



**The Conference Report to accompany H.R. 2082 - To authorize appropriations for fiscal year 2008 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**

**EXECUTIVE SUMMARY**

H.R. 2082 is the authorization bill that sets the spending priorities of the intelligence community of the United States government for fiscal year 2008. Most of this bill remains classified and the summary provided below gives an account of the public sections of H.R. 2082.

The conference agreement contains several issues of concern to Republicans including a provision that prohibits the use of any interrogation treatment or technique not authorized by the [United States Army Field Manual](#) for all intelligence agencies, including the Central Intelligence Agency (CIA). In addition, the conference report retains an earmark for the National Drug Intelligence Center.

None of the House Republican conferees and only two Senate Republican conferees signed the conference report to accompany H.R. 2082.

The Statement on Administration Policy contains a veto threat because “the Conference Report to H.R. 2082 contains provisions that are inconsistent with the effective conduct of intelligence activities, the recommendations of the 9/11 commission, and the desire for legislative-executive cooperation with respect to U.S. intelligence activities.”

**FLOOR SITUATION**

H.R. 2082 is being considered on the floor under a closed rule. The rule:

- Provides for consideration of the conference report to accompany H.R. 2082.
  
- Waives all points of order against the conference report and its consideration.

This legislation was introduced by Representative Silvestre Reyes (D-TX) on May 1, 2007. The bill was ordered to be reported from the Permanent Select Committee on Intelligence, by voice vote, on May 2, 2007.

The conference report to accompany H.R. 2082 is expected to be considered on December 12, 2007.

## **SUMMARY**

### Title I – Intelligence Activities

H.R. 2082 authorizes appropriations for intelligence and intelligence-related activities of the United States government for fiscal year 2008.

*\*Note: This is the public bill that accompanies the classified Schedule of Authorizations prepared in the bill H.R. 2082 of the One Hundred Tenth Congress. The amounts authorized remain classified, as does the majority of the bill.*

Funds for the following elements of the United States government are authorized to be appropriated for intelligence and intelligence-related activities:

- The Office of the Director of National Intelligence;
- The Central Intelligence Agency;
- The Department of Defense;
- The Defense Intelligence Agency;
- The National Security Agency;
- The Department of the Army, the Department of the Navy, and the Department of the Air Force;
- The Coast Guard;
- The Department of State;
- The Department of the Treasury;
- The Department of Energy;
- The Department of Justice;
- The Federal Bureau of Investigation;
- The Drug Enforcement Administration;
- The National Reconnaissance Office;
- The National Geospatial-Intelligence Agency; and,

- The Department of Homeland Security.

The amounts authorized in the Schedule of Authorizations will be made available to the Committees on Appropriations for both chambers and to the President. The President will provide for suitable distribution of the Schedule within the executive branch.

The conference agreement also provides for a transition from the use of “personnel ceilings” to “personnel levels expressed as full-time equivalent positions” by fiscal year 2009.

*\*Note: The Director of National Intelligence (DNI) requested the authority to manage personnel as full-time equivalents to ensure a more consistent counting of certain personnel against personnel ceilings.*

The Director of National Intelligence may authorize employment of civilian personnel in excess of the personnel ceiling authorized above when it is deemed necessary. The number of excess civilian personnel may not exceed 3 percent of the number of civilian personnel authorized under such section for such element. The Director of the National Intelligence must inform the appropriate committees when this action is taken.

*\*Note: The House- passed version of H.R. 2082 authorized the number of excess civilian personnel may not exceed 2 percent of the number of authorized civilian personnel.*

The bill authorizes appropriations for the Intelligence Community Management Account of the Director of National Intelligence in the amount of \$734,126,000 for fiscal year 2008 and 952 full-time personnel. This is \$3.75 million less than the House authorized and a decrease of 83 full-time personnel.

The bill authorizes \$39 million in funds for the National Drug Intelligence Center (NDIC) in Johnstown, PA, which is consistent with the House-passed authorization level.

#### Title II – Central Intelligence Agency Retirement and Disability System

H.R. 2082 authorizes appropriations for the Central Intelligence Agency Retirement and Disability Fund the sum of \$262.5 million for fiscal year 2008.

#### Title III – Intelligence and General Intelligence Community Provisions

Pay, salary, retirement, and other benefits for Federal employees may be increased by additional or supplemental amounts required for increase by law.

Nothing in the Act may be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

The bill prohibits the Director of National Intelligence and the head of each element of the intelligence community may not implement a plan that provides compensation to personnel based on performance until 45 days after the Director submits a report on this issue.

The conference agreement requires the DNI to submit a report to Congress by March 31, 2008, describing the activities performed by contractors across the intelligence community, the impact of contractors on the intelligence community, plans for conversion of contractors to government employees, and the accountability mechanisms that govern the performance of contractors.

The report on performance-based compensation for the intelligence community must include:

- An implementation time line, by phase and by element of the intelligence community, which includes target dates of completion;
- An estimated budget for the implementation of the performance-based compensation system;
- Written standards for measuring the performance of employees; and,
- A description of the performance-based compensation system, including budget oversight mechanisms to ensure sufficient funds to pay employees for bonuses.

