

### At a Glance

## H.R. 7856, Intelligence Authorization Act for Fiscal Year 2021

As reported by the House Permanent Select Committee on Intelligence on October 30, 2020

By Fiscal Year, Millions of Dollars	2021	2021-2025	2021-2030
Direct Spending (Outlays)	*	*	<b>3</b>
Revenues	*	*	*
Increase or Decrease (-) in the Deficit	*	*	<b>3</b>
Spending Subject to Appropriation (Outlays)	<b>487</b>	<b>1,724</b>	not estimated
Statutory pay-as-you-go procedures apply?	<b>Yes</b>	<b>Mandate Effects</b>	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2031?	<b>&lt; \$5 billion</b>	Contains intergovernmental mandate?	<b>No</b>
		Contains private-sector mandate?	<b>Yes, Under Threshold</b>

\* = between -\$500,000 and \$500,000.

#### The bill would

- Authorize appropriations to develop technologies for secure, fifth-generation wireless communications
- Authorize appropriations for fiscal year 2021 for the Intelligence Community Management Account (ICMA)
- Provide 12 weeks of paid leave to employees of the intelligence community for a serious health condition
- Provide educational assistance to individuals and institutions of higher learning
- Provide whistleblowers a right of action in federal courts to seek compensatory and punitive damages
- Impose a private-sector mandate on campaigns for federal office by requiring them to report offers of contributions or election coordination from foreign entities to the Federal Bureau of Investigation and the Federal Election Commission

#### Estimated budgetary effects would primarily stem from

- Authorizing appropriations of \$750 million to develop fifth-generation wireless communication technologies
- Authorizing appropriations of \$683 million for the ICMA
- Providing 12 weeks of paid leave to employees of the intelligence community
- Providing educational assistance to individuals and institutions of higher learning

#### Areas of significant uncertainty include

- Predicting the number of whistleblowers who would successfully obtain monetary awards through the judicial system and the amount of such awards

**Detailed estimate begins on the next page.**



## **Bill Summary**

H.R. 7856 would authorize appropriations for fiscal year 2021 for intelligence activities of the U.S. government, including the Intelligence Community Management Account and the Central Intelligence Agency Retirement and Disability System. The bill also would establish a program to develop technologies for secure, fifth-generation wireless communications; provide 12 weeks of paid leave to employees of the intelligence community for serious health conditions; allow certain whistleblowers to seek punitive and compensatory damages in federal court; provide educational assistance to individuals and institutions of higher learning; and create or modify other programs affecting the intelligence community.

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 remaining unclassified provisions of the bill would cost about \$1.7 billion over the 2021-2025 period; that spending would be subject to appropriation of the specified and estimated amounts.

In addition, CBO estimates that enacting H.R. 7856 would increase direct spending by at least \$3 million over the 2021-2030 period. Enacting the bill would have insignificant effects on revenues.

## **Estimated Federal Cost**

The estimated budgetary effects of H.R. 7856 are shown in Table 1. The costs of the legislation fall within budget functions 050 (national defense), 370 (commerce and housing credit), 500 (education, training, employment, and social services), 600 (income security), and 750 (administration of justice).

## **Basis of Estimate**

For this estimate, CBO assumes that H.R. 7856 will be enacted in the first quarter of fiscal year 2021. 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 \$1.7 billion over the 2021-2025 period. Such spending would be subject to appropriation of the estimated and specified amounts.



