



SECTION-BY-SECTION ANALYSIS AND EXPLANATION

H.R. 5077: INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2017

The following is a section-by-section analysis and explanation of the Intelligence Authorization Act for Fiscal Year 2017 (“the Act”).

Section 1 – Short title; table of contents

Section 1 lists the title and the table of contents of the Act.

Section 2 – Definitions

Section 2 defines the terms “congressional intelligence committees” and the “Intelligence Community” (IC) that will be used in the Act.

TITLE I—INTELLIGENCE ACTIVITIES

Section 101 – Authorization of appropriations

Section 101 lists the U.S. Government departments, agencies, and other elements for which the Act authorizes appropriations for intelligence and intelligence-related activities for Fiscal Year 2017.

Section 102 – Classified schedule of authorizations

Section 102 provides that the amounts authorized to be appropriated for intelligence and intelligence-related activities and the personnel levels for Fiscal Year 2017 are contained in the classified Schedule of Authorizations and that the classified Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President.

Section 103 – Personnel ceiling adjustments

Section 103 provides that the Director of National Intelligence (DNI) may authorize employment of civilian personnel in Fiscal Year 2017 in excess of the number of authorized positions by an amount not exceeding three percent of the total limit applicable to each IC element under Section 102. The DNI may do so only if necessary to the performance of important intelligence functions.

Section 104 – Intelligence Community Management Account

Section 104 authorizes appropriations for the Intelligence Community Management Account (ICMA) of the DNI and sets the authorized personnel levels for the elements within the ICMA for Fiscal Year 2017.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Section 201 – Authorization of appropriations

Section 201 authorizes appropriations in the amount of \$514,000,000 for Fiscal Year 2017 for the Central Intelligence Agency Retirement and Disability Fund.

SECTION-BY-SECTION ANALYSIS AND EXPLANATION



TITLE III—GENERAL PROVISIONS

Section 301 – *Increase in employee compensation and benefits authorized by law*

Section 301 provides that funds authorized to be appropriated by the Act for salary, pay, retirement, and other benefits for federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in compensation or benefits authorized by law.

Section 302 – *Restriction on conduct of intelligence activities*

Section 302 provides that the authorization of appropriations by the Act shall not be deemed to constitute authority for the conduct of any intelligence activity that is not otherwise authorized by the Constitution or laws of the United States.

Section 303 – *Authorization of appropriations for Privacy and Civil Liberties Oversight Board*

Section 303 requires funds available to the Privacy and Civil Liberties Oversight Board (PLCOB) to be obligated or expended during a fiscal year only if such funds were specifically authorized by Congress for that fiscal year, and authorizes the full amount of the Administration's budget request for PCLOB for Fiscal Year 2017.

Section 304 – *Modification of certain whistleblowing procedures*

Section 304 amends current law, including the Intelligence Community Whistleblower Protection Act (IC WPA), to provide for the direct transmission to Congress by IC inspectors general (IGs) of whistleblower complaints containing classified information.

Section 305 – *Reports on major defense intelligence acquisition programs*

Section 305 requires milestone decision authorities to provide the congressional intelligence and defense committees with reports on major defense intelligence acquisition programs at each milestone approval through initial operating capability or full operating capability, as applicable.

Section 306 – *Modifications to certain requirements for construction of facilities*

Section 306 amends and clarifies existing law regarding the requirements for inclusion in the Administration's annual budget request and notification to the congressional intelligence committees of projects for the construction of facilities for the primary use of IC personnel.

Section 307 – *Information on Activities of Privacy and Civil Liberties Oversight Board*

Section 307 requires PCLOB to keep Congress and relevant IC elements fully and currently informed of its activities.

Section 308 – *Clarification of authorization of certain activities of the Department of Energy*

Section 308 authorizes funds appropriated for Fiscal Year 2016 for the intelligence and intelligence-related activities of the Department of Energy.

SECTION-BY-SECTION ANALYSIS AND EXPLANATION



Section 309 – *Technical correction to Executive Schedule*

Section 309 contains a technical correction regarding the annual rate of basic pay for the Director of the National Counter Proliferation Center.

Section 310 – *Maximum amount charged for declassification reviews*

Section 310 prohibits the head of an element of the IC from charging reproduction fees for a mandatory declassification review in excess of reproduction fees that the head would charge for a request for information under the Freedom of Information Act (FOIA). It also permits agency heads to waive processing fees for declassification reviews in the same manner as for FOIA.

**TITLE IV—Matters Relating to Elements
of the Intelligence Community**

Subtitle A—Office of the Director of National Intelligence

Section 401 – *Analyses and impact statements by Director of National Intelligence regarding actions by Committee on Foreign Investment in the United States*

Section 401 directs the DNI to submit to the congressional intelligence committees, after the completion of a review or an investigation of a covered transaction, the threat analysis previously provided to the Committee on Foreign Investment in the United States (CFIUS) pertaining to such transaction. It also directs the DNI to provide the committees with impact statements when the DNI determines that a covered transaction will have an operational impact on the IC.

