



SECTION-BY-SECTION ANALYSIS AND EXPLANATION

H.R. 6393: 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.

TITLE I-INTELLIGENCE ACTIVITIES

Section 101. Authorization of appropriations

Section 101 lists the United States 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 details of the amounts authorized to be appropriated for intelligence and intelligence-related activities and the applicable personnel levels by program 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 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 intelligence community (IC) element under Section 102, if necessary to the performance of important intelligence functions, and an amount not exceeding 10 percent of such limit, if necessary to convert the performance of any function of the element by contractors to performance by civilian personnel. The congressional intelligence committees intend that, for the purpose of Section 103, “contractor conversion” means that the number of contractor full-time equivalents shall decrease commensurate—on a one-for-one basis—with the number of contractors converted to government civilians.

Section 103 also requires that, not less than 30 days prior to authorizing a contractor conversion under this section, the DNI shall submit to the congressional intelligence committees a notification that includes a justification for making the conversion and a certification that such conversion is cost



effective. The congressional intelligence committees intend that, in certifying that such conversion is cost effective, the DNI shall include a comparison of costs using a mature model that has been reviewed and accepted by the congressional intelligence committees.

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.

TITLE III—GENERAL INTELLIGENCE COMMUNITY MATTERS

Section 301. Restriction on conduct of intelligence activities

Section 301 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 302. Increase in employee compensation and benefits authorized by law

Section 302 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 303. Support to nonprofit organizations assisting intelligence community employees

Section 303 permits the DNI to engage in fundraising in an official capacity for the benefit of nonprofit organizations that provide support to surviving family members of a deceased employee of an element of the IC or otherwise provide support for the welfare, education, or recreation of IC



employees, former employees, or their family members. Section 303 requires the DNI to issue regulations ensuring that the fundraising authority is exercised consistent with all relevant ethical limitations and principles. Section 303 further requires that the DNI and the Director of the CIA notify the congressional intelligence committees within seven days after they engage in such fundraising.

Section 304. Promotion of science, technology, engineering, and math education in the intelligence community

Section 304 requires the DNI to submit a five-year investment strategy for outreach and recruiting efforts in the fields of science, technology, engineering, and mathematics (STEM), to include cybersecurity and computer literacy. Section 304 further requires elements of the IC to submit STEM investment plans supporting this strategy for each of the fiscal years 2018 through 2022, along with the materials justifying the budget request of each element for these STEM recruiting and outreach activities.

Section 305. Retention of employees of the intelligence community who have science, technology, engineering, or math expertise

Section 305 authorizes a new payscale to permit salary increases for employees in the IC with STEM backgrounds. Section 305 also requires notifications to individual employees if a position is removed from this new payscale. Section 305 further requires the head of each IC element to submit to the congressional intelligence committees a report on the new rates of pay and number of positions authorized under this payscale.

Section 306. Modifications to certain requirements for construction of facilities

Section 306 amends existing law regarding the requirements for inclusion in the Administration's annual budget request and clarifies that the requirement to notify the congressional intelligence committees of improvement projects with an estimated cost greater than \$1,000,000 for facilities used primarily by IC personnel includes repairs and modifications.

Section 307. Protections for independent inspectors general of certain elements of the intelligence community

Section 307 requires the ODNI to develop and implement a uniform policy for each identified Inspector General (IG) office in the IC to better ensure their independence. The provision specifies elements to be



incorporated in such a policy including (a) guidance regarding conflicts of interest, (b) standards to ensure independence, and (c) a waiver provision. Section 307 further prohibits the DNI from requiring an employee of an OIG to rotate to a position in the element for which such office conducts oversight.

Section 308. Modification of certain whistleblowing procedures

Section 308 amends current law, including the Intelligence Community Whistleblower Protection Act (ICWPA), to provide for the direct transmission to Congress by IC inspectors general of whistleblower complaints containing classified information. Section 308 also makes clear that the provision does not prohibit IC inspectors general from notifying, or otherwise affect the authority of IC inspectors general to notify, heads of IC elements or the DNI, as the case may be, of a complaint or information.

