



CONGRESSIONAL BUDGET OFFICE  
COST ESTIMATE

August 9, 2018

**S. 3153**  
**Matthew Young Pollard Intelligence Authorization Act for Fiscal Years**  
**2018 and 2019**

*As reported by the Senate Select Committee on Intelligence  
on July 11, 2018*

**SUMMARY**

S. 3153 would authorize appropriations for fiscal years 2018 and 2019 for intelligence activities of the U.S. government, including the Intelligence Community Management Account (ICMA) and the Central Intelligence Agency Retirement and Disability System (CIARDS). The bill also would modify the security clearance process across the federal government and create or modify other programs across the intelligence community (IC).

CBO does not provide estimates for classified programs; therefore, this estimate addresses only the unclassified aspects of the bill. In addition, CBO cannot provide estimates for certain provisions in the unclassified portion of the bill because they concern classified programs. On that limited basis, CBO estimates that implementing the unclassified provisions of the bill would cost about \$4.9 billion over the 2019-2023 period, subject to appropriation of the specified and estimated amounts.

In addition, enacting the bill also would affect direct spending; therefore, pay-as-you-go procedures apply. On net, however, CBO estimates that those effects could be significant over the 2019-2028 period. Enacting the bill would not affect revenues.

CBO estimates that enacting S. 3153 would not significantly increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

S. 3153 would impose an intergovernmental mandate, as defined in the Unfunded Mandates Reform Act (UMRA), on state and local, and tribal governments, but CBO estimates that it would impose no duty on those governments that would result in additional spending or a loss of revenues.

S. 3153 contains no private-sector mandates as defined in UMRA.

## ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary effect of S. 3153 is shown in the following table. The costs of this legislation fall within all budget functions that fund security and suitability investigations.

	By Fiscal Year, in Millions of Dollars						2019-
	2018	2019	2020	2021	2022	2023	2023
<b>SPENDING SUBJECT TO APPROPRIATION<sup>a</sup></b>							
<b>Security Clearances</b>							
Estimated Authorization Level	0	296	610	950	1,310	1,355	4,521
Estimated Outlays	0	266	580	915	1,275	1,350	4,386
<b>Intelligence Community Management Account</b>							
Authorization Level	0	540	0	0	0	0	540
Estimated Outlays	0	351	151	19	8	3	532
<b>Securing Energy Infrastructure</b>							
Authorization Level	0	12	0	0	0	0	12
Estimated Outlays	0	4	6	2	0	0	12
<b>Special Rates of Pay</b>							
Estimated Authorization Level	0	1	1	2	2	3	9
Estimated Outlays	0	1	1	2	2	3	9
<b>Total</b>							
Total Authorization Level	0	849	611	952	1,312	1,358	5,082
Estimated Outlays	0	622	738	938	1,285	1,356	4,939

- a. In addition to the budgetary effects shown above, enacting S. 3153 would affect direct spending over the 2019-2028 period. Those effects are discussed in the “direct spending” section of this estimate.

## **BASIS OF ESTIMATE**

For this estimate, CBO assumes that S. 3153 will be enacted near the beginning of fiscal year 2019. Outlays are based on historical spending patterns for existing or similar programs.

### **Spending Subject to Appropriation**

Assuming appropriation of the specified and estimated amounts, CBO estimates that implementing the bill would cost about \$4.9 billion over the 2019-2023 period.

**Security Clearances.** Title VI would require the Security, Suitability, and Credentialing Performance Accountability Council (the Council) to take all actions necessary to ensure that, by December 31, 2021:<sup>1</sup>

- 90 percent of initial determinations for secret and top secret clearances are issued within 30 and 90 days, respectively;
- 90 percent of security clearances for employees moving between federal agencies must be accepted by the new agency within two weeks if the clearances are equivalent; and
- Not more than 10 percent of all clearance holders are reinvestigated at set intervals.

Title VI also would require the Council, the Director of National Intelligence (DNI) (either acting in the capacity as DNI or as the Security Executive Agent), and other entities across the federal government to develop plans, policies, and strategies; to perform reviews; and, to prepare reports on different aspects of the security clearance process. In addition, section 612 would require DNI, acting as the Security Executive Agent, to establish a program to share information between and among agencies and industry partners about employees in, or considered for, positions of trust. In total, CBO estimates that implementing title VI would cost about \$4.4 billion over the 2019-2023 period, assuming appropriation of the necessary amounts.

