

Union Calendar No. 74

106TH CONGRESS
1ST Session

H. R. 1555

[Report No. 106-130, Part I]

A BILL

To authorize appropriations for fiscal year 2000 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.

MAY 11, 1999

Committee on Armed Services discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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To authorize appropriations for fiscal year 2000 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.

IN THE HOUSE OF REPRESENTATIVES

APRIL 26, 1999

Mr. GOSS introduced the following bill; which was referred to the Permanent Select Committee on Intelligence

MAY 7, 1999

Reported with an amendment and referred to the Committee on Armed Services for a period ending not later than May 11, 1999, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(c), rule X

[Strike out all after the enacting clause and insert the part printed in italic]

Committee on Armed Services discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on April 26, 1999]

A BILL

To authorize appropriations for fiscal year 2000 for intelligence and intelligence-related activities of the United States Government, the Community Management Ac-

count, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the “In-*
 5 *telligence Authorization Act for Fiscal Year 2000”.*

6 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 7 *this Act is as follows:*

Sec. 1. Short title; table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.

Sec. 102. Classified schedule of authorizations.

Sec. 103. Personnel ceiling adjustments.

Sec. 104. Community Management Account.

Sec. 105. Authorization of emergency supplemental appropriations for fiscal year
1999.

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

Sec. 201. Authorization of appropriations.

TITLE III—GENERAL PROVISIONS

Sec. 301. Increase in employee compensation and benefits authorized by law.

Sec. 302. Restriction on conduct of intelligence activities.

Sec. 303. Sense of Congress on intelligence community contracting.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

Sec. 401. Two-year extension of CIA central services program.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

Sec. 501. Protection of operational files of the National Imagery and Mapping
Agency.

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2000 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of the Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

(10) The National Reconnaissance Office.

(11) The National Imagery and Mapping Agency.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as

1 of September 30, 2000, for the conduct of the intelligence
2 and intelligence-related activities of the elements listed in
3 such section, are those specified in the classified Schedule
4 of Authorizations prepared to accompany the bill H.R. 1555
5 of the One Hundred Sixth Congress.

6 (b) *AVAILABILITY OF CLASSIFIED SCHEDULE OF AU-*
7 *THORIZATIONS.*—*The Schedule of Authorizations shall be*
8 *made available to the Committees on Appropriations of the*
9 *Senate and House of Representatives and to the President.*
10 *The President shall provide for suitable distribution of the*
11 *Schedule, or of appropriate portions of the Schedule, within*
12 *the Executive Branch.*

13 **SEC. 103. PERSONNEL CEILING ADJUSTMENTS.**

14 (a) *AUTHORITY FOR ADJUSTMENTS.*—*With the ap-*
15 *proval of the Director of the Office of Management and*
16 *Budget, the Director of Central Intelligence may authorize*
17 *employment of civilian personnel in excess of the number*
18 *authorized for fiscal year 2000 under section 102 when the*
19 *Director of Central Intelligence determines that such action*
20 *is necessary to the performance of important intelligence*
21 *functions, except that the number of personnel employed in*
22 *excess of the number authorized under such section may not,*
23 *for any element of the intelligence community, exceed two*
24 *percent of the number of civilian personnel authorized*
25 *under such section for such element.*

1 (b) *NOTICE TO INTELLIGENCE COMMITTEES.*—The Di-
2 rector of Central Intelligence shall promptly notify the Per-
3 manent Select Committee on Intelligence of the House of
4 Representatives and the Select Committee on Intelligence of
5 the Senate whenever he exercises the authority granted by
6 this section.

7 **SEC. 104. INTELLIGENCE COMMUNITY MANAGEMENT AC-**
8 **COUNT.**

9 (a) *AUTHORIZATION OF APPROPRIATIONS.*—There is
10 authorized to be appropriated for the Intelligence Commu-
11 nity Management Account of the Director of Central Intel-
12 ligence for fiscal year 2000 the sum of \$193,572,000. Within
13 such amount, funds identified in the classified Schedule of
14 Authorizations referred to in section 102(a) for the Ad-
15 vanced Research and Development Committee shall remain
16 available until September 30, 2001.

