

PROVIDING FOR CONSIDERATION OF H.R. 5020, INTEL-
LIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2007

APRIL 25, 2006.—Referred to the House Calendar and ordered to be printed

Mr. PUTNAM, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 774]

The Committee on Rules, having had under consideration House Resolution 774, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 5020, the Intelligence Authorization Act for Fiscal Year 2007, under a structured rule. The rule provides one hour of general debate equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence. The rule waives all points of order against consideration of the bill.

The rule provides that the amendment in the nature of a substitute recommended by the Permanent Select Committee on Intelligence now printed in the bill shall be considered as an original bill for the purpose of amendment and shall be considered as read. The rule waives all points of order against the amendment in the nature of a substitute recommended by the Permanent Select Committee on Intelligence.

The rule makes in order only those amendments printed in this report. The rule provides that the amendments printed in this report may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The rule waives all points of order against the amendments printed in this report.

Finally, the rule provides one motion to recommit with or without instructions.

EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of the bill is necessary because the report of the Permanent Select Committee on Intelligence fails to meet the requirements of clause 3(c)(4) of rule XIII, requiring a statement of general performance goals and objectives. The waiver of all points of order against the committee amendment in the nature of a substitute includes a waiver of clause 4 of rule XXI, prohibiting appropriations on legislative bills, because the committee amendment contains provisions (specifically sections 305 and 306) in violation of such rule.

In addition, the waiver of all points of order against consideration of the bill includes a prophylactic waiver of section 302(f) of the Congressional Budget Act, which prohibits consideration of legislation providing new budget authority in excess of a subcommittee's 302(b) allocation of such authority, because the total budget authority authorized in the bill is classified and therefore unavailable.

COMMITTEE VOTES

Pursuant to clause 3(b) of House rule XIII the results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 177

Date: April 25, 2006.

Measure: H.R. 5020, Intelligence Authorization Act for Fiscal Year 2007.

Motion by: Mrs. Slaughter.

Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Ms. Eshoo, which provides a Sense of Congress that all electronic surveillance conducted on U.S. persons inside the United States must comply with the 4th Amendment to the Constitution, and be conducted in accordance with Title 18 criminal electronic surveillance law or the Foreign Intelligence Surveillance Act (FISA).

Results: Defeated 3 to 6.

Vote by Members: Diaz-Balart—Nay; Hastings (WA)—Nay; Sessions—Nay; Capito—Nay; Cole—Nay; Slaughter—Yea; McGovern—Yea; Matsui—Yea; Dreier—Nay.

Rules Committee record vote No. 178

Date: April 25, 2006.

Measure: H.R. 5020, Intelligence Authorization Act For Fiscal Year 2007.

Motion by: Mr. McGovern.

Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Mr. Holt, which requires the President and Vice President to inform the Intelligence Committees and originating agencies of intent to declassify intelligence information. An exemption is provided for information sought pursuant to a FOIA request.

Results: Defeated 3 to 7.

Vote by Members: Diaz-Balart—Nay; Hastings (WA)—Nay; Sessions—Nay; Putnam—Nay; Capito—Nay; Cole—Nay; Slaughter—Yea; McGovern—Yea; Matsui—Yea; Dreier—Nay.

Rules Committee record vote No. 179

Date: April 25, 2006

Measure: H.R. 5020, Intelligence Authorization Act For Fiscal Year 2007.

Motion by: Mr. McGovern.

Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Mr. Shays, which makes changes to the Privacy and Civil Liberties Oversight Board established by the Intelligence Reform Act (P.L. 108-458). Would give the Privacy and Civil Liberties Board subpoena power; create the Board as an independent agency in the executive branch; require that all 5 members of the Board be confirmed by the Senate; require that no more than 3 members can be from the same political party; set a term for Board members at 6 years; create the chairman as a full-time member of the Board; restore the qualifications of Board members that were originally included in the Senate bill, restore reporting requirements to Congress; require each executive department or agency with law enforcement or antiterrorism functions should designate a privacy and civil liberties officer; require that the President's annual budget contain a specific funding line for the Board.

Results: Defeated 3 to 7.

Vote by Members: Diaz-Balart—Nay; Hastings (WA)—Nay; Sessions—Nay; Putnam—Nay; Capito—Nay; Cole—Nay; Slaughter—Yea; McGovern—Yea; Matsui—Yea; Dreier—Nay.

Rules Committee record vote No. 180

Date: April 25, 2006.

Measure: H.R. 5020, Intelligence Authorization Act For Fiscal Year 2007.

