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INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2017

JANUARY 20, 2017.—Ordered to be printed

Mr. BURR, from the Select Committee on Intelligence,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany S. 133]

The Select Committee on Intelligence, to which was referred the bill (S. 133) to authorize appropriations for fiscal year 2017 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

CLASSIFIED ANNEX TO THE COMMITTEE REPORT

On February 9, 2016, acting pursuant to Section 364 of the Intelligence Authorization Act for Fiscal Year 2010 (Public Law 111–259), the Director of National Intelligence (DNI) publicly disclosed that the President’s aggregate request for the National Intelligence Program for Fiscal Year 2017 is \$53.5 billion. Other than for limited unclassified appropriations, primarily the Intelligence Community Management Account, the classified nature of United States intelligence activities precludes any further disclosure, including by the Committee, of the details of its budgetary recommendations. Accordingly, the Committee has prepared a classified annex to this report that contains a classified Schedule of Authorizations. The classified Schedule of Authorizations is incorporated by reference in the Intelligence Authorization Act (the “Act”) and has the legal sta-

tus of public law. The classified annex is made available to the Committees on Appropriations of the Senate and the House of Representatives and to the President. It is also available for review by any Member of the Senate subject to the provisions of Senate Resolution 400 of the 94th Congress (1976).

SECTION-BY-SECTION ANALYSIS AND EXPLANATION

The following is a section-by-section analysis and explanation of the Intelligence Authorization Act for Fiscal Year 2017 that is being reported by the Committee.

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 IC element under Section 102, and ten percent of the number of civilian personnel authorized under such schedule for the purposes of contractor conversions. 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.

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 mathematics 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 mathematics 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. Multi-sector workforce

Section 306 prohibits the Congress's use of government personnel ceilings in the management of the IC civilian workforce starting in

Fiscal Year 2019. Section 306 requires the DNI to provide a written report and briefing on the methodology to calculate the full-time equivalent IC positions, the cost analysis tool used to calculate IC personnel costs, and the IC's implementation plans. Section 306 further requires the IC IG to provide a written report on the accuracy of IC workforce data. This section will bring the IC in line with how Congress oversees the Department of Defense (DoD) and other federal agency workforces.

Section 307. Notification of repair or modification of facilities to be used primarily by the intelligence community

Section 307 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 308. Guidance and reporting requirement regarding interactions between the intelligence community and entertainment industry

Section 308 requires the DNI to issue public guidance regarding engagements by elements of the Intelligence Community with entertainment industry entities. The guidance will include DNI providing an annual report to the congressional intelligence committees detailing interactions between the IC and the entertainment industry. Section 308 also requires the report to include a description of the nature, duration, costs, benefits, and results of each engagement, as well as a determination that each engagement did not result in a disclosure of classified information and whether any information was declassified for the disclosure. Section 308 further requires that before an IC element may engage with the entertainment industry, the head of that element must approve the proposed engagement. Contractual relationships for professional services and technical expertise are exempt from these reporting requirements.

Section 309. Protections for independent inspectors general of elements of the intelligence community

Section 309 requires the Office of the Director of National Intelligence (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 309 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 310. Congressional oversight of policy directives and guidance

Section 310 requires the DNI to submit to the congressional intelligence committees notifications and copies of any classified or unclassified Presidential Policy Directive, Presidential Policy Guidance, or other similar policy document issued by the President which assigns tasks, roles, or responsibilities to the IC, within the specified timeframes. Section 310 further requires the Director to

notify the congressional intelligence committees of guidance to implement such policies.

Section 311. Notification of memoranda of understanding

Section 311 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 311 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 which must be submitted to the intelligence committees.

Section 312. Assistance for nationally significant critical infrastructure

Section 312 requires the DHS, supported by the appropriate elements of the IC, to carry out a program to provide assistance to certain critical infrastructure entities, on a voluntary basis, for the purpose of reducing the likelihood of catastrophic harm resulting from a cyber attack.

Section 313. Technical correction to Executive Schedule

Section 313 contains a technical correction regarding the annual rate of basic pay for the Director of the National Counter Proliferation Center.

Section 314. Maximum amount charged for declassification reviews

Section 314 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 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 Central Intelligence Agency (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. Enhancing the technical workforce for the Federal Bureau of Investigation

Section 421 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 421 further requires the report to include: (1) progress on training, recruitment, and retention of cyber-related personnel; (2) an assessment of 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) an assessment of the utility of reinstituting and leveraging the FBI Director's Advisory Board.

Section 422. Plan on assumption of certain weather missions by the National Reconnaissance Office

Section 422 requires the Director of the National Reconnaissance Office (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 422 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 that constitute Russian actions to exert covert influence over peoples and governments.

Section 502. Strict enforcement of travel protocols and procedures of accredited diplomatic and consular personnel of the Russian Federation in the United States

Section 502 requires the Secretary of State, in coordination with the Director of the FBI and the DNI, to establish an advance notification regime governing all Russian Federation accredited diplomatic and consular personnel in the United States, as well as to take action to strictly secure compliance and address noncompliance with the notification requirement. Section 502 also requires the Secretary of State, the Director of the FBI, and the DNI to develop written mechanisms to share such travel information and address noncompliance. Section 502 further requires written reporting to the specified committees detailing the number of notifications, and the number of known or suspected violations of such personnel requirements.

