

108TH CONGRESS  
1ST SESSION

# S. 1946

To establish an independent national commission to examine and evaluate the collection, analysis, reporting, use, and dissemination of intelligence related to Iraq and Operation Iraqi Freedom.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 24, 2003

Mr. CORZINE introduced the following bill; which was read twice and referred to the Select Committee on Intelligence

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## A BILL

To establish an independent national commission to examine and evaluate the collection, analysis, reporting, use, and dissemination of intelligence related to Iraq and Operation Iraqi Freedom.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

3        **SECTION 1. SHORT TITLE.**

4        This Act may be cited as the “Independent Iraq In-

5        telligence Commission Act”.

6        **SEC. 2. ESTABLISHMENT OF COMMISSION.**

7        There is established the National Commission on Iraq

8        Intelligence (in this Act referred to as the “Commission”).

1 **SEC. 3. PURPOSES.**

2 The purposes of the Commission are as follows:

3 (1) To examine and evaluate the performance  
4 of the United States intelligence community with re-  
5 spect to the collection of intelligence, and the quality  
6 of intelligence obtained, on the weapons of mass de-  
7 struction and related delivery systems capabilities of  
8 Iraq in the period from 1998 until the conclusion of  
9 military operations against Iraq under Operation  
10 Iraqi Freedom.

11 (2) To examine and evaluate the performance  
12 of the United States intelligence community with re-  
13 spect to the collection of intelligence, and the quality  
14 of intelligence obtained, on the connections and sup-  
15 port, if any, of Iraq with and for the plans and in-  
16 tentions of terrorist groups to attack the United  
17 States or United States interests abroad during the  
18 period referred to in paragraph (1).

19 (3) To examine and evaluate the performance  
20 of the United States intelligence community with re-  
21 spect to the collection of intelligence, and the quality  
22 of intelligence obtained, during and after the period  
23 referred to in paragraph (1), on matters relating  
24 to—

25 (A) the conduct of military and intelligence  
26 operations against Iraq;

1 (B) the search for and securing of weapons  
2 of mass destruction, related delivery systems ca-  
3 pabilities, and conventional weapons in Iraq;  
4 and

5 (C) the military, political, and economic as-  
6 pects of the occupation of Iraq.

7 (4) To examine and evaluate the quality of the  
8 analysis by the United States intelligence community  
9 of the available intelligence related to the matters re-  
10 ferred to in paragraphs (1) through (3), including  
11 intelligence from foreign intelligence services, that  
12 served as a basis during the period referred to in  
13 paragraph (1) for—

14 (A) reports, testimony, and presentations  
15 to policymakers in the Executive Branch and  
16 Congress, and to United Nations bodies and  
17 other consumers; and

18 (B) assessments that were used or dissemi-  
19 nated by the Executive Branch.

20 (5) To examine and evaluate the effect, if any,  
21 on the United States intelligence community of the  
22 actions of Executive Branch officials regarding the  
23 collection, analysis, and reporting on intelligence  
24 matters referred to in paragraphs (1) through (3).

1           (6) To examine and evaluate the relevant facts  
2           and circumstances relating to the use and dissemina-  
3           tion by Executive Branch officials of intelligence and  
4           intelligence analyses underlying assessment of intel-  
5           ligence matters referred to in paragraphs (1)  
6           through (3) during the period referred to in para-  
7           graph (1), including assessments contained in public  
8           speeches, statements, and interviews, reports to and  
9           testimony before Congress, and communications with  
10          and reports and presentations to United Nations  
11          bodies.

12          (7) To build on the investigations of other enti-  
13          ties, and avoid unnecessary duplication, by reviewing  
14          the work, findings, conclusions, and recommenda-  
15          tions of other Executive Branch, Congressional, or  
16          independent commission investigations into the col-  
17          lection, analysis, reporting, use, and dissemination of  
18          intelligence related to Iraq by the United States.

19          (8) Based on the examinations and evaluations  
20          under paragraphs (1) through (6) and the work,  
21          findings, conclusions, and recommendations of other  
22          investigations referred to in paragraph (7), to iden-  
23          tify corrective measures to improve the collection,  
24          analysis, reporting, use, and dissemination of intel-  
25          ligence by the Executive Branch, and to report to

1 the President and Congress on the examinations,  
2 evaluations, findings, and conclusions of the Com-  
3 mission and on the recommendations of the Commis-  
4 sion with respect to such corrective measures.