17 (b) *AUTHORIZED PERSONNEL LEVELS.*—The elements
18 within the Community Management Account of the Direc-
19 tor of Central Intelligence are authorized 348 full-time per-
20 sonnel as of September 30, 2000. Personnel serving in such
21 elements may be permanent employees of the Community
22 Management Staff or personnel detailed from other elements
23 of the United States Government.

24 (c) *CLASSIFIED AUTHORIZATIONS.*—

1 (1) *AUTHORIZATION OF APPROPRIATIONS.*—*In*
2 *addition to amounts authorized to be appropriated*
3 *for the Community Management Account by sub-*
4 *section (a), there are also authorized to be appro-*
5 *priated for the Community Management Account for*
6 *fiscal year 2000 such additional amounts as are spec-*
7 *ified in the classified Schedule of Authorizations re-*
8 *ferred to in section 102(a). Such additional amounts*
9 *shall remain available until September 30, 2001.*

10 (2) *AUTHORIZATION OF PERSONNEL.*—*In addi-*
11 *tion to the personnel authorized by subsection (b) for*
12 *elements of the Community Management Account as*
13 *of September 30, 2000, there are hereby authorized*
14 *such additional personnel for such elements as of that*
15 *date as are specified in the classified Schedule of Au-*
16 *thorizations.*

17 (d) *REIMBURSEMENT.*—*Except as provided in section*
18 *113 of the National Security Act of 1947 (50 U.S.C. 404h),*
19 *during fiscal year 2000, any officer or employee of the*
20 *United States or a member of the Armed Forces who is de-*
21 *tailed to the staff of the Community Management Account*
22 *from another element of the United States Government shall*
23 *be detailed on a reimbursable basis, except that any such*
24 *officer, employee, or member may be detailed on a non-*
25 *reimbursable basis for a period of less than one year for*

1 *the performance of temporary functions as required by the*
2 *Director of Central Intelligence.*

3 *(e) NATIONAL DRUG INTELLIGENCE CENTER.—*

4 *(1) IN GENERAL.—Of the amount appropriated*
5 *pursuant to the authorization in subsection (a), the*
6 *amount of \$27,000,000 shall be available for the Na-*
7 *tional Drug Intelligence Center. Within such amount,*
8 *funds provided for research, development, test, and*
9 *evaluation purposes shall remain available until Sep-*
10 *tember 30, 2001, and funds provided for procurement*
11 *purposes shall remain available until September 30,*
12 *2002.*

13 *(2) TRANSFER OF FUNDS.—The Director of Cen-*
14 *tral Intelligence shall transfer to the Attorney General*
15 *of the United States funds available for the National*
16 *Drug Intelligence Center under paragraph (1). The*
17 *Attorney General shall utilize funds so transferred for*
18 *the activities of the National Drug Intelligence Cen-*
19 *ter.*

20 *(3) LIMITATION.—Amounts available for the Na-*
21 *tional Drug Intelligence Center may not be used in*
22 *contravention of the provisions of section 103(d)(1) of*
23 *the National Security Act of 1947 (50 U.S.C. 403–*
24 *3(d)(1)).*

1 (4) *AUTHORITY.*—Notwithstanding any other
2 provision of law, the Attorney General shall retain
3 full authority over the operations of the National
4 Drug Intelligence Center.