**Table 1.  
Estimated Budgetary Effects of H.R. 7856**

	By Fiscal Year, Millions of Dollars					2021-2025
	2021	2022	2023	2024	2025	
<b>Spending Subject to Appropriation</b>						
<b>Fifth-Generation Wireless Technology</b>						
Estimated Authorization	751	1	1	1	1	755
Estimated Outlays	6	46	71	101	91	315
<b>Intelligence Community Management Account</b>						
Authorization Level	683	0	0	0	0	683
Estimated Outlays	444	191	24	10	3	672
<b>Paid Leave for Serious Health Conditions</b>						
Estimated Authorization	0	80	111	115	119	425
Estimated Outlays	0	78	110	114	118	420
<b>Educational Assistance Programs</b>						
Estimated Authorization	35	57	69	69	70	300
Estimated Outlays	35	57	69	69	70	300
<b>Special Appointment Authority</b>						
Estimated Authorization	1	2	2	2	2	9
Estimated Outlays	1	2	2	2	2	9
<b>Imagery Analysis</b>						
Estimated Authorization	1	1	1	1	1	5
Estimated Outlays	1	1	1	1	1	5
<b>Climate Security Council</b>						
Estimated Authorization	0	0	0	1	1	2
Estimated Outlays	0	0	0	1	1	2
<b>Post-Employment Restrictions</b>						
Estimated Authorization	*	*	*	*	*	1
Estimated Outlays	*	*	*	*	*	1
<b>Total Changes</b>						
Estimated Authorization	1,471	141	184	189	194	2,180
Estimated Outlays	487	375	277	298	286	1,724

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

In addition to the budgetary effects shown above, CBO estimates that enacting H.R. 7856 would increase direct spending by at least \$3 million and increase revenues by less than \$500,000 over the 2021-2030 period.

**Fifth-Generation Wireless Technology.** Section 912 would authorize the appropriation of \$750 million for 2021, to remain available through 2031, for the National Telecommunications and Information Administration (NTIA) to make competitive grants that support the deployment and use of 5G Open Radio Access Networks (RAN). The bill would require NTIA to establish an interagency advisory committee to recommend the strategic direction of the grant program.



Using information from NTIA, CBO expects that the agency would issue rules to establish the program, consult with other federal agencies, and form the advisory committee in 2021. Starting in 2022, NTIA would begin to make competitive grants to eligible entities. CBO anticipates that the agency would conduct multiple funding rounds over the 2022-2031 period. CBO estimates that NTIA would spend \$310 million on grants and administrative costs over the 2021-2025 period; about \$440 million in costs would be spent after 2025. In addition, CBO estimates that it would cost \$1 million each year over the 2021-2025 period to operate the advisory committee. In total, CBO estimates that implementing section 912 would cost \$315 million over the 2021-2025 period.

**Intelligence Community Management Account (ICMA).** Section 103 would authorize appropriations of \$683 million for fiscal year 2021 for the ICMA. That amount is 23 percent more than the \$556 million appropriated for that account for fiscal year 2020. 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 \$672 million over the 2021-2025 period.

**Paid Leave for Serious Health Conditions.** Section 308 would provide 12 weeks of paid leave to employees of the intelligence community who are unable to work because they have a serious health condition or they need to care for a relative with a serious health condition. Such leave would be available during a 12-month period to address one or both of the qualifying reasons. The Director of National Intelligence would have 15 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 serious health conditions that occur or continue to exist on or after the date of such implementation.

Under current law, federal employees are entitled to up to 12 weeks of leave without pay to provide care for family members with serious health conditions. Employees may be paid during those periods 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. 7856 would substitute that leave for annual or sick leave they otherwise would have taken during the 12-week period provided under FMLA.

CBO estimates that implementing section 308 would cost \$420 million over the 2021-2025 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 the Department of Defense (DoD) and the intelligence community, as well as the number and salaries 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 308 also would affect direct spending. Those effects are described below in the “Direct Spending” section of this estimate.

**Educational Assistance Programs.** H.R. 7856 contains several provisions that would establish or expand the use of programs that provide educational assistance to individuals or institutions of higher learning to meet the national security needs of the United States. In total, CBO estimates that implementing those provisions would cost \$300 million over the 2021-2025 period.

