

Congress of the United States



Intelligence Reform and Terrorism Prevention Act of 2004

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108TH UNITED STATES CONGRESS

2ND SESSION

An Act

To reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

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

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(a) Short Title.—

This Act may be cited as the ``**Intelligence Reform and Terrorism Prevention Act of 2004**``

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Approved December 17, 2004.

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S. 2845 (H.R. 10):

- HOUSE REPORTS: Nos. 108-724, Pt. 1 (Permanent Select Comm. on Intelligence), Pt. 2 (Comm. on Armed Services), Pt. 3 (Comm. on Financial Services), Pt. 4 (Comm. on Government Reform), and Pt. 5 (Comm. on the Judiciary) all accompanying H.R. 10, and 108-796 (Comm. of Conference).
- CONGRESSIONAL RECORD, Vol. 150 (2004):
 - Sept. 27-30, Oct. 1, 4-6, considered and passed Senate.
 - Oct. 16, considered and passed House pursuant to H. Res. 827.
 - Dec. 7, House agreed to conference report.
 - Dec. 8, Senate agreed to conference report.

- WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 40 (2004):

- Dec. 17, Presidential remarks and statement.

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SEC. 1001. SHORT TITLE.

This title may be cited as the ``**National Security Intelligence Reform Act of 2004**''.

Subtitle A—Establishment of Director of National Intelligence

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SEC. 1011. REORGANIZATION AND IMPROVEMENT OF MANAGEMENT OF INTELLIGENCE COMMUNITY.

(a) In General.—

Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by striking sections 102 through 104 and inserting the following new sections:

``Sec. 102.

``(a) Director of National Intelligence.—

``(1) There is a Director of National Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate. Any individual nominated for appointment as Director of National Intelligence shall have extensive national security expertise.

``(2) The Director of National Intelligence shall not be located within the Executive Office of the President.

``(b) Principal Responsibility.—Subject to the authority, direction, and control of the President, the Director of National Intelligence shall—

``(1) serve as head of the intelligence community;

``(2) act as the principal adviser to the President, to the National Security Council, and the Homeland Security Council for intelligence matters related to the national security; and

``(3) consistent with section 1018 of the National Security Intelligence Reform Act of 2004, oversee and direct the implementation of the National Intelligence Program.

``(c) Prohibition on Dual Service.—The individual serving in the position of Director of National Intelligence shall not, while so serving, also serve as the Director of the Central Intelligence Agency or as the head of any other element of the intelligence community.

``Sec. 102A. (a) Provision of Intelligence.—

``(1) The Director of National Intelligence shall be responsible for ensuring that national intelligence is provided—

``(A) to the President;

``(B) to the heads of departments and agencies of the executive branch;

``(C) to the Chairman of the Joint Chiefs of Staff and senior military commanders;

``(D) to the Senate and House of Representatives and the committees thereof; and

``(E) to such other persons as the Director of National Intelligence determines to be appropriate.

``(2) Such national intelligence should be timely, objective, independent of political considerations, and based upon all sources available to the intelligence community and other appropriate entities.

``(b) Access to Intelligence.—Unless otherwise directed by the President, the Director of National Intelligence shall have access to all national intelligence and intelligence related to the national security which is collected by any Federal department, agency, or other entity, except as otherwise provided by law or, as appropriate, under guidelines agreed upon by the Attorney General and the Director of National Intelligence.

``(c) Budget Authorities.—

``(1) With respect to budget requests and appropriations for the National Intelligence Program, the Director of National Intelligence shall—

``(A) based on intelligence priorities set by the President, provide to the heads of departments containing agencies or organizations within the intelligence community, and to the

heads of such agencies and organizations, guidance for developing the National Intelligence Program budget pertaining to such agencies and organizations;

``(B) based on budget proposals provided to the Director of National Intelligence by the heads of agencies and organizations within the intelligence community and the heads of their respective departments and, as appropriate, after obtaining the advice of the Joint Intelligence Community Council, develop and determine an annual consolidated National Intelligence Program budget; and

``(C) present such consolidated National Intelligence Program budget, together with any comments from the heads of departments containing agencies or organizations within the intelligence community, to the President for approval.

``(2) In addition to the information provided under paragraph (1)(B), the heads of agencies and organizations within the intelligence community shall provide the Director of National Intelligence such other information as the Director shall request for the purpose of determining the annual consolidated National Intelligence Program budget under that paragraph.

``(3)(A) The Director of National Intelligence shall participate in the development by the Secretary of Defense of the annual budgets for the Joint Military Intelligence Program and for Tactical Intelligence and Related Activities.

``(B) The Director of National Intelligence shall provide guidance for the development of the annual budget for each element of the intelligence community that is not within the National Intelligence Program.

``(4) The Director of National Intelligence shall ensure the effective execution of the annual budget for intelligence and intelligence-related activities.

``(5)(A) The Director of National Intelligence shall be responsible for managing appropriations for the National Intelligence Program by directing the allotment or allocation of such appropriations through the heads of the departments containing agencies or organizations within the intelligence community and the Director of the Central Intelligence Agency, with prior notice (including the provision of appropriate supporting information) to the head of the department containing an agency or organization receiving any such allocation or allotment or the Director of the Central Intelligence Agency.

``(B) Notwithstanding any other provision of law, pursuant to relevant appropriations Acts for the National Intelligence Program, the Director of the Office of Management and Budget shall exercise the authority of the Director of the Office of Management and Budget to apportion funds, at the exclusive direction of the Director of National Intelligence, for allocation to the elements of the intelligence community through the relevant host executive departments and the Central Intelligence Agency. Department comptrollers or appropriate budget execution officers shall allot, allocate, reprogram, or transfer funds appropriated for the National Intelligence Program in an expeditious manner.

``(C) The Director of National Intelligence shall monitor the implementation and execution of the National Intelligence Program by the heads of the elements of the intelligence community that manage programs and activities that are part of the National Intelligence Program, which may include audits and evaluations.

``(6) Apportionment and allotment of funds under this subsection shall be subject to chapter 13 and section 1517

of title 31, United States Code, and the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.).

“(7)(A) The Director of National Intelligence shall provide a semi-annual report, beginning April 1, 2005, and ending April 1, 2007, to the President and the Congress regarding implementation of this section.

“(B) The Director of National Intelligence shall report to the President and the Congress not later than 15 days after learning of any instance in which a departmental comptroller acts in a manner inconsistent with the law (including permanent statutes, authorization Acts, and appropriations Acts), or the direction of the Director of National Intelligence, in carrying out the National Intelligence Program.

“(d) Role of Director of National Intelligence in Transfer and Reprogramming of Funds.—

“(1)(A) No funds made available under the National Intelligence Program may be transferred or reprogrammed without the prior approval of the Director of National Intelligence, except in accordance with procedures prescribed by the Director of National Intelligence.

“(B) The Secretary of Defense shall consult with the Director of National Intelligence before transferring or reprogramming funds made