Section 402 – *National Counterintelligence and Security Center*

Section 402 renames the National Counterintelligence Executive as the “National Counterintelligence and Security Center,” with conforming amendments.

Section 403 – *Assistance for governmental entities and private entities in recognizing online violent extremist content*

Section 403 requires the DNI to publish on a publicly available Internet website a list of all logos, symbols, insignia, and other markings commonly associated with, or adopted by, State Department-designated foreign terrorist organizations.

Subtitle B—Central Intelligence Agency and Other Elements

Section 411 – *Enhanced death benefits for employees of the Central Intelligence Agency*

Section 411 authorizes the Director of the Central Intelligence Agency (CIA) to pay death benefits substantially similar to those authorized for members of the Foreign Service, and requires the Director to submit implementing regulations to the congressional intelligence committees.

Section 412 – *Pay and retirement authorities of the Inspector General of the Central Intelligence Agency*

Section 412 amends the Central Intelligence Agency Act of 1949 to permit the CIA IG to designate an officer or employee as a law enforcement officer for purposes of pay and retirement benefits, if such officer or

SECTION-BY-SECTION ANALYSIS AND EXPLANATION



employee is appointed to a position with responsibility for investigating suspected offenses against the criminal laws of the United States. This section may *not* be construed to confer on the CIA IG, or any other officer or employee of CIA, any police or law enforcement or internal security functions or authorities.

Section 413 – *Clarification of authority, direction, and control over the information assurance directorate of the National Security Agency*

Section 413 restores authority, direction, and control over the Information Assurance Directorate of the National Security Agency to the Under Secretary of Defense for Intelligence.

Section 414 – *Living quarters allowance for employees of the Defense Intelligence Agency*

Section 414 prohibits the receipt of a living quarters allowance by any civilian employee of the Defense Intelligence Agency who is assigned to a directorate of a geographic combatant command that is headquartered outside of the United States. It applies starting with the pay period beginning on or after one year following enactment of the Act.

Section 415 – *Plan on assumption of certain weather missions by the National Reconnaissance Office*

Section 415 requires the Director of the National Reconnaissance Office to develop a plan to carry out certain space-based environmental monitoring missions currently performed by the Air Force. It also authorizes certain pre-acquisition activities and directs that an independent cost estimate be submitted to the congressional intelligence and defense committees.

Section 416 – *Modernization of security clearance information technology architecture*

Section 416 requires the DNI to assist the Secretary of Defense in developing and implementing—and issuing guidance relating to—a modernization of DoD’s security clearance information technology architecture.

TITLE V—Matters Relating to United States Naval Station, Guantanamo Bay, Cuba

Section 501 – *Declassification of information on past terrorist activities of detainees transferred from United States Naval Station, Guantanamo Bay, Cuba, after signing of Executive Order 13492*

Section 501 requires the DNI to conduct a prompt declassification review—and, once declassified, make available to the public—intelligence reports prepared by the National Counterterrorism Center prior to Periodic Review Board sessions or detainee transfers on the past terrorist activities of individuals detained at United States Naval Station, Guantanamo Bay, Cuba, who were transferred or released after the signing of Executive Order 13492.

TITLE VI—Reports and Other Matters

Section 601 – *Report on intelligence community employees detailed to National Security Council*

Section 601 requires the DNI to submit to the congressional intelligence committees a report listing, by year, the number of employees of an element of the IC who have been detailed to the National Security Council during each of the previous ten years.

SECTION-BY-SECTION ANALYSIS AND EXPLANATION



Section 602 – *Intelligence community reporting to Congress on foreign fighter flows*

Section 602 directs DNI to submit to the congressional intelligence committees a report on foreign fighter flows to and from terrorist safe havens abroad.

Section 603 – *Report on information relating to academic programs, scholarships, fellowships, and internships sponsored, administered, or used by the intelligence community*

Section 603 directs DNI to submit to the congressional intelligence committees a report regarding IC information collection on certain academic programs, scholarships, fellowships, and internships sponsored, administered, or used by the IC.

Section 604 – *Report on cybersecurity threats to seaports of the United States and maritime shipping*

Section 604 directs the Under Secretary of Homeland Security for Intelligence and Analysis to submit to the congressional intelligence committees a report on the cybersecurity threats to seaports of the United States and maritime shipping.

Section 605 – *Report on counter-messaging activities*

Section 605 directs the Under Secretary of Homeland Security for Intelligence and Analysis to submit to the congressional intelligence committees a report on the counter-messaging activities of the Department of Homeland Security with respect to the Islamic State and other extremist groups.

Section 606 – *Report on reprisals against contractors of the intelligence community*

Section 606 directs the IC IG to submit to the congressional intelligence committees a report on known or suspected reprisals made against employees of contractors of elements of the IC, and to make any appropriate recommendations.

SECTION-BY-SECTION ANALYSIS AND EXPLANATION