

Calendar No. 53

111th Congress }
1st Session }

SENATE

{ REPORT
111-15

TO PROVIDE ADDITIONAL PERSONNEL
AUTHORITIES FOR THE SPECIAL
INSPECTOR GENERAL FOR
AFGHANISTAN RECONSTRUCTION

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 615

TO PROVIDE ADDITIONAL PERSONNEL AUTHORITIES FOR THE
SPECIAL INSPECTOR GENERAL FOR AFGHANISTAN RECON-
STRUCTION



APRIL 29, 2009.—Ordered to be printed

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PROVIDING ADDITIONAL PERSONNEL AUTHORITIES FOR
THE SPECIAL INSPECTOR GENERAL FOR AFGHANISTAN
RECONSTRUCTION

APRIL 29, 2009.—Ordered to be printed

Mr. LIEBERMAN, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 615]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 615) to provide additional personnel authorities for the Special Inspector General for Afghanistan Reconstruction, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

I. PURPOSE AND SUMMARY

This legislation would amend the National Defense Authorization Act for Fiscal Year (FY) 2008 to provide to the Special Inspector General for Afghanistan Reconstruction (SIGAR) personnel authorities similar to those given to the Special Inspector General for Iraq Reconstruction (SIGIR).¹ The legislation would expedite the standard hiring process for civil service positions by permitting the SIGAR to use employment authorities granted to heads of temporary organizations. Such authorities allow organizations to hire staff for limited terms, notwithstanding the requirements normally applicable to civil service positions. This legislation is intended to help the SIGAR quickly hire experienced, well-qualified employees to conduct necessary oversight of reconstruction efforts in Afghanistan. Employees hired under this new authority could serve until the termination of the SIGAR office.

¹P.L. 110-181.

II. BACKGROUND AND NEED FOR LEGISLATION

The United States has committed almost \$32 billion in humanitarian and other aid to Afghanistan since 2001.² Congress created the SIGAR in the FY 2008 National Defense Authorization Act, which passed in January 2008. The SIGAR provides independent and objective oversight of U.S. reconstruction efforts in Afghanistan and oversees the accounting of money expended for the effective reconstruction of Afghanistan.

General Fields was sworn into office as the SIGAR on July 22, 2008. The SIGAR has issued two quarterly reports, both of which are descriptive in nature, as they discuss the background of U.S. funding for Afghanistan reconstruction and review activities, findings, and recommendations of other Inspectors General and the Government Accountability Office.³ The SIGAR office has yet to conduct any independent audits or investigations. The quarterly reports provide an overview of the SIGAR's plans for conducting oversight, but do not yet identify specific contracts to audit or programs to oversee.

As of April 1, 2009, the SIGAR office had only filled seven of the 18 designated auditor positions, five of the 13 designated inspector positions, and one of the 18 investigator positions. SIGAR officials have informed the Committee that they have had difficulty hiring qualified individuals for this unique and challenging assignment, and that the staffing shortfall has contributed to the lack of independent audits or investigations by the office thus far. This legislation would give the SIGAR additional hiring authorities to facilitate his ability to quickly hire experienced, well-qualified employees to fill these positions.

III. LEGISLATIVE HISTORY

Congress created the SIGAR in the National Defense Authorization Act for FY 2008, which was enacted in January 2008, to conduct oversight of reconstruction efforts in Afghanistan.⁴ SIGAR is charged with overseeing the accounting for monies expended for the effective reconstruction of Afghanistan. Although established in January 2008, SIGAR had only \$2 million available on June 30, 2008, and an additional \$9 million available on September 30, 2008. SIGAR did not have access to the full \$16 million it was appropriated until October 1, 2008.

Congress based SIGAR's enabling statute on language from the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan,⁵ which established the SIGIR in 2004. Although SIGIR initially hired employees under a form of temporary hiring authority, the authority was not legislatively granted to SIGIR until Congress passed the FY 2008 Defense Authorization bill in January 2008.⁶ These flexible authorities are necessary and appropriate given the uniquely challenging nature of SIGIR's work, and the temporary nature of the organization—fac-

²Office of the Special Inspector General for Afghanistan Reconstruction Quarterly Report to Congress, January 30, 2009.

³Office of the Special Inspector General for Afghanistan Reconstruction Quarterly Reports to Congress, January 30, 2009 and October 30, 2008.

⁴P.L. 110-181.

⁵P.L. 108-106, Section 3001.