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 Federa-

tion's capabilities, and a list of the covered parties that have been updated with this information.

TITLE VI—REPORTS AND OTHER MATTERS

Section 601. Declassification review with respect to detainees transferred from United States Naval Station, Guantanamo Bay, Cuba

Section 601 requires the DNI to complete a declassification review of intelligence reports prepared by the National Counterterrorism Center (NCTC) on the past terrorist activities of each Guantanamo detainee, for a detainee's Periodic Review Board (PRB) sessions, transfer, or release from Guantanamo. To the extent a transfer or release preceded the PRB's establishment, or the NCTC's preparation of intelligence reports, Section 601 requires the DNI to conduct a declassification review of intelligence reports containing the same or similar information as the intelligence reports prepared by the NCTC for PRB sessions, transfers, or releases.

Section 601 further requires the President to make any declassified intelligence reports publicly available, including unclassified summaries of measures being taken by the transferee countries to monitor the individual and prevent future terrorist activities. Section 601 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 601 also sets the schedule for such reviews and further defines past terrorist activities to include terrorist organization affiliations, terrorist training, role in terrorist attacks, responsibility for the death of United States citizens or members of the Armed Forces, any admission thereof, and a description of the intelligence supporting the past terrorist activities, including corroboration, confidence level, and any dissent or reassessment by the IC.

Section 602. Cyber Center for Education and Innovation—Home of the National Cryptologic Museum

Section 602 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 602 also establishes in the Treasury a fund for the benefit and operation of the Center.

Section 603. Report on national security systems

Section 603 requires the Director of the National Security Agency (NSA), in coordination with the Secretary of Defense and Chairman of the Joint Chiefs of Staff to submit to the appropriate congressional committees a report on national security systems.

Section 604. Joint facilities certification

Section 604 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, 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 605. Leadership and management of space activities

Section 605 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 605 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. The congressional intelligence committees believe the current fragmented arrangement across the IC does not provide sufficient coherence to meet the threat, fosters duplication, hinders integrated congressional oversight, and impedes effective alignment with the DoD space activities. Section 605 also requires the DNI to submit a workforce plan for space and counterspace operations, policy, and acquisition. Section 605 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, and to conduct quarterly update briefings.

Section 606. Advances in life sciences and biotechnology

The congressional intelligence committees recognize the rapid advancements in the life sciences and biotechnology and firmly believes that biology in the twenty-first century will transform the world as physics did in the twentieth century. The potential risks associated with these advancements are less clear. The posture of the IC to follow and predict this rapidly changing landscape is a matter of concern recognizing the global diffusion and dual-use nature of life sciences and biotechnology along with the dispersed responsibility of the life sciences related issues across several National Intelligence Officer portfolios.

Section 606 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. The Director's plan should include, first, a description of the IC's approach to leverage the organic life science and biotechnology expertise both within and outside the Intelligence Community; second, an assessment of the current life sciences and biotechnology portfolio, the risks of genetic editing technologies, and the implications of these advances on future biodefense requirements; and, third, an analysis of organizational requirements and responsibilities to include potentially creating new positions. Section 606 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 607. Reports on declassification proposals

Section 607 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 607 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 608. Improvement in government classification and declassification

Section 608 assesses government classification and declassification in a 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 608 requires the DNI to submit a report with its findings and recommendations to the congressional intelligence committees. Section 608 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 609. Report on implementation of research and development recommendations

Section 609 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 610. Report on Intelligence Community Research and Development Corps.

Section 610 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 611. Report on information relating to academic programs, scholarships, fellowships, and internships sponsored, administered, or used by the intelligence community

Section 611 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 612. Report on intelligence community employees detailed to National Security Council

Section 612 requires the DNI to submit to the congressional intelligence committees a classified written 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 613. Intelligence community reporting to Congress on foreign fighter flows

Section 613 directs DNI to submit to the congressional intelligence committees a report on foreign fighter flows to and from terrorist safe havens abroad.

Section 614. Report on cybersecurity threats to seaports of the United States and maritime shipping.

Section 614 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 615. Report on counter-narrative activities

Section 615 directs the Under Secretary of Homeland Security for I&A, in coordination with DHS's Office of Community Partnerships, to submit to reference committees a report on the counter-narrative activities of DHS with respect to the Islamic State and other extremist groups.

Section 616. Report on reprisals against contractors of the intelligence community

Section 616 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 616 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.

COMMITTEE COMMENTS

Managing a multi-sector workforce in the intelligence community

The Committee believes that IC elements should have the flexibility to build, develop, and maintain a workforce appropriately balanced among its civilian, military and contractor workforce sectors to meet the missions assigned to it in law and by the president. It is the Committee's view that the size and shape of the IC's multi-sector workforce should be based on activities that are funded, and not arbitrary government personnel ceilings. It is also the Committee's continued position that the IC should reduce its reliance on contractors wherever appropriate, both as a matter of general policy and as a way to conserve resources. The flexibility afforded in this provision should support this position. In addition, section 103 provides an increase in the number of civilian personnel authorized in the Schedule of Authorizations for the pur-

poses of such contractor conversions in the interim for the remainder of fiscal year 2017.

