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### INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2023

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JULY 20, 2022.—Ordered to be printed

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

#### R E P O R T

together with

#### ADDITIONAL VIEWS

[To accompany S. 4503]

The Select Committee on Intelligence, having considered an original bill (S. 4503) to authorize appropriations for fiscal year 2023 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Management Account, the Central Intelligence Agency Retirement and Disability System, and for other purposes, reports favorably thereon and recommends that the bill do pass.

#### CLASSIFIED ANNEX TO THE COMMITTEE REPORT

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 on March 28, 2022, that the request for the National Intelligence Program for Fiscal Year 2022 was \$67.1 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 and has the legal status of public law. The classi-

fied 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 2023 (the “Act”) reported by the Committee.

#### TITLE I—INTELLIGENCE ACTIVITIES

##### *Section 101. Authorization of appropriations*

Section 101 specifies that the Act authorizes appropriations for intelligence and intelligence-related activities of the Intelligence Community for Fiscal Year 2023.

##### *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 for Fiscal Year 2023 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. Intelligence Community Management Account*

Section 103 authorizes appropriations for the Intelligence Community Management Account of the Office of the Director of National Intelligence (ODNI) for Fiscal Year 2023.

#### TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

##### *Section 201. Authorization of appropriations*

Section 201 authorizes appropriations for the CIA Retirement and Disability Fund for Fiscal Year 2023.

#### TITLE III—GENERAL INTELLIGENCE COMMUNITY MATTERS

##### *Section 301. Plan for assessing counterintelligence programs*

Section 301 requires the National Counterintelligence and Security Center to submit a plan for assessing the effectiveness of the counterintelligence programs of the Federal Government.

##### *Section 302. Modification of advisory board in National Reconnaissance Office*

Section 302 modifies the appointment mechanism and duration of the advisory board in the National Reconnaissance Office.

##### *Section 303. Prohibition on employment with governments of certain countries*

Section 303 establishes a prohibition on former Intelligence Community employees providing certain services to foreign state sponsors of terror and other foreign countries determined to be a significant threat to the national security interests of the United States,

and establishes penalties for former employees who knowingly and willfully violate that prohibition.

*Section 304. Counterintelligence and national security protections for intelligence community grant funding*

Section 304 establishes counterintelligence protections for Intelligence Community grant funding to protect against risks of misappropriation, theft, and other threats to U.S. national security, including by the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, and the Republic of Cuba.

*Section 305. Extension of Central Intelligence Agency law enforcement jurisdiction to facilities of Office of Director of National Intelligence*

Section 305 enhances the CIA's authority to exercise law enforcement authority in order to protect ODNI facilities.

*Section 306. Clarification regarding protection of Central Intelligence Agency functions*

Section 306 clarifies protections for certain information regarding the functions of the CIA.

*Section 307. Establishment of advisory board for National Geospatial-Intelligence Agency*

Section 307 establishes an advisory board in the National Geospatial-Intelligence Agency (NGA) to study, advise on, and report about matters relating to the agency's mission.

*Section 308. Annual Reports on status of recommendations of Comptroller General of the United States for the Director of National Intelligence*

Section 308 directs the Comptroller General to submit an annual report listing all open recommendations made to the DNI. Section 308 further directs the DNI to provide a status update on each recommendation listed in the report.

*Section 309. Timely submission of budget documents from intelligence community*

Section 309 requires the DNI to deliver budget justification materials for elements of the Intelligence Community to Congress no later than 14 days after the President submits the budget request to Congress.

*Section 310. Copyright protection for civilian faculty of the National Intelligence University*

Section 310 allows faculty at the National Intelligence University to have limited copyright protection, consistent with protection afforded to faculty at educational institutions at the Department of Defense (DoD).

*Section 311. Expansion of reporting requirements relating to authority to pay personnel of Central Intelligence Agency for certain injuries to the brain*

Section 311 extends for five years a one-time reporting requirement in the Helping American Victims Afflicted by Neurological Attacks Act (P.L. 117–46), requires the CIA to provide additional details in the contents of the report submitted, and requires the National Intelligence Council to coordinate an updated analytic assessment regarding the cause and attribution of anomalous health incidents, along with any dissenting views from the Intelligence Community.

*Section 312. Modifications to Foreign Malign Influence Response Center*

Section 312 renames the Center established by Section 119C of the National Security Act of 1947 the “Foreign Malign Influence Center,” requires a report assessing the Center’s need for continued operation, and sunsets the Center’s authorities and requirements on December 31, 2027.

*Section 313. Requirement to offer cyber protection support for personnel of intelligence community in positions highly vulnerable to cyber attack*

Section 313 amends Section 6308(b) of the Damon Paul Nelson and Matthew Young Pollard Intelligence Authorization Act for Fiscal Years 2018, 2019, and 2020 (P.L. 116–92) to clarify that the DNI shall offer protection support for Intelligence Community personnel in positions highly vulnerable to cyber attacks, including by providing such support to any such personnel who request protection. Section 313 further requires the DNI to submit a plan for the training and resources required for such support.

*Section 314. Minimum cybersecurity standards for national security systems of intelligence community*

Section 314 requires the DNI, in coordination with the National Manager for National Security Systems, to establish minimum cybersecurity requirements across the Intelligence Community, and requires agencies to meet the deadlines established under those requirements and to update their plans to resource the full implementation of those standards.

