To authorize appropriations for fiscal year 2011 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Intelligence Authorization Act for Fiscal Year 2011”.

Calendar No. 25

112TH CONGRESS 1ST SESSION

S. 719

To authorize appropriations for fiscal year 2011 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 4, 2011

Mrs. FEINSTEIN from the Select Committee on Intelligence reported the following original bill; which was read twice and placed on the calendar

A BILL

To authorize appropriations for fiscal year 2011 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Intelligence Authorization Act for Fiscal Year 2011”.

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(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

**TITLE I—BUDGET AND PERSONNEL AUTHORIZATIONS**

Sec. 101. Authorization of appropriations.
Sec. 102. Classified Schedule of Authorizations.
Sec. 103. Intelligence Community Management Account.

**TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM**

Sec. 201. Authorization of appropriations.

**TITLE III—GENERAL INTELLIGENCE COMMUNITY MATTERS**

Sec. 301. Restriction on conduct of intelligence activities.
Sec. 302. Increase in employee compensation and benefits authorized by law.
Sec. 303. Non-reimbursable detail of other personnel.

**TITLE IV—MATTERS RELATING TO ELEMENTS OF THE INTELLIGENCE COMMUNITY**

Subtitle A—Office of the Director of National Intelligence

Sec. 401. Schedule and requirements for the National Counterintelligence Strategy.
Sec. 402. Insider threat detection program.
Sec. 403. Unauthorized disclosure of classified information.

Subtitle B—Other Elements

Sec. 411. Defense Intelligence Agency counterintelligence and expenditures.
Sec. 412. Accounts and transfer authority for appropriations and other amounts for the intelligence elements of the Department of Defense.
Sec. 413. Confirmation of appointment of the Director of the National Security Agency.

3 **SEC. 2. DEFINITIONS.**

4 In this Act:

5 (1) **CONGRESSIONAL INTELLIGENCE COMMITTEES.**—The term “congressional intelligence committees” means—

6 (A) the Select Committee on Intelligence of the Senate; and
(B) the Permanent Select Committee on
Intelligence of the House of Representatives.

(2) **INTELLIGENCE COMMUNITY.**—The term
“intelligence community” has the meaning given
that term in section 3(4) of the National Security
Act of 1947 (50 U.S.C. 401a(4)).

**TITLE I—BUDGET AND
PERSONNEL AUTHORIZATIONS**

**SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

Funds are hereby authorized to be appropriated for
fiscal year 2011 for the conduct of the intelligence and
intelligence-related activities of the following elements of
the United States Government:

(1) The Office of the Director of National Intel-
ligence.

(2) The Central Intelligence Agency.

(3) The Department of Defense.

(4) The Defense Intelligence Agency.


(6) The Department of the Army, the Depart-
ment of the Navy, and the Department of the Air
Force.

(7) The Coast Guard.

(8) The Department of State.

(9) The Department of the Treasury.
(10) The Department of Energy.
(11) The Department of Justice.
(13) The Drug Enforcement Administration.
(14) The National Reconnaissance Office.
(15) The National Geospatial-Intelligence Agency.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.
(a) Specifications of Amounts and Personnel Levels.—The amounts authorized to be appropriated under section 101 and the authorized personnel levels (expressed as full-time equivalent positions) as of September 30, 2011, for the conduct of the intelligence activities of the elements listed in paragraphs (1) through (16) of section 101, are those specified in the classified Schedule of Authorizations prepared to accompany the bill S. ____ of the One Hundred Twelfth Congress.

(b) Availability of Classified Schedule of Authorizations.—The classified Schedule of Authorizations referred to in subsection (a) shall be made available to the Committee on Appropriations of the Senate, the Committee on Appropriations of the House of Representatives, and to the President. The President shall provide
for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

SEC. 103. INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT.

(a) Authorization of Appropriations.—There is authorized to be appropriated for the Intelligence Community Management Account of the Director of National Intelligence for fiscal year 2011 the sum of $649,732,000. Within such amount, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for advanced research and development shall remain available until September 30, 2012.

(b) Authorized Personnel Levels.—The elements within the Intelligence Community Management Account of the Director of National Intelligence are authorized 648 full-time equivalent personnel as of September 30, 2011. Personnel serving in such elements may be permanent employees of the Office of the Director of National Intelligence or personnel detailed from other elements of the United States Government.

(c) Classified Authorizations.—

(1) Authorization of Appropriations.—In addition to amounts authorized to be appropriated for the Intelligence Community Management Account by subsection (a), there are authorized to be
appropriated for the Community Management Account for fiscal year 2011 such additional amounts as are specified in the classified Schedule of Authorizations referred to in section 102(a). Such additional amounts made available for advanced research and development shall remain available until September 30, 2012.

(2) Authorization of Personnel.—In addition to the personnel authorized by subsection (b) for elements of the Intelligence Community Management Account as of September 30, 2011, there are authorized such full-time equivalent personnel for the Community Management Account as of that date as are specified in the classified Schedule of Authorizations referred to in section 102(a).

