



Legislative Bulletin.....May 10, 2007

Contents:

H.R. 2082 — Intelligence Authorization Act for Fiscal Year 2008

Summary of the Bills Under Consideration Today:

Total Number of New Government Programs: at least one

Total Cost of Discretionary Authorizations: \$738 million over one year

Effect on Revenue: \$0

Total Change in Mandatory Spending: \$0

Total New State & Local Government Mandates: 0

Total New Private Sector Mandates: 0

Number of Bills Without Committee Reports: 0

Number of Reported Bills that Don't Cite Specific Clauses of Constitutional Authority: 1

**H.R. 2082 — Intelligence Authorization Act for Fiscal Year 2008
(Reyes, D-TX)**

Order of Business: The bill is scheduled to be considered on Thursday, May 10, 2007, subject to a structured rule ([H.Res. 388](#)). Summaries of the amendments made in order under the rule will be provided in a separate RSC document.

Note: This Legislative Bulletin addresses only the unclassified portion of the bill. The language of H.R. 2082 provides for the passage of the classified annex, which contains the vast majority of the authorizations in this legislation. The classified annex is available to the Committees on Appropriations of the House and Senate and to the President. The President has to provide for the “suitable” distribution of appropriate portions of the annex within the executive branch.

Summary: The unclassified portion of H.R. 2082 would authorize \$738 million in discretionary FY2008 appropriations (\$257 million less than FY 2007), including \$263 million for Central Intelligence Agency Retirement and Disability System (CIARDS – previously mandatory spending in FY 2007). The specific schedule of authorizations for intelligence activities of the

federal government (including the Office of the Director of National Intelligence, the CIA, the Defense Department, the National Security Agency, the FBI, etc.) is classified.

Authorization of Appropriations. Authorizes appropriations for FY 2008 for intelligence-related activities of the following U.S. government entities:

- 1) The Office of the Director of National Intelligence
- 2) The Central Intelligence Agency
- 3) The Department of Defense
- 4) The Defense Intelligence Agency
- 5) The National Security Agency
- 6) The Department of the Army, the Department of the Navy, and the Department of the Air Force
- 7) The Department of State
- 8) The Department of the Treasury
- 9) The Department of Energy
- 10) The Department of Justice
- 11) The Federal Bureau of Investigation.
- 12) The National Reconnaissance Office
- 13) The National Geospatial-Intelligence Agency
- 14) The Coast Guard
- 15) The Department of Homeland Security
- 16) The Drug Enforcement Administration

Personnel Ceilings. Authorizes the Director of National Intelligence (DNI), with the approval of the Director of the Office of Management and Budget, to exceed the (classified) FY 2008 civilian personnel ceilings, when necessary to perform “important intelligence functions,” when reported to Congress, and when the increase is no greater than 2 percent of the authorized level.

Intelligence Community Management Account. Authorizes FY 2008 appropriations of \$737.9 million to the Intelligence Community Management Account (CMA) to fund 1,035 (unclassified) full-time personnel and other administrative requirements. Allows the Account, under certain circumstances, to reimburse other federal agencies for detailing personnel to the staff of the Account.

CIARDS. Authorizes \$262.5 million to be appropriated for the Central Intelligence Agency Retirement and Disability System (CIARDS), converting previously mandatory spending into discretionary.

Increase in Employee Compensation. Authorizes such additional or supplemental amounts as may be necessary” for employee compensation or benefits.

Intelligence Restrictions. Emphasizes that this legislation should not be deemed to constitute authority for the conduct of any intelligence activity that is not otherwise authorized by the Constitution or the laws of the United States.

Protecting Intelligence Information. Allows the head of an intelligence agency to delete, when transmitting information regarding receipt and disposition of foreign gifts, such certain information if this agency head certifies in writing to the Secretary of State that the publication of this information could adversely affect U.S. intelligence sources or methods.

Reprogramming Funds. Modifies the requirements for reprogramming funds for intelligence activities to also require that “the activity to be funded supports an emergent need, improves program effectiveness, or increase efficiency.”

Intelligence Personnel Travel on Common Carriers. Expands the National Intelligence Director’s (DNI’s) ability to delegate his authority – to allow travel on a common carrier – to any head of any other element of the intelligence community. This provision also allows those agency heads granted authority by the DNI to further grant this authority to other senior officials “as specified in guidelines prescribed by the DNI.”

Intelligence Personnel Compensation Report. Prohibits the DNI or the head of any element of the intelligence community to implement a plan to provide compensation to intelligence personnel based on performance until 45 days after the date which the DNI submits a report on performance-based compensation for the intelligence community. The report must include such components as an implementation time line and certain target dates, an estimated budget, and a description of the performance-based compensation system, among other items.

Transportation Security Oversight Board Membership. Amends the members of the Transportation Security Oversight Board to remove the CIA Director and add the DNI Director (or his designee).

Science and Technology. Directs the DNI’s Science and Technology Committee to *prioritize* (as opposed to just coordinate) research and development related to intelligence, including identification of basic, applied, and advanced research programs to be carried out by the intelligence community. The Director of Science and Technology would also have to assist the DNI in establishing technology goals for the elements of the intelligence community. The DNI would have to report to Congress by June 30, 2008, on a strategy for the development and use of technology in the intelligence community through the year 2018.

Strategic Plan. Requires the DNI to submit a report to the congressional intelligence committees a plan to increase diversity across the intelligence communities, including a description of short-term and long-term goals of the intelligence community.

