

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2021

The following is the explanation of the Intelligence Authorization Act for Fiscal Year 2021 (hereinafter, “the Act”).

This explanation reflects the result of negotiations and disposition of issues reached between the Senate Select Committee on Intelligence (SSCI) and the House Permanent Select Committee on Intelligence (HPSCI) and the (hereinafter, “the Agreement”). The explanation shall have the same effect with respect to the implementation of the Act as if it were a joint explanatory statement of a conference committee. The term “Committees” refers to both SSCI and HPSCI.

The explanation comprises three parts: an overview of the application of the annex to accompany this statement; unclassified congressional direction; and a section-by-section analysis of the legislative text.

PART I: APPLICATION OF THE CLASSIFIED ANNEX

The classified nature of U.S. intelligence activities prevents the SSCI and HPSCI (collectively, the “congressional intelligence committees”) from publicly disclosing many details concerning the conclusions and recommendations of the Agreement. Therefore, a classified Schedule of Authorizations and a classified annex have been prepared to describe in detail the scope and intent of the congressional intelligence committees’ actions. The Agreement authorizes the Intelligence Community (IC) to obligate and expend funds not altered or modified by the classified Schedule of Authorizations as requested in the President’s budget, subject to modification under applicable reprogramming procedures.

The classified annex is the result of negotiations between the congressional intelligence committees. They reconcile the differences between the congressional intelligence committees’ respective versions of the bill for the National Intelligence Program (NIP) for Fiscal Year 2021. The Agreement also makes recommendations for the Military Intelligence Program (MIP) and the Information Systems Security Program (ISSP), consistent with the National Defense Authorization Act for Fiscal Year 2021, and provides certain direction for these two programs. The Agreement applies to IC activities for Fiscal Year 2021.

The classified Schedule of Authorizations is incorporated into the bill pursuant to Section 102. It has the status of law. The classified annex supplements and adds detail to clarify the authorization levels found in the bill and the classified Schedule of Authorizations. The congressional intelligence committees view direction and recommendations, whether contained in this explanation or in the classified annex, as requiring compliance by the Executive Branch.

PART II: SELECT UNCLASSIFIED CONGRESSIONAL DIRECTION

This Joint Explanatory Statement incorporates by reference, and the Executive Branch shall comply with, all direction contained in the Senate Select Committee on Intelligence Report to accompany the Intelligence Authorization Act for Fiscal Year 2021 (S. Rept. 116-233) and in the House Permanent Select Committee on Intelligence Report to accompany the Intelligence Authorization Act for Fiscal Year 2021 (H. Rept. 116-565).

PART III: SECTION-BY-SECTION ANALYSIS AND EXPLANATION OF LEGISLATIVE TEXT

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 2021.

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 for Fiscal Year 2021 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. Intelligence Community Management Account.

Section 103 authorizes appropriations for the Intelligence Community Management Account (ICMA) of the ODNI for Fiscal Year 2021.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Section 201. Authorization of appropriations.

Section 201 authorizes appropriations for the CIA Retirement and Disability Fund for Fiscal Year 2021.

TITLE III—INTELLIGENCE COMMUNITY MATTERS

SUBTITLE A—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. Continuity of operations plans for certain elements of the intelligence community in the case of a national emergency.

Section 303 requires the Directors of the Office of the Director of National Intelligence (ODNI), Central Intelligence Agency (CIA), National Reconnaissance Office (NRO), Defense Intelligence Agency (DIA), National Security Agency (NSA), and National Geospatial-Intelligence Agency (NGA) to establish continuity of operations plans for use in the case of certain national emergencies as defined in statute, and share those with the congressional intelligence committees within 7 days of a national emergency being declared. Furthermore, Section 303 requires these agencies to provide the committees with any updates to those plans as the conditions of the national emergency require.

Section 304. Application of Executive Schedule level III to position of Director of National Reconnaissance Office.

Section 304 provides that the Director of the NRO shall be designated as Level III on the Executive Schedule, the equivalent of an Under Secretary. The Committee further clarifies that this provision shall apply to a successor civilian occupying the position of Director of the NRO.