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 2011 the sum of $292,000,000.
TITLE III—GENERAL INTELLIGENCE COMMUNITY MATTERS

SEC. 301. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

SEC. 302. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 303. NON-REIMBURSABLE DETAIL OF OTHER PERSONNEL.

(a) In General.—Section 113A of the National Security Act of 1947 (50 U.S.C. 404h–1) is amended to read as follows:

“NON-REIMBURSABLE DETAIL OF OTHER PERSONNEL

“Sec. 113A. An officer or employee of the United States or member of the Armed Forces may be detailed to the staff of an element of the intelligence community

...
funded through the National Intelligence Program from
another element of the intelligence community or from an-
other element of the United States Government on a non-
reimbursable basis, as jointly agreed to by the heads of
the receiving and detailing elements, for a period not to
exceed two years. This section does not limit any other
source of authority for reimbursable or non-reimbursable
details.”.

(b) Table of Contents Amendment.—The table
of contents in the first section of such Act is amended
by striking the item relating to section 113A and inserting
the following:

“Sec. 113A. Non-reimbursable detail of other personnel.”.

TITLE IV—MATTERS RELATING
TO ELEMENTS OF THE INTEL-
LIGENCE COMMUNITY
Subtitle A—Office of the Director
of National Intelligence

SEC. 401. SCHEDULE AND REQUIREMENTS FOR THE NA-
TIONAL COUNTERINTELLIGENCE STRATEGY.

Section 904(d)(2) of the Counterintelligence En-
hancement Act of 2002 (50 U.S.C. 402e(d)(2)) is amend-
ed—

(1) by striking “Subject” and inserting the fol-
lowing:
“(A) Requirement to produce.—Sub-
ject’’;

(2) by striking “on an annual basis”; and

(3) by adding at the end the following:

“(B) Revision and requirement.—The
National Counterintelligence Strategy shall be
revised or updated at least once every three
years and shall be aligned with the strategy and
policies of the Director of National Intel-
ligence.”.

SEC. 402. INSIDER THREAT DETECTION PROGRAM.

(a) Initial Operating Capability.—Not later
than October 1, 2012, the Director of National Intel-
ligence shall establish an initial operating capability for
an effective automated insider threat detection program
for the information resources in each element of the intel-
ligence community in order to detect unauthorized access
to, or use or transmission of, classified intelligence.

(b) Full Operating Capability.—Not later than
October 1, 2013, the Director of National Intelligence
shall ensure the program described in subsection (a) has
reached full operating capability.

(c) Report.—Not later than December 1, 2011, the
Director of National Intelligence shall submit to the con-
gressional intelligence committees a report on the re-
1 sources required to implement the insider threat detection
2 program referred to in subsection (a) and any other issues
3 related to such implementation the Director considers ap-
4 propriate to include in the report.
5  
6 (d) INFORMATION RESOURCES DEFINED.—In this
7 section, the term “information resources” means net-
8 works, systems, workstations, servers, routers, applica-
9 tions, databases, websites, online collaboration environ-
10 ments, and any other information resources in an element
11 of the intelligence community designated by the Director
12 of National Intelligence.
13
14 SEC. 403. UNAUTHORIZED DISCLOSURE OF CLASSIFIED IN-
15 FORMATION.
16
17 (a) REQUIREMENT FOR PROHIBITION.—Not later
18 than 90 days after the date of the enactment of this Act,
19 the Director of National Intelligence, in coordination with
20 the head of each element of the intelligence community,
21 shall publish regulations that—
22  
23 (1) are consistent with any procedures estab-
24 lished by Executive order or regulation under section
25 801 of the National Security Act of 1947 (50 U.S.C.
26 435);  
27 (2) require each employee of an element of the
28 intelligence community to sign a written agreement
29 as described in subsection (b); and
(3) set forth the administrative procedures applicable to an employee who violates the terms of such an agreement.

(b) AGREEMENT DESCRIBED.—An agreement described in this subsection is an agreement, with respect to an individual employed by an element of the intelligence community, that—

(1) prohibits the individual from disclosing classified information without authorization at any time during or subsequent to employment with an element of the intelligence community;

(2) requires the individual to comply with all prepublication review requirements contained in any nondisclosure agreement between the individual and an element of the intelligence community;

(3) specifies appropriate disciplinary actions, including the surrender of any current or future Federal Government pension benefit, to be taken against the individual if the Director of National Intelligence or the head of the appropriate element of the intelligence community determines that the individual has knowingly violated the prepublication review requirements contained in a nondisclosure agreement between the individual and an element of the intelligence community in a manner that disclosed classi-
fied information to an unauthorized person or entity; and

(4) describes procedures for making and reviewing determinations under paragraph (3) in a manner that is consistent with the due process and appeal rights otherwise available to an individual who is subject to the same or similar disciplinary action under other law.