Therefore, the Committee directs that the ODNI provide the congressional intelligence committees a briefing on the workforce initiative as directed in section 306, not later than July 1, 2018, with benchmarks and milestones, for IC elements managing a multi-sector workforce without personnel ceilings starting in fiscal year 2019. The ODNI, in coordination with the IC elements, shall establish a common methodology for collecting and reporting data, and include new exhibits in the annual congressional budget justification books that display full-time equivalents (government civilians, core contractors, and non-core contractors), by program, expenditure center and project.

Finally, the transfer of non-personnel service funding in below-threshold reprogramming is a concern to the Committee. Therefore, the Committee designates personnel services and non-personnel service funding at the program level as congressional special interest items.

Commercial Geospatial Intelligence Strategy

The Committee applauds the National Geospatial-Intelligence Agency (NGA) for issuing its October 2015 Commercial Geospatial Intelligence (GEOINT) Strategy, which states a goal of fostering a “more diverse, resilient, agile, and responsive GEOINT program that provides seamless user access to the best mix of commercial GEOINT . . . to fulfill National System for Geospatial-Intelligence (NSG) and Allied System for Geospatial-Intelligence (ASG) mission needs.” The Committee also finds merit in the NGA’s “GEOINT Pathfinder” project, which seeks to maximize the use of unclassified and commercially available data sources that can be easily and rapidly shared with a variety of military, United States and allied government, and non-government customers, and supports the project’s continuation and expansion.

The Committee further commends the NGA for pursuing new methods of intelligence collection and analysis to inform, complement, and add to its support of warfighter requirements by looking to emerging commercial technology providers, including small satellite companies, which hold the promise of rapid technological innovation and potentially significant future cost savings to the U.S. taxpayer. The Committee further encourages the Director of the NGA to ensure sufficient funding is available to acquire new, unclassified sources, including commercial satellite imagery providing unprecedented global persistence, as well as products and services that provide information and context about changes relevant to geospatial intelligence. The Committee also encourages the NGA to pursue new business models, including commercial acquisition practices, to enable the NGA’s access to data, products, and services in ways consistent with best commercial practices.

The Committee fully supports the NGA’s course of action in partnering with the commercial GEOINT industry to meet future warfighter intelligence requirements, while recognizing the need to take appropriate steps to protect national security, and encourage the Director of the NGA and the Under Secretary of Defense for Intelligence to keep the Committee informed of their progress in implementing this strategy. Therefore, the Committee directs the

DoD, in building future-year budgets, to ensure continued funding is provided for implementation, through at least Fiscal Year 2021, of the Commercial Geospatial Intelligence Strategy issued by the NGA in October 2015.

Space launch facilities

The Committee continues to believe it is critical to preserve a variety of launch range capabilities to support national security space missions. Spaceports or launch and range complexes may provide capabilities to reach mid-to-low or polar-to-high inclination orbits. The Committee believes an important component of this effort may be state-owned and operated spaceports that are commercially licensed by the Federal Aviation Administration, which leverage non-federal public and private investments to bolster U.S. launch capabilities. Additionally, the Committee believes that these facilities may be able to provide additional flexibility and resilience to the Nation's launch infrastructure, especially as the nation considers concepts such as the reconstitution of satellites to address the growing foreign counterspace threat. The Committee notes recent testimony by the Chief of Staff of the U.S. Air Force, General Mark Welsh, who stated,

As we look at this space enterprise and how we do it differently in the future, as we look more at disaggregation, microsats, cube sats, small sats, things that don't have to go from a large launch complex all the time, I think proliferating launch complexes is probably going to be a natural outshoot of this. I think it's commercially viable, it may be a way for companies to get into the launch business who could not afford to get into it or don't see a future in it and for large national security space launches, but I think this has got to be part of the strategy that this whole national team puts together as we look to the future.

Therefore, the Committee directs the IC, in partnership with the U.S. Air Force, to consider the role and contribution of spaceports or launch and range complexes to our national security space launch capacity, and directs the Office of the Director of National Intelligence, in consultation with the DoD and the U.S. Air Force, to brief the congressional intelligence committees on their plans to utilize such facilities within 90 days of enactment of this Act.

National Reconnaissance Office workforce optimization strategy

The Committee has had longstanding interest in, and support for, a permanent government cadre to provide the NRO with a stable, expert acquisition workforce. The Committee applauds the substantial progress that the NRO has made in the past year in this regard. The Committee has parallel interests in providing the IC with flexibility to manage a multi-sector workforce and in continuing the reduction in the reliance on contractors.

Therefore, the Committee directs the NRO to conduct a workforce review to optimize the mix between government civilians and contractors and report to the Committee with a strategy within 90 days of enactment of this Act.