5 **SEC. 105. AUTHORIZATION OF EMERGENCY SUPPLEMENTAL**
6 **APPROPRIATIONS FOR FISCAL YEAR 1999.**

7 (a) *AUTHORIZATION.*—Amounts authorized to be ap-
8 propriated for fiscal year 1999 under section 101 of the In-
9 telligence Authorization Act for Fiscal Year 1999 (Public
10 Law 105–272) for the conduct of the intelligence activities
11 of elements of the United States Government listed in such
12 section are hereby increased, with respect to any such au-
13 thorized amount, by the amount by which appropriations
14 pursuant to such authorization were increased by an emer-
15 gency supplemental appropriation in a supplemental ap-
16 propriations Act for fiscal year 1999 that is enacted after
17 May 1, 1999, for such amounts as are designated by Con-
18 gress as an emergency requirement pursuant to section
19 251(b)(2)(A) of the Balanced Budget and Emergency Def-
20 icit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

21 (b) *RATIFICATION.*—For purposes of section 504 of the
22 National Security Act of 1947 (50 U.S.C. 414), any obliga-
23 tion or expenditure of those amounts deemed to have been
24 specifically authorized by Congress in the Act referred to
25 in subsection (a) is hereby ratified and confirmed.

1 **TITLE II—CENTRAL INTEL-**
2 **LIGENCE AGENCY RETIRE-**
3 **MENT AND DISABILITY SYS-**
4 **TEM**

5 **SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

6 *There is authorized to be appropriated for the Central*
7 *Intelligence Agency Retirement and Disability Fund for fis-*
8 *cal year 2000 the sum of \$209,100,000.*

9 **TITLE III—GENERAL**
10 **PROVISIONS**

11 **SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND**
12 **BENEFITS AUTHORIZED BY LAW.**

13 *Appropriations authorized by this Act for salary, pay,*
14 *retirement, and other benefits for Federal employees may*
15 *be increased by such additional or supplemental amounts*
16 *as may be necessary for increases in such compensation or*
17 *benefits authorized by law.*

18 **SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE**
19 **ACTIVITIES.**

20 *The authorization of appropriations by this Act shall*
21 *not be deemed to constitute authority for the conduct of any*
22 *intelligence activity which is not otherwise authorized by*
23 *the Constitution or the laws of the United States.*

1 **SEC. 303. SENSE OF CONGRESS ON INTELLIGENCE COMMU-**
2 **NITY CONTRACTING.**

3 *It is the sense of Congress that the Director of Central*
4 *Intelligence should continue to direct that elements of the*
5 *intelligence community, whenever compatible with the na-*
6 *tional security interests of the United States and consistent*
7 *with operational and security concerns related to the con-*
8 *duct of intelligence activities, and where fiscally sound,*
9 *should competitively award contracts in a manner that*
10 *maximizes the procurement of products properly designated*
11 *as having been made in the United States.*

12 **TITLE IV—CENTRAL**
13 **INTELLIGENCE AGENCY**

14 **SEC. 401. TWO-YEAR EXTENSION OF CIA CENTRAL SERVICES**
15 **PROGRAM.**

16 *Section 21(h)(1) of the Central Intelligence Agency Act*
17 *of 1949 (50 U.S.C. 403u(h)(1)) is amended by striking out*
18 *“March 31, 2000.” and inserting “March 31, 2002.”.*

19 **TITLE V—DEPARTMENT OF DE-**
20 **FENSE INTELLIGENCE ACTIVI-**
21 **TIES**

22 **SEC. 501. PROTECTION OF OPERATIONAL FILES OF THE NA-**
23 **TIONAL IMAGERY AND MAPPING AGENCY.**

24 *(a) IN GENERAL.—Subchapter I of chapter 22 of title*
25 *10, United States Code, is amended by adding at the end*
26 *the following new section:*

1 **“§ 446. Protection of operational files**

2 “(a) *EXEMPTION OF CERTAIN OPERATIONAL FILES*
3 *FROM SEARCH, REVIEW, PUBLICATION, OR DISCLOSURE.—*

4 *(1) The Director of the National Imagery and Mapping*
5 *Agency, with the coordination of the Director of Central In-*
6 *telligence, may exempt operational files of the National Im-*
7 *agery and Mapping Agency from the provisions of section*
8 *552 of title 5 (Freedom of Information Act), which require*
9 *publication, disclosure, search, or review in connection*
10 *therewith.*