Section 305. National Intelligence University.

Section 305 provides the National Intelligence University (NIU) with degree-granting authority and requires reporting on personnel and compensation. Section 305 also sustains an independent, external board of visitors to provide oversight of the NIU.

Section 306. Data collection on attrition in intelligence community.

Section 306 requires the DNI to set standards and issue an annual report on the reasons why different categories of IC employees separate from service or applicants to IC positions

withdraw from the hiring process after they have been issued a conditional offer of employment. Data on workforce attrition should include demographics, specialties, and length of service. Such reasons may include an alternative job opportunity, a loss of interest in joining the IC, or the length of time to complete the clearance process.

Section 307. Limitation on delegation of responsibility for program management of information-sharing environment.

Section 307 stipulates that the President must delegate responsibilities under Section 1016(b) of the *Intelligence Reform and Terrorism Prevention Act of 2004* to an official other than the DNI.

Section 308. Requirement to buy certain satellite component from American sources.

Section 308 prohibits an element of the IC to award a contract for a national security satellite if the satellite uses a star tracker that is not produced in the United States, with certain limited exceptions.

Section 309. Limitation on construction of facilities to be used primarily by intelligence community.

Section 309 amends the *Intelligence Authorization Act for Fiscal Year 1995* regarding funding and authorities for facility construction.

Section 310. Intelligence community student loan repayment programs.

Section 310 requires the DNI to establish minimum student loan repayment standards for IC employees.

SUBTITLE B—REPORTS AND ASSESSMENTS PERTAINING TO THE INTELLIGENCE COMMUNITY

Section 321. Assessment by the Comptroller General of the United States on efforts of the Intelligence Community and the Department of Defense to identify and mitigate risks posed to the intelligence community and the Department by the use of direct-to-consumer genetic testing by the Government of the People's Republic of China.

Section 321 directs the Comptroller General to assess efforts in the IC and Department of Defense (DoD) to identify and mitigate the risks posed to the IC and DoD by direct-to-consumer genetic testing by the Government of the People's Republic of China. Section 321 further requires the report to include key national security risks and vulnerabilities, an assessment of the IC's and DoD's identification and mitigation of such risks and vulnerabilities, and

recommendations for the IC and DoD to improve identification and mitigation of such risks and vulnerabilities.

Section 322. Report on use by intelligence community of hiring flexibilities and expedited human resources practices to assure quality and diversity in the workforce of the intelligence community.

Section 322 requires the DNI to submit a report describing how IC elements are exercising hiring flexibilities and expedited human resources practices afforded under 5 U.S.C. § 3326 and related regulations, including the identification of any obstacles encountered by the IC in exercising such authorities.

Section 323. Report on signals intelligence priorities and requirements.

Section 323 requires the DNI to submit a report detailing signals intelligence priorities and requirements subject to Presidential Policy Directive-28 that stipulates “why, whether, when, and how the United States conducts signals intelligence activities.” This report shall be submitted in unclassified form, but may include a classified annex.

Section 324. Assessment of demand for student loan repayment program benefit.

Section 324 requires the head of each IC element to calculate the number of personnel who qualify for a student loan repayment program benefit, and compare it to the number of personnel who apply for such a benefit. The information provided will include recommendations for how to optimize participation and enhance the effectiveness of the benefit as a retention tool, to identify any shortfall in funds or authorities needed to provide such benefit, and to include such materials with the budget request for Fiscal Year 2022.

Section 325. Assessment of intelligence community demand for child care.

Section 325 requires the DNI in coordination with the heads of other IC elements to provide a report that includes: a calculation of the total annual demand for child care by employees at NSA, NGA, DIA, NRO, CIA, and ODNI; an identification of any shortfalls between demand and the child care support by these IC elements; an assessment of options for addressing any such shortfall; an identification of the advantages, disadvantages, security requirements, and costs associated with each option; a plan to meet, within five years after the date of the report, the demand for childcare, and an assessment of specific considerations that impact the alternatives available to these IC elements.