Guidance and reporting requirement regarding interactions between the intelligence community and entertainment industry

The Committee believes that there are important, valid reasons for elements of the IC to engage with the entertainment industry, among other things to ensure the correction of inaccuracies, demonstrate the IC's commitment to transparency, and to ensure that the IC recruits and retains highly qualified personnel to the fullest extent possible. The Committee further believes that IC engagement with the entertainment industry should be conducted in the most cost effective and deliberate fashion possible, while ensuring that classified information is protected from unauthorized disclosure.

These engagements—some of which have been described in partially-declassified inspector general reports—cost taxpayer dollars, raise potential ethics concerns, increase the risk of disclosure of classified information, and consume the time and attention of IC personnel responsible for United States national security. Neither the production of entertainment nor the self-promotion of IC entities are legitimate purposes for these engagements.

Review of the National Intelligence University

The National Intelligence University (NIU) has made significant progress in recent years in its transition from a defense intelligence college to a national intelligence university that provides advanced education in a classified format. Such advanced education is integral to making intelligence a profession with recognized standards for performance and ethics and fostering an integrated IC workforce. While progress has been significant since the DNI and Secretary of Defense agreed to redesignate Defense Intelligence Agency's (DIA) National Defense Intelligence College as NIU in 2011, the institution must continue to adapt to functioning as a university with a robust research agenda, and to serving the entire IC, not just elements of DoD.

Fiscal years 2017 and 2018 are of great significance for NIU, as it moves its principal facility to the IC Campus at Bethesda, completes activities associated with its 2018 decennial regional accreditation reaffirmation, and receives a new president. The Committee believes that these developments position NIU to make further progress in its vision to become the center of academic life for the IC.

To guide these next steps, the Committee directs DIA, in coordination with ODN and the Office of the Under Secretary of Defense for Intelligence, to, no later than 30 days after enactment of this Act, select a five member, external, and independent panel to conduct a review of NIU. The panel shall submit a report detailing the results of such review to the congressional intelligence and defense committees within 180 days of enactment of this Act. The panel should be composed of recognized academics, personnel from other DoD joint professional military education institutions, national security experts, and at least one member of NIU's Board of Visitors.

This review and the resulting report shall, among other things, assess:

- (1) Methods for ensuring a student body that is more representative of all IC elements;

(2) Incentives for IC elements to send personnel to NIU to earn a degree or certificate, to include designating attendance at NIU as positions reimbursable by ODNI and requiring IC elements to employ the workforce concept of “float” for personnel enrolled in higher-education programs;

(3) How certificate programs align with NIU’s unique value as an institution of advanced intelligence education;

(4) Methods to enhance NIU’s research program, to include publication of a journal, hosting of conferences and other collaborative fora, and more formalized relationships with intelligence studies scholars;

(5) Whether and how educational components of other IC elements could provide educational offerings as part of the NIU curriculum;

(6) Potential advantages and risks associated with alternative governance models for NIU, to include moving it under the auspices of ODNI; and

(7) The feasibility and resource constraints of NIU tailoring degree offerings to meet the needs of IC personnel at different stages in their careers, similar to DoD’s joint professional military education model.

Cost of living consideration

The Committee is concerned with the high cost of living for military, civilian, and contractor personnel at overseas Combatant Command intelligence centers. Although the Committee recognizes the benefits of co-locating intelligence analysts with the operational commander, the intelligence centers for both U.S. European Command (USEUCOM) and U.S. Africa Command (USAFRICOM) are located over 600 miles from their Combatant Command headquarters. Combatant Commanders based in the United States regularly communicate with forward deployed units, and the USEUCOM and USAFRICOM intelligence centers have developed mechanisms to effectively employ various teleconferencing and virtual communication tools to ensure collaboration across large distances.

The Committee is concerned that despite the utility of these virtual collaboration tools, DoD has not taken action to reduce the number of intelligence personnel stationed in high cost of living areas. These costs can exceed \$65,000 per person, per year in annual cost of living allowances compared to the continental United States (CONUS) expenses. The additional costs associated with stationing intelligence personnel in high-cost overseas locations detract from other critical intelligence priorities. The Committee is further concerned that DoD does not adequately account for the long-run expense of high costs of living when selecting locations for intelligence facilities.

Therefore, the Committee directs the DIA to evaluate alternate mechanisms for staffing overseas Combatant Command intelligence centers, particularly those that are not co-located with Combatant Command headquarters, and to identify cost-savings opportunities by shifting personnel to lower cost locations, including in the continental United States.

Defense Intelligence Agency education opportunities

DIA presently allows DIA employees to receive pay for a single year only while attending certain graduate degree programs on a full-time basis. Employees may pursue such opportunities at the National Intelligence University and similar institutions; and, in certain circumstances, also at public and private civilian universities. However, the one-year limit discourages DIA personnel from pursuing multi-year graduate degree programs. Expanding DIA's program to allow highly qualified DIA employees to pursue multi-year graduate degree programs from accredited civilian universities would further improve retention, recruitment, and foster diversity of thought at DIA.

Therefore, the Committee directs DIA, no later than 180 days after the enactment of this Act, to:

(1) Provide for and fund a program that allows for DIA employees to attend civilian graduate degree programs for up to two years each, based on the standard length of the relevant program, provided that:

(a) Where DIA deems appropriate, employees may pursue academic programs extending beyond two years. Consistent with current practices, the program should be made available to at least five employees each year, with each employee receiving a full-time salary while participating in the program; and

(b) Each DIA participant shall be subject to any program approvals, service obligations, repayment obligations, and other requirements pertaining to academic programs, as prescribed by applicable laws and policies.