Section 309. Congressional oversight of policy directives and guidance

Section 309 requires the DNI to submit to the congressional intelligence committees notifications of the issuance and a summary of the subject matter of any classified or unclassified Presidential Policy Directive, Presidential Policy Guidance, or other similar policy document issued by the President that assigns tasks, roles, or responsibilities to the IC, within the specified timeframes. Section 309 further requires the DNI to notify the congressional intelligence committees when the DNI has issued guidance or direction to implement such policies, and to submit a copy of such guidance or direction to the committees.

Section 310. Notification of memoranda of understanding

Section 310 requires the head of each element of the IC to submit to the congressional intelligence committees copies of each memorandum of understanding or other agreement regarding significant operational activities or policy entered into between, or among, such element and any other entity or entities of the federal government within specified timeframes.

Section 310 does not require an IC element to submit to the congressional intelligence committees any memorandum or agreement that is solely administrative in nature, including a memorandum or agreement regarding joint duty or other routine personnel assignments. An IC element also may redact any personally identifiable information from a memorandum or agreement that must be submitted to the intelligence committees.



Section 311. Technical correction to Executive Schedule

Section 311 contains a technical correction regarding the annual rate of basic pay for the Director of the National Counter Proliferation Center.

Section 312. Maximum amount charged for declassification reviews

Section 312 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. Designation of the Director of the National Counterintelligence and Security Center

Section 401 renames the National Counterintelligence Executive as the “National Counterintelligence and Security Center,” with conforming amendments.

Section 402. Analyses and impact statements by Director of National Intelligence regarding proposed investment into the United States

Section 402 directs the DNI to submit to the congressional intelligence committees, after the completion of a review or an investigation of any proposed investment into the United States, any analytic materials prepared by the DNI. This requirement includes, but is not limited to, national security threat assessments provided to the Committee on Foreign Investment in the United States (CFIUS) in connection with national security reviews and investigations conducted by CFIUS pursuant to Section 721(b) of the Defense Production Act of 1950 (50 U.S.C. § 4565). This section is not intended to limit the ability of the DNI to transmit supplementary materials to the congressional intelligence committees along with the threat assessments.

Section 402 also directs the DNI to provide the congressional intelligence committees with impact statements when the DNI determines a



proposed investment into the United States will have an operational impact on the IC.

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

Section 411. Enhanced death benefits for personnel of the Central Intelligence Agency

Section 411 authorizes the Director of the 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 authorize the IG of the CIA to consider certain positions as law enforcement officers for purposes of calculating retirement eligibility and entitlements under chapters 83 and 84 of title 5, United States Code, if such officer or employee is appointed to a position with responsibility for investigating suspected offenses against the criminal laws of the United States. Section 412 may not be construed to confer on the IG of the CIA, or any other officer or employee of the CIA, any police or law enforcement or internal security functions or authorities.

SUBTITLE C—OTHER ELEMENTS

Section 421. Clarification of authority, direction, and control over the Information Assurance Directorate of the National Security Agency

Section 421 restores authority, direction, and control over the Information Assurance Directorate of the NSA to the Under Secretary of Defense for Intelligence.

SECTION-BY-SECTION ANALYSIS AND EXPLANATION



Section 422. Enhancing the technical workforce for the Federal Bureau of Investigation

Section 422 requires the Federal Bureau of Investigation (FBI) to produce a comprehensive strategic workforce report to demonstrate progress in expanding initiatives to effectively integrate information technology expertise in the investigative process. Section 422 further requires the report to include assessments of: (1) progress on training, recruitment, and retention of cyber-related personnel; (2) whether FBI officers with these skill sets are fully integrated in the FBI's workforce; (3) the FBI's collaboration with the private sector on cyber issues; and (4) the utility of reinstating and leveraging the FBI Director's Advisory Board.

Section 423. Plan on assumption of certain weather missions by the National Reconnaissance Office

Section 423 requires the Director of the NRO 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. The Director of NRO may waive the requirement of Section 423 if the Under Secretary of Defense for Acquisition, Technology, and Logistics, and the Chairman of the Joint Chiefs of Staff, jointly submit a certification to the congressional intelligence and defense committees.