Section 326. Open source intelligence strategies and plans for the intelligence community.

Section 326 requires the DNI in coordination with the heads of each IC element, to conduct a survey of the open source intelligence requirements, goals, investments, and capabilities for each element of the IC and to evaluate the usability of the Open Source Enterprise (OSE). Based on such findings, it further mandates the DNI shall develop, in coordination with the heads of each IC element, a strategy for open source intelligence

collection, analysis, and production across the IC; create a plan for improving usability of the OSE; and conduct a risk and benefit analysis of creating an independent open source center.

Using the findings above, Section 326 further requires the DNI to develop a plan for a centralized data repository of open source intelligence. Finally, it mandates the DNI develop a cost-sharing model that leverages the open source intelligence investments of each IC element for the beneficial use of the entire IC. It also requires the heads of ODNI, CIA, DIA, NGA, and NSA to jointly brief the congressional intelligence committees on the progress developing the aforementioned plans.

TITLE IV—MATTERS RELATING TO ELEMENTS OF THE INTELLIGENCE COMMUNITY

Section 401. Establishment of Office of the Ombudsman for Analytic Objectivity.

Section 401 establishes in the CIA an Office of the Ombudsman for Analytic Objectivity to implement required procedures and conduct required activities.

Section 402. Expansion of personnel management authority to attract experts in science and engineering.

Section 402 facilitates NGA's recruitment of experts in science or engineering for research and development projects.

Section 403. Senior Chief Petty Officer Shannon Kent Award for distinguished female personnel of the National Security Agency.

Section 403 requires the Director of the NSA to establish an honorary award for the recognition of female personnel of the NSA for distinguished career contributions in support of the mission of the NSA.

Section 404. Department of Homeland Security intelligence and cybersecurity diversity fellowship program.

Section 404 requires the Secretary of DHS to carry out an intelligence and cybersecurity diversity fellowship program that provides paid internships, tuition assistance, and potential employment opportunities.

Section 405. Climate Security Advisory Council.

Section 405 requires the DNI, in coordination with the appropriate heads of other IC elements, to conduct a study on the effectiveness of the Climate Security Advisory Council as a potential model for future advisory councils.

TITLE V—MATTERS RELATING TO EMERGING TECHNOLOGIES

Section 501. Requirements and authorities for Director of Central Intelligence Agency to improve education in science, technology, engineering, arts, and mathematics.

Section 501 ensures that the Director of the CIA has the legal authorities required to improve the skills in science, technology, engineering, arts, and mathematics (known as STEAM) necessary to meet long-term national security needs.

Section 502. Seedling investment in next-generation microelectronics in support of artificial intelligence.

Section 502 requires the DNI, acting through the Director of the Intelligence Advanced Research Projects Activity, to award contracts or grants, or enter into other transactions, to encourage microelectronics research.

TITLE VI—REPORTS AND OTHER MATTERS

Section 601. Report on attempts by foreign adversaries to build telecommunications and cybersecurity equipment and services for, or to provide such equipment and services to, certain allies of the United States.

Section 601 requires the CIA, NSA, and DIA to submit to the congressional intelligence and armed services committees a joint report that describes the United States intelligence sharing and military posture in Five Eyes countries that currently have or intend to use adversary telecommunications or cybersecurity equipment, especially as provided by China or Russia, with a description of potential vulnerabilities of that information and assessment of mitigation options.

Section 602. Report on threats posed by use by foreign governments and entities of commercially available cyber intrusion and surveillance technology.

Section 602 requires the DNI to submit a report on the threats posed by foreign governments and foreign entities using and appropriating commercially available cyber intrusion and other surveillance technology.

Section 603. Reports on recommendations of the Cyberspace Solarium Commission.