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1. The Security, Suitability, and Credentialing Performance Accountability Council was established by Executive Order 13467, as amended, to oversee reform of the federal government's system for determining the eligibility of individuals to access classified information, hold sensitive positions (positions in which an individual could affect national security or trust in the federal government regardless of whether the individual has access to classified information), and gain physical or logical access to federal facilities or information systems.

*Timeliness.* Current law (50 U.S.C. 3341) requires that 90 percent of security clearance determinations must be completed in an average of 60 days from the date of receipt of a completed application, to the extent practicable. That timeliness standard has been applied only to initial determinations for secret clearances. The current timeliness goals for the fastest 90 percent of security clearance determinations are:

- An average of 60 days for initial secret clearances (40 days to complete the investigative phase and 20 days to complete the adjudicative phase),
- An average of 100 days for initial top secret clearances (80 days to complete the investigative phase and 20 days to complete the adjudicative phase), and
- An average of 180 days for periodic reinvestigations regardless of clearance level (150 days to complete the investigative phase and 30 days to complete the adjudicative phase).

Those goals, whether determined by statute or policy, however, currently are not being met. At the end of the second quarter of 2018, the backlog of pending cases exceeded 700,000. CBO estimates that about \$1.6 billion will be spent on all investigative services and another \$0.1 billion will be spent on adjudicative services across the federal government in 2018. With that backlog, and under those resource levels, the average time it took to complete the investigative and adjudicative phases for the fastest 90 percent of clearances at the end of the second quarter of 2018 was:

- 190 days for initial secret clearances (162 days to complete the investigative phase and 28 days to complete the adjudicative phase).
- 388 days for initial top secret clearances (345 days to complete the investigative phase and 43 days to complete the adjudicative phase).
- 289 days for periodic reinvestigations (253 days to complete the investigative phase and 36 days to complete the adjudicative phase).

In order to meet the 30 and 90 day requirements of title VI, the backlog must first be reduced to a level that would allow the federal government to meet the existing investigative and adjudicative processing goals. The National Background Investigations Bureau (NBIB) was established on October 1, 2016, and performs about 95 percent of the federal government's background investigations. NBIB has been steadily expanding its workforce and recently reported that it expects to reduce the backlog to a manageable inventory in a couple of years. Concurrently, as NBIB works to reduce the backlog, the

entire NBIB background investigation program is expected to be transferred to the Department of Defense (DoD).<sup>2</sup>

Given those recent and upcoming changes to the background investigation program, it is difficult to accurately project how quickly and how much the backlog will be reduced under current law. In the absence of any reliable information on those outcomes, CBO assumes that the current and planned initiatives will reduce the backlog as planned and allow the current timeliness goals to be met by 2022. We also assume that the transfer of NBIB's responsibilities to DoD will be properly resourced and completed as planned.

The distinction between the current timeliness goals and those prescribed by the bill is significant. The current structure establishes goals for an average processing time for the fastest 90 percent of cases. By contrast, the bill would establish a maximum processing time for the fastest 90 percent of cases. That maximum processing time would be significantly shorter than the current average processing time. Taking that into consideration, we estimate that the capacity to investigate and adjudicate initial secret and top secret clearances would need to increase by about 200 percent and 67 percent, respectively, to meet the faster processing requirements of title VI. For 2018, CBO estimates that about \$0.4 billion and \$0.6 billion will be spent on investigating and adjudicating initial secret clearances and initial top secret clearances, respectively, across the federal government. Thus, spending on those activities would ultimately need to increase by about \$1.2 billion annually. CBO expects it would take four years to hire and train the necessary number of additional investigators and adjudicators. Accounting for that gradual implementation, CBO estimates that it would cost about \$0.3 billion in 2019 and about \$4.4 billion over the 2019-2023 period, assuming appropriation of the estimated amounts.