5 **SEC. 4. COMPOSITION OF COMMISSION.**

6 (a) MEMBERS.—The Commission shall be composed  
7 of 10 members, of whom—

8 (1) 1 member shall be appointed by the Presi-  
9 dent, who shall serve as co-chairman of the Commis-  
10 sion;

11 (2) 1 member shall be appointed by the leader  
12 of the Senate (majority or minority leader, as the  
13 case may be) of the Democratic Party, in consulta-  
14 tion with the leader of the House of Representatives  
15 (majority or minority leader, as the case may be) of  
16 the Democratic Party, who shall serve as co-chair-  
17 man of the Commission;

18 (3) 2 members shall be appointed by the senior  
19 member of the Senate leadership of the Democratic  
20 Party;

21 (4) 2 members shall be appointed by the senior  
22 member of the leadership of the House of Represent-  
23 atives of the Republican Party;

1           (5) 2 members shall be appointed by the senior  
2 member of the Senate leadership of the Republican  
3 Party; and

4           (6) 2 members shall be appointed by the senior  
5 member of the leadership of the House of Represent-  
6 atives of the Democratic Party.

7 (b) QUALIFICATIONS; INITIAL MEETING.—

8           (1) POLITICAL PARTY AFFILIATION.—Not more  
9 than 5 members of the Commission shall be from  
10 the same political party.

11           (2) NONGOVERNMENTAL APPOINTEES.—An in-  
12 dividual appointed to the Commission may not be an  
13 officer or employee of the Federal Government or  
14 any State or local government.

15           (3) OTHER QUALIFICATIONS.—It is the sense of  
16 Congress that individuals appointed to the Commis-  
17 sion should be prominent United States citizens,  
18 with national recognition and significant depth of ex-  
19 perience in such professions as governmental service,  
20 the armed services, law, intelligence, and foreign af-  
21 fairs.

22           (4) DEADLINE FOR APPOINTMENT.—All mem-  
23 bers of the Commission shall be appointed not later  
24 than one month after the date of the enactment of  
25 this Act.

1           (5) INITIAL MEETING.—The Commission shall  
2           meet and begin the operations of the Commission as  
3           soon as practicable.

4           (c) QUORUM; VACANCIES.—After its initial meeting,  
5           the Commission shall meet upon the joint call of the co-  
6           chairmen or a majority of its members. Six members of  
7           the Commission shall constitute a quorum. Any vacancy  
8           in the Commission shall not affect its powers, but shall  
9           be filled in the same manner in which the original appoint-  
10          ment was made.

11 **SEC. 5. FUNCTIONS OF COMMISSION.**

12          The functions of the Commission are—

13               (1) to conduct an investigation into the relevant  
14               facts and circumstances relating to the collection,  
15               analysis, reporting, use, and dissemination by the  
16               United States intelligence community and others in  
17               the Executive Branch of intelligence relating to Iraq  
18               and Operation Iraqi Freedom, including—

19                       (A) an examination and evaluation of the  
20                       quantity and quality of United States intel-  
21                       ligence underlying assessments made during the  
22                       period referred to in section 3(1) of—

23                               (i) weapons of mass destruction and  
24                               delivery systems capabilities of Iraq;

1 (ii) connections and support, if any, of  
2 Iraq with and for the plans and intentions  
3 of terrorist groups to attack the United  
4 States or United States interests abroad;

5 (B) an examination and evaluation of the  
6 quantity and quality of United States intel-  
7 ligence underlying assessments made during  
8 after the period referred to in section 3(1) on  
9 intelligence matters relating to—

10 (i) the conduct of military and intel-  
11 ligence operations against Iraq;

12 (ii) the search for and securing of  
13 weapons of mass destruction, related deliv-  
14 ery systems capabilities, and conventional  
15 weapons in Iraq; and

16 (iii) the military, political, and eco-  
17 nomic aspects of the occupation of Iraq;

18 (C) an examination and evaluation regard-  
19 ing whether the analytical judgments in the as-  
20 sessments referred to in subparagraphs (A) and  
21 (B) were thorough, timely, objective, inde-  
22 pendent, and reasonable, based upon intel-  
23 ligence collection;

24 (D) an examination and evaluation of the  
25 accuracy of the assessments referred to in sub-



1 paragraphs (A) and (B) when compared with  
2 the results of the investigative efforts of the  
3 Iraq Survey Group and other relevant Executive  
4 Branch and Congressional entities, and with  
5 relevant assessments of the United Nations and  
6 other multilateral bodies, foreign governments,  
7 nongovernmental organizations, and other insti-  
8 tutions and individuals;

