Congressional Budget Office
Cost Estimate

October 5, 2021

At a Glance

S. 2610, Intelligence Authorization Act for Fiscal Year 2022

As reported by the Senate Select Committee on Intelligence on August 4, 2021

By Fiscal Year, Millions of Dollars	2022	2022-2026	2022-2031
Direct Spending (Outlays)	3	8	9
Revenues	*	*	*
Increase or Decrease (-) in the Deficit	3	8	9
Spending Subject to Appropriation (Outlays)	404	630	not estimated

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 2032?	< $5 billion	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

* = between zero and $500,000.

The bill would

- Authorize appropriations of $616 million for fiscal year 2022 for the Intelligence Community Management Account (ICMA)
- Credit the service of certain former employees of Air America towards retirement benefits under the Civil Service Retirement System
- Modify the process to appeal the revocation or denial of a security clearance
- Establish pilot programs to recruit and retain analysts in high demand positions in the Department of Treasury
- Enhance whistleblower protections and provide whistleblowers a right of action in federal courts to seek compensatory and punitive damages for retaliation

Estimated budgetary effects would mainly stem from

- Authorizing appropriations for the ICMA
- Paying retirement annuities to former Air America employees
- Modifying the process to appeal revoked and denied security clearances
- Implementing temporary programs to recruit and retain analysts in the Department of Treasury
- Enhancing whistleblower protections

Areas of significant uncertainty include

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

Detailed estimate begins on the next page.

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.

Bill Summary

S. 2610 would authorize appropriations for fiscal year 2022 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 extend federal retirement benefits to former employees of Air America and its affiliates, allow certain whistleblowers to seek punitive and compensatory damages in federal court, modify the process for appealing the revocation or denial of security clearances, 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 unclassified provisions of the bill would cost $630 million over the 2022-2026 period; that spending would be subject to appropriation of the specified and estimated amounts.

CBO estimates that enacting S. 2610 also would increase direct spending by at least $9 million over the 2022-2031 period and would have an insignificant effect on revenues.

Estimated Federal Cost

The estimated budgetary effects of S. 2610 are shown in Table 1. The costs of the legislation fall within budget functions 050 (national defense), 500 (education, training, employment, and social services), 600 (income security), 750 (administration of justice), 800 (general government), and other budget functions that fund the adjudication of security clearances.

Table 1.
Estimated Budgetary Effects of S. 2610

	By Fiscal Year, Millions of Dollars					
	2022	2023	2024	2025	2026	2022-2026
	Increases in Spending Subject to Appropriation					
Estimated Authorization	621	5	5	5	5	641
Estimated Outlays	404	177	27	14	8	630
	Changes in Direct Spending					
Estimated Budget Authority	3	4	1	*	*	8
Estimated Outlays	3	4	1	*	*	8

* = between zero and $500,000.
In addition to the changes in direct spending shown here, S. 2610 would have effects beyond 2026. CBO estimates that over the 2022-2031 period, the bill would increase direct spending by $9 million (see Table 3). The bill also would have an insignificant effect on revenues.

Basis of Estimate

For this estimate, CBO assumes that S. 2610 will be enacted in early fiscal year 2022. Outlays are based on historical spending patterns for existing or similar programs.

Spending Subject to Appropriation

CBO estimates that implementing the bill would cost $630 million over the 2022-2026 period. Such spending would be subject to appropriation of the specified and estimated amounts (see Table 2).

Table 2.
Estimated Increases in Spending Subject to Appropriation Under S. 2610

	By Fiscal Year, Millions of Dollars					
	2022	2023	2024	2025	2026	2022-2026
Intelligence Community Management Account						
Authorization Level	616	0	0	0	0	616
Estimated Outlays	400	172	22	9	3	606
Appeals Process for Denied or Revoked Security Clearances						
Estimated Authorization Level	2	3	3	3	3	14
Estimated Outlays	2	3	3	3	3	14
Department of Treasury Personnel Programs						
Estimated Authorization Level	2	1	1	1	1	6
Estimated Outlays	1	1	1	1	1	5
Whistleblower Protections						
Estimated Authorization Level	1	1	1	1	1	5
Estimated Outlays	1	1	1	1	1	5
Total Changes						
Estimated Authorization Level	621	5	5	5	5	641
Estimated Outlays	404	177	27	14	8	630

Intelligence Community Management Account. Section 103 would authorize the appropriation of $616 million for fiscal year 2022 for the Intelligence Community Management Account (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 $606 million over the 2022-2026 period.

