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INTELLIGENCE AUTHORIZATION ACT FOR FY 2001

JUNE 29, 2000.—Ordered to be printed

Mr. WARNER, from the Committee on Armed Services,
submitted the following

REPORT

[To accompany S. 2507]

The Committee on Armed Services, to which was referred the bill (S. 2507) to authorize appropriations for fiscal year 2001 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 with amendments and recommends that the bill as amended do pass.

PURPOSE OF THE BILL

S. 2507 would authorize appropriations and other matters for Fiscal Year 2001 for intelligence activities of the United States, including certain Department of Defense intelligence related activities within the jurisdiction of the Senate Armed Services Committee (SASC).

The Senate Select Committee on Intelligence (SSCI) reported the bill on May 4, 2000, and it was referred to the Committee on Armed Services in accordance with section 3(b) of Senate Resolution 400, 94th Congress.

SCOPE OF COMMITTEE REVIEW

The committee conducted a detailed review of the intelligence community authorization request for Fiscal Year 2001. The committee conducted hearings and met with the Chairman and Vice Chairman of the Senate Select Committee on Intelligence.

The committee has carefully reviewed the report of the Select Committee on Intelligence (S. Rept. 106-279) and has incorporated the relevant budget decisions of the SSCI into S. 2549, the Na-

tional Defense Authorization Act for Fiscal Year 2001, which the SASC reported to the Senate on May 12, 2000.

The following explains the committee's proposed amendments to the bill as reported by the SSCI, as well as the committee's clarification to the report issued by the SSCI.

Two year extension of authority to engage in commercial activities as security for intelligence collection activities

Section 431(a) of Title 10, United States Code (USC), authorizes the Secretary of Defense to authorize the conduct of those commercial activities necessary to provide security for authorized intelligence collection activities abroad undertaken by the Department of Defense. Section 501 of S. 2507, as reported by the SSCI, would extend this authority by two years. The SASC has no objection to such an extension of authority. As a matter of committee jurisdiction, however, the SASC insists that amendments to Title 10, USC, be included in the Defense Authorization Act, not in the Intelligence Authorization Act. Therefore, the SASC proposes an amendment to S. 2507 as reported by the SSCI to strike section 501. The SASC intends, with the approval of the Senate, to include an identical provision in S. 2549.

Nuclear test monitoring equipment

Section 502 of S. 2507, as reported by the SSCI, would amend subchapter II of chapter 138 of Title 10, USC, by providing the Secretary of Defense with authority to convey or otherwise provide to a foreign government equipment for monitoring nuclear test explosions and to install such equipment on foreign territory. Section 1206 of S. 2549 would provide similar authority, as well as other authorities, for DOD to manage this effort. Therefore, the SASC recommends an amendment to strike section 502 of S. 2507, as reported by the SSCI. The SASC intends to work with the SSCI to reconcile any differences in policy between the two committees on this matter prior to completion of the conference report on the National Defense Authorization Act for Fiscal Year 2001.

Experimental personnel management program for technical personnel for certain elements of the intelligence community

Section 503 of S. 2507, as reported by the SSCI, would authorize the Director of Central Intelligence (DCI) to carry out a program of experimental use of special personnel management authority in order to facilitate recruitment of eminent experts in science and engineering for research and development projects administered by the National Security Agency (NSA), the National Reconnaissance Office (NRO), the National Imagery and Mapping Agency (NIMA), and the Defense Intelligence Agency (DIA). Since these are all defense agencies under the personnel management system of the Department of Defense, the SASC objects to granting such authority to the DCI. The Secretary of Defense has also stated that such an approach "would take the unprecedented step of authorizing the DCI to appoint personnel across Executive Department lines to positions in DOD, without the Secretary of Defense's approval or involvement. This is inconsistent with the Secretary's responsibilities to manage the Department pursuant to 10 USC, section 113." The SASC recognizes the need for several of the intelligence agencies

to have special hiring authority for select cases involving science and engineering specialties. Section 1113 of S. 2549 would extend such authority to the Secretary of Defense for filling positions, on a limited basis, in NSA and NIMA. For the reasons specified above, the SASC recommends an amendment to strike section 503 of S. 2507, as reported by the SSCI.

