

107TH CONGRESS  
1ST SESSION

# S. 1837

To establish a board of inquiry to review the activities of United States intelligence, law enforcement, and other agencies leading up to the terrorist attacks of September 11, 2001.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 18, 2001

Mr. TORRICELLI (for himself, Mr. GRASSLEY, Mr. NELSON of Nebraska, and Mr. HARKIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To establish a board of inquiry to review the activities of United States intelligence, law enforcement, and other agencies leading up to the terrorist attacks of September 11, 2001.

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. ESTABLISHMENT OF BOARD OF INQUIRY.**

4       (a) ESTABLISHMENT.—There is hereby established  
5       the Board of Inquiry into the September 11, 2001, Ter-  
6       rorist Attacks (in this Act referred to as the “Board”).

7       (b) MEMBERSHIP.—

1 (1) COMPOSITION.—The Board shall be com-  
2 posed of 12 members of whom—

3 (A) four shall be appointed by the Presi-  
4 dent;

5 (B) two shall be appointed by the Majority  
6 Leader of the Senate, of whom—

7 (i) one shall be a Senator; and

8 (ii) one shall be from private life;

9 (C) two shall be appointed by the Minority  
10 Leader of the Senate, of whom—

11 (i) one shall be a Senator; and

12 (ii) one shall be from private life;

13 (D) two shall be appointed by the Speaker  
14 of the House of Representatives, of whom—

15 (i) one shall be a Member of the  
16 House of Representatives; and

17 (ii) one shall be from private life; and

18 (E) two shall be appointed by the Minority  
19 Leader of the House of Representatives, of  
20 whom—

21 (i) one shall be a Member of the  
22 House of Representatives; and

23 (ii) one shall be from private life.

24 (2) QUALIFICATIONS OF INDIVIDUALS AP-  
25 POINTED FROM PRIVATE LIFE.—The members of the

1 Board appointed from private life under paragraph  
2 (1) shall be individuals who have demonstrated abil-  
3 ity and accomplishment in government, business,  
4 law, higher education, or another appropriate profes-  
5 sion and who have a substantial background in na-  
6 tional security matters.

7 (3) DATE.—The appointments of the members  
8 of the Board shall be made not later than thirty  
9 days after the date of the enactment of this Act.

10 (c) PERIOD OF APPOINTMENT; VACANCIES.—Mem-  
11 bers of the Board shall be appointed for the life of the  
12 Board. Any vacancy in the Board shall not affect its pow-  
13 ers, but shall be filled in the same manner as the original  
14 appointment.

15 (d) CHAIRMAN AND VICE CHAIRMAN.—The Board  
16 shall select a Chairman and Vice Chairman from among  
17 its members.

18 (e) MEETINGS.—

19 (1) IN GENERAL.—The Board shall meet at the  
20 call of the Chairman.

21 (2) INITIAL MEETING.—Not later than fifteen  
22 days after the date on which all members of the  
23 Board have been appointed, the Board shall hold its  
24 first meeting.

1 (f) QUORUM.—A majority of the members of the  
2 Board shall constitute a quorum, but a lesser number of  
3 members may hold hearings, take testimony, or receive  
4 evidence.

5 **SEC. 2. DUTIES OF BOARD.**

6 The Board shall conduct a thorough study of matters  
7 relating to the September 11, 2001, terrorist attacks on  
8 the World Trade Centers in New York and the Pentagon,  
9 and the hijackings which proceeded the attacks, to deter-  
10 mine what systemic problems in the collection, analysis,  
11 or dissemination of intelligence, or other systemic prob-  
12 lems in the intelligence, law enforcement, and other ele-  
13 ments of the Federal Government with responsibility for  
14 intelligence-related matters or counter-terrorism, need to  
15 be corrected to prevent further terrorist attacks on the  
16 United States.

17 **SEC. 3. REPORTS.**

18 (a) INITIAL REPORT ON PLAN FOR WORK.—Not  
19 later than 30 days after the first meeting of the Board  
20 under section 1, the Board shall submit to Congress a re-  
21 port setting for a plan for the work of the Board under  
22 this Act.