9 (E) an examination and evaluation of the  
10 quality of the intelligence on Iraq that was pro-  
11 vided to the United States intelligence commu-  
12 nity and Executive Branch policymakers, in-  
13 cluding by foreign intelligence services, that  
14 served as a basis during the period referred to  
15 in section 3(1) for—

16 (i) reports, testimony, and presen-  
17 tations to policymakers in the Executive  
18 Branch and Congress, and to United Na-  
19 tions bodies and other consumers; and

20 (ii) assessments that were used or dis-  
21 seminated by the Executive Branch;

22 (F) a determination of the extent, if any,  
23 to which elements of the United States intel-  
24 ligence community were inappropriately pres-  
25 sured by members of the Executive Branch to

1 produce intelligence consistent with such mem-  
2 bers policy objectives, and of the extent, if any,  
3 to which intelligence was manipulated or mis-  
4 represented by members of the Executive  
5 Branch or elements under their control;

6 (G) an assessment of the extent to which  
7 Congress was kept fully and currently informed  
8 about intelligence related to Iraq and Operation  
9 Iraqi Freedom;

10 (H) a determination of the extent to which  
11 the intelligence of the United States intelligence  
12 community, and of the United States Armed  
13 Forces and coalition forces, were sufficiently ac-  
14 curate, thorough, timely, objective, and inde-  
15 pendent to prepare such forces to conduct effec-  
16 tive military and intelligence operations against  
17 Iraq, including the search for and securing of  
18 weapons of mass destruction and conventional  
19 weapons in Iraq, and to prepare such forces  
20 and other United States and coalition entities  
21 to successfully carry out the military, political,  
22 and economic aspects of the occupation of Iraq;  
23 and

24 (I) an examination, evaluation, and assess-  
25 ment of such other related facts and cir-

1           cumstances that the Commission considers ap-  
2           propriate;

3           (2) to identify, review, and evaluate the lessons  
4           learned from issues related to the collection, anal-  
5           ysis, reporting, use, and dissemination of intelligence  
6           relating to Iraq and Operation Iraqi Freedom;

7           (3) to investigate the facts and circumstances  
8           relating to disclosures, if any, by Executive Branch  
9           officials of the identify of a covert Central Intel-  
10          ligence Agency official; and

11          (4) to submit to the President and Congress the  
12          reports provided for by section 11.

13 **SEC. 6. POWERS OF COMMISSION.**

14          (a) IN GENERAL.—

15           (1) HEARINGS AND EVIDENCE.—The Commis-  
16          sion or, on the authority of the Commission, any  
17          subcommittee or member thereof, may, for the pur-  
18          pose of carrying out this Act—

19           (A) hold such hearings and sit and act at  
20          such times and places, take such testimony, re-  
21          ceive such evidence, administer such oaths; and

22           (B) subject to paragraph (2)(A), require,  
23          by subpoena or otherwise, the attendance and  
24          testimony of such witnesses and the production  
25          of such books, records, correspondence, memo-

1           randa, papers, and documents, as the Commis-  
2           sion or such designated subcommittee or des-  
3           ignated member may determine advisable.

4           (2) SUBPOENAS.—

5                 (A) ISSUANCE.—

6                     (i) IN GENERAL.—A subpoena may be  
7                     issued under this subsection only—

8                         (I) by the joint agreement of the  
9                         co-chairmen; or

10                        (II) by the affirmative vote of 5  
11                        members of the Commission.

12                     (ii) SIGNATURE.—Subject to clause  
13                     (i), subpoenas issued under this subsection  
14                     may be issued under the signature of a co-  
15                     chairman or any member designated by 5  
16                     members of the Commission, and may be  
17                     served by any person designated by a co-  
18                     chairman or by a member designated by 5  
19                     members of the Commission.

20                 (B) ENFORCEMENT.—

21                     (i) IN GENERAL.—In the case of con-  
22                     tumacy or failure to obey a subpoena  
23                     issued under subsection (a), the United  
24                     States district court for the judicial district  
25                     in which the subpoenaed person resides, is

1 served, or may be found, or where the sub-  
2 poena is returnable, may issue an order re-  
3 quiring such person to appear at any des-  
4 ignated place to testify or to produce docu-  
5 mentary or other evidence. Any failure to  
6 obey the order of the court may be pun-  
7 ished by the court as a contempt of that  
8 court.

