

At a Glance

H.R. 3494, Damon Paul Nelson and Matthew Young Pollard Intelligence Authorization Act for Fiscal Years 2018, 2019, and 2020

As ordered reported by the House Permanent Select Committee on Intelligence on June 27, 2019

By Fiscal Year, Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	*	*
Revenues	0	0	0
Deficit Effect	0	*	*
Spending Subject to Appropriation (Outlays)	0	5,938	n.e.
Statutory pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

n.e. = not estimated; * = between -\$500,000 and \$500,000.

The bill would

- Modify the process for granting security clearances to federal employees and contractors
- Authorize the appropriation of \$566 million for fiscal year 2020 for the Intelligence Community Management Account (ICMA)
- Make several changes to pay and benefits for civilian employees of the intelligence community
- Require the Director of National Intelligence to award prizes to encourage research on detecting forged or manipulated digital content and on developing fifth-generation wireless technology

Estimated budgetary effects would primarily stem from

- Establishing timeliness goals for completing initial secret and top secret clearances
- Authorizing amounts to be appropriated for the ICMA
- Enhancing benefits for employees of the intelligence community

Areas of significant uncertainty include

- Anticipating the manner in which the Administration would implement changes to the security clearance process
- Estimating the number of employees of the intelligence community who would benefit from the expansion of personnel benefits

Detailed estimate begins on the next page.

Bill Summary

See also CBO's *Cost Estimates Explained*, www.cbo.gov/publication/54437;
How CBO Prepares Cost Estimates, www.cbo.gov/publication/53519; and *Glossary*, www.cbo.gov/publication/42904.

H.R. 3494 would authorize appropriations for fiscal years 2019 and 2020 for intelligence activities of the U.S. government, including the Intelligence Community Management Account and the Central Intelligence Agency Retirement and Disability System (CIARDS). The bill also would modify the security clearance process for federal agencies, expand personnel benefits for employees of the intelligence community, and create or modify other intelligence programs.

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 \$5.9 billion over the 2020-2024 period; that spending would be subject to the appropriation of the specified and estimated amounts.

In addition, several provisions of the bill also would increase and decrease direct spending; therefore, pay-as-you-go procedures apply. On net, however, CBO estimates that those effects would be insignificant over the 2020-2029 period. Enacting the bill would not affect revenues.

CBO estimates that enacting H.R. 3494 would not significantly increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2030.

H.R. 3494 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

Estimated Federal Cost

The estimated budgetary effect of H.R. 3494 is shown in Table 1. The costs of the legislation fall within all budget functions that fund security and suitability investigations.

Table 1.
Estimated Budgetary Effects of H.R. 3494, as ordered reported by the House Permanent Select Committee on Intelligence on June 27, 2019

	By Fiscal Year, Millions of Dollars ^a						2019-2024
	2019	2020	2021	2022	2023	2024	
Spending Subject to Appropriation							
Security Clearances							
Estimated Authorization Level	0	411	840	1,310	1,350	1,400	5,311
Estimated Outlays	0	361	800	1,260	1,350	1,400	5,171
Intelligence Community Management Account							
Authorization Level	0	566	0	0	0	0	566
Estimated Outlays	0	368	158	20	8	3	557
Pay and Benefits							
Estimated Authorization Level	0	1	23	47	49	51	171
Estimated Outlays	0	1	23	47	49	51	171
Task Forces and Other Advisory Bodies							
Estimated Authorization Level	0	5	5	5	4	3	22
Estimated Outlays	0	5	5	5	4	3	22
Prize Competitions							
Estimated Authorization Level	0	11	*	0	0	0	11
Estimated Outlays	0	1	10	0	0	0	11
Assessments, and Briefings							
Estimated Authorization Level	0	5	*	*	*	*	6
Estimated Outlays	0	5	*	*	*	*	6
Totals							
Estimated Authorization Level	0	999	868	1,362	1,403	1,454	6,087
Estimated Outlays	0	741	996	1,332	1,411	1,457	5,938

Components may not sum to totals because of rounding; * = between -\$500,000 and \$500,000.

a. In addition to the budgetary effects shown above, enacting H.R. 3494 would affect direct spending by between -\$500,000 and \$500,000 over the 2020-2029 period.