Motion by: Mrs. Matsui.

Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Mr. Schiff, which requires classified disclosure to the members of the two committees (Jud and HPSCI) with oversight over FISA about U.S. persons who have been the subject of NSA electronic surveillance, and what criteria was used to target them. Will provide Congress with the opportunity to understand the program and whether current law should be amended to either grant the President the power he seeks, or make any other modifications to current law that Congress deems appropriate. Until such action occurs, the amendment states that FISA continues to be the exclusive means by which domestic electronic surveillance may be conducted. Also makes clear that the Authorization for Use of Military Force does not provide an exception to FISA and the federal criminal wiretap statutes.

Results: Defeated 3 to 8.

Vote by Members: Diaz-Balart—Nay; Hastings (WA)—Nay; Sessions—Nay; Putnam—Nay; Capito—Nay; Cole—Nay; Gingrey—Nay; Slaughter—Yea; McGovern—Yea; Matsui—Yea; Dreier—Nay.

Rules Committee record vote No. 181

Date: April 25, 2006.

Measure: H.R. 5020, Intelligence Authorization Act For Fiscal Year 2007.

Motion by: Mrs. Matsui.

Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Mr. Reyes, which provides an annual authorization of \$3 million for purposes of carrying out the operations of the President's Privacy and Civil Liberties Board created in the Intelligence Reform and Terrorism Prevention Act of 2004.

Results: Defeated 3 to 8.

Vote by Members: Diaz-Balart—Nay; Hastings (WA)—Nay; Sessions—Nay; Putnam—Nay; Capito—Nay; Cole—Nay; Gingrey—Nay; Slaughter—Yea; McGovern—Yea; Matsui—Yea; Dreier—Nay.

Rules Committee record vote No. 182

Date: April 25, 2006.

Measure: H.R. 5020, Intelligence Authorization Act For Fiscal Year 2007.

Motion by: Mrs. Matsui.

Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Mr. Boswell, which requires the Director of National Intelligence to submit reports to Congress on Iran Weapons of Mass Destruction every 90 days. Requires reports to include an assessment of Iran's nuclear programs, evaluation of intelligence sources, summary of new intelligence and any information that would reduce confidence in overall assessment.

Results: Defeated 3 to 8.

Vote by Members: Diaz-Balart—Nay; Hastings (WA)—Nay; Sessions—Nay; Putnam—Nay; Capito—Nay; Cole—Nay; Gingrey—Nay; Slaughter—Yea; McGovern—Yea; Matsui—Yea; Dreier—Nay.

SUMMARY OF AMENDMENTS MADE IN ORDER

(Summaries derived from information provided by sponsors.)

1. Hoekstra (MI): Strikes a provision relating to the Freedom of Information Act in Section 421 of the Committee Amendment, relating to protection of intelligence sources and methods. Clarifies that the membership of the Drug Enforcement Administration on the intelligence community is limited to the Office of National Security Intelligence of the Drug Enforcement Administration. (10 minutes)

2. Fossella (NY): Authorizes \$5 million for a study to be conducted by the Secretary of the Department of Homeland Security (DHS) and the Director of National Intelligence (DNI) to identify the problems and the successes of terrorist-threat information sharing between the Federal, State, and local levels of government. Authorizes \$10 million to establish centers of best practices. \$3 million is authorized for the following five years to cover operational expenses of the centers. (10 minutes)

3. Lee (CA): Requires a report to House and Senate Intelligence committees describing any authorization granted during the past

10 years to engage in intelligence activities related to the overthrow of a democratically elected government. (10 minutes)

4. Price (NC): Requires: (1) the DNI to report to Congress on regulations issued by agencies within the Intelligence Community regarding minimum standards for hiring and training of contractors, functions appropriate for private sector contractors, and procedures for preventing waste, fraud, and abuse; (2) contractors awarded Intelligence Community contracts to provide a transparent accounting of their work to their contracting officers within Intelligence Community agencies; (3) the DNI to submit an annual report to Congress on the contracts awarded by Intelligence Community agencies; and (4) the DNI to make recommendations to Congress on enhancing the Intelligence Community's ability to hire, promote, and retain highly qualified and experienced professional staff. (10 minutes)

5. Andrews (NJ): Requires the Director of National Intelligence to provide the Congress with a quarterly classified intelligence report on insurgent forces in Iraq. The report would contain intelligence on (1) the number of insurgent forces in Iraq, (2) the number of insurgent forces that are former members of the Ba'ath Party, (3) the number of insurgent forces that are members of al Qaeda or other known terrorist organizations, (4) a description of where the insurgent forces are located, their capabilities and sources of funding. (10 minutes)

6. Renzi (AZ): Makes findings with respect to the President's authority to protect national security information and the harm from unauthorized disclosures of classified information, and express the Sense of Congress that the President should utilize his constitutional authority to the fullest extent practicable (where warranted) to classify and protect national security information and take action against persons who commit unauthorized disclosures. (20 minutes)

TEXT OF AMENDMENTS MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HOEKSTRA OF MICHIGAN, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In section 421, strike subsection (c) (page 29, lines 15 through 23).

