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S. RES. 437

Establishing a special committee of the Senate to investigate the awarding and carrying out of contracts to conduct activities in Afghanistan and Iraq and to fight the war on terrorism.

IN THE SENATE OF THE UNITED STATES

JANUARY 30, 2008

Mr. DORGAN submitted the following resolution; which was referred to the
Committee on Rules and Administration

RESOLUTION

Establishing a special committee of the Senate to investigate the awarding and carrying out of contracts to conduct activities in Afghanistan and Iraq and to fight the war on terrorism.

Whereas the wars in Iraq and Afghanistan have exerted very large demands on the Treasury of the United States and required tremendous sacrifice by the members of the Armed Forces of the United States;

Whereas Congress has a constitutional responsibility to ensure comprehensive oversight of the expenditure of United States Government funds;

Whereas waste and corporate abuse of United States Government resources are particularly unacceptable and reprehensible during times of war;

Whereas the magnitude of the funds involved in the reconstruction of Afghanistan and Iraq and the war on terrorism, together with the speed with which these funds have been committed, presents a challenge to the effective performance of the traditional oversight function of Congress and the auditing functions of the executive branch;

Whereas the Senate Special Committee to Investigate the National Defense Program, popularly known as the Truman Committee, which was established during World War II, offers a constructive precedent for bipartisan oversight of wartime contracting that can also be extended to wartime and postwar reconstruction activities;

Whereas the Truman Committee is credited with an extremely successful investigative effort, performance of a significant public education role, and achievement of fiscal savings measured in the billions of dollars; and

Whereas the public has a right to expect that taxpayer resources will be carefully disbursed and honestly spent:
Now, therefore, be it

1 *Resolved,*

2 **SECTION 1. SPECIAL COMMITTEE ON WAR AND RECON-**
3 **STRUCTION CONTRACTING.**

4 There is established a special committee of the Senate
5 to be known as the Special Committee on War and Recon-
6 struction Contracting (hereafter in this resolution referred
7 to as the “Special Committee”).

8 **SEC. 2. PURPOSE AND DUTIES.**

9 (a) **PURPOSE.**—The purpose of the Special Com-
10 mittee is to investigate the awarding and performance of

1 contracts to conduct military, security, and reconstruction
2 activities in Afghanistan and Iraq and to support the pros-
3 ecution of the war on terrorism.

4 (b) DUTIES.—The Special Committee shall examine
5 the contracting actions described in subsection (a) and re-
6 port on such actions, in accordance with this section, re-
7 garding—

8 (1) bidding, contracting, accounting, and audit-
9 ing standards for Federal Government contracts;

10 (2) methods of contracting, including sole-
11 source contracts and limited competition or non-
12 competitive contracts;

13 (3) subcontracting under large, comprehensive
14 contracts;

15 (4) oversight procedures;

16 (5) consequences of cost-plus and fixed price
17 contracting;

18 (6) allegations of wasteful and fraudulent prac-
19 tices;

20 (7) accountability of contractors and Govern-
21 ment officials involved in procurement and con-
22 tracting;

23 (8) penalties for violations of law and abuses in
24 the awarding and performance of Government con-
25 tracts; and

1 (9) lessons learned from the contracting process
2 used in Iraq and Afghanistan and in connection with
3 the war on terrorism with respect to the structure,
4 coordination, management policies, and procedures
5 of the Federal Government.

6 (c) INVESTIGATION OF WASTEFUL AND FRAUDU-
7 LENT PRACTICES.—The investigation by the Special Com-
8 mittee of allegations of wasteful and fraudulent practices
9 under subsection (b)(6) shall include investigation of alle-
10 gations regarding any contract or spending entered into,
11 supervised by, or otherwise involving the Coalition Provi-
12 sional Authority, regardless of whether or not such con-
13 tract or spending involved appropriated funds of the
14 United States.

15 (d) EVIDENCE CONSIDERED.—In carrying out its du-
16 ties, the Special Committee shall ascertain and evaluate
17 the evidence developed by all relevant governmental agen-
18 cies regarding the facts and circumstances relevant to con-
19 tracts described in subsection (a) and any contract or
20 spending covered by subsection (c).