*Section 315. Review and report on intelligence community activities under Executive Order 12333*

Section 315 requires the DNI to conduct an assessment on the feasibility and advisability of making public certain information relating to activities under Executive Order 12333, and to submit to the congressional intelligence committees a report on that assessment, including descriptions of incidents in which the Intelligence Community violated Executive Order 12333 or other guidelines and procedures, and a recommendation on whether such incidents can be disaggregated for public release.

*Section 316. Elevation of the commercial and business operations office of the National Geospatial-Intelligence Agency*

Section 316 directs the head of the commercial and business operations office of the NGA to report directly to the Director of the NGA.

*Section 317. Assessing intelligence community open-source support for export controls and foreign investment screening*

Section 317 requires the DNI to carry out a pilot program to assess the feasibility and advisability of providing certain open source-derived intelligence to the Department of Commerce to support the Department's efforts related to export controls and investment screening functions. Section 317 further requires the DNI to submit a plan to carry out the pilot program and a report on the findings of the DNI with respect to the program.

*Section 318. Annual training requirement and report regarding analytic standards*

Section 318 requires the DNI to issue a policy requiring the head of each element of the Intelligence Community to create an annual training program on Intelligence Community Directive (ICD) 203, Analytic Standards, and provide a report to the congressional intelligence committees on compliance incidents reported to Intelligence Community analytic ombudspersons related to the standards set forth in ICD 203. Section 318 further includes a five-year sunset provision.

*Section 319. Historical Advisory Panel of the Central Intelligence Agency*

Section 319 establishes a Historical Advisory Panel in the CIA to determine topics for research, publication, and declassification, and identify technological tools to modernize classification and declassification processes. Section 319 further requires the Panel to submit an annual report on its activities to the Director of the CIA and to the congressional intelligence committees. Section 319 also includes a seven-year sunset provision.

TITLE IV—INTELLIGENCE MATTERS RELATED TO THE PEOPLE'S  
REPUBLIC OF CHINA

*Section 401. Update to annual reports on influence operations and campaigns in the United States by the Chinese Communist Party*

Section 401 updates the reporting requirement in Section 1107(b) of the National Security Act of 1947 to require assessments on the Chinese Communist Party's online influence operations and propaganda campaigns, including through the use of social media and news outlets, and opportunities to expose and counter such activities.

*Section 402. Report on wealth and corrupt activities of the leadership of the Chinese Communist Party*

Section 402 requires reporting on the wealth and corrupt activities of the leadership of the Chinese Communist Party.

*Section 403. Identification and threat assessment of companies with investments by the People's Republic of China*

Section 403 requires the Intelligence Community to report on the risk to national security posed by telecommunication, hospitality, and conveyance companies in which the People's Republic of China has substantially invested.

*Section 404. Intelligence community working group for monitoring the economic and technological capabilities of the People's Republic of China*

Section 404 establishes a cross-Intelligence Community working group to assess and report on the economic and technological capabilities of the People's Republic of China to become the dominant military, technological, and economic power, and to undermine the rules-based world order, including providing unclassified lists of the top institutions, businesses, and projects facilitating the Chinese Communist Party's technology, military, and other objectives.

*Section 405. Annual report on concentrated reeducation camps in the Xinjiang Uyghur autonomous region of the People's Republic of China*

Section 405 requires public reporting on the detention and forced labor camps in the People's Republic of China's Xinjiang Uyghur Autonomous Region, including victims, personnel, funding, and participating Chinese companies.

*Section 406. Assessments of production of semiconductors by the People's Republic of China*

Section 406 requires the DNI to submit to the congressional intelligence committees an assessment of the People's Republic of China in global competitiveness in the production of semiconductors by Chinese firms.

TITLE V—PERSONNEL AND SECURITY CLEARANCE MATTERS

*Section 501. Improving onboarding of personnel in intelligence community*

Section 501 requires the DNI to establish a methodology for measuring the time it takes elements of the Intelligence Community to onboard personnel, to submit a report on the time it takes to onboard personnel in the Intelligence Community, and to submit a plan to reduce that time for elements that have median onboarding times that exceed 180 days.

*Section 502. Improving onboarding at the Central Intelligence Agency*

Section 502 requires the Director of the CIA to take actions necessary to ensure that, by December 31, 2023, the CIA's onboarding process has a median duration of 180 days or less.

*Section 503. Report on legislative action required to implement Trusted Workforce 2.0 initiative*

Section 503 requires the Office of Management and Budget to submit a report on the legislative action required to implement the

Trusted Workforce (TW) 2.0 initiative, including any statutory provisions requiring amendment.

*Section 504. Comptroller General of the United States assessment of administration of polygraphs in intelligence community*

Section 504 requires the Comptroller General to conduct an assessment, provide a briefing, and submit a report on the administration of polygraph evaluations that are needed in the Intelligence Community to meet current mission demand.

*Section 505. Timeliness in the administration of polygraphs*

Section 505 requires the DNI, in the DNI's capacity as the Security Executive Agent, to issue standards for timeliness for Federal agencies to administer polygraphs conducted for purposes of adjudicating eligibility for access to classified information and granting clearance reciprocity.

*Section 506. Policy on submittal of applications for access to classified information for certain personnel*

Section 506 requires the DNI, in the DNI's capacity as the Security Executive Agent, to issue a policy that allows companies to submit applications for security clearances, on a nonreimbursable basis, for personnel who perform key management and oversight functions who may not merit an application due to their work under any one contract.