(2) Brief the congressional intelligence committees on the status of the program's implementation.

Mental health prevalence

The Committee is committed to supporting the men and women of the IC, who bravely risk their lives serving their country as civilians in conflict zones and other dangerous locations around the world. These individuals often serve next to their military counterparts in areas of active hostilities. As such, they are often exposed to many of the emotional stresses generally associated with a tour of duty abroad. The Committee believes there are deficiencies and inconsistencies in the pre- and post-deployment mental health and wellness services available to civilian employees.

Therefore, the Committee directs the NSA, NGA, CIA, and DIA, no later than 180 days after the enactment of this Act, to provide a joint briefing to the congressional intelligence committees on the mental health screenings and related services that these agencies offer employees, both before and after they deploy to combat zones. Such briefing shall include a description of:

(1) Existing services available;

(2) Agency resources for and analysis of these services, including the frequency of use by employees compared to the total number returning from deployment; and

(3) How agencies with deployed civilian employees are sharing best practices and leveraging services or resources outside their agencies.

Review of the Office of the Director of National Intelligence

It has been more than ten years since the Congress established the position of the DNI in the Intelligence Reform and Terrorism Prevention Act of 2004, building on its predecessor, the Director of Central Intelligence. Given this experience and the evolving security environment, the Committee believes it appropriate to review the DNI's roles, missions and functions and adapt its authorities, organization and resources as needed.

Therefore, the Committee directs the President to form an independent, external panel of at least five individuals with significant intelligence and national security expertise to review ODNI's roles, missions and functions and make recommendations, as needed, regarding its authorities, organization and resources. The panel shall:

- (1) Evaluate ODNI's ability to fulfill the responsibilities assigned to it in law given its current scope and structure;
- (2) Assess whether any roles and responsibilities currently assigned to the DNI could be more effectively or efficiently executed by other IC components or government agencies outside the IC;
- (3) Analyze the personnel, funding, and authorities required for each component of ODNI to perform each of its assigned responsibilities;
- (4) Evaluate the organizational structure of ODNI;
- (5) Review the size, role, purpose and function of ODNI's mission centers;
- (6) Assess the value of the national intelligence manager construct;
- (7) Review the size and mix of the ODNI workforce—to include the ratio between cadre and detailees, the balance between government and contractors, and grade structure—to perform its roles, missions and functions; and
- (8) Make recommendations regarding the above.

The Committee directs the President, no later than 30 days after the enactment of this Act, to select the individuals who will serve on the external panel and notify the congressional intelligence committees of such selection.

In addition, the Committee directs the panel, no later than 180 days after the enactment of this Act, to provide a report on this review to the congressional intelligence committees. This report shall be unclassified, but may contain a classified annex. The Committee further directs ODNI to reimburse the Executive Office of the President for any costs associated with the review.

Improving pre-publication review

The Committee is concerned that current and former IC personnel have published written material without completing mandatory pre-publication review procedures or have rejected changes required by the review process, resulting in the publication of classified information. The Committee is particularly troubled by press reports suggesting that officials are unaware of the existence or scope of pre-publication review requirements.

The Committee is also aware of the perception that the pre-publication review process can be unfair, untimely, and unduly onerous—and that these burdens may be at least partially responsible

for some individuals “opting out” of the mandatory review process. The Committee further understands that IC agencies’ pre-publication review mechanisms vary, and that there is no binding, IC-wide guidance on the subject.

The Committee believes that all IC personnel must be made aware of pre-publication review requirements and that the review process must yield timely, reasoned, and impartial decisions that are subject to appeal. The Committee also believes that efficiencies can be identified by limiting the information subject to pre-publication review, to the fullest extent possible, to only those materials that might reasonably contain or be derived from classified information obtained during the course of an individual’s association with the IC. In short, the pre-publication review process should be improved to better incentivize compliance and to deter ensure personnel from violating fulfill their commitments.

Therefore, the Committee directs that, no later than 180 days after the enactment of this Act, the DNI shall issue an IC-wide policy regarding pre-publication review. The DNI shall transmit this policy to the congressional intelligence committees concurrently with its issuance. The policy should require each IC agency to develop and maintain a pre-publication policy that contains, at a minimum, the following elements:

- (1) Identification of the individuals subject to pre-publication review requirements (“covered individuals”);
- (2) Guidance on the types of information that must be submitted for pre-publication review, including works (a) unrelated to an individual’s IC employment; or (b) published in cooperation with a third party, e.g.—
 - (a) Authored jointly by covered individuals and third parties;
 - (b) Authored by covered individuals but published under the name of a third party; or
 - (c) Authored by a third party but with substantial input from covered individuals.
- (3) Guidance on a process by which covered individuals can participate in pre-publication reviews, and communicate openly and frequently with reviewers;
- (4) Requirements for timely responses, as well as reasoned edits and decisions by reviewers;
- (5) Requirements for a prompt and transparent appeal process;
- (6) Guidelines for the assertion of interagency equities in pre-publication review;
- (7) A summary of the lawful measures each agency may take to enforce its policy, to include civil and criminal referrals; and
- (8) A description of procedures for post-publication review of documents that are alleged or determined to reveal classified information but were not submitted for pre-publication review.