Page 29, line 24, redesignate subsection (d) as subsection (c).

Amend paragraph (1) of section 441 (page 39, line 8) to read as follows:

(1) in subparagraph (H), by inserting "the Coast Guard" after "the Marine Corps";

Page 39, line 15, strike the final period and insert a semicolon.

Page 39, after line 15, insert the following new paragraphs:

(3) by redesignating subparagraph (L) as subparagraph (M); and

(4) by inserting after subparagraph (K) the following new subparagraph:

"(L) The Office of National Security Intelligence of the Drug Enforcement Administration."

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FOSSELLA OF NEW YORK, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of the bill, add the following (and conform the table of contents accordingly):

TITLE VI—COMMUNICATION OF INFORMATION CONCERNING TERRORIST THREATS

SEC. 601. IDENTIFICATION OF BEST PRACTICES.

(a) **STUDY.**—The Secretary of Homeland Security and the Director of National Intelligence shall conduct jointly, or contract with an entity to conduct, a study of the operations of Federal, State, and local government entities to identify best practices for the communication of information concerning a terrorist threat.

(b) **CONTENTS.**—

(1) **IDENTIFICATION OF BEST PRACTICES.**—The study conducted under this section shall be focused on an analysis and identification of the best practices of the information sharing processes of the following government entities.

(A) Joint Terrorism Task Forces, which are operated by the Federal Bureau of Investigations with the participation of local law enforcement agencies.

(B) State Homeland Security Fusion Centers, which are established by a State and share information with Federal departments.

(C) The Homeland Security Operations Center, which is operated by the Department of Homeland Security for the purposes of coordinating information.

(D) State and local law enforcement agencies that collect, utilize, and disseminate information on potential terrorist attacks.

(E) The appropriate elements of the intelligence community, as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a), involved in the sharing of counter-terrorism information.

(2) **COORDINATION OF GOVERNMENT ENTITIES.**—The study conducted under this section shall include an examination of methods for coordinating the activities of Federal, State, and local entities in responding to a terrorist threat, and specifically the communication to the general public of information concerning the threat. The study shall not include an examination of the sources and methods used in the collection of the information.

(c) **OBTAINING OFFICIAL DATA.**—In conducting the study, the Secretary, in conjunction with the Director, with due regard for the protection of classified information, may secure directly from any department or agency of the United States information necessary to enable the Secretary to carry out this section. Classified information shall be handled through established methods for controlling such information.

(d) **TEMPORARY DUTY OF FEDERAL PERSONNEL.**—The Secretary, in conjunction with the Director, may request the head of any de-

partment or agency of the United States to detail to temporary duty personnel within the administrative jurisdiction of the head of the department or agency that the Secretary may need to carry out this section, each detail to be without loss of seniority, pay, or other employee status.

(e) REPORT.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary, in conjunction with the Director, shall submit to Congress a report that contains—

(A) a detailed statement of the findings and conclusions of the study, including identification of the best practices for the processing, analysis, and dissemination of information between the government entities referred to in subsection (b)(1); and

(B) recommendations for a formalized process of consultation, communication, and confidentiality between Federal, State, and local governments, incorporating the best practices of the various entities studied, to facilitate communication and help prevent the unauthorized dissemination of information and criticism of decisions concerning terrorist threats.

(2) CLASSIFIED INFORMATION.—To the extent determined appropriate by the Secretary, in conjunction with the Director, the Secretary may submit a portion of the report in classified form.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$5,000,000 for fiscal year 2007.

SEC. 602. CENTERS OF BEST PRACTICES.

(a) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Director of National Intelligence, shall make grants for the establishment and operation of 3 centers to implement the best practices, identified by the study conducted under section 601, for the processing, analysis, and dissemination of information concerning a terrorist threat (in this section, each referred to as a “Center”).