21 **SEC. 3. COMPOSITION OF SPECIAL COMMITTEE.**

22 (a) MEMBERSHIP.—

23 (1) IN GENERAL.—The Special Committee shall
24 consist of 7 members of the Senate of whom—

1 (A) 4 members shall be appointed by the
2 President pro tempore of the Senate, in con-
3 sultation with the majority leader of the Senate;
4 and

5 (B) 3 members shall be appointed by the
6 minority leader of the Senate.

7 (2) DATE.—The appointments of the members
8 of the Special Committee shall be made not later
9 than 90 days after the date of the enactment of this
10 Act.

11 (b) VACANCIES.—Any vacancy in the Special Com-
12 mittee shall not affect its powers, but shall be filled in
13 the same manner as the original appointment.

14 (c) SERVICE.—Service of a Senator as a member,
15 chairman, or ranking member of the Special Committee
16 shall not be taken into account for the purposes of para-
17 graph (4) of rule XXV of the Standing Rules of the Sen-
18 ate.

19 (d) CHAIRMAN AND RANKING MEMBER.—The chair-
20 man of the Special Committee shall be designated by the
21 majority leader of the Senate, and the ranking member
22 of the Special Committee shall be designated by the minor-
23 ity leader of the Senate.

24 (e) QUORUM.—

1 (1) REPORTS AND RECOMMENDATIONS.—A ma-
2 jority of the members of the Special Committee shall
3 constitute a quorum for the purpose of reporting a
4 matter or recommendation to the Senate.

5 (2) TESTIMONY.—One member of the Special
6 Committee shall constitute a quorum for the purpose
7 of taking testimony.

8 (3) OTHER BUSINESS.—A majority of the mem-
9 bers of the Special Committee, or $\frac{1}{3}$ of the members
10 of the Special Committee if at least one member of
11 the minority party is present, shall constitute a
12 quorum for the purpose of conducting any other
13 business of the Special Committee.

14 **SEC. 4. RULES AND PROCEDURES.**

15 (a) GOVERNANCE UNDER STANDING RULES OF SEN-
16 ATE.—Except as otherwise specifically provided in this
17 resolution, the investigation, study, and hearings con-
18 ducted by the Special Committee shall be governed by the
19 Standing Rules of the Senate.

20 (b) ADDITIONAL RULES AND PROCEDURES.—The
21 Special Committee may adopt additional rules or proce-
22 dures if the chairman and ranking member agree that
23 such additional rules or procedures are necessary to enable
24 the Special Committee to conduct the investigation, study,

1 and hearings authorized by this resolution. Any such addi-
2 tional rules and procedures—

3 (1) shall not be inconsistent with this resolution
4 or the Standing Rules of the Senate; and

5 (2) shall become effective upon publication in
6 the Congressional Record.

7 **SEC. 5. AUTHORITY OF SPECIAL COMMITTEE.**

8 (a) IN GENERAL.—The Special Committee may exer-
9 cise all of the powers and responsibilities of a committee
10 under rule XXVI of the Standing Rules of the Senate.

11 (b) HEARINGS.—The Special Committee or, at its di-
12 rection, any subcommittee or member of the Special Com-
13 mittee, may, for the purpose of carrying out this resolu-
14 tion—

15 (1) hold such hearings, sit and act at such
16 times and places, take such testimony, receive such
17 evidence, and administer such oaths as the Special
18 Committee or such subcommittee or member con-
19 siders advisable; and

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

25 (c) ISSUANCE AND ENFORCEMENT OF SUBPOENAS.—

1 (1) ISSUANCE.—Subpoenas issued under sub-
2 section (b) shall bear the signature of the Chairman
3 of the Special Committee and shall be served by any
4 person or class of persons designated by the Chair-
5 man for that purpose.

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

16 (d) MEETINGS.—The Special Committee may sit and
17 act at any time or place during sessions, recesses, and ad-
18 journment periods of the Senate.

19 **SEC. 6. REPORTS.**

20 (a) INITIAL REPORT.—The Special Committee shall
21 submit to the Senate a report on the investigation con-
22 ducted pursuant to section 2 not later than 270 days after
23 the appointment of the Special Committee members.