*Section 507. Prohibition on denial of eligibility for access to classified information solely because of preemployment use of cannabis*

Section 507 prohibits the head of an element of the Intelligence Community from denying an individual's security clearance based solely on the individual's preemployment use of cannabis.

*Section 508. Technical correction regarding Federal policy on sharing of covered insider threat information*

Section 508 makes a technical correction to Section 806 of the Intelligence Authorization Act for Fiscal Year 2022 (P.L. 117-103), which requires the DNI to issue a policy for the Federal Government on sharing covered insider threat information pertaining to contractor employees.

*Section 509. Establishing process parity for security clearance and access determinations*

Section 509 requires an agency, in justifying an adverse security clearance or access determination against a whistleblower, to demonstrate by clear and convincing evidence that the agency would have made the same security clearance or access determination in the absence of the whistleblower's disclosure. Section 509 further establishes parity in the legal standards applied to Intelligence Community whistleblower matters.

*Section 510. Elimination of cap on compensatory damages for retaliatory revocation of security clearances and access determinations*

Section 510 removes the cap on compensatory damages for an employee or former employee who was subjected to a reprisal with respect to the employee's or former employee's security clearance or access determination.

*Section 511. Comptroller General of the United States report on use of Government and industry space certified as secure compartmented information facilities*

Section 511 requires the Comptroller General to submit a report on the average annual utilization of Federal Government and industry space certified as secure compartmented information facilities under Intelligence Community or DoD policy.

TITLE VI—INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY

*Section 601. Submittal of complaints and information by whistleblowers in the intelligence community to Congress*

Section 601 establishes security officers and protocols to facilitate Intelligence Community employees' and contractors' submissions of complaints and information to Congress. Section 601 further clarifies the requirements for submitting whistleblower complaints and information, and ensures bipartisan notification of such materials.

*Section 602. Modification of whistleblower protections for contractor employees in intelligence community*

Section 602 ensures that Intelligence Community whistleblowers can provide disclosures to supervisors who have responsibility for the subject matter of the disclosure.

*Section 603. Prohibition against disclosure of whistleblower identity as reprisal against whistleblower disclosure by employees and contractors in intelligence community*

Section 603 adds a prohibition on knowing or willful disclosures that reveal an Intelligence Community whistleblower's identifying information without consent, except as necessary during the course of an investigation. Section 603 further establishes a private right of action for an Intelligence Community whistleblower if such disclosure is taken as a reprisal against the whistleblower for bringing a complaint.

*Section 604. Definitions regarding whistleblower complaints and information of urgent concern received by inspectors general of the intelligence community*

Section 604 clarifies the definition of "urgent concern" regarding whistleblower complaints and ensures that the Inspector General of the Intelligence Community has authority over "urgent concern" determinations that are matters of national security and not public policy matters.

## TITLE VII—OTHER MATTERS

*Section 701. Improvements relating to continuity of Privacy and Civil Liberties Oversight Board membership*

Section 701 permits (1) the reappointment of a member of the Privacy and Civil Liberties Oversight Board for additional terms; (2) filling a vacancy in the same manner in which the original appointment was made; and (3) the continued service of a member following the expiration of their term.

*Section 702. Report by Public Interest Declassification Board*

Section 702 requires the Public Interest Declassification Board to submit a report on recommendations to improve the Information Security Oversight Office and Executive Order 13526, as well as other matters.

*Section 703. Modification of requirement for office to address unidentified aerospace-undersea phenomena*

Section 703 renames the Office established to carry out the duties of the Unidentified Aerial Phenomena Task Force, and clarifies the Office's legal authorities, duties, and leadership to incorporate Intelligence Community equities that are integral to ensuring full oversight of unidentified aerospace-undersea phenomena subject matters.

*Section 704. Unidentified aerospace-undersea phenomena reporting procedures*

Section 704 ensures the Intelligence Community and DoD have sufficient procedures in place to receive all relevant reporting and disclosures regarding unidentified aerospace-undersea phenomena.

*Sections 705. Comptroller General of the United States compilation of unidentified aerospace-undersea phenomena records*

Section 705 requires the Comptroller General to undertake an independent review and compilation of unidentified aerospace-undersea phenomena-related historical documents and submit a corresponding report. Section 705 further requires the relevant agencies to provide the Comptroller General with necessary materials and access to such records.

*Section 706. Office of Global Competition Analysis*

Section 706 requires the President to establish an office on analysis of global competition regarding United States leadership in technology and innovation sectors critical to national security and economic prosperity, and to support related policy development and decision making in related matters. Section 706 authorizes \$20 million for fiscal year 2023 to carry out this requirement.

*Section 707. Report on tracking and collecting precursor chemicals used in the production of synthetic opioids*

Section 707 requires the Director of the CIA to submit a report on intelligence gaps related to tracking and collecting licit precursor chemicals bound for illicit use in opioid production.

*Section 708. Assessment and report on mass migration in the Western Hemisphere*

Section 708 requires the DNI to submit a report on the national security threats posed by mass migration within the Western Hemisphere, including the risks associated with the regime in Cuba and the illegitimate Nicolás Maduro regime in Venezuela.

