



Rep. Jim Jordan (R-OH), Chairman
Paul Teller, Executive Director
1524 Longworth House Office Bldg.
Washington, D.C. 20515

RSC.JORDAN.HOUSE.GOV

ph. (202) 226-9717 / fax (202) 226-1633

Legislative Bulletin.....May 11, 2011

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H.R. 754 - Intelligence Authorization Act for Fiscal Year 2011

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Order of Business: The legislation is scheduled to be considered on Thursday, May 12, 2010. The Rules Committee is expected to meet on Wednesday, May 11, 2011, at 3:00pm.

Summary: **NOTE** - H.R. 754 is divided into a classified and an unclassified portion. This legislative bulletin analyzes the unclassified portion of H.R. 754 that is available on LIS.

The classified Schedule of Authorizations and the classified Annex accompanying the bill are be available for review by Members at the Permanent Select Committee on Intelligence. Members should keep in mind the requirements of Clause 13 of Rule XXIII, which only permits access to classified information by those Members of the House who have signed the oath provided for in the rule.

Title I: H.R. 754 authorizes appropriations for the following departments for the remainder of fiscal year 2011:

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

15. The National Geospatial-Intelligence Agency; and
16. The Department of Homeland Security.

Intelligence Community Management Account: Section 103 authorizes \$660,732,000 for the Intelligence Community Management Account of the Director of National Intelligence for fiscal year 2011. This includes some amounts for classified sections dealing with advanced research and development. These authorizations will remain available until September 30, 2012.

Title II: Central Intelligence Agency Retirement and Disability System: Section 201 authorizes \$292,000,000 for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 2011.

Title III: General Intelligence Community Matters: This title states that no authorizations within this legislation will constitute the authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

Title IV: Matters Relating to Elements of the Intelligence Community: Section 402 instructs the Director of National Intelligence to establish an Insider Threat Detection Program in order to detect unauthorized access, or transmission of, classified intelligence. This program will focus on unauthorized transmissions over computer networks, websites, and online collaboration environments (i.e. WikiLeaks). This program must be established by October 1, 2012, and must be in full operational capability by October 1, 2013. The Director would be required to report to Congress on the resources necessary to implement this program by December 1, 2011.

The legislation also establishes separate accounts and authorizes the Secretary of Defense to transfer defense appropriations into separate intelligence accounts. This provision is intended to ensure that all funds through the National Intelligence Program can be more easily accounted for and auditable.

Additional Information: This legislation provides authorization for the intelligence community for the remainder of fiscal year 2011. Funding provided by this legislation spans multiple agencies, and last year this funding totaled roughly \$80 billion. The legislation is intended to provide congressional oversight for this spending. Past appropriations bills have contained language that deems the appropriations authorized, however that does not provide Congress the necessary oversight tools to effectively oversee how those funds are used.

Some opponents (including the Minority Views in the Committee Report) will argue that there are less than 5 months remaining in FY 2011, and time is better spent focusing on next year's authorization. According to the Intelligence Committee, they would like to get into the habit of passing an annual intelligence authorization bill. The intelligence authorization bill is the primary avenue to exercise congressional oversight over U.S. intelligence agencies. Additionally, Congress has not passed a complete intelligence authorization bill since 2004.

Classified Annex: According to the House Permanent Select Committee on Intelligence, the "bill's comprehensive classified annex provides detailed guidance on intelligence spending, including adjustments to costly programs. In addition, the bill takes important steps to help the Intelligence Community meet the same financial accounting standards as the rest of the government. These

accounting standards will help uncover savings in current programs that can be reinvested into vital intelligence priorities or returned to the taxpayers.”

Additionally, this legislation provides oversight and authorization for critical intelligence activities, including:

- Global counter-terrorism operations, such as the one that took out Osama bin Laden
- Tactical intelligence support to combat units in Afghanistan and Iraq
- Cyber defense by the National Security Agency
- Court-ordered wire taps against terrorists and spies
- Detecting and countering the proliferation of weapons of mass destruction
- Design, launch and operation of spy satellites
- Global monitoring of foreign militaries, weapons tests, and arms control treaties
- Real-time analysis and reporting on events such as the unrest in the Middle East
- Research and development of new technology to maintain our intelligence agencies’ technological edge, including work on code breaking and spy satellites

Committee Action: H.R. 754 was introduced on February 17, 2011, and referred to the House Permanent Select Committee on Intelligence. A markup was held on March 10, 2011 and the legislation was favorably reported by a [recorded vote of 7-6-1](#).

Administration Position: No Statement of Administration Policy (SAP) is provided.

Cost to Taxpayers: Since CBO does not provide estimates for classified programs, this estimate addresses only the unclassified portions of the bill. In addition, CBO cannot provide estimates for certain provisions in the unclassified portion of the bill because they concern classified intelligence programs.

On that limited basis, and assuming appropriation of the authorized amounts, CBO estimates that outlays under H.R. 754 would total \$654 million from funding authorized for fiscal year 2011. Total authorizations for H.R. 754 would total \$661 million for fiscal years 2011-2016. Total outlays would be \$47 million lower than spending from the annualized amounts currently available for 2011. CBO’s report is [linked here](#).

Does the Bill Expand the Size and Scope of the Federal Government?: No. This legislation establishes an Insider Threat Detection Program under the Director of National Intelligence. However, CBO estimates this legislation authorizes \$47 million less than compared to the amounts currently available for 2011.

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

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax

Benefits/Limited Tariff Benefits?: House Report 112-072 states that the bill as reported contains no congressional earmarks, limited tax benefits, or limited tariff benefits.

Constitutional Authority: Rep. Rogers’ statement of constitutional authority for H.R. 754 states that Congress has the power to enact this legislation pursuant to the following:

“The intelligence and intelligence-related activities of the United States government are carried out to support the national security interests of the United States, to support and assist the armed forces of the United States, and to support the President in the execution of the foreign policy of the United States.”

“Article I, section 8 of the Constitution of the United States provides, in pertinent part, that “Congress shall have power to pay the debts and provide for the common defense and general welfare of the United States”; “..... to raise and support armies”; “To provide and maintain a Navy”; “To make Rules for the Government and Regulation of the land and naval Forces”; and “To make all laws which shall be necessary and proper for carrying into Execution the foregoing Powers and all other Powers vested in this Constitution in the Government of the United States, or in any Department or Officer thereof.”

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.