11 “(2)(A) *Subject to subparagraph (B), for the purposes*
12 *of this section, the term ‘operational files’ means files of*
13 *the National Imagery and Mapping Agency (hereinafter in*
14 *this section referred to as ‘NIMA’) concerning the activities*
15 *of NIMA that before the establishment of NIMA were per-*
16 *formed by the National Photographic Interpretation Center*
17 *of the Central Intelligence Agency (NPIC), that document*
18 *the means by which foreign intelligence or counterintel-*
19 *ligence is collected through scientific and technical systems.*

20 “(B) *Files which are the sole repository of dissemi-*
21 *nated intelligence are not operational files.*

22 “(3) *Notwithstanding paragraph (1), exempted oper-*
23 *ational files shall continue to be subject to search and review*
24 *for information concerning—*

25 “(A) *United States citizens or aliens lawfully*
26 *admitted for permanent residence who have requested*

1 *information on themselves pursuant to the provisions*
2 *of section 552 of title 5, or section 552a of title 5*
3 *(Privacy Act of 1974);*

4 *“(B) any special activity the existence of which*
5 *is not exempt from disclosure under the provisions of*
6 *section 552 of title 5; or*

7 *“(C) the specific subject matter of an investiga-*
8 *tion by any of the following for any impropriety, or*
9 *violation of law, Executive order, or Presidential di-*
10 *rective, in the conduct of an intelligence activity:*

11 *“(i) The Permanent Select Committee on*
12 *Intelligence of the House of Representatives.*

13 *“(ii) The Select Committee on Intelligence*
14 *of the Senate.*

15 *“(iii) The Intelligence Oversight Board.*

16 *“(iv) The Department of Justice.*

17 *“(v) The Office of General Counsel of*
18 *NIMA.*

19 *“(vi) The Office of the Director of NIMA.*

20 *“(4)(A) Files that are not exempted under paragraph*
21 *(1) which contain information derived or disseminated*
22 *from exempted operational files shall be subject to search*
23 *and review.*

24 *“(B) The inclusion of information from exempted oper-*
25 *ational files in files that are not exempted under paragraph*

1 *(1) shall not affect the exemption under paragraph (1) of*
2 *the originating operational files from search, review publi-*
3 *cation, or disclosure.*

4 *“(C) Records from exempted operational files which*
5 *have been disseminated to and referenced in files that are*
6 *not exempted under paragraph (1) and which have been*
7 *returned to exempted operational files for sole retention*
8 *shall be subject to search and review.*

9 *“(5) The provisions of paragraph (1) may not be su-*
10 *perseded except by a provision of law which is enacted after*
11 *the date of enactment of this section, and which specifically*
12 *cites and repeals or modifies its provisions.*

13 *“(6)(A) Except as provided in subparagraph (B),*
14 *whenever any person who has requested agency records*
15 *under section 552 of title 5, alleges that NIMA has withheld*
16 *records improperly because of failure to comply with any*
17 *provision of this section, judicial review shall be available*
18 *under the terms set forth in section 552(a)(4)(B) of title*
19 *5.*

20 *“(B) Judicial review shall not be available in the man-*
21 *ner provided for under subparagraph (A) as follows:*

22 *“(i) In any case in which information specifi-*
23 *cally authorized under criteria established by an Ex-*
24 *ecutive Order to be kept secret in the interests of na-*
25 *tional defense or foreign relations is filed with, or*

1 *produced for, the court by NIMA, such information*
2 *shall be examined ex parte, in camera by the court.*

3 “(ii) *The court shall, to the fullest extent prac-*
4 *ticable, determine the issues of fact based on sworn*
5 *written submissions of the parties.*