*Section 709. Notifications regarding transfers of detainees at United States Naval Station, Guantanamo Bay, Cuba*

Section 709 requires the Secretary of Defense to notify appropriate Members of Congress when a final determination is made that the continued law of war detention of an individual detained at Naval Station Guantanamo Bay is unwarranted. Section 709 further requires the Secretary of State to notify appropriate Members of Congress prior to a detainee's transfer outside of Guantanamo Bay, including specific information about the detainee and the transfer.

*Section 710. Report on international norms, rules, and principles applicable in space*

Section 710 requires the DNI, in coordination with the Secretary of Defense, the Secretary of State, the Secretary of Commerce, the Administrator of the National Aeronautics and Space Administration, and heads of other agencies as the DNI determines to be necessary, to submit a report on international norms, rules, and principles applicable in space, including how threats to the United States may be mitigated through the development of international norms, as well as opportunities for the United States to influence those norms.

*Section 711. Assessments of the effects of sanctions imposed with respect to the Russian Federation's invasion of Ukraine*

Section 711 requires the DNI to submit an assessment of the cumulative and material effects of sanctions imposed by the United States, European countries, and the international community on the Russian Federation in response to Russia's invasion of Ukraine, including efforts by Russia to evade sanctions through direct or indirect assistance from other countries and by using digital assets; the effect of the sanctions on Russia's relationship with certain regimes, countries, and senior leadership; the effect of the sanctions on other countries' development of alternative payment systems; and the impact of any general licenses issued in relation to the sanctions.

*Section 712. Assessment and briefing on implications of food insecurity resulting from the Russian Federation's invasion of Ukraine*

Section 712 requires the DNI to conduct an assessment of the implications of food insecurity that may result from the Russian Federation's invasion of Ukraine.

*Section 713. Pilot program for Director of Federal Bureau of Investigation to undertake an effort to identify International Mobile Subscriber Identity-catchers and develop countermeasures*

Section 713 amends Section 5725 of the Damon Paul Nelson and Matthew Young Pollard Intelligence Authorization Act for Fiscal Years 2018, 2019, and 2020 (P.L. 116–92) authorizing the DNI to undertake an effort to identify International Mobile Subscriber Identity-catchers in the United States and, when appropriate, develop countermeasures, by transferring the authority to the Director of the Federal Bureau of Investigation (FBI). Section 713 further directs the Director of the FBI to exercise those authorities through a pilot program within the National Capital Region, and limits the pilot program to two years.

*Section 714. Department of State Bureau of Intelligence and Research assessment of anomalous health incidents*

Section 714 requires the Assistant Secretary of State for Intelligence and Research to submit a report on its assessment of the findings of the events that have been collectively labeled as “anomalous health incidents.”

*Section 715. Clarification of process for protecting classified information using the Classified Information Procedures Act*

Section 715 clarifies that a motion under Section 4 of the Classified Information Procedures Act (CIPA) may be supported by a declaration executed by any official possessing original classification authority, who shall not be required to be the head of the relevant agency.

COMMITTEE COMMENTS AND DIRECTION

*Protecting classified information using the Classified Information Procedures Act*

In *United States v. Aref*, 533 F.3d 72 (2d Cir. 2008), the Second Circuit held that the state secrets privilege applies to criminal proceedings involving protection of classified information under CIPA, and that the government must satisfy the procedural requirements of the privilege when seeking the protections of CIPA. These requirements include personal invocation of the privilege by the head of the department which has control over the matter, after actual personal consideration by that officer. The Second Circuit holding is at odds with the views of most other appellate courts, and the Committee is concerned that it imposes substantial burdens in addressing routine classified information issues in cases within the Second Circuit. Accordingly, Section 715 clarifies that the head of the department is not required to provide the necessary declaration; instead, any official possessing original classification authority may do so.

*People’s Republic of China Presence and Intentions in the Caribbean*

The Committee commends the Intelligence Community’s recognition of—and increased commitment of resources to—the threat posed by the People’s Republic of China’s long-term goals and intentions related to United States interests worldwide. The Com-

mittee remains concerned, among other areas, about the People's Republic of China's intentions and influence in the Caribbean, including in Suriname and Guyana. Therefore, within 90 days following enactment of this Act, the Committee directs the Director of the CIA to submit a report to the congressional intelligence committees regarding the threats and risks presented to United States national security and economic interests by People's Republic of China investments in critical infrastructure, including energy and telecommunications infrastructure, in the Caribbean.

#### *Trusted Workforce 2.0*

The Committee continues to exercise close oversight of the executive branch's personnel vetting reform effort, TW 2.0. The executive agents for security (the DNI) and suitability and credentialing (the Director of the Office of Personnel Management) have issued a number of policy documents to modernize a vetting model that has largely remained unchanged for more than 70 years. The Committee is closely watching how the Intelligence Community can capitalize on reforms being adopted in TW 2.0 to ensure personnel can maintain their mobility across their career. The DNI has specific responsibilities to lead this effort, which the Committee endorses to drive much needed change for the Federal government and its industry partners. DoD is responsible for the information technology backbone for this effort, known as the National Background Investigation Services (NBIS). The Committee looks forward to NBIS's capabilities maturing to support five core human resource scenarios—establishing, continuing, upgrading, transferring, and reestablishing trust. The Committee recognizes that modernizing the government's personnel vetting paradigm is a long-term project that requires sustained oversight attention.