9 (ii) ADDITIONAL ENFORCEMENT.—In  
10 the case of any failure of any witness to  
11 comply with any subpoena or to testify  
12 when summoned under authority of this  
13 section, the Commission may certify a  
14 statement of fact constituting such failure  
15 to the appropriate United States attorney,  
16 who may bring the matter before the grand  
17 jury for its action, under the same statu-  
18 tory authority and procedures as if the  
19 United States attorney had received a cer-  
20 tification under sections 102 through 104  
21 of the Revised Statutes of the United  
22 States (2 U.S.C. 192 through 194).

23 (b) CONTRACTING.—The Commission may, to such  
24 extent and in such amounts as are provided in appropria-

1 tion Acts, enter into contracts to enable the Commission  
2 to discharge its duties under this Act.

3 (c) INFORMATION FROM FEDERAL AGENCIES.—

4 (1) IN GENERAL.—The Commission may secure  
5 directly from any executive department, bureau,  
6 agency, board, commission, office, independent es-  
7 tablishment, or instrumentality of the Government,  
8 information, suggestions, estimates, and statistics  
9 for the purposes of this Act. Each department, bu-  
10 reau, agency, board, commission, office, independent  
11 establishment, or instrumentality shall, to the extent  
12 authorized by law, furnish such information, sugges-  
13 tions, estimates, and statistics directly to the Com-  
14 mission, upon request made by a co-chairman, the  
15 chairman or co-chairman of any subcommittee cre-  
16 ated by 5 members of the Commission, or any mem-  
17 ber designated by 5 members of the Commission.

18 (2) RECEIPT, HANDLING, STORAGE, AND DIS-  
19 SEMINATION.—Information shall only be received,  
20 handled, stored, and disseminated by members of  
21 the Commission and its staff consistent with all ap-  
22 plicable statutes, regulations, and Executive orders.

23 (d) ASSISTANCE FROM FEDERAL AGENCIES.—

24 (1) GENERAL SERVICES ADMINISTRATION.—  
25 The Administrator of General Services shall provide

1 to the Commission on a reimbursable basis adminis-  
2 trative support and other services for the perform-  
3 ance of the Commission's functions.

4 (2) OTHER DEPARTMENTS AND AGENCIES.—In  
5 addition to the assistance prescribed in paragraph  
6 (1), departments and agencies of the United States  
7 may provide to the Commission such services, funds,  
8 facilities, staff, and other support services as they  
9 may determine advisable and as may be authorized  
10 by law.

11 (e) GIFTS.—The Commission may accept, use, and  
12 dispose of gifts or donations of services or property.

13 (f) POSTAL SERVICES.—The Commission may use  
14 the United States mails in the same manner and under  
15 the same conditions as departments and agencies of the  
16 United States.

17 **SEC. 7. NONAPPLICABILITY OF FEDERAL ADVISORY COM-**  
18 **MITTEE ACT.**

19 (a) IN GENERAL.—The Federal Advisory Committee  
20 Act (5 U.S.C. App.) shall not apply to the Commission.

21 (b) PUBLIC MEETINGS AND RELEASE OF PUBLIC  
22 VERSIONS OF REPORTS.—The Commission shall—

23 (1) hold public hearings and meetings to the ex-  
24 tent appropriate; and

1           (2) release public versions of the reports pro-  
2           vided for by subsections (a) and (b) of section 11.

3           (c) PUBLIC HEARINGS.—Any public hearings of the  
4 Commission shall be conducted in a manner consistent  
5 with the protection of information provided to or developed  
6 for or by the Commission as required by any applicable  
7 statute, regulation, or Executive order.

8 **SEC. 8. STAFF OF COMMISSION.**

9           (a) IN GENERAL.—

10           (1) APPOINTMENT AND COMPENSATION.—The  
11 co-chairmen, acting jointly and in accordance with  
12 rules agreed upon by the Commission, may appoint  
13 and fix the compensation of a staff director and  
14 such other personnel as may be necessary to enable  
15 the Commission to carry out its functions, without  
16 regard to the provisions of title 5, United States  
17 Code, governing appointments in the competitive  
18 service, and without regard to the provisions of  
19 chapter 51 and subchapter III of chapter 53 of such  
20 title relating to classification and General Schedule  
21 pay rates, except that no rate of pay fixed under this  
22 subsection may exceed the equivalent of that payable  
23 for a position at level V of the Executive Schedule  
24 under section 5316 of title 5, United States Code.