Additionally, the Committee directs ODNI, no later than 180 days after the enactment of this Act, to provide to the congressional intelligence committees a report on the adequacy of IC information technology efforts to improve and expedite pre-publication review processes, and the resources needed to ensure that IC elements can meet this direction.

The Committee further directs the DNI, no later than 270 days after the enactment of this Act, to certify to the congressional intelligence committees that IC elements' pre-publication review policies, non-disclosure agreements, and any other agreements imposing pre-publication review obligations reflect the policy described above.

Student loan debt report

IC components need to be able to recruit talented young professionals. However, the soaring cost of college and post-graduate education in the United States is causing many young people to forgo public service in favor of career opportunities with more competitive pay or loan forgiveness benefits.

Therefore, the Committee directs ODNI, no later than 180 days after the enactment of this Act, to provide a report to the congressional intelligence committees on programs that seek to help IC personnel manage student loan debt. The report shall include details about each IC element's program, including loan forgiveness, loan repayment, and financial counseling programs; efforts to inform prospective and current employees about such programs; and the number of employees who use such programs. The report shall also include an analysis of the benefits and drawbacks of creating new programs and expanding existing programs, and shall identify any barriers to the establishment of IC-wide programs.

Workforce development partnership

The Committee has long promoted novel recruiting, hiring, and retention practices, especially with respect to highly expert, highly sought-after Science, Technology, Engineering, and Math (STEM) students and professionals. Despite these efforts, the IC continues to struggle with meeting STEM recruitment, hiring, and retention goals inside the IC.

The Committee is therefore encouraged to learn that the IC is considering new and creative practices in this regard. For example, the Committee was intrigued by the Pacific Northwest National Laboratory's (PNNL) budding Workforce Development Partnership with the CIA. Partnerships like this may allow IC agencies to leverage PNNL's robust employee recruiting network and seek out STEM students who might not otherwise consider IC employment.

Similarly, to address concerns that potential hires will accept other job offers while awaiting clearances, NGA has a program to allow interim hires to work on unclassified projects until clearances are adjudicated. In addition, several IC agencies have instituted a unique pay scale for their junior STEM workforce. The Committee recognizes the benefits of these initiatives, and believes that such efforts could have wider applicability across the IC.

Therefore, the Committee directs the DNI Chief Human Capital Officer, no later than 180 days after the enactment of this Act, to provide to the congressional intelligence committees an interagency briefing on new approaches, including outreach and advertising, the IC is considering or conducting to attract a diverse, robust Science, Technology, Engineering, and Math and information technology workforce to meet the increasing demands in the IC.

Distributed Common Ground / Surface System—Army

The Committee believes the Distributed Common Ground/Surface System—Army (DCGS—A) provides operational and tactical commanders with enhanced, state-of-the-art intelligence, surveillance, and reconnaissance (ISR) tasking, processing, exploitation, and dissemination capabilities and connectivity to the defense intelligence information enterprise. DCGS—A is a critical tool for enabling military intelligence warfighters to process, fuse, and exploit data. In the past, the Army has struggled to keep pace for pre-deployment and in-theater training for DCGS—A. However, training for military intelligence analysts must be prioritized in the pre-deployment readiness cycle to ensure that those using this intelligence tool can effectively utilize its capabilities.

The Army has fielded over 95 percent of DCGS—A Increment 1 systems, with mixed results and often negative feedback from the users. The Army is in the process of fielding Increment 1, Release 2, which will address many of the initial concerns and deficiencies of Increment 1. The Committee remains concerned that the Army has not sufficiently planned for user training in support of the release of Increment 1, Release 2 to operational users.

Therefore, the Committee requests that the Army, no later than 90 days after the enactment of this Act, submit a plan to the congressional intelligence and defense committees on how the Army will fully incorporate Distributed Common Ground/Surface System—Army (DCGS—A) training into the readiness cycle for Army personnel. The plan should specifically address any lessons learned from the fielding of DCGS—A Increment 1 and any ongoing corrective actions to improve the roll-out of Increment 1, Release 2.

Common controller for unmanned aircraft systems

The Committee supports the Army's efforts to develop a common controller for the RQ-7A/B Shadow and the RQ-11B Raven tactical unmanned aerial vehicles. However, the Committee is concerned that the Army is not collaborating with the Marine Corps on similar efforts to develop a ground controller for the Marine Corps family of tactical unmanned aerial systems (UAS), including the RQ-11B Raven, the RQ-12A Wasp, and the RQ-20A Puma.

Therefore, the Committee requests that the Army and the Marine Corps Intelligence Activity (MCIA), no later than 90 days after the enactment of this Act, jointly submit a report to the congressional intelligence and defense committees on the feasibility of developing a common controller for all Brigade and Below unmanned aircraft systems (UAS) airframes, as well as U.S. Marine Corps small unit UAS. The report should address the potential performance and operational benefits of a common controller, anticipated development costs, and anticipated life-cycle cost savings of a common controller.

