

111TH CONGRESS  
1ST SESSION

# S. 385

To reaffirm and clarify the authority of the Comptroller General to audit and evaluate the programs, activities, and financial transactions of the intelligence community, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 5, 2009

Mr. AKAKA (for himself, Mr. LAUTENBERG, Mrs. McCASKILL, Mr. SANDERS, Mr. WYDEN, Mr. CARPER, and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Select Committee on Intelligence

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## A BILL

To reaffirm and clarify the authority of the Comptroller General to audit and evaluate the programs, activities, and financial transactions of the intelligence community, and for other purposes.

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 “Intelligence Commu-  
5 nity Audit Act of 2009”.

1 **SEC. 2. COMPTROLLER GENERAL AUDITS AND EVALUA-**  
2 **TIONS OF ACTIVITIES OF ELEMENTS OF THE**  
3 **INTELLIGENCE COMMUNITY.**

4 (a) REAFFIRMATION AND CLARIFICATION OF AU-  
5 THORITY; AUDITS OF INTELLIGENCE COMMUNITY ACTIVI-  
6 TIES.—Chapter 35 of title 31, United States Code, is  
7 amended by inserting after section 3523 the following:

8 **“§ 3523a. Audits of intelligence community; audits**  
9 **and requesters**

10 “(a) In this section, the term ‘element of the intel-  
11 ligence community’ means an element of the intelligence  
12 community specified in or designated under section 3(4)  
13 of the National Security Act of 1947 (50 U.S.C. 401a(4)).

14 “(b) Congress finds that—

15 “(1) the authority of the Comptroller General  
16 to perform audits and evaluations of financial trans-  
17 actions, programs, and activities of elements of the  
18 intelligence community under sections 712, 717,  
19 3523, and 3524, and to obtain access to records for  
20 purposes of such audits and evaluations under sec-  
21 tion 716, is reaffirmed for matters referred to in  
22 paragraph (2); and

23 “(2) such audits and evaluations may be re-  
24 quested by any committee of jurisdiction (including  
25 the Committee on Homeland Security and the Com-  
26 mittee on the Judiciary of the House of Representa-

1       tives and the Committee on Homeland Security and  
2       Governmental Affairs and the Committee on the Ju-  
3       diciary of the Senate), and may include matters re-  
4       lating to the management and administration of ele-  
5       ments of the intelligence community in areas such as  
6       strategic planning, financial management, informa-  
7       tion technology, human capital, knowledge manage-  
8       ment, and information sharing (including informa-  
9       tion sharing by and with the Department of Home-  
10      land Security and the Department of Justice).

11      “(c)(1) The Comptroller General may conduct an  
12      audit or evaluation of intelligence sources and methods or  
13      covert actions only upon request of the Select Committee  
14      on Intelligence of the Senate or the Permanent Select  
15      Committee on Intelligence of the House of Representa-  
16      tives, or the majority or the minority leader of the Senate  
17      or the House of Representatives.

18      “(2)(A) Whenever the Comptroller General conducts  
19      an audit or evaluation under paragraph (1), the Comp-  
20      troller General shall provide the results of such audit or  
21      evaluation only to the original requestor, the Director of  
22      National Intelligence, and the head of the relevant element  
23      of the intelligence community.

24      “(B) The Comptroller General may only provide in-  
25      formation obtained in the course of an audit or evaluation

1 under paragraph (1) to the original requestor, the Direc-  
2 tor of National Intelligence, and the head of the relevant  
3 element of the intelligence community.

4 “(3)(A) Notwithstanding any other provision of law,  
5 the Comptroller General may inspect records of any ele-  
6 ment of the intelligence community relating to intelligence  
7 sources and methods, or covert actions in order to conduct  
8 audits and evaluations under paragraph (1).

9 “(B) If in the conduct of an audit or evaluation under  
10 paragraph (1), an agency record is not made available to  
11 the Comptroller General in accordance with section 716,  
12 the Comptroller General shall consult with the original re-  
13 questor before filing a report under subsection (b)(1) of  
14 such section.

15 “(4)(A) The Comptroller General shall maintain the  
16 same level of confidentiality for a record made available  
17 for conducting an audit under paragraph (1) as is required  
18 of the head of the element of the intelligence community  
19 from which it is obtained. Officers and employees of the  
20 Government Accountability Office are subject to the same  
21 statutory penalties for unauthorized disclosure or use as  
22 officers or employees of the intelligence community ele-  
23 ment that provided the Comptroller General or officers  
24 and employees of the Government Accountability Office  
25 with access to such records.

1       “(B) All workpapers of the Comptroller General and  
2 all records and property of any element of the intelligence  
3 community that the Comptroller General uses during an  
4 audit or evaluation under paragraph (1) shall remain in  
5 facilities provided by that element of the intelligence com-  
6 munity. Elements of the intelligence community shall give  
7 the Comptroller General suitable and secure offices and  
8 furniture, telephones, and access to copying facilities, for  
9 purposes of audits and evaluations under paragraph (1).

10       “(C) After consultation with the Select Committee on  
11 Intelligence of the Senate and with the Permanent Select  
12 Committee on Intelligence of the House of Representa-  
13 tives, the Comptroller General shall establish procedures  
14 to protect from unauthorized disclosure all classified and  
15 other sensitive information furnished to the Comptroller  
16 General or any representative of the Comptroller General  
17 for conducting an audit or evaluation under paragraph  
18 (1).

19       “(D) Before initiating an audit or evaluation under  
20 paragraph (1), the Comptroller General shall provide the  
21 Director of National Intelligence and the head of the rel-  
22 evant element with the name of each officer and employee  
23 of the Government Accountability Office who has obtained  
24 appropriate security clearance and to whom, upon proper  
25 identification, records, and information of the element of

1 the intelligence community shall be made available in con-  
 2 ducting the audit or evaluation.

3 “(d) Elements of the intelligence community shall co-  
 4 operate fully with the Comptroller General and provide  
 5 timely responses to Comptroller General requests for docu-  
 6 mentation and information.

7 “(e) With the exception of the types of audits and  
 8 evaluations specified in subsection (c)(1), nothing in this  
 9 section or any other provision of law shall be construed  
 10 as restricting or limiting the authority of the Comptroller  
 11 General to audit and evaluate, or obtain access to the  
 12 records of, elements of the intelligence community absent  
 13 specific statutory language restricting or limiting such au-  
 14 dits, evaluations, or access to records.”.

15 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
 16 The table of sections for chapter 35 of title 31, United  
 17 States Code, is amended by inserting after the item relat-  
 18 ing to section 3523 the following:

“3523a. Audits of intelligence community; audits and requesters.”.

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