25           (2) PERSONNEL AS FEDERAL EMPLOYEES.—



1           (A) IN GENERAL.—The executive director  
2           and any personnel of the Commission who are  
3           employees shall be employees under section  
4           2105 of title 5, United States Code, for pur-  
5           poses of chapters 63, 81, 83, 84, 85, 87, 89,  
6           and 90 of that title.

7           (B) MEMBERS OF COMMISSION.—Subpara-  
8           graph (A) shall not be construed to apply to  
9           members of the Commission.

10          (b) DETAILEES.—Any Federal Government employee  
11          may be detailed to the Commission without reimbursement  
12          from the Commission, and such detailee shall retain the  
13          rights, status, and privileges of his or her regular employ-  
14          ment without interruption.

15          (c) CONSULTANT SERVICES.—The Commission may  
16          procure the services of experts and consultants in accord-  
17          ance with section 3109 of title 5, United States Code, but  
18          at rates not to exceed the daily rate paid a person occu-  
19          pying a position at level IV of the Executive Schedule  
20          under section 5315 of title 5, United States Code.

21       **SEC. 9. COMPENSATION AND TRAVEL EXPENSES.**

22          (a) COMPENSATION.—Each member of the Commis-  
23          sion may be compensated at not to exceed the daily equiva-  
24          lent of the annual rate of basic pay in effect for a position  
25          at level IV of the Executive Schedule under section 5315

1 of title 5, United States Code, for each day during which  
2 that member is engaged in the actual performance of the  
3 duties of the Commission.

4 (b) TRAVEL EXPENSES.—While away from their  
5 homes or regular places of business in the performance  
6 of services for the Commission, members of the Commis-  
7 sion shall be allowed travel expenses, including per diem  
8 in lieu of subsistence, in the same manner as persons em-  
9 ployed intermittently in the Government service are al-  
10 lowed expenses under section 5703(b) of title 5, United  
11 States Code.

12 **SEC. 10. SECURITY CLEARANCES FOR COMMISSION MEM-**  
13 **BERS AND STAFF.**

14 The appropriate Federal agencies or departments  
15 shall cooperate with the Commission in expeditiously pro-  
16 viding to the Commission members and staff appropriate  
17 security clearances to the extent possible pursuant to ex-  
18 isting procedures and requirements, except that no person  
19 shall be provided with access to classified information  
20 under this Act without the appropriate security clearances.

21 **SEC. 11. REPORTS OF COMMISSION; TERMINATION.**

22 (a) INTERIM REPORTS.—The Commission may sub-  
23 mit to the President and Congress interim reports con-  
24 taining such examinations, evaluations, findings, and con-  
25 clusions of the Commission, and such recommendations

1 with respect to corrective measures (including changes in  
2 policies, practices, organizational structures, and arrange-  
3 ments), as have been agreed to by a majority of Commis-  
4 sion members.

5 (b) FINAL REPORT.—Not later than 18 months after  
6 the date of the enactment of this Act, the Commission  
7 shall submit to the President and Congress a final report  
8 containing such examinations, evaluations, findings, and  
9 conclusions of the Commission, and such recommenda-  
10 tions with respect to corrective measures (including  
11 changes in policies, practices, organizational structures,  
12 and arrangements), as have been agreed to by a majority  
13 of Commission members.

14 (c) TERMINATION.—

15 (1) IN GENERAL.—The Commission, and all the  
16 authorities of this Act, shall terminate 60 days after  
17 the date on which the final report is submitted  
18 under subsection (b).

19 (2) ADMINISTRATIVE ACTIVITIES BEFORE TER-  
20 MINATION.—The Commission may use the 60-day  
21 period referred to in paragraph (1) for the purpose  
22 of concluding its activities, including providing testi-  
23 mony to committees of Congress concerning its re-  
24 ports and disseminating the final report.

1 **SEC. 12. FUNDING.**

2 (a) **IN GENERAL.**—Of the amounts authorized to be  
3 appropriated for the intelligence and intelligence-related  
4 activities of the United States Government for fiscal year  
5 2004, \$15,000,000 shall be available for transfer to the  
6 Commission for purposes of the activities of the Commis-  
7 sion under this Act.

8 (b) **DURATION OF AVAILABILITY.**—Amounts made  
9 available to the Commission under subsection (a) shall re-  
10 main available until the termination of the Commission.

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