Review of dual-hatting relationship

The Committee supports further evaluation of the dual-hatting of a single individual as both Commander of U.S. Cyber Command (USCYBERCOM) and Director of the National Security Agency (DIRNSA).

Therefore, the Committee directs the Secretary of Defense, no later than 90 days after the enactment of this Act, to provide to

the congressional intelligence and defense committees a briefing that reviews and provides an assessment of the dual-hatting of DIRNSA and Commander, USCYBERCOM. This briefing should address:

- (1) Roles and responsibilities, including intelligence authorities, of USCYBERCOM and NSA;
- (2) Assessment of the current impact of the dual-hatting relationship, including advantages and disadvantages;
- (3) Plans and recommendations on courses of action that would be necessary to end the dual-hatting of DIRNSA and Commander, USCYBERCOM, which satisfy Section 1642 of the conference report accompanying S. 2943, the National Defense Authorization Act for Fiscal Year 2017;
- (4) Suggested timelines for carrying out such courses of action;
- (5) Recommendations for any changes in law that would be required by the end of dual-hatting; and
- (6) Any additional topics as identified by the intelligence and defense committees.

The Committee further believes that a larger organizational review of NSA should be conducted with respect to the eventual termination of the dual-hatting relationship. The Committee seeks to promote the efficient and effective execution of NSA's national intelligence mission. Specifically, the Committee believes that the organization of NSA should be examined to account for the evolution of its mission since its establishment, the current structure of the intelligence community, and the fact that the NSA is predominantly funded through the NIP.

Therefore, the Committee further directs the DNI, no later than 120 days after the enactment of this Act, to conduct an assessment and provide a briefing to the congressional intelligence committees on options to better align the structure, budgetary procedures, and oversight of NSA with its national intelligence mission in the event of a termination of the dual-hatting relationship. This briefing should include:

- (1) An assessment of the feasibility of transitioning NSA to civilian leadership appointed by the DNI in lieu of military leadership appointed by the Secretary of Defense;
- (2) How NSA could be organizationally separated from DoD if USCYBERCOM were elevated to become a unified combatant command; and
- (3) Any challenges, such as those requiring changes in law, associated with such a separation.

Acquisition security improvement

The Committee remains concerned about supply chain and cybersecurity vulnerabilities in the IC. The Committee believes the IC should implement a more comprehensive approach to address these vulnerabilities, particularly during the acquisition process. However, ICD 801, the IC guideline governing the acquisition process, is outdated and must be revised to reflect current risks. In particular, despite issuance of ICD 731, *Supply Chain Risk Management*, in 2013, ICD 801 has not been updated to reflect this policy nor does it include consideration of cybersecurity vulnerabilities and mitigation.

Therefore, the Committee directs ODNI, no later than 180 days after the enactment of this Act, to review and consider amendments to Intelligence Community Directive (ICD) 801 to better reflect and anticipate supply chain and cybersecurity risks and threats, as well as to outline policies to mitigate both risks and threats. In particular, the review should examine whether to:

- (1) Expand risk management criteria in the acquisition process to include cyber and supply chain threats;
- (2) Require counterintelligence and security assessments as part of the acquisition and procurement process;
- (3) Propose and adopt new education requirements for acquisition professionals on cyber and supply chain threats; and
- (4) Factor in the cost of cyber and supply chain security.

The Committee further directs ODNI, no later than 210 days after the enactment of this Act, to provide to the congressional intelligence committees a report describing the review, including ODNI's process for considering amendments to ICD 801, and specifically addressing ODNI's analysis and conclusions with respect to paragraphs (1) through (4) above.

Cyber information sharing and customer feedback

The Committee commends NSA's new policies and procedures to facilitate greater information sharing of cyber threat indicators and defensive measures with the Department of Homeland Security (DHS) at the unclassified level.

With the recent enactment of the Cybersecurity Act of 2015, which encourages greater information sharing between private sector stakeholders, as well as with government entities, the Committee believes the next step is to ensure the entire IC is working to disseminate timely, actionable information to private sector stakeholders so they can better protect their information technology networks. The vast majority of U.S. networks reside in the private sector, and it is good governance to ensure that those networks are safe and secure for the general public.

The Committee appreciates that the IC has begun efforts to increase unclassified cyber threat sharing. Because an increase in the quantity of reporting does not necessarily indicate effectiveness or usefulness, this Committee continues to monitor the quality of the information distributed.

Therefore, the Committee directs ODNI, no later than 120 days after the enactment of this Act, to brief the congressional intelligence committees on IC-wide efforts to share more information with the DHS for further dissemination to the private sector. This briefing shall specifically address types of information shared, metrics on output, tabulation of low output producing agencies, recommendations on how low output agencies can increase sharing, timeliness of information shared, and average total time it takes for information to transit the system.