⁶P.L. 110-181, Section 1221.

tors that apply equally to the SIGAR. Thus far, the SIGAR has been hiring its employees through the SIGIR and then having these personnel detailed to the SIGAR. However, the Department of Defense (DoD) (which conducts hiring for both the SIGIR and the SIGAR), the Office of Personnel Management and the SIGAR have jointly determined that DoD needs independent statutory authority to hire SIGAR employees under these flexible authorities going forward. This bill would grant such authority.

On April 1, 2009, the Committee ordered S. 615 to be reported favorably without amendment en bloc by voice vote. Senators present were: Lieberman, Akaka, Carper, Pryor, Tester, Burris, Bennet, Collins, Coburn, and Voinovich.

IV. SECTION-BY-SECTION SUMMARY OF THE BILL

Section 1. Additional personnel authorities for the Special Inspector General for Afghanistan Reconstruction

Section 1(A) allows the Special Inspector General (SIGAR) to select, appoint, and employ officers and employees as may be necessary for carrying out the SIGAR's duties, subject to the provisions of title 5 of the United States Code governing appointments in the competitive service and chapter 51 and subchapter 53 of title 5 governing classification and General Schedule pay rates.

Section 1(B) allows the Special Inspector General to exercise the additional, more flexible hiring authorities that are accorded to "temporary organizations" under subsections (b) through (i) of 5 USC 3161. Those authorities include the ability to hire an individual without going through the normal competitive process and at more flexible pay rates. These authorities would generally guarantee existing civil servants who go to work for the SIGAR with the consent of the former employing agency a right to return to their original job or an equivalent position. In exercising the employment authorities, the employees' periods of appointment could not extend beyond by the termination of the SIGAR office.

V. REGULATORY IMPACT AND EVALUATION

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill. The Congressional Budget Office states that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandate Reform Act and would not affect the budgets of state, local, or tribal governments. The enactment of this legislation will not have significant regulatory impact.

IV. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC, April 7, 2009.

Hon. JOSEPH I. LIEBERMAN,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 615, a bill to provide addi-

tional personnel authorities for the Special Inspector General for Afghanistan Reconstruction.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is John Chin.

Sincerely,

ROBERT A. SUNSHINE
(For Douglas W. Elmendorf, Director).

Enclosure.

S. 615—A bill to provide additional personnel authorities for the Special Inspector General for Afghanistan Reconstruction

S. 615 would amend the National Defense Authorization Act for Fiscal Year 2008 to provide additional personnel authorities to the Special Inspector General for Afghanistan Reconstruction (SIGAR) similar to those provided to the Special Inspector General for Iraq Reconstruction (SIGIR). The legislation would expedite the standard hiring process for civil service positions by permitting the SIGAR to use certain employment authorities currently granted to heads of other temporary organizations. Employees hired under this new authority could serve until the termination of the SIGAR office.

According to the SIGAR, the agency has been able to bypass the standard hiring process by hiring all of its employees through the SIGIR—which already has the additional authorities provided in this bill—and then having these personnel detailed to the SIGAR. Thus, CBO expects that allowing the SIGAR to begin hiring such personnel directly would not significantly affect the amount or timing of the agency’s expenditures. CBO therefore estimates that implementing the bill would have no significant effect on spending subject to appropriation. Enacting the bill would not affect direct spending or revenues.

S. 615 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is John Chin. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

VII. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the following changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman).

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2008

(Public Law 110–181; 122 Stat. 381)

* * * * *

SEC. 1229. SPECIAL INSPECTOR GENERAL FOR AFGHANISTAN RECONSTRUCTION.

* * * * *

(h) PERSONNEL, FACILITIES, AND OTHER RESOURCES.—

【(1) PERSONNEL.—The Inspector General may select, appoint, and employ such officers and employees as may be necessary for carrying out the duties of the Inspector General, subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.】

(1) PERSONNEL.—

(A) IN GENERAL.—*The Inspector General may select, appoint, and employ such officers and employees as may be necessary for carrying out the duties of the Inspector General, subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.*

(B) ADDITIONAL AUTHORITIES.—

(i) IN GENERAL.—*Subject to clause (ii), the Inspector General may exercise the authorities of subsections (b) through (i) of section 3161 of title 5, United States Code (without regard to subsection (a) of that section).*

(ii) PERIODS OF APPOINTMENTS.—*In exercising the employment authorities under subsection (b) of section 3161 of title 5, United States Code, as provided under clause (i) of this subparagraph—*

(I) paragraph (2) of that subsection (relating to periods of appointments) shall not apply; and

(II) no period of appointment may exceed the date on which the Office of the Special Inspector General for Afghanistan Reconstruction terminates under subsection (o).