Appeals Process for Denied or Revoked Security Clearances. Section 501 would expand the process through which individuals may appeal the revocation or denial of their security clearances. Specifically, section 501 would require the Security Executive Agent to establish a panel to review agencies' decisions to revoke or deny security clearances. If the panel determines that an agency violated someone's rights or that the decision to revoke or deny a clearance was based on an improperly conducted review, the panel would vacate the agency's decision and send the case back for a new review. If the agency determines that it wrongfully denied or revoked a person's clearance, it would be required to take corrective action and return the person to the position they would have held had the improper denial or revocation not occurred.

On the basis of information from the Administration, CBO estimates that it would take a dozen full-time employees to staff and run the new panel. Salaries for those employees and other operating expenses of the panel would cost $14 million over the 2022-2026 period, CBO estimates.

Department of Treasury Personnel Programs. Sections 314 and 315 would require the Department of Treasury to establish temporary programs to recruit and retain analysts for high-demand positions. Collectively, CBO estimates that implementing those provisions would cost $5 million over the 2022-2026 period.

Enhanced Pay Rates. Section 314 would require the Department of Treasury to increase the pay rates for at least 5 percent, but not more than 25 percent, of the positions in the Office of Intelligence and Analysis over a four-year period to recruit and retain financial and cyber intelligence analysts. The department could raise pay to no more than 130 percent of the current rates for those positions or the rate of basic pay for level II of the Executive Schedule ($199,300, in 2021). Employees whose pay is increased would keep the raises after the four-year period. On the basis of information from the Administration about the range of possible outcomes for the number of people who could get pay increases and the amounts each could receive, CBO estimates that roughly 40 people would be paid about $20,000 more in pay each year; thus, implementing section 314 would cost $4 million over the 2022-2026 period.

Student Loan Repayment. Section 315 would require the Department of Treasury to offer potential employees up to $15,000 annually to repay their student loans as a recruiting incentive for the Office of Intelligence and Analysis. Total payments to any person would be capped at $100,000. The department could provide that assistance to as many as 10 analysts during any fiscal year, and the authority to offer the incentive to new employees would expire after 2024.

The bill would authorize $1 million for loan repayment assistance and $0.3 million to administer the program. Thus, implementing section 315 would cost $1 million over the 2022-2026 period, CBO estimates.

In addition to the increases in spending subject to appropriation described above, enacting section 315 also would affect direct spending. Those effects are described below in the "Direct Spending and Revenues" section of this estimate.

Whistleblower Protections. Section 321 would require certain inspectors general to appoint security officers to provide guidance to employees and contractors on how to properly make lawful disclosures to the Congress while protecting classified information. Section 323 would improve protections for whistleblowers from acts of reprisal by enhancing protections for contractor employees, eliminating the 90-day deadline for employees to appeal adverse clearance or access determinations, and changing the standard-of-proof threshold and allowing the use of circumstantial evidence in determining whether a whistleblower's security clearance was denied or revoked as an act of reprisal.

On the basis of information from the Administration, CBO estimates that agencies of the intelligence community would need about six full-time-equivalent positions to satisfy the requirements of sections 321 and 323. The salaries and operating expenses for those employees would cost $5 million over the 2022-2026 period, CBO estimates.

Enacting section 323 also would affect direct spending. Those effects are described in the "Direct Spending and Revenues" section of this estimate.

Direct Spending and Revenues

S. 2610 would extend federal retirement benefits to former employees of Air America. The bill also would grant whistleblowers a right of action to seek punitive and compensatory damages in federal courts. Other provisions would have insignificant effects on direct spending. CBO estimates that enacting S. 2610 would increase direct spending by at least $9 million and increase revenues by less than $500,000 over the 2022-2031 period (see Table 3).

Air America. Section 603 would establish the service of certain former employees of Air America (or specified affiliated companies) between January 1, 1950, and December 31, 1976, as creditable toward a federal civil service retirement annuity under the Civil Service Retirement System (CSRS). CBO estimates that the additional retirement annuity payments authorized by the bill would increase direct spending by $9 million over the 2022-2031 period.

That estimate is based on data collected in 2014 by the Air America Association (the most recent data available) and was adjusted for expected mortality. CBO estimates that there are about 80 former Air America employees still living who would be eligible for federal retirement benefits based on their Air America (or related) service, provided that the period of service meets the eligibility requirements for a CSRS benefit. (There are several tiers of eligibility based on age and years of service that can confer eligibility for a CSRS annuity; a minimum of five years of service is required.)