#### *Modification of Requirement for Office to Address Unidentified Aerospace-Undersea Phenomena*

At a time when cross-domain transmedium threats to United States national security are expanding exponentially, the Committee is disappointed with the slow pace of DoD-led efforts to establish the office to address those threats and to replace the former Unidentified Aerial Phenomena Task Force as required in Section 1683 of the National Defense Authorization Act for Fiscal Year 2022. The Committee was hopeful that the new office would address many of the structural issues hindering progress. To accelerate progress, the Committee has, pursuant to Section 703, renamed the organization formerly known as the Unidentified Aerial Phenomena Task Force and the Aerial Object Identification and Management Synchronization Management Group to be the Unidentified Aerospace-Undersea Phenomena Joint Program Office. That change reflects the broader scope of the effort directed by the Congress. Identification, classification, and scientific study of unidentified aerospace-undersea phenomena is an inherently challenging cross-agency, cross-domain problem requiring an integrated or joint Intelligence Community and DoD approach. The new Office will continue to be led by DoD, with a Deputy Director named by the Intelligence Community. The formal DoD and Intelligence Community definition of the terms used by the Office shall be updated to include space and undersea, and the scope of the Office

shall be inclusive of those additional domains with focus on addressing technology surprise and “unknown unknowns.” Temporary nonattributed objects, or those that are positively identified as man-made after analysis, will be passed to appropriate offices and should not be considered under the definition as unidentified aerospace-undersea phenomena.

*Annual Reports on status of recommendations of Comptroller General of the United States for the Director of National Intelligence*

As noted in the Joint Explanatory Statement accompanying the Damon Paul Nelson and Matthew Young Pollard Intelligence Authorization Act for Fiscal Years 2018, 2019, and 2020, the congressional intelligence committees believe the Government Accountability Office (GAO) adds significant value to their oversight efforts. GAO has provided numerous recommendations to improve the functioning and efficiency of the Intelligence Community. However, these improvements can only be achieved through timely and deliberate action taken in response. The committees do not always have sufficient information to understand the status of ODNI actions taken in response to open GAO recommendations, or where, if applicable, ODNI does not plan to take action in response to GAO recommendations. Accordingly, Section 308 directs the Comptroller General to submit an annual report listing all open recommendations made to the DNI. Section 308 further directs the DNI to provide a status update on each recommendation listed in the report.

*Minimum Cybersecurity Standards for National Security Systems of Intelligence Community*

Section 314 in this bill requires the DNI, in coordination with the National Manager for National Security Systems, to establish Intelligence Community-wide minimum cybersecurity standards for national security systems. The Committee welcomes the publication of the National Security Memorandum on Improving the Cybersecurity of National Security, DoD, and Intelligence Community Systems (NSM-8). This section codifies the establishment of, and adherence to, minimum cybersecurity standards for the national security systems of the Intelligence Community, as provided for in NSM-08 or any successor policy guidance. The provision further requires elements of the Intelligence Community to meet the deadlines established for implementation of the standards, and requires elements of the Intelligence Community to update their plans to resource the full implementation of those standards.

*Report on the establishment of a cadre of professors to support the Intelligence Community*

The Committee continues to endorse exploring mechanisms by which the Intelligence Community can better utilize expertise outside of the government in its operations, such as the public-private talent exchange program. The Committee encourages the Intelligence Community to ensure that academics, from a variety of fields, at universities, research organizations, and elsewhere, can play a robust role in contribution to the U.S. intelligence enterprise. The Committee therefore directs ODNI to provide the con-

gressional intelligence committees, within 180 days after enactment of this Act, with a plan for creating a reserve cadre of academics who can perform specific assignments for the Intelligence Community. That plan should include an assessment of and solutions for any barriers to creating this cadre, such as issues with contracting vehicles, a plan for expediting granting of academics' security clearances, and protocols for disclosure and accountability with the academics' host institutions.

*Response to report required by Section 6715 of the Fiscal Year 2018, 2019, and 2020 Intelligence Authorization Act*

The Committee seeks a substantive response to a report required by Section 6715 of the Fiscal Year 2018, 2019, and 2020 Intelligence Authorization Act, which was enacted on December 20, 2019 (P.L. 116–92). The report required by that provision included “any attempts known to the intelligence community by foreign governments to exploit cybersecurity vulnerabilities in United States telecommunications networks (including Signaling System No. 7) to target for surveillance United States persons, including employees of the Federal Government,” and “any actions taken by the intelligence community to protect agencies and personnel of the United States Government from surveillance conducted by foreign governments.” The document that the ODNI identified as a response provided to the Committee on November 23, 2021, made no reference to Signaling System No. 7. The Committee has further addressed this concern in the classified annex.

*Review of declassification practices and policies across Executive agencies, funding for such activities, and investments in technological modernization*

The Committee remains concerned about the Government's obsolete classification system whose deficiencies “undermine our national security, as well as critical democratic objectives,” according to the DNI. The Committee further notes the DNI's acknowledgment that “[t]he current prioritization given to remediating these issues and the resources dedicated to making tangible progress are simply not sufficient.” The Committee therefore directs the DNI, jointly with the Under Secretary of Defense for Intelligence and Security (USD(I&S)), to conduct a review of declassification practices and policies across Executive agencies, funding for such activities, and investments in technological modernization. The Committee further directs the DNI, jointly with the USD(I&S), to provide a report to the congressional intelligence and defense committees to include: (1) a description of declassification practices and policies across Executive agencies, funding for such activities, and investments in technological modernization; (2) proposals for the promotion of best practices that could be applied across relevant Executive agencies and/or as part of a federated system, and cost estimates associated with such proposals; and (3) a spend plan for the research, development, and promotion of technological solutions to, and other modernizations efforts for, declassification.