(b) LOCATION OF CENTERS.—In carrying out subsection (a), the Secretary, in consultation with the Director, shall make grants to—

(1) the State of New York for the establishment of a Center to be located in New York City;

(2) the State of Michigan for the establishment of a Center to be located in Detroit; and

(3) the State of California for the establishment of a Center to be located in Los Angeles.

(c) PURPOSE OF CENTERS.—Each Center shall—

(1) implement the best practices, identified by the study conducted under section 601, for information sharing concerning a terrorist threat;

(2) coordinate the communication of these best practices with other metropolitan areas;

(3) coordinate with the Secretary and the Director to develop a training curriculum to implement these best practices;

(4) provide funding and technical assistance to other metropolitan areas to assist the metropolitan areas in the implementation of the curriculum developed under paragraph (3); and

(5) coordinate with the Secretary and the Director to establish a method to advertise and disseminate these best practices.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for making grants under this section—

(1) \$10,000,000 for fiscal year 2007 for the establishment of the Centers; and

(2) \$3,000,000 for each of fiscal years 2008 through 2012 for the operation of the Centers.

(e) REPORT TO CONGRESS.—Not later than March 31, 2010, the Secretary, in consultation with the Director, shall submit to Congress a report evaluating the operations of the Centers and making recommendations for future funding.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE LEE OF CALIFORNIA, OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of the bill, add the following new section:

SEC. 510. REPORT ON AUTHORIZATION TO OVERTHROW DEMOCRATICALLY ELECTED GOVERNMENTS.

Not later than 120 days after the date of the enactment of this Act, the President shall submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report describing any authorization granted during the 10-year period ending on the date of the enactment of this Act to engage in intelligence activities related to the overthrow of a democratically elected government.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE PRICE OF NORTH CAROLINA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of title III, add the following new section:

SEC. 308. ACCOUNTABILITY IN INTELLIGENCE CONTRACTING.

(a) REPORT ON REGULATIONS GOVERNING INTELLIGENCE COMMUNITY CONTRACTING.—

(1) REPORT REQUIREMENT.—Not later than 90 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report on regulations governing covered contracts under the National Intelligence Program and, at the discretion of the Director of National Intelligence, the Military Intelligence Program.

(2) MATTERS COVERED.—

(A) The report required by paragraph (1) shall include a description of any relevant regulations prescribed by the Director of National Intelligence or by the heads of agencies in the intelligence community, including those relating to the following matters:

(i) Types of functions or activities that may be appropriately carried out by contractors.

(ii) Minimum standards regarding the hiring, training, security clearance, and assignment of contract personnel.

(iii) Procedures for conducting oversight of covered contracts to ensure identification and prosecution of criminal violations; financial waste, fraud, or abuse; or other abuses committed by contractors or contract personnel.

(B) The report also shall include a description of progress made by the Director of National Intelligence in standardizing the regulations described in subparagraph (A) across the different agencies of the National Intelligence Program to the extent practicable.

(3) FORM OF REPORT.—The report required by paragraph (1) shall be in unclassified form, but may contain a classified annex if necessary.

(b) ACCOUNTABILITY REQUIREMENTS FOR CONTRACTS AWARDED BY INTELLIGENCE COMMUNITY AGENCIES.—

(1) INFORMATION ON INTELLIGENCE ACTIVITIES TO BE PERFORMED.—Each covered contract in an amount greater than \$1,000,000 shall require the contractor to provide to the contracting officer for the contract, not later than 5 days after award of the contract, the following information regarding intelligence activities performed under the contract:

(A) Number of persons to be used to perform such functions.

(B) A description of how such persons are trained to carry out tasks specified under the contract relating to such functions.

(C) A description of each category of activity relating to such functions required by the contract.

(2) UPDATES.—The information provided under paragraph (1) shall be updated during contract performance as necessary.

(3) INFORMATION ON COSTS.—Each covered contract shall include the following requirements:

(A) Upon award of the contract, the contractor shall provide to the contracting officer cost estimates of salary, benefits, insurance, materials, logistics, administrative costs, and other costs of carrying out intelligence activities under the contract.

(B) Before contract closeout (other than closeout of a firm, fixed price contract), the contractor shall provide to the contracting officer a report on the actual costs of carrying out intelligence activities under the contract, in the same categories as provided under subparagraph (A).

(c) ACCOUNTABILITY REQUIREMENTS FOR CONTRACTING AGENCIES OF THE INTELLIGENCE COMMUNITY.—

(1) REPORT REQUIREMENT.—Not later than 90 days after the date of the enactment of this Act, and annually thereafter, the Director of National Intelligence shall submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report containing the information described in paragraph (2) on contracting activities in the intelligence community.