Section 603 requires the ODNI, Department of Homeland Security (acting through the Under Secretary of Homeland Security for Intelligence and Analysis), Department of Energy (acting through the Director of Intelligence and Counterintelligence of the Department of Energy), Department of Commerce, and DoD to report to Congress their assessment of the recommendations submitted by the Cyberspace Solarium Commission pursuant to Section 1652(j) of the *John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year*

2019, and to describe actions that each agency expects to take to implement these recommendations.

Section 604. Assessment of critical technology trends relating to artificial intelligence, microchips, and semiconductors and related supply chains.

Section 604 requires the DNI to complete an assessment of export controls related to artificial intelligence (AI), microchips, advanced manufacturing equipment, and other AI-enabled technologies, including the identification of opportunities for further cooperation with international partners.

Section 605. Combating Chinese influence operations in the United States and strengthening civil liberties protections.

Section 605 provides additional requirements to annual reports in 50 U.S.C. § 3237(B) on Influence Operations and Campaigns in the United States by the Chinese Communist Party (CCP) by mandating an identification of influence operations by the CCP against the science and technology sector in the United States. Section 605 also requires the FBI to create a plan, in consultation with stakeholders outside the Intelligence Community to increase public awareness of influence activities by the CCP. Finally, section 605 requires the FBI, in consultation with the Assistant Attorney General for the Civil Rights and the Chief Privacy and Civil Liberties Officer of the Department of Justice, to develop recommendations to strengthen relationships with communities targeted by the CCP and to build trust with such communities through local and regional grassroots outreach.

Section 606. Annual report on corrupt activities of senior officials of the Chinese Communist Party.

Section 606 requires the CIA, in coordination with the Department of Treasury's Office of Intelligence and Analysis and the FBI, to submit to designated congressional committees annually through 2025 a report that describes and assesses the wealth and corruption of senior officials of the CCP, as well as targeted financial measures, including potential targets for sanctions designation. Section 606 further expresses the Sense of Congress that the United States should undertake every effort and pursue every opportunity to expose the corruption and illicit practices of senior officials of the CCP, including President Xi Jinping.

Section 607. Report on corrupt activities of Russian and other Eastern European oligarchs.

Section 607 requires the CIA, in coordination with the Department of the Treasury's Office of Intelligence and Analysis and the FBI, to submit to designated congressional committees and the Under Secretary of State for Public Diplomacy, a report that describes the corruption and corrupt or illegal activities among Russian and other Eastern European oligarchs who support the Russian government and Russian President Vladimir Putin, and the impact of those activities on the economy and citizens of Russia. Section 607 further requires the CIA, in

coordination with the Department of Treasury's Office of Intelligence and Analysis, to describe potential sanctions that could be imposed for such activities.

Section 608. Report on biosecurity risk and disinformation by the Chinese Communist Party and the Government of the People's Republic of China.

Section 608 requires the DNI to submit to the designated congressional committees a report identifying whether and how CCP officials and the Government of the People's Republic of China may have sought to suppress or exploit for national advantage information regarding the novel coronavirus pandemic, including specific related assessments. Section 608 further provides that the report shall be submitted in unclassified form, but may have a classified annex.

Section 609. Report on effect of lifting of United Nations arms embargo on Islamic Republic of Iran.

Section 609 requires the DIA to submit to designated congressional committees a report on the Government of the Islamic Republic of Iran's plans to acquire military arms if the ban on arms transfers to or from such government under United Nations Security Council resolutions are lifted, as well as the effects such arms acquisitions may have on regional security and stability.

Section 610. Report on Iranian activities relating to nuclear nonproliferation.

Section 610 directs the DNI to submit a report on any relevant activities relating to nuclear weapons research and development by the Islamic Republic of Iran and any relevant efforts to afford or deny international access to related facilities in accordance with international non-proliferation agreements.

Section 611. Annual reports on security services of the People's Republic of China in the Hong Kong Special Administrative Region.

Section 611 requires the DNI to submit a report on the presence and activities of Chinese security services operating within the Hong Kong Special Administrative Region.

Section 612. Research partnership on activities of People's Republic of China.