*Reciprocity.* Under current law, federal agencies are generally required to accept current and equivalent security clearance background investigations and determinations completed by an authorized investigative or adjudicative agency. However, some security clearances may not be eligible for reciprocity, such as a clearance that was issued on an interim or temporary basis or a clearance that requires a polygraph in the new position. The gaining agency would then request additional security clearance processing prior to granting the individual access to classified information. Title VI would require agencies to make those reciprocity determinations on 90 percent of requests in under two weeks.

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2. Section 925 of Public Law 115-91, the National Defense Authorization Act for Fiscal Year 2018, authorized DoD to conduct security, suitability, and credentialing background investigations for DoD personnel. The Administration has since decided to transfer NBIB's entire background investigation program to DoD. That transfer is to begin by October 1, 2020.

Based on recent findings by the Government Accountability Office, a governmentwide system to collect data on reciprocity was not available as of November 2017.<sup>3</sup> Earlier in 2017, a nonprofit membership organization, the Intelligence and National Security Alliance, chartered its own study among its members on their experiences with reciprocity determinations for contractors with top secret clearances and sensitive compartmented information access across the IC. The findings of that study revealed that about 80 percent of reciprocity determinations were made within 14 days, and 12 percent were made between 15 and 21 days. Although this data represents the experience of voluntary respondents and their respective interactions with elements of the IC, it provides evidence that achieving the two-week goal may be possible by applying the best practices of the fastest IC elements across the federal government. CBO has requested reciprocity data from the Administration along with any available information as to why reciprocity determinations may take longer than two weeks. Without that data, we cannot estimate the effects of this provision.

*Periodic Reinvestigations.* Title VI would require the Council to ensure that reinvestigations carried out at set intervals are conducted on not more than 10 percent of all clearance holders. In 2016, about 4 million individuals held clearances, and this provision would require the federal government to use methods other than periodic reinvestigations on about 3.6 million of them to ensure that they remain eligible to access classified information. CBO expects that the method used to replace periodic reinvestigations would include, but not be limited to, the use of automated records checks.

Any costs or savings realized by using automated records checks as part of a larger effort to replace periodic investigations would depend on the frequency (e.g. daily, weekly, monthly, annually) with which they were implemented and the methods used to obtain information they cannot provide. Because CBO does not know how the Council would implement this provision, we cannot estimate its effects on spending.

*Administrative Costs.* Title VI would require entities across the federal government to develop policies, perform assessments, and prepare reports on different aspects of the security clearance process. For entities in the IC, CBO expects that the administrative costs of those requirements would be covered by the amounts authorized to be appropriated in the classified annex and for the ICMA. For federal entities that are not part of the IC, CBO estimates total costs of \$1 million over the 2019-2023 period.

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3. Government Accountability Office, *Personnel Security Clearances: Additional Actions Needed to Ensure Quality, Address Timeliness, and Reduce Investigative Backlog*. GAO-18-29 (December 2017).

*Information Sharing.* Section 612 would require DNI, acting as the Security Executive Agent, to establish a program to share information, including derogatory information, between and among agencies and industry partners regarding individuals who are being considered for, or are already in, positions of trust. According to DoD, the largest federal employer, the ability of the federal government to share derogatory information about individuals with its industry partners is constrained by existing privacy laws. The Privacy Act of 1974, 5 U.S.C. 552a, prevents government agencies from sharing any personally identifiable information it maintains about an individual with other agencies or private sources unless the agency obtains the individual’s consent, the sharing falls under an exception, or the agency updates its routine uses in a System of Records Notice. Thus, CBO assumes that any information sharing required by this section would be limited until those issues are resolved. Because CBO does not know how DNI would implement this provision to comport with the Privacy Act of 1974, we cannot estimate its effects on spending.

While most agencies are funded through the annual appropriations process, some agencies are authorized to spend monies collected from other sources, such as user fees. In addition to the increases in spending subject to appropriation described above, any increase in costs to process security clearances and satisfy the requirements of this title incurred by those agencies would be considered direct spending. Those effects are discussed below in the “direct spending” section of this estimate.