(2) MATTERS COVERED.—The report required by paragraph (1) shall include the following information:

(A) A list of contracts awarded for intelligence activities by each agency in the intelligence community during the one-year period preceding the date of submission of the report.

(B) A description of the activities to be performed by contractors in fulfillment of each contract on the list under subparagraph (A), including whether such activities are classified or unclassified.

(C) The number of personnel carrying out work under each such contract.

(D) The estimated cost of performance of the work required by each such contract.

(d) RETENTION OF INTELLIGENCE COMMUNITY PROFESSIONALS.—

(1) REPORT REQUIREMENT.—Not later than 90 days after the date of the enactment of this Act, the Director of National of Intelligence shall submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report on hiring, promotion, and retention of intelligence community professionals.

(2) MATTERS COVERED.—The report required by paragraph (1) shall include the following:

(A) Recommendations regarding any bonuses, benefits, or other inducements that would help the intelligence community to hire, promote, and retain its professional workforce in order to compete effectively against the attraction of private sector opportunities.

(B) Recommendations regarding any policy changes, including changes to policies governing the awarding of security clearances, that may promote hiring, promotion, and retention of the intelligence community professional workforce.

(C) A description of any additional authority needed from Congress to implement the recommendations under subparagraphs (A) and (B).

(3) FORM OF REPORT.—The report required by paragraph (1) shall be in unclassified form, but may contain a classified annex if necessary.

(e) DEFINITIONS.—In this section:

(1) INTELLIGENCE COMMUNITY.—The term “intelligence community” has the meaning given the term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(2) COVERED CONTRACT.—The term “covered contract” means—

(A) a prime contract with any agency or office that is part of the intelligence community;

(B) a subcontract at any tier under any prime contract with an office or agency referred to in subparagraph (A); or

(C) a task order issued under a task or delivery order contract entered into by an office or agency referred to in subparagraph (A), if the work to be performed under the contract, subcontract, or task order includes intelligence

activities to be performed either within or outside the United States.

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE ANDREWS OF NEW JERSEY, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of the bill, add the following new section:

SEC. 510. REPORT ON INTELLIGENCE RELATING TO INSURGENT FORCES IN IRAQ.

No later than 90 days after the date of the enactment of this Act, and every 90 days thereafter, the Director of National Intelligence shall submit to Congress a report, in classified form, on intelligence relating to the disposition of insurgent forces in Iraq fighting against Coalition forces and the forces of the Government of Iraq, including—

- (1) an estimate of the number of insurgent forces;
- (2) an estimate of the number of insurgent forces that are—
 - (A) former members of the Ba'ath Party; and
 - (B) members of al Qaeda or other terrorist organizations;
- (3) a description of where in Iraq the insurgent forces are located;
- (4) a description of the capability of the insurgent forces; and
- (5) a description of how the insurgent forces are funded.

6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE RENZI OF ARIZONA, OR HIS DESIGNEE, DEBATABLE FOR 20 MINUTES

At the end of the bill, add the following new section:

SEC. 510. SENSE OF CONGRESS REGARDING UNAUTHORIZED DISCLOSURE OF CLASSIFIED INFORMATION.

- (a) FINDINGS.—Congress finds the following:
- (1) The Supreme Court has unequivocally recognized that the Constitution vests the President with the authority to protect national security information as head of the Executive Branch and as Commander-in-Chief.
 - (2) The Supreme Court has recognized a compelling government interest in withholding national security information from unauthorized persons.
 - (3) The Supreme Court has recognized that secrecy agreements for government employees are a reasonable means for protecting this vital interest.
 - (4) The Supreme Court has noted that “It should be obvious that no one has a ‘right’ to a security clearance”.
 - (5) Unauthorized disclosures of classified information relating to national security are most damaging when they have the potential to compromise intelligence sources and methods and ongoing intelligence operations.
 - (6) Potential unauthorized disclosures of classified information has impeded relationships with foreign intelligence services and the effectiveness of the Global War on Terrorism.
 - (7) Media corporations and journalists have improperly profited financially from publishing purported unauthorized disclosures of classified information.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should utilize the constitutional authority of the President to the fullest practicable extent, where warranted, to classify and protect national security information relating to intelligence activities and information and to take effective action against persons who commit unauthorized disclosures of classified information relating to intelligence activities and information contrary to law and voluntary secrecy agreements.