24 (b) UPDATED REPORT.—The Special Committee
25 shall submit an updated report on such investigation not

1 later than 180 days after the submittal of the report under
2 subsection (a).

3 (c) **ADDITIONAL REPORTS.**—The Special Committee
4 may submit any additional report or reports that the Spe-
5 cial Committee considers appropriate.

6 (d) **FINDINGS AND RECOMMENDATIONS.**—The re-
7 ports under this section shall include findings and rec-
8 ommendations of the Special Committee regarding the
9 matters considered under section 2.

10 (e) **DISPOSITION OF REPORTS.**—Any report made by
11 the Special Committee when the Senate is not in session
12 shall be submitted to the Clerk of the Senate. Any report
13 made by the Special Committee shall be referred to the
14 committee or committees that have jurisdiction over the
15 subject matter of the report.

16 **SEC. 7. ADMINISTRATIVE PROVISIONS.**

17 (a) **STAFF.**—

18 (1) **IN GENERAL.**—The Special Committee may
19 employ in accordance with paragraph (2) a staff
20 composed of such clerical, investigatory, legal, tech-
21 nical, and other personnel as the Special Committee,
22 or the chairman or the ranking member, considers
23 necessary or appropriate.

24 (2) **APPOINTMENT OF STAFF.**—

1 (A) IN GENERAL.—The Special Committee
2 shall appoint a staff for the majority, a staff for
3 the minority, and a nondesignated staff.

4 (B) MAJORITY STAFF.—The majority staff
5 shall be appointed, and may be removed, by the
6 chairman and shall work under the general su-
7 pervision and direction of the chairman.

8 (C) MINORITY STAFF.—The minority staff
9 shall be appointed, and may be removed, by the
10 ranking member of the Special Committee, and
11 shall work under the general supervision and di-
12 rection of such member.

13 (D) NONDESIGNATED STAFF.—Nondes-
14 ignated staff shall be appointed, and may be re-
15 moved, jointly by the chairman and the ranking
16 member, and shall work under the joint general
17 supervision and direction of the chairman and
18 ranking member.

19 (b) COMPENSATION.—

20 (1) MAJORITY STAFF.—The chairman shall fix
21 the compensation of all personnel of the majority
22 staff of the Special Committee.

23 (2) MINORITY STAFF.—The ranking member
24 shall fix the compensation of all personnel of the mi-
25 nority staff of the Special Committee.

1 (3) NONDESIGNATED STAFF.—The chairman
2 and ranking member shall jointly fix the compensa-
3 tion of all nondesignated staff of the Special Com-
4 mittee, within the budget approved for such pur-
5 poses for the Special Committee.

6 (c) REIMBURSEMENT OF EXPENSES.—The Special
7 Committee may reimburse the members of its staff for
8 travel, subsistence, and other necessary expenses incurred
9 by such staff members in the performance of their func-
10 tions for the Special Committee.

11 (d) PAYMENT OF EXPENSES.—There shall be paid
12 out of the applicable accounts of the Senate such sums
13 as may be necessary for the expenses of the Special Com-
14 mittee. Such payments shall be made on vouchers signed
15 by the chairman of the Special Committee and approved
16 in the manner directed by the Committee on Rules and
17 Administration of the Senate. Amounts made available
18 under this subsection shall be expended in accordance with
19 regulations prescribed by the Committee on Rules and Ad-
20 ministration of the Senate.

21 **SEC. 8. EFFECTIVE DATE; TERMINATION.**

22 (a) EFFECTIVE DATE.—This resolution shall take ef-
23 fect on November 5, 2008.

1 (b) TERMINATION.—The Special Committee shall ter-
2 minate two years after the date of the adoption of this
3 resolution.

4 **SEC. 9. SENSE OF SENATE ON CERTAIN CLAIMS REGARD-**
5 **ING THE COALITION PROVISIONAL AUTHOR-**
6 **ITY.**

7 It is the sense of the Senate that any claim of fraud,
8 waste, or abuse under the False Claims Act that involves
9 any contract or spending by the Coalition Provisional Au-
10 thority should be considered a claim against the United
11 States Government.

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