**Intelligence Community Management Account.** Section 104 would authorize the appropriation of \$540 million for fiscal year 2019 for the ICMA. The ICMA is the principal source of funding for the Office of the Director of National Intelligence and for managing the intelligence agencies. Assuming appropriation of the authorized amount, CBO estimates that implementing section 104 would cost about \$530 million over the 2019-2023 period. Section 104 also could extend through September 30, 2019, the availability of certain balances appropriated for the ICMA in 2018. Extending the availability of appropriations constitutes a reappropriation and is classified as direct spending. Those effects are discussed below in the “direct spending” section of this estimate.

**Securing Energy Infrastructure.** Section 732 would authorize the appropriation of \$10 million for the Department of Energy (DOE) to carry out a pilot program to identify security weaknesses in critical infrastructure (for example, power generation, transmission, and distribution systems) that could result in a debilitating effect on national security, economic security, public health, or safety. DOE, in partnership with participating owners and operators of such infrastructure, would evaluate technologies and standards that could be used to defend those assets.

Section 732 also would authorize the appropriation of \$1.5 million for DOE to establish a working group to evaluate the technologies and standards assessed during the pilot program. The working group also would be required to develop a national engineering strategy to be used to defend the nation's critical infrastructure from security vulnerabilities.

CBO estimates that implementing section 732 would cost \$11.5 million over the 2019-2023 period.

**Special Rates of Pay.** S. 3153 would authorize the National Security Agency (NSA) and the National Intelligence University (NIU) to establish special pay rates for certain employees. Collectively, CBO estimates that implementing those higher rates of pay would cost \$9 million over the 2019-2023 period, assuming appropriation of the necessary amounts.

*NSA Pay Authority.* Section 303 would authorize NSA to establish higher pay rates for employees who carry out the cyber mission of the agency. In general, the rates of pay established under that authority could not exceed the rate of basic pay for level II of the Executive Schedule (\$189,600, in 2018); however, in certain circumstances, up to 100 NSA employees at any given time could receive up to the rate of basic pay for the Vice President of the United States (\$243,500, in 2018).

Based on an analysis of information made available by DoD, CBO estimates that about two to three dozen employees would receive an average of \$15,500 more in compensation in fiscal year 2019 under this provision. That amount reflects our expectation that the new pay rates would go into effect six months following enactment (halfway into the fiscal year) which would allow NSA time to develop and apply those higher rates of pay. After taking into consideration yearly pay increases and the expectation that NSA would expand its use of this authority over time, CBO estimates that by 2023 the average increase in annual compensation would be about \$34,400 and the number of NSA employees receiving such increases would double. Thus, CBO estimates that implementing higher pay rates for those NSA employees would cost \$7 million over the 2019-2023 period.

*NIU Pay Authority.* Section 737 would authorize NIU to establish a separate pay schedule for its faculty members. Under current law, NIU faculty are paid under the Defense Civilian Intelligence Personnel System (DCIPS). Based on information from DoD, CBO expects that a limited number of existing faculty, as well as all new faculty members could benefit from higher rates of pay established under this authority. For instance, faculty members could be offered a higher rate of pay after obtaining a doctoral degree.

Under the existing DCIPS pay schedule, faculty members receive increases based on longevity, but there is no ability to offer faculty members a higher salary for such an academic achievement. In addition, higher rates of pay could be used to attract and retain individuals with the qualifications necessary to teach at NIU. Those instances, however, would occur infrequently because of the low turnover rate among faculty at NIU. After taking into consideration NIU's low turnover rate, CBO estimates that fewer than two dozen new faculty members would receive higher rates of pay under this authority by 2023. Assuming similar increases in total compensation estimated above for section 303, CBO estimates that implementing this section would cost \$2 million over the 2019-2023 period.

### **Direct Spending**

S. 3153 would make changes to the Central Intelligence Agency Retirement and Disability System that would enhance the benefits offered to certain annuitants and authorize appropriations for 2018 and 2019. The bill also could extend the period of availability of appropriations provided for the ICMA in 2018. On net, and excluding provisions related to classified programs, CBO estimates that enacting S. 3153 would have an insignificant effect on direct spending.

**Intelligence Community Management Account.** Section 104 could extend through September 30, 2019, the availability of certain balances appropriated for classified activities that would otherwise lapse at the end of fiscal year 2018. Extending the availability of appropriations that have already been provided constitutes a reappropriation and is classified as direct spending in an authorization bill. Because of the classified nature of the amounts in question, CBO cannot determine whether any amounts would be reappropriated. If the section does extend the period of availability of expiring balances, there is a possibility that the budgetary effects of that reappropriation would be significant.