*Historical Advisory Panel of the Central Intelligence Agency*

The Committee appreciates the steps CIA has recently taken to consult scholarly experts on declassification. The CIA's Historical

Advisory Panel has demonstrated that it can be an important tool in identifying topics for research, publication, and discretionary declassification. Accordingly, Section 319 codifies the Panel to ensure that CIA sustains the Historical Advisory Panel and that the Panel's work receives the attention it deserves. The Committee expects the Director of the CIA to meet with the Historical Advisory Panel at regular intervals and take full heed of the panel's recommendations.

#### COMMITTEE ACTION

On June 22, 2022, a quorum being present, the Committee met to consider the bill, classified annex, and amendments. The Committee took the following actions:

##### *Votes on amendments to the committee bill and the classified annex*

By unanimous consent, the Committee made the Chairman and Vice Chairman's bill, together with the classified annex for Fiscal Year 2023, the base text for purposes of amendment.

By voice vote, the Committee adopted *en bloc* twenty-six amendments to the bill, as follows: (1) an amendment by Senator Blunt, and cosponsored by Vice Chairman Rubio, to establish an NGA Advisory Board; (2) an amendment by Senator Blunt, and cosponsored by Vice Chairman Rubio and Senators Gillibrand and Heinrich, to rename and modify the Unidentified Aerospace-Undersea Phenomena Joint Program Office; (3) an amendment by Vice Chairman Rubio to require notifications of Guantanamo Bay transfers; (4) an amendment by Senator Collins to require reports on Comptroller General recommendations; (5) an amendment by Senator Bennet, and cosponsored by Senator Feinstein, to require a report on international space norms; (6) an amendment by Senator Collins, and cosponsored by Chairman Warner, to require timely submission of certain budgetary documents; (7) an amendment by Chairman Warner, and cosponsored by Senators Sasse and Gillibrand, to establish copyright protection for National Intelligence University civilian faculty; (8) an amendment by Chairman Warner, and cosponsored by Senator Cornyn, to require assessments of the People's Republic of China's semiconductor production; (9) an amendment by Senator Collins, and cosponsored by Senators Gillibrand and Cotton, to expand reporting on CIA's payment authorities for certain injuries; (10) an amendment by Chairman Warner, and cosponsored by Vice Chairman Rubio, to extend the CIA's law enforcement jurisdiction to certain ODNI facilities; (11) an amendment by Chairman Warner, and cosponsored by Vice Chairman Rubio, to require assessments of the effects of sanctions imposed regarding the Russian Federation's Ukraine invasion; (12) an amendment by Senator Bennet, and cosponsored by Senator Sasse and Chairman Warner, to establish an Office of Global Competition Analysis; (13) an amendment by Senator Blunt, and cosponsored by Vice Chairman Rubio and Senators Gillibrand and Heinrich, to require Comptroller General historical compilations of Unidentified Aerospace-Undersea Phenomena records; (14) an amendment by Chairman Warner, and cosponsored by Vice Chairman Rubio, to modify and sunset the Foreign Malign Influence Response Center; (15) an amendment by Senator Wyden to require certain cyber protection support for Intelligence Community personnel; (16) an

amendment by Senator Wyden, and cosponsored by Senator Heinrich, to require a pilot program for the FBI to identify International Mobile Subscriber Identity-catchers and develop countermeasures; (17) an amendment by Senator Gillibrand, and cosponsored by Senator Cotton, to require an assessment of anomalous health incidents by the Department of State Bureau of Intelligence and Research; (18) an amendment by Senator Collins, and cosponsored by Senator Wyden and Chairman Warner, to require minimum cybersecurity standards for the Intelligence Community's National Security Systems; (19) an amendment by Senator Wyden, and cosponsored by Senator Heinrich, to require a review and report on Intelligence Community activities pursuant to Executive Order 12333; (20) an amendment by Chairman Warner, and cosponsored by Vice Chairman Rubio, to elevate the NGA's Commercial and Business Operations Office; (21) an amendment by Chairman Warner, and cosponsored by Senator Cornyn, to clarify the Classified Information Protection Act; (22) an amendment by Senator Casey, and cosponsored by Chairman Warner and Senator Bennet, to require assessments on food security implications from the Russian Federation's Ukraine invasion; (23) an amendment by Chairman Warner, and cosponsored by Senator Casey, to assess Intelligence Community open source support for export controls and foreign investment screening; (24) an amendment by Senator King to require training and reporting on analytic standards; (25) an amendment by Vice Chairman Rubio, and cosponsored by Senator Sasse, to improve personnel onboarding at the CIA; and (26) an amendment by Senator Sasse, and cosponsored by Chairman Warner, to establish a Historical Advisory Panel at the CIA.

By voice vote, the Committee adopted *en bloc* thirty-seven amendments to the classified annex.