Section 612 requires the Director of the NGA to seek to enter into a partnership with an academic or non-profit research institution to carry out joint unclassified geospatial intelligence analyses of the activities of the People's Republic of China that pose national security risks to the United States, and to make publicly available unclassified products relating to such analyses.

Section 613. Report on the pharmaceutical and personal protective equipment regulatory practices of the People's Republic of China.

Section 613 requires the DNI to submit a report on the pharmaceutical and personal protective equipment regulatory practices of the People's Republic of China.

Section 614. National Intelligence Estimate on situation in Afghanistan.

Section 614 requires the DNI, acting through the National Intelligence Council, to produce a National Intelligence Estimate on the situation in Afghanistan.

Section 615. Assessment regarding tensions between Armenia and Azerbaijan.

Section 615 requires the DNI to submit an assessment regarding tensions between the governments of Armenia and Azerbaijan.

Section 616. Sense of Congress on Third Option Foundation.

Section 616 expresses the sense of Congress that the Third Option Foundation's work on behalf of the CIA's special operations community and their families is invaluable, such that the Director of the CIA should work with the Foundation to implement section 6412 of the *Damon Paul Nelson and Matthew Young Pollard Intelligence Authorization Act for Fiscal Years 2018, 2019, and 2020*, which provided special rules for certain monthly workers' compensation payments and other payments to CIA personnel.

Section 617. Annual reports on worldwide threats.

Section 617 requires the DNI, in coordination with IC element heads, to submit an annual report with an IC assessment of worldwide threats to United States national security. Section 617 further requires the DNI, together with IC element heads determined appropriate by the congressional intelligence and defense committees in consultation with the DNI, to testify at an open hearing before such committees upon request. It is the intent of the Committees that a request by one of the congressional intelligence or defense committees, or a number of them, shall trigger the obligation of IC element heads to testify at an open hearing before a requesting committee, as specified under Section 617.

Section 618. Annual report on Climate Security Advisory Council.

Section 618 requires the chair of the Climate Security Advisory Council to submit an annual report regarding the Council's prior year activities.

Section 619. Improvements to funding for National Security Education program.

Section 619 authorizes funds for national security-related scholarship, fellowship, and grant programs.

Section 620. Report on best practices to protect privacy, civil liberties, and civil rights of Chinese Americans.

Section 620 makes certain technical and conforming amendments to a reporting provision enacted pursuant to the *Damon Paul Nelson and Matthew Young Pollard Intelligence Authorization Act for Fiscal Years 2018, 2019, and 2020*.

Section 621. National Intelligence Estimate on the threat of global pandemic disease.

Section 621 requires the DNI, acting through the National Intelligence Council, to produce a National Intelligence Estimate on the threat of global pandemic disease.

Section 622. Modification of requirement for briefings on national security effects of emerging infectious disease and pandemics.

Section 622 amends a quinquennial reporting provision enacted pursuant to the *Damon Paul Nelson and Matthew Young Pollard Intelligence Authorization Act for Fiscal Years 2018, 2019, and 2020* to require annual reporting.

Section 623. Independent study on open-source intelligence.

Section 623 requires the DNI to seek to enter into an agreement with a federally funded research and development center or a nongovernmental entity to conduct a study on the future of the collection, processing, exploitation, analysis, dissemination, and evaluation of open-source intelligence by the IC, with certain requirements and criteria.

Section 624. Survey on Open Source Enterprise.

Section 624 requires the Director of the CIA (as the open source functional manager for the IC), in consultation with the DNI and any other IC element head that the Director determines appropriate, to conduct a survey to measure the satisfaction of customers of open-source intelligence with the Open Source Enterprise of the CIA.

Section 625. Sense of Congress on report on murder of Jamal Khashoggi.

Section 625 provides that it is the sense of Congress that the DNI should reasonably have been able to produce an unclassified report, as required pursuant to section 5714 of the *Damon Paul Nelson and Matthew Young Pollard Intelligence Authorization Act for Fiscal Years 2018, 2019, and 2020*, and section 1277 of the *National Defense Authorization Act for Fiscal Year 2020*.