Basis of Estimate

For this estimate, CBO assumes that H.R. 3494 will be enacted near the beginning of fiscal year 2020. Outlays are based on historical spending patterns for existing or similar programs.

Spending Subject to Appropriation

CBO estimates that implementing the bill would cost about \$5.9 billion over the 2020-2024 period. Such spending would be subject to appropriation of the estimated and specified amounts.

Security Clearances. Title XXVI of the bill would require the Security, Suitability, and Credentialing Performance Accountability Council (the Council) to achieve the following performance goals by December 31, 2021:¹

- Issue 90 percent of initial determinations for secret and top secret clearances within 30 and 90 days, respectively;
- Accept 90 percent of security clearances for employees moving between federal agencies within two weeks if the clearances are equivalent; and
- Reinvestigate not more than 10 percent of all clearance holders at set intervals.

Title XXVI also would require the Council, the Director of National Intelligence, and other federal entities to develop plans, policies, and strategies, to perform reviews, and to prepare reports on different aspects of the security clearance process. In total, CBO estimates that implementing title XXVI would cost about \$5.2 billion over the 2020-2024 period.

Timeliness. Current law sets a goal of completing 90 percent of security-clearance determinations within an average of 60 days from the date that the completed application is received. The Administration only applies that timeliness standard to initial determinations for secret clearances and has adopted other standards for top secret clearances and periodic reinvestigations. 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 May 2019, the backlog of pending cases totaled 433,000. CBO estimates that the Administration will spend about \$1.5 billion on all investigative services and another \$0.1 billion on adjudicative services in 2019. With that backlog, and under those resource

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.

levels, the average time it took to complete the investigative and adjudicative phases for the fastest 90 percent of clearances at the end of May 2019 was:

- 169 days for initial secret clearances (139 days to complete the investigative phase and 30 days to complete the adjudicative phase).
- 338 days for initial top secret clearances (296 days to complete the investigative phase and 42 days to complete the adjudicative phase).
- 425 days for periodic reinvestigations (325 days to complete the investigative phase and 100 days to complete the adjudicative phase).

In order to meet the 30 and 90-day requirements of title XXVI, the National Background Investigations Bureau (NBIB) must first reduce the backlog to a level that would allow the federal government to meet the existing investigative and adjudicative processing goals. The bureau has been steadily expanding its workforce and reports that it expects to reduce the backlog to a manageable level in a couple of years. Concurrently, as NBIB works to reduce the backlog, the bureau's background-investigation program is being transferred to the Department of Defense (DoD).²

CBO expects that the current and upcoming initiatives will continue to 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 completed as planned.

The difference 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 maximum processing times for the fastest 90 percent of cases. Those targets would be significantly shorter than the current average processing times. 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 XXVI. For 2019, CBO estimates that the executive branch will spend about \$0.4 billion and \$0.6 billion on investigating and adjudicating initial secret clearances and initial top secret clearances, respectively. Thus, spending on those activities would ultimately need to increase by about \$1.2 billion annually. Under title XXVI, DoD would have three years to hire and train the necessary number of investigators and adjudicators to meet the prescribed timeliness goals in fiscal year 2022. Accounting for that implementation phase, CBO estimates that it would cost about \$0.4 billion in 2020 and about \$5.2 billion over the 2020-2024 period.

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 investigation program to DoD. Executive Order 13869, signed April 24, 2019, makes the newly formed Defense Counterintelligence and Security Agency of DoD responsible for conducting background investigations for the federal government.

Administrative Costs. Title XXVI would require federal entities to develop policies, perform assessments, and prepare reports on several aspects of the security-clearance process. For entities in the intelligence community, 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 intelligence community, CBO estimates total costs of \$1 million over the 2020-2024 period.