By voice vote, the Committee adopted a second-degree amendment by Chairman Warner, and cosponsored by Senator Bennet, to an amendment by Senator Wyden, and cosponsored by Senators Heinrich and Gillibrand. Senator Wyden's amendment, as cosponsored by Senators Heinrich and Gillibrand, prohibited any Federal agency from denying or revoking an individual's eligibility for access to classified information solely because of past or present use of cannabis. Chairman Warner's second-degree amendment, as cosponsored by Senator Bennet, limited the prohibition to Intelligence Community agencies, struck the revocation prohibition, and replaced the "past or present" application with a "pre-employment" application. By a vote of 11 ayes and 5 noes, the Committee adopted the amendment by Senator Wyden, and cosponsored by Senators Heinrich and Gillibrand, as modified by Chairman Warner's second-degree amendment (cosponsored by Senator Bennet). The votes in person or by proxy were as follows: Chairman Warner—aye; Senator Feinstein—aye; Senator Wyden—aye; Senator Heinrich—aye; Senator King—no; Senator Bennet—aye; Senator Casey—aye; Senator Gillibrand—aye; Vice Chairman Rubio—no; Senator Burr—aye; Senator Risch—no; Senator Collins—aye; Senator Blunt—no; Senator Cotton—aye; Senator Cornyn—no; Senator Sasse—aye.

By a vote of 5 ayes and 11 noes, the Committee did not adopt an amendment by Vice Chairman Rubio to prohibit funds authorized by this Act within the Intelligence Community Management

Account from being obligated or expended to provide financial or in-kind support to certain tax-exempt organizations that receive financial or in-kind support from foreign governments outside of the Five Eyes alliance. The votes in person or by proxy were as follows: Chairman Warner—no; Senator Feinstein—no; Senator Wyden—no; Senator Heinrich—no; Senator King—no; Senator Bennet—no; Senator Casey—no; Senator Gillibrand—no; Vice Chairman Rubio—aye; Senator Burr—no; Senator Risch—aye; Senator Collins—no; Senator Blunt—no; Senator Cotton—aye; Senator Cornyn—aye; Senator Sasse—aye.

By a vote of 8 ayes and 8 noes, the Committee did not adopt an amendment by Vice Chairman Rubio to prohibit funds authorized by this Act from being obligated or expended by or for the currently-paused Department of Homeland Security's Disinformation Governance Board or successor organization. The votes in person or by proxy were as follows: Chairman Warner—no; Senator Feinstein—no; Senator Wyden—no; Senator Heinrich—no; Senator King—no; Senator Bennet—no; Senator Casey—no; Senator Gillibrand—no; Vice Chairman Rubio—aye; Senator Burr—aye; Senator Risch—aye; Senator Collins—aye; Senator Blunt—aye; Senator Cotton—aye; Senator Cornyn—aye; Senator Sasse—aye.

Senator Cornyn offered and withdrew an amendment to limit the availability of funds authorized by this Act to change the section of the Questionnaire for National Security Positions that pertains to association record.

By a vote of 8 ayes and 8 noes, the Committee did not adopt an amendment by Senator Cotton to the classified annex. The votes in person or by proxy were as follows: Chairman Warner—no; Senator Feinstein—no; Senator Wyden—no; Senator Heinrich—no; Senator King—no; Senator Bennet—no; Senator Casey—no; Senator Gillibrand—no; Vice Chairman Rubio—aye; Senator Burr—aye; Senator Risch—aye; Senator Collins—aye; Senator Blunt—aye; Senator Cotton—aye; Senator Cornyn—aye; Senator Sasse—aye.

By a vote of 9 ayes and 7 noes, the Committee adopted an amendment by Senator Cotton to the classified annex. The votes in person or by proxy were as follows: Chairman Warner—no; Senator Feinstein—no; Senator Wyden—no; Senator Heinrich—no; Senator King—aye; Senator Bennet—no; Senator Casey—no; Senator Gillibrand—no; Vice Chairman Rubio—aye; Senator Burr—aye; Senator Risch—aye; Senator Collins—aye; Senator Blunt—aye; Senator Cotton—aye; Senator Cornyn—aye; Senator Sasse—aye.

*Votes to report the committee bill*

On June 22, 2022, the Committee voted to report the bill, as amended, by a vote of 16 ayes and zero noes. The votes in person or by proxy were as follows: Chairman Warner—aye; Senator Feinstein—aye; Senator Wyden—aye; Senator Heinrich—aye; Senator King—aye; Senator Bennet—aye; Senator Casey—aye; Senator Gillibrand—aye; Vice Chairman Rubio—aye; Senator Burr—aye; Senator Risch—aye; Senator Collins—aye; Senator Blunt—aye; Senator Cotton—aye; Senator Cornyn—aye; Senator Sasse—aye.

By unanimous consent, the Committee authorized the staff to make technical and conforming changes to the bill and classified annex.

## 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 of authorizations 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 July 12, 2022, 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 VICE CHAIRMAN RUBIO

Keeping politics out of our intelligence apparatus is essential for its success. The Intelligence Authorization Act for fiscal year 2023 represents a broad, bipartisan consensus regarding the critical work performed by the men and women of our Intelligence Community.

This year's bill includes bipartisan language contained in the Annex to accompany the bill that prohibits the National Counterterrorism Center (NCTC) from performing intelligence analysis that lacks a foreign nexus. When NCTC was created, it was the drafters' intent that it bridge the divide between intelligence and law enforcement to "connect the dots" regarding transnational terrorism—a critical capability absent prior to the September 11, 2001 attacks. This constructive relationship has helped to ensure that the Intelligence Community is working with law enforcement when there is a link to a foreign entity.