Using that data, CBO expects that the average person eligible to apply for a new CSRS benefit under section 603 is now about 87 years of age and performed about nine years of Air America service at a salary of just under $30,000. CBO estimates that the average CSRS benefit would have been about $3,800 per year at the time of first retirement eligibility—about 25 years ago, on average. However, a new CSRS annuity that would begin under section 603 would incorporate the annual cost of living increases (which have averaged about 2 percent per year) that would have applied in the years since first eligibility. Including those annual adjustments, CBO estimates that the average new CSRS annuity under section 603 would be about $6,800 per year.

In addition to a new monthly CSRS retirement benefit, the former Air America employees also would receive a retroactive lump-sum payment of the total benefits that have accrued since their first eligibility for retirement. CBO estimates that the average lump-sum payment would be about $130,000 per person.

The total annual benefits paid to this group of people would decline over time because the number of eligible people cannot increase, they would have a limited time to apply for the new benefit (two years after enactment), and they are generally of advanced age. Over the 2022-2031 period, CBO projects that new monthly retirement benefit payments to former Air America employees would increase direct spending by $2 million and the lump-sum payments would increase direct spending by $7 million (primarily over the first few years).

Right of Action for Whistleblowers. Section 324 would prohibit publicly identifying a whistleblower employed by, or detailed to, an element of the intelligence community as an act of reprisal for a lawful disclosure of information. The section also would allow whistleblowers to sue in federal court after exhausting all administrative remedies. They could seek up to $250,000 in compensatory and punitive damages from the agency of the employee or contracting agency of the contractor employee responsible for the act of reprisal.

CBO has no basis to estimate how many whistleblowers would successfully obtain compensation from the United States or the amounts that they would be awarded. Thus, the federal government's potential liability under section 324 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.

Other Provisions. Other provisions in the bill would have insignificant effects on direct spending, generally because very few people would be affected, or because the proposal would allow the spending of new receipts so that the net effect would be small.

- As discussed under the heading "Spending Subject to Appropriation," section 315 would require the Department of Treasury to establish a temporary program to repay federal student loans for some new employees. Although those payments would come from discretionary appropriations, the additional principal payments made on behalf of borrowers would reduce the interest payments to the federal government for federal student loans. Those payments are classified as direct spending.
- As discussed under the heading "Spending Subject to Appropriation," section 323 would make it easier for people to prove they were subjected to unlawful reprisal for protected whistleblower actions. CBO estimates that enacting section 323 would increase the number of whistleblowers found to have suffered reprisal and that some would receive retroactive pay and benefits.
- Implementing any actions necessary to comply with the security clearance requirements of title V of the bill could increase administrative expenses for agencies not funded through annual appropriations. Such spending is considered direct spending. Those agencies are allowed to use fees, receipts from the sale of goods, and other collections to cover administrative expenses. CBO estimates that any net changes in direct spending by those agencies would be negligible because most of them can adjust amounts collected to account for changes in operating costs.

CIARDS Fund Payment. Section 201 would authorize the appropriation of $514 million for the Central Intelligence Agency Retirement and Disability System (CIARDS) for fiscal year 2022 to maintain the necessary funding level for operating that 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 as required by 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 imposed on the federal government by the whistleblower provisions in section 324 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 that are subject to those pay-as-you-go procedures are shown in Table 3.

Table 3.
CBO's Estimate of the Statutory Pay-As-You-Go Effects of S. 2610, the Intelligence Authorization Act for Fiscal Year 2022, as Reported by the Senate Select Committee on Intelligence on August 4, 2021

	By Fiscal Year, Millions of Dollars											
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022-2026	2022-2031
	Net Increase in the Deficit											
Pay-As-You-Go Effect	3	4	1	0	0	0	0	0	0	0	8	9

Increase in Long-Term Deficits

CBO estimates that enacting S. 2610 would not increase on-budget deficits by more than $5 billion in any of the four consecutive 10-year periods beginning in 2032.

Mandates: None.

Previous CBO Estimate

On September 24, 2021, CBO transmitted a cost estimate for H.R. 1297, the Air America Act of 2021, as ordered reported by the House Committee on Oversight and Reform on May 25, 2021. Section 603 of S. 2610 is the same as H.R. 1297 and CBO's estimates of their budgetary effects are the same.

Estimate Prepared By

Federal Costs:

William Ma (national defense)
Amber Marcellino (civilian retirement)

Mandates: Brandon Lever

Estimate Reviewed By

David Newman
Chief, Defense, International Affairs, and Veterans' Affairs Cost Estimates Unit

Christi Hawley Anthony
Chief, Projections Unit

Justin Humphrey
Chief, Finance, Housing, and Education Cost Estimates Unit

Leo Lex
Deputy Director of Budget Analysis

Theresa Gullo
Director of Budget Analysis