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### INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2004

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JUNE 26, 2003.—Ordered to be printed

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

### R E P O R T

[To accompany S. 1025]

The Committee on Armed Services, to which was referred the bill (S. 1025) to authorize appropriations for fiscal year 2004 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

#### PURPOSE OF THE BILL

S. 1025 would authorize appropriations and other matters for Fiscal Year 2004 for intelligence activities of the United States, including certain Department of Defense intelligence-related activities within the jurisdiction of the Senate Armed Services Committee.

The Senate Select Committee on Intelligence reported the bill on May 8, 2003, and it was referred to the Committee on Armed Services in accordance with section 3(b) of Senate Resolution 400, 94th Congress.

#### SCOPE OF THE COMMITTEE REVIEW

The committee has carefully reviewed the Intelligence Authorization Act for Fiscal Year 2004 and the Senate report to accompany S. 1025 (S. Rept. 108-44). The total amount within the jurisdiction of the Committee on Armed Services recommended for the National Foreign Intelligence Program has been incorporated into the budget tables in the Senate Amendment to H.R. 1588, the National De-

fense Authorization Act for Fiscal Year 2004, which the Senate passed on June 4, 2003.

The following explains the committee's proposed amendments to the bill, as reported by the Senate Select Committee on Intelligence, as well as the committee's clarification to the report issued by the Senate Select Committee on Intelligence.

*Classified annex to the committee report*

The committee has prepared a classified annex to this report that describes other recommendations and concerns that are classified in nature.

*Operational files of the National Security Agency*

Section 501 of S. 1025 would exempt certain files of the National Security Agency from review and disclosure under current Freedom of Information Act (FOIA) procedures. The National Defense Authorization Act for Fiscal Year 2004 (S. 1050) contains a similar provision, Section 1035 of S. 1050. Based on discussions with the National Security Agency (NSA) and private citizens concerned about rightful access to unclassified and declassified holdings, the Senate Armed Services Committee amended its original provision to specifically define which files within the National Security Agency would be exempted, ensuring that highly sensitive files within two directorates at NSA that contain technical information about U.S. intelligence collection capabilities are exempt until declassified, but that all other files at NSA remain subject to normal FOIA procedures. The committee's proposed amendment to S. 1025 would substitute the language contained in Section 1035 of S. 1050 for the language contained in the Intelligence Authorization Act for Fiscal Year 2004 (S. 1025), as reported by the Senate Select Committee on Intelligence.

*Provision of living quarters for certain students working at National Security Agency laboratory*

Section 502 of S. 1025 would authorize the National Security Agency (NSA) to provide, and if necessary subsidize, living quarters for certain students working in NSA laboratories. The National Defense Authorization Act for Fiscal Year 2004 (S. 1050) contains a similar provision, Section 1034. The provision would amend Section 2195 of title 10, United States Code, which is the responsibility of the Committee on Armed Services of the Senate. The committee's proposed amendment to S. 1025 would strike the language contained in Section 502. This provision will be addressed by the committee of conference on the National Defense Authorization Act for Fiscal Year 2004.

*Authority to enter into personal services contracts*

Section 504 of S. 1025 would authorize Intelligence Community elements of the Department of Defense to enter into personal services contracts in order to address temporary needs for additional personnel with specific expertise to meet unanticipated, operational requirements. The National Defense Authorization Act for Fiscal Year 2004 (S. 1050) contains a similar provision, Section 813. The committee's proposed amendment to S. 1025 would strike the language contained in Section 504. The committee believes that the

language contained in Section 813 of S. 1050 is a more comprehensive provision that would amend title 10, United States Code, and would apply not only to intelligence elements of the Department of Defense, but also to certain activities of U.S. Special Operations Command. This provision will be addressed by the committee of conference on the National Defense Authorization Act for Fiscal Year 2004.

*Defense Finance and Accounting Service and the National Security Agency*

The committee takes note of the concerns about financial and accounting practices at the National Security Agency (NSA) expressed by the Senate Select Committee on Intelligence in their report (S. Rept. 108-44). As a matter of more efficient and uniform financial and accounting practices within the Department of Defense (DOD), the Defense Finance and Accounting Service (DFAS) is considering moving certain aspects of NSA finance and accounting support centers under the more centralized control of DFAS. Jurisdiction over DFAS and accounting practices of the Department of Defense lies within the exclusive practices of the Department of Defense lies within the exclusion jurisdiction of the Committee on Armed Services of the Senate. The committee does not agree with the need for the Department of Defense to seek approval of the Senate Select Committee on Intelligence to improve, streamline and standardize financial and accounting practices across the Department. The Department should look to the Committee on Armed Services of the Senate for oversight and any required approval of plans to alter current finance and accounting procedures. The committee will consult with the Senate Select Committee on Intelligence regarding significant changes. The committee fully supports the Department of Defense's efforts to improve department-wide financial management and accountability. As DOD implements its financial management modernization effort, the Committee expects the Department to ensure that classified financial information at NSA is adequately protected, and all NSA financial information, as well as that of all Defense Agencies, is reviewed and processed in a manner that provides for greater accountability, efficiency, and oversight by DOD.

COMMITTEE ACTION

In accordance with the Legislative Reorganization Act of 1946, as amended by the Legislative Reorganization Act of 1970, the committee approved a motion to report favorably to the Senate S. 1025, with an amendment.

FISCAL DATA

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

REGULATORY IMPACT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires that a report on the regulatory impact of a bill be included in the report on the bill. The committee finds that there is

no regulatory impact in the cost of S. 1025, the Intelligence Authorization Act for Fiscal Year 2004.

CHANGES IN EXISTING LAW

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