*Support for Science, Technology, Engineering, Arts, and Mathematics (STEAM) Programs.* Section 603 would authorize elements of the intelligence community to award grants, provide cash awards, and enter into partnerships with educational institutions to support STEAM programs. The section also would require each element of the intelligence community to designate one or more advisors to assist the heads of each element with STEAM matters.

On the basis of information from the Administration and on similar programs, CBO estimates that by 2023 the elements of the intelligence community would collectively provide \$50 million in assistance to educational institutions each year to support STEAM programs. The intelligence community would require the equivalent of three dozen employees to serve as STEAM advisors and to manage the assistance programs. The salaries, compensation, and other personnel support costs for those employees would cost \$30 million over the 2021-2025 period, CBO estimates. CBO expects that it would take each element about six months to establish those programs and two years to get them fully operational. In total, implementing section 603 would cost \$250 million over the 2021-2025 period, CBO estimates.

*Scholarships, Fellowships, and Grants.* Section 904 would eliminate the requirement for the Director of National Intelligence to transfer amounts to DoD to fund scholarships, fellowships, and grants under the David L. Boren National Security Education Act of 1991. That act requires the Secretary of Defense to carry out programs to develop expertise in foreign languages and cultures. Section 904 also would authorize appropriations of \$10 million each year beginning in 2022 for the Secretary of Defense for those purposes. Thus, implementing section 904 would cost \$40 million over the 2021-2025 period, CBO estimates.

*Diversity Fellowship Program.* Section 407 would require the Department of Homeland Security (DHS) to provide internships in the areas of intelligence and cybersecurity to students attending institutions of higher learning that primarily serve minorities—including historically black colleges and universities and tribal colleges and universities—or who are active participants in minority-serving organizations at other educational institutions. The section also would authorize DHS to provide tuition assistance to participating interns. To



qualify, an applicant must be a United States citizen, have a cumulative grade point average of at least 3.2, and be a current student when applying for the program.

On the basis of information about existing paid-internship programs, CBO estimates that about two dozen people would participate in the program each year and that each would be paid between the GS-3 to GS-9 pay grades, based on their level of education. CBO anticipates that half would be summer (10-week) interns and half would be full-year interns and that each would receive an average of \$2,500 in tuition assistance. We estimate that paying those interns would cost about \$1 million each year. CBO expects that DHS also would need the equivalent of two full-time personnel to manage the program. The pay and compensation for those employees, outreach activities at minority-serving and other institutions, and other expenses to administer the program would cost an additional \$1 million each year. In total, implementing section 407 would cost \$10 million over the 2021-2025 period.

*Student Loan Repayment Standards.* U.S. intelligence agencies are authorized to establish student loan repayment programs under current law. Section 307 would require the Director of National Intelligence to establish uniform standards for implementing those programs. Using an analysis of data on federal student loan repayment programs from the Office of Personnel Management, CBO estimates that establishing those standards would cost less than \$500,000 over the 2021-2025 period. Enacting section 307 also would affect direct spending. Those effects are described in the “Direct Spending and Revenues” section of this estimate.

**Special Appointment Authority.** Section 404 would authorize the Director of the National Geospatial-Intelligence Agency (NGA) to waive the requirements of existing hiring procedures in order to appoint up to seven experts in the fields of science and engineering. The annual compensation for each person appointed under that authority could not exceed the salary of the Vice President (\$253,300 in 2020). On the basis of information from the Administration, CBO estimates that the salaries, benefits, and other personnel support costs for those seven experts would cost \$9 million over the 2021-2025 period.

**Imagery Analysis.** Section 812 would require NGA to enter into a partnership for at least 10 years with an academic or non-profit research institution to analyze imagery and other data and identify national security risks. On the basis of information from the Administration, section 812 would require NGA to expand the scope of existing agreements with research institutions. CBO estimates that expanding the scope of those agreements would cost \$5 million over the 2021-2025 period and another \$5 million after 2025.