The Committee also directs ODNI, in coordination with the DHS I&A, to conduct a survey of government and private sector participants of the National Cybersecurity and Communications Integration Center (NCCIC). The survey shall be anonymous, provide an accurate assessment of the usefulness and timeliness of the data received, and determine if customers are satisfied with intelligence briefings on threat actors impacting their specific industry. The

Committee further directs ODNI, no later than one year after the enactment of this Act, to provide to the congressional intelligence and homeland security committees an unclassified report detailing the results of this survey.

Department of Homeland Security utilization of National Labs expertise

The Committee believes that the Department of Energy (DOE) National Labs represent a unique and invaluable resource for the government and the IC in particular.

Therefore, the Committee directs, no later than 180 days after the enactment of this Act, DHS I&A, in coordination with DOE Office of Intelligence and Counterintelligence (DOE-IC), to provide to the congressional intelligence committees a report on the current utilization of Department of Energy (DOE) National Labs expertise by DHS I&A. This report should address opportunities to increase DHS I&A's utilization of cybersecurity expertise of the National Labs as well as the budgetary implications of taking advantage of these potential opportunities.

Cybersecurity courses for Centers of Academic Excellence

The Committee is concerned by a recent analysis from a security firm, which determined that not one of the nation's leading undergraduate computer science programs requires students to take a cybersecurity course before graduating. Cybersecurity depends on IC professionals having a strong understanding of the cyber threat and how to mitigate it—which in turn requires a strong academic background. NSA and DHS co-sponsor the Centers of Academic Excellence (CAE) in Cyber Defense program, which includes an emphasis on basic cybersecurity. Nevertheless, even some CAE-designated institutions lack cybersecurity course prerequisites in their computer science curricula.

Therefore, the Committee directs ODNI, no later than 180 days after the enactment of this Act, to submit to the congressional intelligence committees a report on improving cybersecurity training within NIP-funded undergraduate and graduate computer science programs. The report should specifically address:

- (1) The potential advantages and disadvantages of conditioning an institution's receipt of such funds on its computer science program's requiring cybersecurity as a precondition to graduation;
- (2) How Centers of Academic Excellence programs might bolster cybersecurity educational requirements; and
- (3) Recommendations to support the goal of ensuring that federally-funded computer science programs properly equip students to confront future cybersecurity challenges.

COMMITTEE ACTION

On January 12, 2017, a quorum being present, the Committee met to consider the bill and amendments. The Committee took the following actions:

Vote to report the committee bill

By voice vote, the Committee agreed to report the bill and adopt the classified annex and Committee report. Senator Harris was recorded separately as “present.”

COMPLIANCE WITH RULE XLIV

Rule XLIV of the Standing Rules of the Senate requires publication of a list of any “congressionally directed spending item, limited tax benefit, and limited tariff benefit” that is included in the bill or the committee report accompanying the bill. Consistent with the determination of the Committee not to create any congressionally directed spending items or earmarks, none have been included in the bill, the report to accompany it, or the classified schedule of authorizations. The bill, report, and classified schedule also contain no limited tax benefits or limited tariff benefits.

ESTIMATE OF COSTS

Pursuant to paragraph 11(a)(3) of rule XXVI of the Standing Rules of the Senate, the Committee deems it impractical to include an estimate of the costs incurred in carrying out the provisions of this report due to the classified nature of the operations conducted pursuant to this legislation. On January 12, 2017, the Committee transmitted this bill to the Congressional Budget Office and requested an estimate of the costs incurred in carrying out the unclassified provisions.

EVALUATION OF REGULATORY IMPACT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee finds that no substantial regulatory impact will be incurred by implementing the provisions of this legislation.

ADDITIONAL VIEWS OF SENATOR WYDEN

I am supporting the final version of the Fiscal Year 2017 Intelligence Authorization Act because of the removal of the objectionable provisions I identified in my June 15, 2016, Minority Views. I appreciate the efforts of my colleagues in amending the legislation in two critical areas.

First, the June 2016 bill would have authorized individual Federal Bureau of Investigation (FBI) field offices to obtain Americans' email and internet records through National Security Letters, with no court oversight. This expansion of government surveillance authorities was both far-reaching and intrusive, potentially covering records related to Americans' email exchanges as well as their login history, IP addresses, and internet browsing history. The provision was also unnecessary in that email and internet records can be obtained through the Foreign Intelligence Surveillance Court if they are "relevant to an investigation." Moreover, section 102 of the USA FREEDOM Act, which I strongly supported, authorizes the FBI to obtain records immediately in emergency situations and later seek court approval.

Second, the June 2016 bill would have narrowed the jurisdiction of the Privacy and Civil Liberties Oversight Board (PCLOB) to cover only programs that have an impact on the privacy and civil liberties of U.S. persons. Restricting the Board's purview in this manner could have prevented it from examining broader programs that may have implications for Americans. It would also have sent a damaging message to our allies whose views of U.S. surveillance activities inform both important data sharing agreements and vital trade relationships in the tech industry. While I appreciate that this provision has been removed, I am disappointed that the current version of the Act also excludes a provision that would have allowed the Board to hire staff when the Board's chair position is vacant. The effectiveness of the PCLOB is critical to protecting Americans' rights and privacy and it is my intent to continue to support this provision, as well as other reform efforts designed to strengthen the Board.

RON WYDEN.

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