Over the past several years, NCTC has produced analysis on events that pertain exclusively to domestic cases, even when it is clear that there is no foreign nexus. This concerning development disregards the clear intent for this Center and risks threatening the integrity of the Intelligence Community and the critical work of NCTC. Unless an act of terrorism within the homeland has a known or suspected foreign nexus, NCTC should not commit any of its limited analytic resources to the response. I appreciate the bipartisan consensus directing NCTC to focus its analytic resources on the threat of transnational terrorism consistent with its authorizing statute.

Similarly, I remain concerned by the use of National Intelligence Program funds to support the Department of Homeland Security's Disinformation Governance Board. Although the Committee did not adopt an amendment I offered—and all Minority members supported—that would prohibit Intelligence Community support to the Disinformation Governance Board, I will continue my efforts to ensure National Intelligence Program funds are not used to regulate Americans' free speech.

Secretary Mayorkas signed the Board's Charter on February 24, 2022 and, given the administration's characterization that the Board was on "pause" as of May 18, I presume the intent remains to continue with the Board's activities. The Charter stated that the Department's Office of Intelligence and Analysis, one of 18 Intelligence Community elements whose funds this Committee authorizes, was one of the "Standing Board members" from inception. Whatever one thinks of a government-sponsored, domestic-facing "board" designed to identify what elements of free speech the government deems to be disinformation, we should all be able to agree that our Intelligence Community should have no part in it.

I intend to continue to work in a bipartisan manner to ensure the Intelligence Community is focused on protecting Americans from threats to the homeland and on countering authoritarian regimes like Russia and China and not on lawful, protected activities of U.S. persons.

MARCO RUBIO.

## ADDITIONAL VIEWS OF SENATOR WYDEN

I am pleased that the Fiscal Year 2023 Intelligence Authorization Act (IAA) includes numerous provisions and amendments I put forward to increase transparency, advance declassification reform, strengthen cybersecurity, protect Intelligence Community whistleblowers, and improve the Intelligence Community's recruiting.

One provision, co-sponsored by Senator Heinrich, directs the DNI to report on the feasibility of greater transparency with regard to the Intelligence Community's activities governed by Executive Order 12333. In recent years, the Intelligence Community has made significant, if incomplete, progress in informing the public about surveillance conducted pursuant to the Foreign Intelligence Surveillance Act. By contrast, the Intelligence Community releases almost no information on the impact of Executive Order 12333 activities on U.S. persons or on violations of the Executive Order.

The bill promotes declassification reform by directing the Public Interest Declassification Board to report on recommended modifications to Executive Order 13526, which governs classification and declassification, a provision I put forward with Chairman Warner. As detailed above, the DNI is also directed to report on progress in implementing declassification reform. The critical importance of this direction was recently underscored by the DNI's acknowledgment that deficiencies in the current system undermine national security and that reform efforts have received insufficient resources and prioritization.

The bill includes a number of important cybersecurity and counter-surveillance provisions. While the Fiscal Year 2020 National Defense Authorization Act granted the DNI the authority to take actions to detect the use of international mobile subscriber identity catchers (surveillance devices that impersonate a phone company's cell towers in order to track, intercept and hack cell phones) and deploy countermeasures against them, that authority has not been exercised. The Fiscal Year 2023 IAA therefore includes a provision, co-sponsored by Senator Heinrich, mandating that the FBI Director conduct a two-year effort within the National Capital Region. Similarly, the Intelligence Community has not implemented a provision I included in the Fiscal Year 2018, 2019 and 2020 IAA authorizing the DNI to provide voluntary cybersecurity assistance for the personal devices and accounts of Intelligence Community personnel whom the DNI determines are vulnerable to foreign surveillance. The Fiscal Year 2023 bill therefore requires the DNI to offer that assistance and provide it if requested.

As described above, the bill ensures that the government provide a report, required by a provision I included in the Fiscal Year 2018, 2019, and 2020 IAA, on any attempts by foreign governments to exploit cybersecurity vulnerabilities in U.S. telecommunications networks, including Signaling System No. 7. Finally, I was pleased to

work with Senator Collins on an amendment mandating minimum cyber security standards for national security systems and requiring reports to Congress on any waivers of those standards.

The bill includes numerous provisions I included in the Fiscal Year 2022 bill that have not yet been passed into law. Most of those provisions protect Intelligence Community whistleblowers, by ensuring that their security clearances cannot be revoked based on a pretext, by removing the damages cap for reprisals, by ensuring that whistleblowers can come directly to Congress, and, by clarifying which whistleblower complaints must be submitted to Congress, a provision necessitated by the previous Administration's misinterpretation of the law. The bill also includes a provision from last year's bill ensuring continuity of the Privacy and Civil Liberties Oversight Board.

During the Committee's mark-up, I offered, with Senators Gillibrand and Heinrich, an amendment prohibiting the denial or revocation of a security clearance solely based on past or ongoing use of cannabis. This reform, which reflects widespread legalization around the country, is necessary if the U.S. Government is going to compete with the private sector and recruit and retain the talent it needs to defend the country. The modified version of the amendment, which applies to pre-employment use and to elements of the Intelligence Community, is a significant step in this direction.

RON WYDEN.

CHANGES TO EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee finds that it is necessary to dispense with the requirement of paragraph 12 to expedite the business of the Senate.

