Committee of the Whole proceeded with 10 minutes of debate on the Kirk amendment.
- **Jul 16, 2008:** POSTPONED PROCEEDINGS - At the conclusion of debate on the Kirk amendment, the Chair put the question on adoption of the amendment and by voice vote, announced the ayes had prevailed. Mr. Kirk demanded a recorded vote and the Chair postponed further proceedings on the question of adoption of the amendment until later in the legislative day.
- **Jul 16, 2008:** DEBATE - Pursuant to the provision of H.Res. 1343, the Committee of the Whole proceeded with 10 minutes of debate on the Hinchey amendment.
- **Jul 16, 2008:** UNFINISHED BUSINESS - The Chair announced that the unfinished business was the question of adoption of amendments which had been debated earlier and on which further proceedings had been postponed.
- **Jul 16, 2008:** The House rose from the Committee of the Whole House on the state of the Union to report H.R. 5959.
- **Jul 16, 2008:** The previous question was ordered pursuant to the rule. (consideration: CR H6626)
- **Jul 16, 2008:** The House adopted the amendment in the nature of a substitute as agreed to by the Committee of the Whole House on the state of the Union. (text: CR H6607-6617)
- **Jul 16, 2008:** Mr. Hoekstra moved to recommit with instructions to Intelligence (Permanent). (consideration: CR H6626-6629; text: CR H6626-6627)
- **Jul 16, 2008:** Floor summary: DEBATE - The House proceeded with 10 minutes of debate on the Hoekstra motion to recommit with instructions. The instructions contained in the motion seek to require the bill to be reported back to the House with an amendment adding a new section on National Intelligence Assessment on Energy Prices and Security.
- **Jul 16, 2008:** WORDS TAKEN DOWN - During the course of debate, exception was taken to certain words used and a demand was made to have the words taken down.

- Jul 16, 2008:** RULING OF THE CHAIR - After review, the Chair ruled that the words complained of were not directed in such a way as to constitute a personality or otherwise transgress the bounds of decorum in debate.
- **Jul 16, 2008:** The previous question on the motion to recommit with instructions was ordered without objection. (consideration: CR H6628)
 - **Jul 16, 2008:** On motion to recommit with instructions Failed by recorded vote: 200 - 225 (Roll no. 502).
 - **Jul 16, 2008:** Passed/agreed to in House: On passage Passed by voice vote.
 - **Jul 16, 2008:** On passage Passed by voice vote.
 - **Jul 16, 2008:** Motion to reconsider laid on the table Agreed to without objection.
 - **Jul 16, 2008:** The Clerk was authorized to correct section numbers, punctuation, and cross references, and to make other necessary technical and conforming corrections in the engrossment of H.R. 5959.
 - **Jul 15, 2008:** Rules Committee Resolution H. Res. 1343 Reported to House. Rule provides for consideration of H.R. 5959 with 1 hour of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. Measure will be considered read. Specified amendments are in order. All points of order against consideration of the bill are waived except those arising under clause 9 of rule XXI. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Permanent Select Committee on Intelligence now printed in the bill.
 - **Jul 10, 2008:** PERMISSION TO FILE A SUPPLEMENTAL REPORT - Mr. Reyes asked unanimous consent that the House Permanent Select Committee on Intelligence be allowed to file a supplemental report on H.R. 5959.
 - **Jul 10, 2008:** Supplemental report filed by the Committee on Intelligence (Permanent), H. Rept. 110-665, Part II.
 - **May 21, 2008:** Reported (Amended) by the Committee on Intelligence (Permanent). H. Rept. 110-665.
 - **May 21, 2008:** Placed on the Union Calendar, Calendar No. 418.
 - **May 5, 2008:** Introduced in House
 - **May 5, 2008:** Referred to the House Committee on Intelligence (Permanent Select).