The Director must submit to the appropriate Congressional committees a plan to increase the diversity in the intelligence community by March 31, 2008. The plan must include:

- A description of the long term and short term goals for the intelligence community;
- A description of how the plan will be implemented by each element of the intelligence community, taking into account the unique nature of individual elements of the intelligence community;
- Training and education programs for senior officials and managers; and,
- Performance metrics.

The conference agreement requires the DNI to conduct vulnerability assessments for any major system proposed for the NIP prior to completion of Milestone B or equivalent acquisition decision.

*\*Note: Milestone B is defined in the conference agreement as a decision to enter into system development and demonstration pursuant to guidance prescribed by the DNI.*

The conference report takes language from the Senate passed legislation that requires the DNI to create a business enterprise architecture that will serve as a guide for the implementation of interoperable Intelligence Community business system solutions.

The conference agreement provides for increased criminal penalties for individuals who have access to classified information who intentionally disclose any information identifying a covert agent, if those individuals know that the U.S. is trying to keep the identity of that agent concealed.

The conference report requires the DNI to submit a classified report to the congressional intelligence committees on the compliance with detention and interrogation provisions of the Detainee Treatment Act of 2005 and the Military Commissions Act of 2006.

The conference committee adopted a provision in conference that prohibits the use of any interrogation treatment or technique not authorized by the [United States Army Field Manual](#).

This agreement places a limitation on use of funds for a specific Expenditure Center referred to in a classified Executive Branch Congressional Budget Justification for fiscal year 2008 - fiscal year 2009 may not be expended until the congressional intelligence committees are fully informed about intelligence regarding a facility in Syria that was subject to reported military action by the State of Israel on September 6, 2007, including intelligence relating to any agent or citizen of North Korea, Iran, or any other foreign country present at the facility.

#### Title IV – Matters Relating to Elements of the Intelligence Community

H.R. 2082 appoints the Director or the Director's designee to the Transportation Security Oversight Board.

The bill requires the Director of Science and Technology Committee ("the Committee") of the Office of the Director of National Intelligence to coordinate "and prioritize" advances in research and development related to intelligence. Development goals of the Committee now include:

- Assisting the Director in establishing goals for the elements of the intelligence community to meet the technology needs of the intelligence community.

The Director of Science and Technology must now:

- Systematically identify and assess the most significant intelligence challenges that require technical solutions;
- Examine options to enhance the responsiveness of research programs; and,

The Director must establish a multi-level security clearance to more effectively use persons with proficiencies in foreign languages or cultural expertise that is essential to national security.

The Director must develop a plan to implement data center energy efficiency recommendations of the Environmental Protection Agency (EPA) by February 1, 2008.

*\*Note: The conference agreement does not include the House-passed provision that would have required the Director to report to Congress a national intelligence estimate on the anticipated geopolitical effects of global climate change and the effects on U.S. national security.*

The conference agreement requires the Director to file quarterly reports to Congress on the current capabilities and intentions of Iran and North Korea with regard to their nuclear programs. The report must include:

- An assessment of nuclear weapons programs;
- An evaluation, consistent with existing reporting standards and practices, of the sources upon which the intelligence is based, including the number of sources and the reliability of each source;
- A summary of any new intelligence gathered or developed since the previous report, including intelligence collected from both open and clandestine sources; and,
- A discussion of any dissents, caveats, gaps in knowledge, or other information that would reduce confidence in the overall assessment.

The conference report to accompany H.R. 2082 requires an annual report from the Director pertaining to the foreign language proficiency in the intelligence community. The report must focus on the number of personnel in the intelligence community that have foreign language proficiency, the number of positions that require foreign language proficiency, and the efforts to recruit and train personnel in foreign languages.

The conference agreement provides the Director with the statutory authority to use NIP funds to quickly address deficiencies or needs that arise in intelligence information access or sharing capabilities. In addition, it gives the Director the ability to coordinate a rapid response that uses all available resources in the event of an emerging threat.

The conference report establishes an Office of Inspector General of the Intelligence Community within the Office of the Director of National Intelligence.

It removes the requirement that the National Security Agency (NSA) publicly identify students who are NSA employees or training program participants to educational institutions.

The Drug Enforcement Administration and the Coast Guard are authorized to take part in the functions of the Government relating to national security.

### Title V – Other Matters

The bill requires the Secretary of Defense to study the capabilities of the Global Hawk RQ-4 unarmed aerial vehicle pertaining to the collection of data such as the U-2 aircraft program. The U-2 program cannot be terminated until the RQ-4 is on par with the capabilities of the U-2.

### **ADDITIONAL VIEWS**

According to the Statement of Administration Policy, “the Conference Report to H.R. 2082 contains provisions that are inconsistent with the effective conduct of intelligence activities, the recommendations of the 9/11 commission, and the desire for legislative-executive cooperation with respect to U.S. intelligence activities. If this bill were to pass the House and the Senate and be presented to the President for signature, the President’s senior advisors would recommend that he veto the bill.” ([SAP for the Conference Report to H.R. 2082](#))

### **COST**

The Congressional Budget Office has not issued a cost estimate for the conference report to accompany H.R. 2082 at this time.

### **MOTION TO RECOMMIT**

Please find the Republican Motion to Recommit [here](#).

### **STAFF CONTACT**

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