23 (b) PRELIMINARY REPORT.—Not later than six  
24 months after the date of the first meeting of the Board,  
25 the Board shall submit to Congress a report on the work

1 of the Board under this Act as of the date of such report,  
2 together with any preliminary findings of the Board as  
3 of the date of such report.

4 (c) FINAL REPORT.—Not later than one year after  
5 the first meeting of the Board, the Board shall submit  
6 to Congress a final report on the work of the Board under  
7 this Act. The report shall contain a detailed statement of  
8 the findings and conclusions of the Board, together with  
9 its recommendations for such legislation and administra-  
10 tive actions as it considers appropriate.

11 (d) FORM OF REPORTS.—Each report under this sec-  
12 tion shall be submitted in unclassified form, but may in-  
13 clude a classified annex.

14 **SEC. 4. POWERS OF BOARD.**

15 (a) HEARINGS.—The Board or, at its direction, any  
16 subcommittee or member of the Board may, for the pur-  
17 pose of carrying out this Act—

18 (1) hold such hearings, sit and act at such  
19 times and places, take such testimony, receive such  
20 evidence, administer such oaths; and

21 (2) require, by subpoena or otherwise, the at-  
22 tendance and testimony of such witnesses and the  
23 production of such books, records, correspondence,  
24 memoranda, papers, documents, tapes, and materials

1 as the Board or such subcommittee or member con-  
2 siders advisable.

3 (b) ISSUANCE AND ENFORCEMENT OF SUB-  
4 POENAS.—

5 (1) ISSUANCE.—Subpoenas under subsection  
6 (a) shall be issued in accordance with such proce-  
7 dures as the Board shall establish, shall bear the  
8 signature of the Chairman of the Board, and shall  
9 be served by any person or class of persons des-  
10 ignated by the Chairman for that purpose.

11 (2) ENFORCEMENT.—In the case of contumacy  
12 or failure to obey a subpoena issued under sub-  
13 section (a), the United States district court for the  
14 judicial district in which the subpoenaed person re-  
15 sides, is served, or may be found may issue an order  
16 requiring such person to appear at any designated  
17 place to testify or to produce documentary or other  
18 evidence. Any failure to obey the order of the court  
19 may be punished by the court as a contempt that  
20 court.

21 (c) WITNESS ALLOWANCES AND FEES.—Section  
22 1821 of title 28, United States Code, shall apply to wit-  
23 nesses requested or subpoenaed to appear at any hearing  
24 of the Board. The per diem and mileage allowances for

1 witnesses shall be paid from funds available to pay the  
2 expenses of the Board.

3 (d) INFORMATION FROM FEDERAL AGENCIES.—The  
4 Board may secure directly from any Federal department  
5 or agency such information as the Board considers nec-  
6 essary to carry out this Act. Upon request of the Chair-  
7 man of the Board, the head of such department or agency  
8 shall furnish such information to the Board.

9 (e) POSTAL SERVICES.—The Board may use the  
10 United States mails in the same manner and under the  
11 same conditions as other departments and agencies of the  
12 Federal Government.

13 (f) GIFTS.—The Board may accept, use, and dispose  
14 of gifts or donations of services or property.

15 **SEC. 5. PERSONNEL MATTERS.**

16 (a) COMPENSATION OF MEMBERS.—Each member of  
17 the Board who is not an officer or employee of the Federal  
18 Government shall be compensated at a rate equal to the  
19 daily equivalent of the annual rate of basic pay prescribed  
20 for level IV of the Executive Schedule under section 5315  
21 of title 5, United States Code, for each day (including  
22 travel time) during which such member is engaged in the  
23 performance of the duties of the Board. All members of  
24 the Board who are officers or employees of the United  
25 States shall serve without compensation in addition to that

1 received for their services as officers or employees of the  
2 United States.

3 (b) TRAVEL EXPENSES.—The members of the Board  
4 shall be allowed travel expenses, including per diem in lieu  
5 of subsistence, at rates authorized for employees of agen-  
6 cies under subchapter I of chapter 57 of title 5, United  
7 States Code, while away from their homes or regular  
8 places of business in the performance of services for the  
9 Board.

