

AMENDMENT TO H.R. 2701, AS REPORTED**OFFERED BY M R. THORNBERG**

Strike section 321 (page 29, line 22 and all that follows through line 20 on page 34) and insert the following new section:

1 SEC. 321. CONGRESSIONAL OVERSIGHT OF INTELLIGENCE**2 ACTIVITIES.****3 (a) GENERAL CONGRESSIONAL OVERSIGHT.—**

4 Section 501(a) of the National Security Act of 1947 (50
5 U.S.C. 413(a)) is amended by adding at the end the
6 following new paragraph:

7 “(3) In carrying out paragraph (1), the President
8 shall provide to the congressional intelligence committees
9 all information necessary to assess the lawfulness,
10 effectiveness, cost, benefit, intelligence gain, budgetary au-
11 thority, and risk of an intelligence activity, including—

12 “(A) the legal authority under which the
13 intelligence activity is being or was conducted;

14 “(B) any legal issues upon which guidance was
15 sought in carrying out or planning the intelligence
16 activity, including dissenting legal views;

1 “(C) any specific operational concerns arising
2 from the intelligence activity, including the risk of
3 disclosing intelligence sources or methods;

4 “(D) the likelihood that the intelligence activity
5 will exceed the planned or authorized expenditure of
6 funds or other resources; and

7 “(E) the likelihood that the intelligence activity
8 will fail.”.

9 (b) REPORTING ON ACTIVITIES OTHER THAN
10 COVERT ACTIONS.—Section 502 of such Act (50 U.S.C.
11 413a) is amended by adding at the end the following new
12 subsection:

13 “(d) DISTRIBUTION OF INFORMATION.—

14 “(1) REQUEST.—Information or material
15 provided in accordance with subsection (a) shall be
16 made available to each member of the congressional
17 intelligence committees, unless the President
18 requests that access to the information or material
19 be limited after determining that limiting such ac-
20 cess is essential to meet extraordinary circumstances
21 affecting vital interests of the United States. A
22 request under this paragraph and the extraordinary
23 circumstances referred to in this paragraph shall be
24 detailed in writing to the Chair and ranking

1 minority member of the congressional intelligence
2 committees.

3 “(2) DISTRIBUTION.—If the President submits
4 a request under paragraph (1), the Chair and
5 ranking minority member of each congressional
6 intelligence committee may jointly determine
7 whether and how to limit access to the information
8 or material within such committee. If the Chair and
9 ranking minority member of such committee are
10 unable to agree on whether or how to limit such ac-
11 cess, access to the information or material will be
12 limited. Any information or material to which access
13 is limited shall subsequently be made available to
14 each member of the congressional intelligence
15 communities at the earliest possible time and shall
16 include a detailed statement of the reasons for not
17 providing prior access.”.

18 (c) COVERT ACTIONS.—Section 503 of the National
19 Security Act of 1947 (50 U.S.C. 413b) is amended—

20 (1) in subsection (c)—

21 (A) by striking paragraph (2) and
22 inserting the following new paragraph:

23 “(2)(A) A finding reported in accordance with
24 paragraph (1) shall be made available to each
25 member of the congressional intelligence committees,

1 unless the President requests that access to the
2 finding be limited after determining that limiting
3 such access is essential to meet extraordinary cir-
4 cumstances affecting vital interests of the United
5 States. A request under this paragraph and the
6 extraordinary circumstances referred to in this
7 paragraph shall be detailed in writing to the Chair
8 and ranking minority member of the congressional
9 intelligence committees.

10 “(B) If the President submits a request under
11 subparagraph (A), the Chair and ranking minority
12 member of each congressional intelligence committee
13 may jointly determine whether and how to limit ac-
14 cess to the finding within such committee. If the
15 Chair and ranking minority member of such
16 committee are unable to agree on whether or how to
17 limit such access, access to the finding shall be
18 limited. A finding to which access is limited shall
19 subsequently be made available to each member of
20 the congressional intelligence committees at the
21 earliest possible time and shall include a detailed
22 statement of the reasons for not providing prior ac-
23 cess.”; and

24 (B) in paragraph (4), by striking the
25 second sentence; and

1 (2) in subsection (d)—

2 (A) by striking “(d) The President” and
3 inserting “(d)(1) The President”;

4 (B) in paragraph (1), as designated by
5 subparagraph (A) of this paragraph, by striking
6 “the Members of Congress specified in
7 subsection (c)(2)” and inserting “the Members
8 of Congress to which access to a finding is
9 limited in accordance with subsection (c)(2)”;
10 and

11 (C) by adding at the end the following new
12 paragraph:

13 “(2) For purposes of this subsection, an activity shall
14 constitute a ‘significant undertaking’ if the activity—

15 “(A) involves the potential for loss of life;

16 “(B) requires an expansion of existing authori-
17 ties, including authorities relating to research,
18 development, or operations;

19 “(C) results in the expenditure of significant
20 funds or other resources;

21 “(D) requires notification under section 504;

22 “(E) gives rise to a significant risk of disclosing
23 intelligence sources or methods; or

1 “(F) could cause serious damage to the
2 diplomatic relations of the United States if such ac-
3 tivity were disclosed without authorization.”