Prohibition on transfer of imagery analysts from General Defense Intelligence Program to National Imagery and Mapping Agency Program

The SSCI report would direct the transfer of imagery analysts and systems support personnel from the General Defense Intelligence Program (GDIP) to the National Imagery and Mapping Agency Program (NIMAP). According to the Secretary of Defense: "The Combatant Commanders are unanimous in their opposition to this proposal, citing it as unnecessary and detrimental to the accomplishment of their missions." The SASC agrees that the Combatant Commanders need to retain control of these imagery analysts and support personnel. The overall allocation of imagery analysts was evaluated in 1996 when NIMA was established. There were good and sufficient reasons for those original decisions made in consolidating imagery professionals. Therefore, the SASC recommends an amendment that would prohibit the proposed transfer. However, the SASC does agree that it would be appropriate for the Secretary of Defense to assess options for strengthening the role of the NIMA Director as functional manager for imagery and geospatial programs. Therefore, the amendment proposed by the SASC would require the Secretary of Defense, in consultation with the DCI, to conduct such an assessment. The SASC believes that it may be possible for NIMA to assume overall control of those imagery analysts currently funded in the GDIP, while allowing the Combatant Commanders to retain day-to-day operational control over such personnel, similar to the current arrangement for signals intelligence personnel. The SASC directs the Secretary of Defense to evaluate such an option and include an evaluation of this option in his report on strengthening NIMA's authority.

Prohibition on transfer of collection management personnel from General Defense Intelligence Program to Community Management Account

The SSCI report would direct a transfer of resources and personnel who are performing multidiscipline requirements management and tasking from the GDIP to the Community Management Account. According to the Secretary of Defense: "The assets affected by this proposed move are the assets that function as my Intelligence Collection Manager, serving as the focal point for all DOD requirements. This move will restrict our intelligence efforts." The DCI has also registered objection to this transfer. The SASC agrees with these assessments and recommends an amendment that would prohibit the transfer of collection management personnel from the GDIP to the Community Management Account.

Authorized personnel ceiling for General Defense Intelligence Program

The SSCI report would reduce funds available for GDIP military pay and would mandate a significant overall endstrength reduction of billets credited against the GDIP. The SASC understands the SSCI's concern regarding the fill rate for personnel funded in the GDIP. The SASC notes, however, that fill rates below fully authorized levels is common throughout the Department of Defense. The GDIP does not appear to be suffering personnel fill levels significantly below other comparable agencies. Nonetheless, the SASC agrees that the issue of fill rates at intelligence agencies in the Department of Defense should be assessed to determine whether these agencies can achieve higher personnel levels. Therefore, the committee directs the Secretary of Defense to conduct an assessment of all intelligence agencies within the Department of Defense to determine whether their personnel fill rates can be improved. A report on this assessment shall be submitted to the congressional defense and intelligence committees not later than April 1, 2001. The SASC, however, opposes the SSCI recommendation to cut GDIP billets. According to the Secretary of Defense: "The loss of the billets and pay would materially reduce DIA's military intelligence collection, processing, and reporting capabilities, and a realignment of billets and pay would undermine severely the Department's accounting procedures." The SASC is concerned that reducing the personnel ceiling will not fix the fill rate problem, but would more likely just establish a lower ceiling against which unchanged fill rates would be applied. This outcome would certainly result in a severe reduction in personnel available to satisfy important DIA requirements. Therefore, the SASC recommends an amendment that would restore the billets proposed to be cut and transferred by the SSCI.

Measurement and Signature Intelligence

The SSCI report would require that the DCI conduct a study of the utility and feasibility of various options for improving the management and organization of measurement and signature intelligence (MASINT). The SASC agrees that such a review is necessary, but is concerned that the SSCI language excludes the Secretary of Defense, who has a significant role in the area of MASINT. Therefore, the SASC recommends an amendment that would require that the DCI conduct such a review, in coordination with the Secretary of Defense.