Periodic Reinvestigations. Title XXVI would encourage the Council to limit reinvestigations conducted on the schedules set by the Administration to not more than 10 percent of all clearance holders. In 2017, 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 are conducted 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.

While most agencies are funded by annual appropriations, 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 described below in the “Direct Spending” section of this estimate.

Intelligence Community Management Account. Section 103 would authorize the appropriation of \$566 million for fiscal year 2020 for the ICMA. The ICMA is the principal source of funding for the Office of the Director of National Intelligence and for coordinating the intelligence activities of the federal government. CBO estimates that implementing section 103 would cost about \$557 million over the 2020-2024 period, subject to appropriation of the authorized amount.

Pay and Benefits. Sections 303 and 2303 would expand pay and benefits offered to employees of the intelligence community. In total, CBO estimates that implementing those provisions would cost \$171 million over the 2020-2024 period.

Paid Parental Leave. Section 303 would provide 12 weeks of paid leave to employees of the intelligence community following the birth or adoption of a child or the initial placement of a foster child. Such leave would be available during the 12-month period beginning on the date of the child’s birth or placement. DNI would have 18 months from the date of enactment of the bill to implement the new leave program. Employees of the intelligence community

would become entitled to paid leave for the birth or placement of a child that occurs on or after the date of such implementation.

Under current law, federal employees are entitled to up to 12 weeks of leave without pay after the birth or adoption of a child or the initial placement of a foster child. Employees may get paid during that 12-week period by using any annual or sick leave that they have accrued. The leave provided by this bill would be in addition to any leave available to, or taken by, those employees during the 12-week period provided by the Family and Medical Leave Act (FMLA). CBO expects that employees entitled to paid leave provided under H.R. 3494 would substitute that leave for annual or sick leave they otherwise would have taken during the 12-week FMLA leave period.

CBO estimates that implementing section 303 would cost \$163 million over the 2020-2024 period. Because the exact number of employees in each element of the intelligence community is classified, CBO relied on publicly available information about the amounts appropriated to DoD and the intelligence community, as well as the number of people employed by DoD as the basis of this estimate.

In addition to the increases in spending subject to appropriation described above, enacting section 303 also would affect direct spending. Those effects are described below in the “Direct Spending” section of this estimate.

National Security Agency (NSA) Pay Authority. Section 2303 would authorize the NSA to establish higher pay rates for employees in cybersecurity fields at 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 (\$192,300, in 2019); 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 (\$246,900, in 2019).

On the basis of information from DoD, CBO estimates that about two to three dozen employees would receive an average of \$15,800 more in compensation in fiscal year 2020 under section 2303. That estimate is based on CBO’s expectation that the new pay rates would take effect six months following enactment (halfway into the fiscal year) to allow NSA time to develop and apply those higher rates of pay. After accounting for annual pay increases and the expectation that NSA would expand its use of this authority over time, CBO estimates that by 2024 the average increase in annual compensation would be about \$35,100 and the number of NSA employees receiving such increases would double. Thus, CBO estimates that increasing pay for those NSA employees would cost \$8 million over the 2020-2024 period.

Task Forces and Other Advisory Bodies. Several sections of the bill would require elements of the intelligence community to establish task forces and other oversight and advisory bodies; a handful of those would disband after a few years while others would operate permanently. CBO estimates that salaries for about two dozen full-time equivalents

plus other support costs to establish and carry out the responsibilities of those groups would total \$5 million in 2020 and \$22 million over the 2020-2024 period.

Prize Competitions. Sections 706 and 707 would authorize the Director of National Intelligence to organize two competitions to encourage research. In each of those competitions, the Director could award prizes totaling up to \$5 million. The competition authorized by section 706 would be used to promote research and development of fifth-generation wireless technology. The competition authorized by section 707 would be used to promote research and development of technologies to detect forged or manipulated digital content.

CBO expects that it would take the Director one year to organize those competitions and to publicly announce, advertise, and publish the terms in advance of each competition. Those efforts would cost \$1 million in 2020 and as competitions occurred, an additional \$10 million in 2021, for a total of \$11 million over the 2020-2024 period, CBO estimates.