**CIARDS Benefits Adjustments.** Section 202 would make a number of changes to CIARDS to align the benefits offered to employees, retirees, or survivors under CIARDS with the benefits currently offered to employees, retirees, or survivors under the Civil Service Retirement System. For example, the bill would alter the way retirement benefits are calculated for employees who worked for the Central Intelligence Agency (CIA) before April 7, 1986, and at some point during their career, worked on a part-time basis. The bill also would allow married employees retiring under CIARDS after enactment to provide a survivor annuity to someone with an insurable interest. (An insurable interest exists when an individual derives financial benefit from the retiring employee continuing to be alive.) On the basis of information from the CIA, CBO estimates that only a small

number of individuals would benefit from the changes in section 202 and that the net increase in direct spending from enacting the section would be less than \$500,000 over the 2019-2028 period.

**CIARDS Fund Payment.** Section 201 would authorize the appropriation of \$514 million for CIARDS for fiscal year 2019 to maintain the proper funding level for operating that retirement and disability system. Appropriations to CIARDS are treated as direct spending in the budget and are projected to continue at the authorized levels in CBO’s baseline pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985. Therefore, CBO does not ascribe any additional costs to this provision.

**Security Clearances.** Implementing any actions necessary to comply with the requirements of the bill and preparing the required reports would increase the administrative expenses for agencies not funded through annual appropriations. Such spending is considered direct spending. However, because those agencies are able to increase the fees that provide their funding as necessary to cover their costs, CBO estimates that the net increase in spending from those agencies would be insignificant over the 2019-2028 period. (More information about the requirements of title VI of the bill is provided above under the heading, “Spending Subject to Appropriation.”)

**National Intelligence University Authorities.** Section 737 would authorize NIU to accept and use faculty research grants. The section also would authorize NIU to enroll up to 35 individuals from the private sector at any one time as full-time students and charge tuition for their attendance. Any tuition received on behalf of those students must be used to defray the costs of providing instruction to them. Because CBO estimates that any amounts received under those authorities would eventually be spent by NIU, enacting section 737 would have an insignificant effect on direct spending over the 2019-2028 period.

## **PAY-AS-YOU-GO CONSIDERATIONS**

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. CBO estimates that, on net, enacting S. 3153 would affect direct spending and those effects could be significant over the 2019-2028 period.

## **INCREASE IN LONG-TERM DIRECT SPENDING AND DEFICITS**

CBO estimates that enacting S. 3153 would not significantly increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

## **MANDATES**

S. 3153 would impose an intergovernmental mandate, as defined in UMRA, on state, local, and tribal governments. The bill would preempt state and local laws that would otherwise require governmental agencies participating in the pilot program under section 732 to disclose information about their activities, such as sharing cybersecurity information. Although the preemption would limit the application of state and local laws, CBO estimates that it would impose no duty on state or local governments that would result in additional spending or a loss of revenues.

S. 3153 contains no private-sector mandates as defined in UMRA.

## **PREVIOUS ESTIMATES**

On July 11, 2018, CBO transmitted a cost estimate for H.R. 6237, the Matthew Young Pollard Intelligence Authorization Act for Fiscal Years 2018 and 2019. The differences in the estimated costs reflect the differences in the underlying bills.

On June 29, 2018, CBO transmitted a preliminary cost estimate of the direct spending effects for H.R. 6237, the Matthew Young Pollard Intelligence Authorization Act for Fiscal Years 2018 and 2019. The differences in the estimated costs reflect the differences in the underlying bills.

On September 21, 2017, CBO transmitted a cost estimate for S. 1761, the Intelligence Authorization Act for Fiscal Year 2018, as reported by the Senate Select Committee on Intelligence on August 18, 2017. The differences in the estimated costs reflect the differences in the underlying bills.

On July 18, 2017, CBO transmitted a cost estimate for H.R. 3180, the Intelligence Authorization Act for Fiscal Year 2018, as ordered reported by the House Permanent Select Committee on Intelligence on July 13, 2017. The differences in the estimated costs reflect the differences in the underlying bills.

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