**Climate Security Council.** Section 408 would permanently authorize the Climate Security Advisory Council. Under current law, the authorization for the council expires in December



2023. CBO estimates that operating the council after December 2023 would cost \$2 million over the 2021-2025 period.

**Post-Employment Restrictions.** Section 309 would prohibit certain former intelligence officials from working for foreign governments (or entities that are controlled by a foreign government) for a period of 30 months after leaving their positions. It would extend, from two years to five years, the period for which those officials must provide information on their post-employment activities to the federal government, and it would require each organization of the intelligence community to provide training on the requirement to provide post-employment information. Section 309 also would require the Director of National Intelligence to submit annual reports to the Congress on the employment activities of former employees. Finally, the section would impose criminal penalties on individuals who violate the 30-month employment restriction or fail to provide the required information on post-employment activities.

Collectively, CBO estimates that it would cost less than \$500,000 each year and total \$1 million over the 2021-2025 period for the organizations of the intelligence community to deliver the required training and for the Director of National Intelligence to prepare and submit the required reports.

Enacting section 309 also would affect direct spending and revenues. Those effects are described in the “Direct Spending and Revenues” section of this estimate.

### **Direct Spending and Revenues**

H.R. 7856 would provide an additional 12 weeks of paid leave to employees of the intelligence community, grant whistleblowers a right of action to seek punitive and compensatory damages, and establish new criminal offenses. Excluding provisions related to classified programs, CBO estimates that over the 2021-2030 period enacting H.R. 7856 would increase direct spending by at least \$3 million and would increase revenues by less than \$500,000.

**Paid Leave for Serious Health Conditions.** As described under the heading, “Spending Subject to Appropriation,” section 308 would provide up to 12 weeks of paid leave to employees of the intelligence community who are unable to work because they have a serious health condition or need to care for a relative with a serious health condition. Once implemented, CBO estimates that section 308 would increase balances of sick leave for those employees who would defer the use of some paid sick leave they otherwise would have taken 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. Enacting section 308 would increase direct spending by \$3 million over the 2021-2030 period, CBO estimates.



**Right of Action for Whistleblowers.** Section 506 would prohibit publicly identifying a whistleblower employed by or detailed to an element of the intelligence community as an act of reprisal. It also would provide a right of action in federal court for the whistleblower to seek compensatory and punitive damages from the people responsible for doing so.

Federal agencies could be listed as co-defendants in such cases. CBO has no basis to estimate how many whistleblowers would successfully obtain compensation from the United States or the amounts they would be awarded. Thus, the federal government's potential liability under section 506 could be significant. Because awards could be paid from the Claims and Judgment Fund (a permanent, indefinite appropriation available to pay claims against the government), those payments would be classified as direct spending.

In addition to those payments, the federal judiciary charges fees to file suit in district courts. Those fees are recorded as revenues and can be spent without further appropriation. Thus, the net effect on the deficit from any change in judiciary fees would be insignificant.

**Federal Student Loan Repayment Standards.** As discussed under the heading "Spending Subject to Appropriation," section 307 would require the Director of National Intelligence to establish standards for a federal student loan repayment program using the authority to establish such a program that exists under current law. Although funding for loan repayments would come from discretionary appropriations, the additional principal payments made on behalf of borrowers would reduce the interest payments owed to the federal government in the federal student loan program, which is a mandatory program. Those reductions in interest payments would result in an increase in direct spending; however, CBO estimates that those effects would be negligible.

**Criminal Penalties.** Several sections in the bill would establish new criminal offenses punishable by fines, imprisonment, or both. Criminal fines are recorded as revenues, deposited in the Crime Victims Fund, and later spent without further appropriation. CBO estimates that any additional collections under those provisions would total less than \$500,000 in any year and over the 2021-2030 period because of the relatively small number of additional cases likely to arise.

*Federal Elections.* Several provisions in title VII would amend the Federal Election Campaign Act of 1971. Those provisions would impose greater reporting requirements on political committees and candidates for federal office, require the retention and preservation of certain records, and expand the definition of prohibited contributions from foreign nationals to include opposition research or other information that would influence an election. Individuals who knowingly and willfully fail to comply with any of those provisions would be fined, imprisoned, or both.