Reports, Briefings, and Assessments. Division B of the bill would require several agencies to complete more than 60 reports, briefings, and assessments and to deliver those products and findings to the Congress. On the basis of the costs of similar activities, satisfying those requirements would cost \$6 million over the 2020-2024 period, CBO estimates.

Direct Spending

H.R. 3494 would extend workers' compensation benefits to certain private-sector employees, enhance the benefits offered to certain annuitants of the Central Intelligence Agency Retirement and Disability System, and authorize appropriations for 2019 and 2020. The bill also would affect spending by agencies not funded through annual appropriations. On net, and excluding provisions related to classified programs, CBO estimates that enacting H.R. 3494 would have an insignificant effect on direct spending over the 2020-2029 period.

Public-Private Talent Exchange. Section 306 would establish a program for temporarily exchanging employees of elements of the intelligence community and employees of entities in the private sector. That exchange would increase direct spending for compensation for private-sector employees who are injured in the course of their work in the intelligence community. Those related medical expenses would be paid through the federal workers' compensation program; such payments are classified as direct spending. CBO expects that few private-sector employees would become injured while participating in the program established by section 306; thus, the additional liability would increase direct spending by less than \$500,000 over the 2020-2029 period.

CIARDS Benefits Adjustments. Section 2202 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. Those changes would both increase and decrease spending on

retirement benefits. For example, the bill would increase retirement benefits 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.) Total annuity payments for retirees who elect to provide a survivor annuity to someone with an insurable interest would be reduced or increased depending on how long they and the designated beneficiary live. On the basis of information from the CIA, CBO estimates that only a small number of individuals would benefit from the changes in section 2202. On net, CBO estimates that the difference in direct spending from enacting the section would be less than \$500,000 over the 2020-2029 period.

Security Clearances. Implementing any actions necessary to comply with the requirements of title XXVI and preparing the required reports would increase the administrative expenses for agencies not funded through annual appropriations. Such spending is considered direct spending. Because those agencies are able to increase the fees that provide their funding as necessary to cover their costs, CBO estimates that the net difference in spending by those agencies would be insignificant over the 2020-2029 period. (More information about the requirements of title XXVI of the bill is provided above under the heading, “Spending Subject to Appropriation.”)

Paid Parental Leave. Section 303 would provide up to 12 weeks of paid leave to employees of the intelligence community following the birth or adoption of a child or the initial placement of a foster child. Once implemented, CBO estimates that section 303 would increase balances of sick leave for those employees who now would defer the use of some sick leave they otherwise would have taken for child care under current law. Any additional sick leave carried through to retirement would be used in the computation of those employees’ or survivors’ annuities; increases in annuity payments are classified as direct spending. Because the effect on the payment of future retirement annuities would be small, CBO estimates that enacting section 303 would increase direct spending by less than \$500,000 over the 2020-2029 period. (More information about Paid Parental Leave is provided above under the heading, “Spending Subject to Appropriation.”)

CIARDS Fund Payment. Sections 201 and 2201 would authorize the appropriation of \$514 million for CIARDS for fiscal years 2020 and 2019, respectively, to maintain the necessary 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. Because the amount that would be authorized by the bill is included in CBO’s baseline, that authorization would have no budgetary effect relative to the baseline.

Uncertainty

The most significant area of uncertainty arises from estimating the costs of changing the process for granting security clearances. The bill would give the Council broad latitude in reforming that process; thus, the steps taken by the Council to meet the processing goals of security clearance investigations and other matters could differ significantly from CBO's estimate.

Additionally, the actual number of personnel employed by the intelligence community is classified. The costs of additional personnel benefits are also uncertain because the number of personnel that would receive those benefits could differ significantly from CBO's estimate.

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. Pay-as-you-go procedures apply to this legislation because enacting it would affect direct spending; however, CBO estimates that those effects would be insignificant.

Increase in Long-Term Deficits

CBO estimates that enacting H.R. 3494 would not increase on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2030.

Mandates: None.

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