Office Locations. Includes the Director of the National Counterproliferation Center (NCPC) and the Director of the National Counterterrorism Center in the list of officers within the Office of the DNI and provides that the NCPC Director be appointed by the DNI.

Incentive Awards. Allows the DNI to provide incentive awards to federal employees and military personnel assigned to the Office of the DNI.

Security Clearances. Requires the DNI to establish a multi-level security clearance system for the intelligence community to enable them to make more efficient use of persons proficient in foreign languages or with cultural, linguistic, or other subject matter expertise that is critical to national intelligence (this provision was just a Sense of Congress in the FY07 Intelligence Authorization).

Global Climate Change Estimate. Requires the DNI, within 270 days after enactment, to submit a report to Congress a national intelligence estimate on the anticipated geopolitical effects of global climate change and the implications of these effects on the national security of the U.S.

Energy Efficiency Implementation. Requires the DNI to develop a plan to implement the recommendations of a report submitted to Congress (P.L. 109-431) entitled “An Act to study and promote the use of energy efficient computer servers in the U.S.” Requires that DNI submit a report to Congress by February 1, 2008, on the implementation of this plan (in unclassified form).

Special Access Programs. Requires the DNI to submit to Congress, by January 15, 2008, a comprehensive (classified) inventory of special access programs under the National Intelligence Program.

Iran and North Korea Intelligence Reports. Requires the DNI to submit a quarterly report to the congressional intelligence committees (classified) on the current intentions and capabilities of the Islamic Republic of Iran and North Korea regarding their nuclear programs (and requires various information be contained within the report, such as an assessment of nuclear weapons programs, etc.).

Accountability in Intelligence Contracting. Requires the DNI to submit a report to the congressional intelligence committees on contractors funded under the National Intelligence Program. The report must include a list of all contractors that have been the subject of an investigation by the Inspector General and the number of contractors performing services for each element of the intelligence community.

Foreign Language Proficiency. Requires the DNI to submit an annual report to the congressional intelligence committees on the foreign language proficiency of each intelligence agency, and requires the head of each element of the intelligence community to annually submit a report to the DNI on the foreign language proficiency of the personnel at such element.

Reports Eliminated. Requires the DNI to submit a list of reports to the congressional intelligence committees on recommendations for the elimination required reports that relate to foreign language proficiency that the DNI considers outdated or are no longer necessary.

CIA Deputy Director. Creates a new position of Deputy Director of the Central Intelligence Agency (CIA) to be appointed by the President (and confirmed by the Senate), and stipulates that the position has responsibility to assist the CIA Director, and exercise the powers of the Director during the absence or disability of the Director.

CIA Audit. Directs the Inspector General of the CIA to conduct an audit of each covert action at least every three years and report the findings to the congressional intelligence committees.

Coast Guard and DEA. Adds the Coast Guard and Drug Enforcement Administration to the list of intelligence community agencies in the National Security Act (50 U.S.C. 401a(4)).

Aerial Reconnaissance Platforms. Prohibits the Secretary of Defense from terminating the U-2 aircraft program until the Secretary certifies that there would be no loss of national or DoD intelligence, surveillance, and reconnaissance capabilities in transitioning from the U-2 aircraft program to the Global Hawk RQ-4 unmanned aerial vehicle platform.

Possible Conservative Concerns: Some conservatives may be concerned that this legislation requires the U.S. intelligence apparatus to produce a report on global climate change and its “anticipated” national security affects.

In addition, within this [Intelligence Committee report](#) (only available on the Committee website and filed not on LIS), there exists a list of 26 separate congressional earmarks totaling approximately \$96 million (see page 111 and 112). Some members may be concerned with the existence of earmarks contained within the Intelligence Authorization bill.

Amendments: Summaries of the amendments made in order under the rule will be provided in a separate RSC document.

Committee Action: H.R. 2082 bill was referred to the Permanent Select Committee on Intelligence on May 1, 2007, and was marked-up the next day. The Committee then amended and by voice vote ordered the bill reported to the full House on May 7 (House Report [110-131](#)).

Administration Policy: The Administration opposes passage of H.R. 2082 and released a Statement of Administration Policy (SAP) on May 9, 2007, which included the following statement:

The Administration opposes H.R. 2082 in its current form, but cannot yet take a final position on its funding levels because the Administration has not had the opportunity to review the classified schedule of authorizations related to the bill. Therefore, the Administration reserves the right to comment on those authorizations once it receives the classified schedule. However, based on the portions of the bill received to date, the Administration has concerns with H.R. 2082 and objects to a number of provisions, the most significant of which are outlined below.

Cost to Taxpayers: CBO reports that the unclassified portion of H.R. 2082 would authorize \$738 million in discretionary FY2008 appropriations (\$257 million less than FY 2007), including \$263 million for CIARDS (mandatory spending in FY 2007). The specific schedule of authorizations for intelligence activities of the federal government (including the Office of the DNI, the CIA, the Defense Department, the National Security Agency, the FBI, etc.) is classified.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: The Permanent Select Committee on Intelligence Committee, in House Report [110-131](#), fails to cite constitutional authority for this legislation.

House Rule XIII, Section 3(d)(1), requires that all committee reports contain “a statement citing the *specific* powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.” *[emphasis added]*

RSC Staff Contact: Derek V. Baker; derek.baker@mail.house.gov; 202-226-8585

###