Defense Attache System

The SSCI report would require a significant cut in the budget request for Defense Attache System funding intended to be used for expansion into regional hot spots. The SASC is concerned that reducing the planned increase in defense HUMINT capabilities would be unwise, particularly at a time of increasing tension around the globe. The SASC urges the SSCI to reconsider its proposal and to support full funding for the Defense Attache System in conference.

National Reconnaissance Office operational support

The SSCI would reduce funds for the NRO's operational support program. Such funds are used to provide training for the

warfighter on NRO systems. As the Secretary of Defense has stated: "The Commanders-in-Chief and other Defense activities that receive support through this program consider NRO personnel an invaluable, integrated component of their multidiscipline intelligence terms." The SASC strongly supports the NRO's efforts to provide space support to the warfighter, and urges the SSCI to support full funding of the NRO's budget request for operational support in conference.

COMMITTEE ACTION

In accordance with the Legislative Reorganization Act of 1946, as amended by the Legislative Reorganization Act of 1970, the committee approved a motion to report favorably to the Senate S. 2507 with amendments.

FISCAL DATA

The Committee will publish in the Congressional Record information on five-year cost projections when such information is received from the Congressional Budget Office.

REGULATORY IMPACT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires that a report on the regulatory impact of a bill be included in the report on the bill. The Committee finds that there is no regulatory impact in the cost of S. 2507.

COMMENTS FROM THE EXECUTIVE BRANCH

On June 28, 2000, the committee received a letter from the Secretary of Defense and the Chairman of the Joint Chiefs of Staff regarding S. 2507, among other things. A copy of this letter appears below.

Hon. JOHN W. WARNER,
Chairman, Committee on Armed Services,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As the Congress considers the FY 2001 Intelligence Authorization legislation, we want to highlight for you several issues within the House and Senate bills to which we must object. We are very concerned about the potential negative impact of several fiscal marks and language on defense intelligence, and we are deeply troubled by language that would limit our abilities to execute responsibilities in support of military operations.

Transfer Authority of the Director of Central Intelligence (DCI): The House Permanent Select Committee on Intelligence (HPSCI) recommends an amendment to section 104(d)(1) of the National Security Act of 1947 that both interferes with the Secretary's ability to object to the movement of DoD NFIP funds and personnel and restricts the Secretary's authority to delegate. The proposed language would allow the DCI or his delegated representative to effect changes to DoD NFIP programs unless the Secretary of Defense objects in writing. Further, it would limit the Secretary's authority to delegate such objections only to the Deputy Secretary. The requirement that such an objection be in writing is unnecessarily onerous and the delegation restriction infringes upon the Secretary's au-

thority and responsibility to manage the Department, and is inconsistent with the intent of 10 USC § 113(d). We strongly urge that Section 105 be deleted in its entirety and that we work together to address any concerns of the Congress that produced this language.

Intelligence Community Communications Architect/Architecture: The HPSCI mark directs the DCI to establish the position of Intelligence Community Communications Architect, with a 30-person professional staff with broad responsibilities for the development of a worldwide intelligence community telecommunications architecture and network. The HPSCI further recommends that \$80M be transferred from NRO, NSA and DIA to the Community Management Account to fund architectural efforts. This unilateral and independent architectural office would seriously damage, if not totally destroy, the efforts of the DoD Chief Information Officer (CIO), who has ongoing activities with the IC and Defense Intelligence Component CIO's to advance interoperability between and among intelligence producers and consumers, and who has statutory responsibilities under the Clinger-Cohen Act. The IC is an integral mission partner in the DoD's Global Information Grid (GIG) that is being designed and implemented to address many of the concerns raised by the committee. The HPSCI's marks will perturbate existing relationships and potentially prevent pursuit of an efficient GIG strategy. We strongly urge the conference committee to delete these marks in their entirety and to reemphasize support for a DoD and DCI technological and managerial partnership to address these issues.