TITLE V—MATTERS RELATING TO FOREIGN COUNTRIES

Section 501. Committee to counter active measures by the Russian Federation to exert covert influence over peoples and governments

Section 501 requires the President to establish an interagency committee to counter active measures by the Russian Federation to exert covert influence over peoples and governments, and requires the Committee to report to appropriate committees of Congress annually on trends in active measures by the Russian Federation and on the Committee's key initiatives.

Section 502. Limitation on travel of accredited diplomats and consulars of the Russian Federation in the United States from their diplomatic post

Section 502 requires the Director of the FBI to certify that the FBI did not identify any violations by Russian diplomats and consulars of the



applicable requirements to notify the United States Government in connection with the Russian diplomats' or consulars' travel, before the Secretary of State can permit Russian diplomats or consulars to travel in excess of 25 miles outside their diplomatic post. Section 502 also permits the Director to waive the aforementioned travel distance restrictions if the Director determines that such a waiver will further the law enforcement or national security interests of the United States.

Section 503. Study and report on enhanced intelligence and information sharing with Open Skies Treaty member states

Section 503 requires the DNI, with support of other federal agencies, to conduct a study to determine the feasibility of creating an intelligence sharing arrangement and database among parties to the Open Skies Treaty (OST) with higher frequency, quality, and efficiency than that currently provided by the parameters of the OST. Section 503 also requires the Director to issue a report that includes an intelligence assessment on Russian Federation warfighting doctrine, the extent to which Russian Federation flights under the Open Skies Treaty contribute to the warfighting doctrine, a counterintelligence analysis as to the Russian Federation's capabilities, and a list of the covered parties that have been updated with this information.

TITLE VI—PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

Section 601. Information on activities of the Privacy and Civil Liberties Oversight Board

Section 601 requires the PCLOB to keep Congress and relevant IC elements fully and currently informed of its oversight activities.

Section 602. Authorization of appropriations for Privacy and Civil Liberties Oversight Board

Section 602 requires funds available to the PCLOB 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.



TITLE VII—REPORTS AND OTHER MATTERS

Section 701. Declassification review with respect to detainees transferred from United States Naval Station, Guantanamo Bay, Cuba.

Section 701 requires the DNI to complete a declassification review of intelligence reports prepared by the National Counterterrorism Center (NCTC) on past terrorist activities of each Guantanamo detainee held at Guantanamo after September 11, 2001, for the detainee's Periodic Review Board (PRB) sessions, transfer, or release from Guantanamo. The requirement applies both to detainees who have been transferred or released previously and to detainees transferred or released in the future. The provision also accounts for detainees whose transfer or release predated the establishment of the PRB or NCTC, or the latter's production of intelligence reports for PRB sessions, transfers, or releases.

Section 701 further requires the President to make any declassified intelligence reports publicly available and, with respect to each detainee for whom intelligence reports are declassified, also make public unclassified summaries of measures being taken by receiving countries to monitor the detainee and prevent future terrorist activities. Section 701 requires the DNI to submit to the congressional intelligence committees a report setting forth the results of the declassification review, including a description of covered reports that were not declassified.

Section 702. Cyber Center for Education and Innovation Home of the National Cryptologic Museum

Section 702 amends 10 U.S.C. § 449 to enable the establishment of a Cyber Center for Education and Innovation Home of the National Cryptologic Museum (the "Center"). Section 702 also establishes in the Treasury a fund for the benefit and operation of the Center.

Section 703. Oversight of national security systems

Section 703 amends 44 U.S.C. § 3557 to codify and strengthen existing roles and responsibilities with regard to the oversight of national security systems.

*Section 704. Joint facilities certification*

Section 704 requires that before an element of the IC purchases, leases, or constructs a new facility that is 20,000 square feet or larger, the head of that element must first certify that all prospective joint facilities have been considered and that it is unable to identify a joint facility that meets its operational requirements, and it must list the reasons for not participating in joint facilities in that instance.