*Post-Employment Restrictions and Reporting Requirements.* As discussed under the heading "Spending Subject to Appropriation," section 309 would prohibit certain former intelligence



officials from working for foreign governments or other entities that are controlled, in whole or in major part, by a foreign government for a period of 30 months after leaving their positions. The section also would extend, from two years to five years, the period for which those former intelligence officials must provide information on certain post-employment activities to the federal government. Individuals who knowingly and willfully fail to comply with either of those provisions would be fined, imprisoned, or both.

*Whistleblower Protections.* Section 504 would prohibit an employer from unlawfully sharing a whistleblower’s complaint with any person named as a subject of such complaint. Individuals who commit such sharing in violation of section 504 would be fined, imprisoned, or both.

**CIARDS Fund Payment.** Section 201 would authorize appropriations of \$514 million for the Central Intelligence Agency Retirement and Disability System (CIARDS) for fiscal year 2021 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 liability that would be imposed on the federal government by section 506 is subject to considerable uncertainty. CBO is unable to predict the timing and frequency of any prohibited actions against whistleblowers, how many whistleblowers would successfully obtain monetary awards through the judicial system, and the amount of those awards.

**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. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in Table 2.

**Table 2.**  
**CBO’s Estimate of the Statutory Pay-As-You-Go Effects of H.R. 7856, the Intelligence Authorization Act for Fiscal Year 2021, as Reported by the House Permanent Select Committee on Intelligence on October 30, 2020**

	By Fiscal Year, Millions of Dollars										2021-2025	2021-2030
	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030		
	<b>Net Increase in the Deficit</b>											
Pay-As-You-Go Effect	0	0	0	0	0	0	0	1	1	1	0	3



## **Increase in Long-Term Deficits**

CBO estimates that enacting H.R. 7856 would not increase on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2031.

## **Mandates**

H.R. 7856 would impose private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates the cost of the mandates would fall well below the annual threshold for private-sector entities established in the UMRA (\$168 million in 2020, adjusted annually for inflation).

Title VII would require the campaign committees for candidates running for federal office to report offers of contributions or election coordination from foreign entities to the Federal Bureau of Investigation and Federal Election Commission (FEC). Committees would be required to establish a policy requiring staff to report such contacts to a designated campaign official. The bill also would prohibit individuals from accepting items of value from foreign nationals and would require campaigns to certify to the FEC that they received an explanation of the ban on such contributions. This bill would incrementally increase the regulatory requirements on campaigns for federal office. Because the administrative costs to comply with the bill and the number of entities affected are small, CBO estimates the cost to comply with the mandate also would be small.

The bill also would create a grant program, administered by the Department of Commerce, to encourage the development of Open RAN 5G wireless networks. If the Federal Communications Commission increases annual fee collections to offset the costs of participating in the program, H.R. 7856 would increase the cost of an existing mandate on private entities required to pay those fees. Using information from the FCC, CBO estimates that the incremental cost of the mandate would be small.

The bill would impose no intergovernmental mandates as defined in UMRA.

## **Previous CBO Estimate**

On November 4, 2020, CBO transmitted a [cost estimate for S. 3905](#), the Intelligence Authorization Act for Fiscal Year 2021, as reported by the Senate Select Committee on Intelligence on June 8, 2020. The differences in the estimated costs reflect the differences in the underlying bills.

On October 21, 2019, CBO transmitted a [cost estimate for H.R. 4617](#), the Stopping Harmful Interference in Elections for a Lasting Democracy (SHIELD) Act, as ordered reported by the House Committee on House Administration on October 16, 2019. Title VII of H.R. 7856 includes provisions similar to those in the SHIELD Act, and CBO's estimates of the direct spending and revenue effects for those provisions are the same.



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