Experimental Personnel Management Program: The Senate Select Committee on Intelligence (SSCI) proposes language that would take the unprecedented step of authorizing the DCI to appoint personnel across Executive Department lines to positions in the DoD, without the Secretary of Defense's approval or involvement. This is inconsistent with the Secretary's responsibilities to manage the Department pursuant to 10 USC § 113. We would welcome, however, legislation to increase the statutory cap on Defense Intelligence Senior Executive Service positions, contained in 10 U.S.C. 1606(a), from 493 to 517.

Collaboration: We very much appreciate the HPSCI's positive assessment of the Department's Joint Intelligence Virtual Architecture (JIVA) tool but we must oppose direction to transfer program oversight to the DCI's ADCI/A&P and further believe it is premature to declare JIVA the community standard for collaboration. we feel strongly that it would be counter-productive both to prohibit further non-JIVA technology pursuits and to remove the program from the DoD oversight that has made it the success that the committee commends.

General Defense Intelligence Program (GDIP): The SSCI proposed several reductions and realignments that would diminish Defense Intelligence capabilities.

The SSCI recommends a reduction to GDIP military pay and further recommends that over 1,000 billets not be credited against the GDIP. The DIA accounts for military billets and pay in accordance with DoD policy. The loss of billets and pay would materially reduce DIA's military intelligence collection, processing, and reporting capabilities, and a realignment of billets and pay would under-

mine severely the Department's accounting procedures. We urge deletion of this language in its entirety.

The SSCI recommends a transfer of resources and personnel who are performing Multidiscipline Requirements Management and Tasking from the GDIP to the Community Management Account. This is one of several provisions that we find personally disturbing. It would appear the committee is attempting to systematically dismantle organizations and functions that are historically and inherently Defense Intelligence activities and realign them to the DCI's Community Management Staff. The assets affected by this proposed move are the assets that function as Intelligence Collection Manager, serving as the focal point for all DoD requirements. This move will restrict our intelligence efforts.

The SSCI recommends the transfer of imagery analysts and systems support personnel and resources from the GDIP to the NIMA. These resources provide direct support to the Service intelligence chiefs and the Commanders of the Combatant Commands. At the formation of NIMA, the Department made a conscious choice to exclude these resources from the consolidation. The Combatant Commanders are unanimous in their opposition to this proposal, citing it as unnecessary and detrimental to the accomplishment of their missions. They are adamant that such a transfer will deprive them of flexibility and undermine the unity of control within the Combatant Commands. We oppose this provision.

The SSCI, in a mark entitled "Balancing DAO Collection Capabilities," recommends a drastic cut to Defense Attache System funding that reverses the planned expansion into regional hot spots. The Committee is committed to sustaining and enhancing our ever increasingly important global HUMINT capabilities. We have made great progress since the consolidation of all Defense HUMINT activities in 1995 and with continued congressional support we will continue to fine-tune our capabilities. Contrary to the assertions in the committee report, we are increasing our efforts against hard targets while at the same time expanding our attache system in response to requirements identified by the military theater Commanders-in-Chief. We urge restoration of these funds and seek your continued support of this most critical discipline.

The SSCI eliminated all funds requested to design an addition to the Defense Intelligence Analysis Center at Bolling Air Force Base. Our desire and intent are to consolidate DIA Washington area personnel into a single, secure facility on a military installation. Collocation benefits from a business perspective are rather intuitive, but we must also face the reality of the potential terrorism threat that our intelligence personnel face every single day that they remain, in large numbers, in unsecure leased commercial facilities. The committee notes that the consolidation will not take place for several more years. We sincerely wish that we could make it happen today, but we cannot. With congressional support we can make it happen with all due haste. This cut only serves to prolong the time required to adequately protect our military and civilian personnel. We strongly urge restoration of the requested funds.