10 (c) STAFF.—

11 (1) IN GENERAL.—The Chairman of the Board  
12 may, without regard to the civil service laws and  
13 regulations, appoint and terminate an executive di-  
14 rector and such other additional personnel as may be  
15 necessary to enable the Board to perform its duties.  
16 The employment of an executive director shall be  
17 subject to confirmation by the Board.

18 (2) COMPENSATION.—The Chairman of the  
19 Board may fix the compensation of the executive di-  
20 rector and other personnel without regard to chapter  
21 51 and subchapter III of chapter 53 of title 5,  
22 United States Code, relating to classification of posi-  
23 tions and General Schedule pay rates, except that  
24 the rate of pay for the executive director and other  
25 personnel may not exceed the rate payable for level

1 V of the Executive Schedule under section 5316 of  
2 such title.

3 (d) SECURITY CLEARANCES.—

4 (1) REQUIREMENT FOR ACCESS TO CLASSIFIED  
5 INFORMATION.—Members and staff of the Board  
6 may not have access to classified information unless  
7 such individuals possess a security clearance appro-  
8 priate for access to such information.

9 (2) EXPEDITED INVESTIGATIONS.—The Attor-  
10 ney General shall take appropriate actions to ensure  
11 that the investigation required to issue a security  
12 clearance appropriate for the work of the Board to  
13 any member of the Board appointed from private  
14 life who does not possess such security clearance is  
15 completed not later than 60 days after the date of  
16 the appointment of such member to the Board.

17 (e) DETAIL OF GOVERNMENT EMPLOYEES.—Any  
18 Federal Government employee may be detailed to the  
19 Board without reimbursement, and such detail shall be  
20 without interruption or loss of civil service status or privi-  
21 lege.

22 (f) PROCUREMENT OF TEMPORARY AND INTERMIT-  
23 TENT SERVICES.—The Chairman of the Board may pro-  
24 cure temporary and intermittent services under section  
25 3109(b) of title 5, United States Code, at rates for individ-

1 uals which do not exceed the daily equivalent of the annual  
2 rate of basic pay prescribed for level V of the Executive  
3 Schedule under section 5316 of such title.

4 **SEC. 6. APPLICABILITY OF CERTAIN ADMINISTRATIVE**  
5 **LAWS.**

6 (a) **LAWS RELATING TO CLASSIFIED INFORMA-**  
7 **TION.**—All laws, executive orders, regulations, and other  
8 rules governing the protection of classified information, in-  
9 cluding laws, executive orders, regulations, and other rules  
10 prohibiting the unauthorized release of classified informa-  
11 tion, shall apply to the members and staff of the Board  
12 with respect to any information obtained, examined, or  
13 otherwise reviewed by the Board under this Act.

14 (b) **FACA.**—The provisions of the Federal Advisory  
15 Committee Act (5 U.S.C. App.) shall not apply to the ac-  
16 tivities of the Board under this Act.

17 (c) **RECORDS LAWS.**—

18 (1) **FOIA.**—Subject to paragraph (2), the pro-  
19 visions of section 552 of title 5, United States Code  
20 (commonly referred to as the “Freedom of Informa-  
21 tion Act”), shall not apply to the activities of the  
22 Board under this Act.

23 (2) **LIMITATION.**—Upon transfer to the Na-  
24 tional Archives and Records Administration, any  
25 records, documents, or other papers of the Board

1 shall be subject to the provisions of section 552 of  
2 title 5, United States Code.

3 (3) FEDERAL RECORDS ACT.—The provisions of  
4 title 44, United States Code, shall apply to the  
5 records, documents, and other papers of the Board  
6 under this Act.

7 **SEC. 7. TERMINATION OF BOARD.**

8 The Board shall terminate 30 days after the date on  
9 which the Board submits its final report under section  
10 3(c).

11 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

12 (a) IN GENERAL.—There is authorized to be appro-  
13 priated \$1,500,000 for fiscal year 2002 to the Board to  
14 carry out this Act.

15 (b) AVAILABILITY.—Any sums appropriated under  
16 the authorization of appropriations in subsection (a) shall  
17 remain available, without fiscal year limitation, until ex-  
18 pended.

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