Section 705. Leadership and management of space activities

Section 705 requires the DNI, in consultation with the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, to issue an update to the strategy for a comprehensive review of the United States national security overhead satellite architecture required in the Intelligence Authorization Act for Fiscal Year 2016. Section 705 further requires the DNI, in consultation with the Secretary of Defense, to submit a plan to functionally integrate the IC's governance, operations, analysis, collection, policy, and acquisition activities related to space and counterspace under the oversight of a single official, to be appointed by the DNI, in consultation with the Secretary of Defense. Section 705 also requires the DNI to submit a workforce plan for space and counterspace operations, policy, and acquisition. Section 705 further requires the Director of the NRO and the Commander of U.S. Strategic Command to submit a concept of operations and requirements documents for the Joint Interagency Combined Space Operations Center.

Section 706. Advances in life sciences and biotechnology

Section 706 requires the DNI to brief the congressional intelligence committees and the congressional defense committees on a proposed plan and actions to monitor advances in life sciences and biotechnology to be carried out by the DNI. Section 706 further requires the DNI to submit a written report and provide a briefing to the congressional intelligence committees and the congressional defense committees on the role of the IC in the event of a biological attack, including a technical capabilities assessment to address potential unknown pathogens.

Section 707. Reports on declassification proposals

Section 707 requires the DNI to provide the congressional intelligence committees with a report and briefing on the IC's progress in producing four feasibility studies undertaken in the course of the IC's fundamental



classification guidance review, as required under Executive Order 13526. Section 707 further requires the Director to provide the congressional intelligence committees with a briefing, interim report, and final report on the final feasibility studies produced by elements of the IC and an implementation plan for each initiative.

Section 708. Improvement in government classification and declassification

Section 708 assesses government classification and declassification in the digital era by requiring the DNI to review the system by which the Government classifies and declassifies national security information to improve the protection of such information, enable information sharing with allies and partners, and support appropriate declassification. Section 708 requires the DNI to submit a report with its findings and recommendations to the congressional intelligence committees. Section 708 further requires the DNI to provide an annual written notification to the congressional intelligence committees on the creation, validation, or substantial modification (to include termination) of existing and proposed controlled access programs, and the compartments and subcompartments within each. This certification shall include the rationale for each controlled access program, compartment, or subcompartment and how each controlled access program is being protected.

Section 709. Report on implementation of research and development recommendations

Section 709 requires the DNI to conduct and provide to the congressional intelligence committees a current assessment of the IC's implementation of the recommendations issued in 2013 by the National Commission for the Review of the Research and Development (R&D) Programs of the IC.

Section 710. Report on Intelligence Community Research and Development Corps

Section 710 requires the DNI to develop and brief the congressional intelligence committees on a plan, with milestones and benchmarks, to implement a R&D Reserve Corps, as recommended in 2013 by the bipartisan National Commission for the Review of the R&D Programs of the IC, including any funding and potential changes to existing authorities that may be needed to allow for the Corps' implementation.



Section 711. Report on information relating to academic programs, scholarships, fellowships, and internships sponsored, administered, or used by the intelligence community

Section 711 requires the DNI to submit to congressional intelligence committees a report on information that the IC collects on certain academic programs, scholarships, and internships sponsored, administered, or used by the IC.

Section 712. Report on intelligence community employees detailed to National Security Council

Section 712 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 713. Intelligence community reporting to Congress on foreign fighter flows

Section 713 directs DNI to submit to the congressional intelligence committees a report on foreign fighter flows to and from terrorist safe havens abroad.

Section 714. Report on cybersecurity threats to seaports of the United States and maritime shipping

Section 714 directs the Under Secretary of Homeland Security for Intelligence and Analysis (I&A) to submit to the congressional intelligence committees a report on the cybersecurity threats to seaports of the United States and maritime shipping.

Section 715. Report on counter-messaging activities

Section 715 directs the Under Secretary of Homeland Security for I&A to submit to the congressional intelligence committees a report on the counter-messaging activities of DHS with respect to the Islamic State and other extremist groups.



Section 716. Report on reprisals against contractors of the intelligence community

Section 716 directs the IC IG to submit to the congressional intelligence committees a report on known or claimed reprisals made against employees of contractors of elements of the IC during the preceding three-year period. Section 716 further requires the report to include an evaluation of the usefulness of establishing a prohibition on reprisals as a means of encouraging IC contractors to make protected disclosures, and any recommendations the IC IG deems appropriate.