National Imagery and Mapping Agency: The SSCI recommends a redirection of funds within the National Imagery and Mapping Program to boost funding for modernizing TPED functions within the U.S. Imagery and Geospatial System. NIMA's FY 2001 budget re-

quest already includes additional resources over last year's request, reflective of a community commitment to modernizing USIGS. NIMA made the difficult internal realignment decisions necessary to provide these additional funds. Any further perturbation will degrade NIMA's ability to support both national and tactical customers beyond already reduced levels. We strongly urge that this provision be deleted and that the Director of NIMA, in consultation with appropriate congressional committees, our offices, and that of the DCI, be afforded an opportunity to implement the difficult decisions that have already been reached.

National Reconnaissance Office: We urge the conference committee to support the President's Budget request for the National Reconnaissance Program and we specifically request your support on the following items that impact Defense.

Both the SSCI and HPSCI directed cuts against the NRO's Operational Support line. Operational Support funds provide training for the warfighter on NRO systems and ensures rapid, two-way communication between the warfighter and NRO management and ensure a high level of fidelity in support to the operational commander. The NRO is to be commended for deploying a first rate cadre of professionals who fully interact and coordinate their activities with other intelligence agency officers around the world. The Commanders-in-Chief and other Defense activities that receive support through this program consider NRO personnel an invaluable, integrated component of their multidiscipline intelligence teams. We urge full restoration of the funds requested for this activity.

The HPSCI zeroed the request for the Discoverer II program. This is a critical demonstration program for the potential future of space-based radar collection. It meets all technical objectives and provides a necessary and timely step toward exploring new space sensing capabilities that could be incorporated into any future space-based radar system. An excellent partnership has been forged between the NRO, Air Force, Army and DARPA that ensures this demonstration effort addresses both military and national needs. We strongly urge full funding of this program.

The HPSCI proposes language that prohibits the NRO from using Space and Missile Systems Center contracts to acquire launch vehicles and directs the NRO to assume direct responsibility and authority for their procurement needs by contracting directly with industry. Certainly there has been legitimate reason for concern in this arena, but we would urge a new review that we are confident will reveal a much improved management structure and contracting process that does not merit this language. Both the mandates and proscriptions of the HPSCI language could ultimately create inefficiencies of the very nature that the committee seeks to prevent. We encourage the Congress to work with the NRO to seek a satisfactory solution to its concerns and urge the conference committee to remove this well-intentioned but counter-productive provision.

National Security Agency: While we understand the HPSCI's concerns about funding levels necessary to achieve successful NSA Transformation, we are disturbed that the House has recommended significant changes to NSA's Consolidated Cryptologic Program budget. We are convinced that the budget presented, as modified by the NSA Business Plan, provides the best plan for

transformation given the 1–5 year change cycle required for transformation, and provides the most flexibility for implementation until early stage results are available. As such we object vigorously to large-scale funding shifts that will damage the Department's and NSA's ability to achieve their strategic goals. The House also included a provision regarding NSA acquisition, which directs the DCI's Senior Acquisition Executive to prepare a plan for review, approval, and monitoring of NSA's modernization effort. The Department, specifically the Office of Assistant Secretary of Defense for Command, Control, Communications, and Intelligence, must be involved in this effort.

We appreciate your support and thank you for the opportunity to convey our concerns to the House and Senate on the FY 2001 Intelligence Authorization bills. We are sending identical letters to the Chairman and Ranking Minority Members of the House Armed Services Committee, the House and Senate Committees on Appropriations Subcommittees on Defense, and House Permanent and Senate Select Committees on Intelligence.

Sincerely,

HENRY H. SHELTON,
*Chairman of the Joint
 Chiefs of Staff.*
 WILLIAM S. COHEN,
Secretary of Defense.

CHANGES IN EXISTING LAW

Pursuant to the provisions of paragraph 12 of rule XXVI of the Standing Rules of the Senate, the changes in existing law made by certain portions of the bill have not been shown in this section of the report because, in the opinion of the Committee, it is necessary to dispense with showing such changes in order to expedite the business of the Senate and reduce the expenditure of funds.