6 “(iii) *When a complainant alleges that requested*
7 *records are improperly withheld because of improper*
8 *placement solely in exempted operational files, the*
9 *complainant shall support such allegation with a*
10 *sworn written submission based upon personal knowl-*
11 *edge or otherwise admissible evidence.*

12 “(iv)(I) *When a complainant alleges that re-*
13 *quested records were improperly withheld because of*
14 *improper exemption of operational files, NIMA shall*
15 *meet its burden under section 552(a)(4)(B) of title 5,*
16 *by demonstrating to the court by sworn written sub-*
17 *mission that exempted operational files likely to con-*
18 *tain responsive records currently perform the func-*
19 *tions set forth in paragraph (2).*

20 “(II) *The court may not order NIMA to review*
21 *the content of any exempted operational file or files*
22 *in order to make the demonstration required under*
23 *subclause (I), unless the complainant disputes NIMA’s*
24 *showing with a sworn written submission based on*
25 *personal knowledge or otherwise admissible evidence.*

1 “(v) In proceedings under clauses (iii) and (iv),
2 the parties may not obtain discovery pursuant to
3 rules 26 through 36 of the Federal Rules of Civil Pro-
4 cedure, except that requests for admissions may be
5 made pursuant to rules 26 and 36.

6 “(vi) If the court finds under this paragraph
7 that NIMA has improperly withheld requested records
8 because of failure to comply with any provision of
9 this subsection, the court shall order NIMA to search
10 and review the appropriate exempted operational file
11 or files for the requested records and make such
12 records, or portions thereof, available in accordance
13 with the provisions of section 552 of title 5, and such
14 order shall be the exclusive remedy for failure to com-
15 ply with this subsection.

16 “(vii) If at any time following the filing of a
17 complaint pursuant to this paragraph NIMA agrees
18 to search the appropriate exempted operational file or
19 files for the requested records, the court shall dismiss
20 the claim based upon such complaint.

21 “(viii) Any information filed with, or produced
22 for the court pursuant to clauses (i) and (iv) shall be
23 coordinated with the Director of Central Intelligence
24 prior to submission to the court.

1 “(b) *DECENNIAL REVIEW OF EXEMPTED OPER-*
2 *ATIONAL FILES.*—(1) *Not less than once every ten years,*
3 *the Director of the National Imagery and Mapping Agency*
4 *and the Director of Central Intelligence shall review the ex-*
5 *emptions in force under subsection (a)(1) to determine*
6 *whether such exemptions may be removed from the category*
7 *of exempted files or any portion thereof. The Director of*
8 *Central Intelligence must approve any determination to re-*
9 *move such exemptions.*

10 “(2) *The review required by paragraph (1) shall in-*
11 *clude consideration of the historical value or other public*
12 *interest in the subject matter of the particular category of*
13 *files or portions thereof and the potential for declassifying*
14 *a significant part of the information contained therein.*

15 “(3) *A complainant that alleges that NIMA has im-*
16 *properly withheld records because of failure to comply with*
17 *this subsection may seek judicial review in the district court*
18 *of the United States of the district in which any of the par-*
19 *ties reside, or in the District of Columbia. In such a pro-*
20 *ceeding, the court’s review shall be limited to determining*
21 *the following:*

22 “(A) *Whether NIMA has conducted the review re-*
23 *quired by paragraph (1) before the expiration of the*
24 *ten-year period beginning on the date of the enact-*
25 *ment of this section or before the expiration of the ten-*

1 *year period beginning on the date of the most recent*
2 *review.*

3 “(B) *Whether NIMA, in fact, considered the cri-*
4 *teria set forth in paragraph (2) in conducting the re-*
5 *quired review.*”.

6 (b) *CLERICAL AMENDMENT.—The table of sections at*
7 *the beginning of subchapter I of chapter 22 of title 10,*
8 *United States Code, is amended by adding at the end the*
9 *following new item:*

 “446. *Protection of operational files.*”.