(e) FEDERAL GOVERNMENT PENSION BENEFIT DESCRIBED.—In this section, the term “Federal Government pension benefit” does not include the following:

(1) Any contributions by a person to a Federal Government pension plan, in their fair market value.

(2) Any old age benefits payable to a person under title II of the Social Security Act (42 U.S.C. 401 et seq.).

(3) Any employee benefits or contributions of a person under the Thrift Savings Plan under subchapter III of chapter 84 of title 5, United States Code, or any successor benefit program.

Subtitle B—Other Elements

SEC. 411. DEFENSE INTELLIGENCE AGENCY COUNTER-INTELLIGENCE AND EXPENDITURES.

Section 105 of the National Security Act of 1947 (50 U.S.C. 403–5) is amended—
(1) in subsection (b)(5), by inserting “and counterintelligence” after “human intelligence”;
(2) by redesignating subsection (c) as subsection (d); and
(3) by inserting after subsection (b) the following:

“(c) EXPENDITURE OF FUNDS BY THE DEFENSE INTELLIGENCE AGENCY.—(1) Subject to paragraphs (2) and (3), the Director of the Defense Intelligence Agency may expend amounts made available to the Director for human intelligence and counterintelligence activities for objects of a confidential, extraordinary, or emergency nature, without regard to the provisions of law or regulation relating to the expenditure of Government funds.

“(2) The Director of the Defense Intelligence Agency may not expend more than five percent of the amounts made available to the Director for human intelligence and counterintelligence activities for a fiscal year for objects of a confidential, extraordinary, or emergency nature in accordance with paragraph (1) during such fiscal year unless—

“(A) the Director notifies the congressional intelligence committees of the intent to expend the amounts; and
“(B) 30 days have elapsed from the date of on which the Director notifies the congressional intelligence committees in accordance with subparagraph (A).

“(3) For each expenditure referred to in paragraph (1), the Director shall certify that such expenditure was made for an object of a confidential, extraordinary, or emergency nature.

“(4) Not later than December 31 of each year, the Director of the Defense Intelligence Agency shall submit to the congressional intelligence committees a report on any expenditures made during the preceding fiscal year in accordance with paragraph (1).”.

SEC. 412. ACCOUNTS AND TRANSFER AUTHORITY FOR APPROPRIATIONS AND OTHER AMOUNTS FOR THE INTELLIGENCE ELEMENTS OF THE DEPARTMENT OF DEFENSE.

(a) In General.—Chapter 21 of title 10, United States Code, is amended by inserting after section 428 the following new section:

“§ 429. Appropriations for defense intelligence elements: accounts for transfer; transfer

“(a) Transfers Authorized.—(1) There may be transferred to an account established pursuant to subsection (b) the following:
“(A) Appropriations transferred by the Secretary of Defense from appropriations of the Department of Defense available for intelligence, intelligence-related activities, and communications.

“(B) Appropriations and other amounts transferred by the Director of National Intelligence from appropriations and other amounts available for the defense intelligence elements.

“(C) Amounts and reimbursements in connection with transactions authorized by law between the defense intelligence elements and other entities.

“(2) The transfer authority of the Secretary of Defense under paragraph (1)(A) is in addition to any other transfer authority available to the Secretary by law.

“(b) ACCOUNTS FOR APPROPRIATIONS FOR DEFENSE INTELLIGENCE ELEMENTS.—The Secretary of the Treasury shall establish one or more accounts for the receipt of appropriations and other amounts transferred pursuant to subsection (a).

“(c) AVAILABILITY OF APPROPRIATIONS AND AMOUNTS TRANSFERRED.—(1) Appropriations transferred pursuant to subsection (a) shall remain available for the same time period, and shall be available for the same purposes, as the appropriations from which transferred.
“(2) Appropriation balances in an account established pursuant to subsection (b) may be transferred back to the account or accounts from which such balances originated as an appropriation refund.

“(d) DEFENSE INTELLIGENCE ELEMENTS DEFINED.—In this section, the term ‘defense intelligence elements’ means the agencies, offices, and elements of the Department of Defense that are included within the elements of the intelligence community specified in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter I of chapter 21 of such title is amended by inserting after the item relating to section 428 the following new item:

“429. Appropriation for defense intelligence elements: accounts for transfer; transfer.”.

SEC. 413. CONFIRMATION OF APPOINTMENT OF THE DIRECTOR OF THE NATIONAL SECURITY AGENCY.

(a) DIRECTOR OF NATIONAL SECURITY AGENCY.—Section 2 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended—

(1) by inserting “(b)” before “There”; and
(2) by inserting before subsection (b), as so
designated by paragraph (1), the following new sub-
section

“(a)(1) There is a Director of the National Security
Agency.

“(2) The Director of the National Security Agency
shall be appointed by the President, by and with the advice
and consent of the Senate.

“(3) The Director of the National Security Agency
shall be the head of the National Security Agency and
shall discharge such functions and duties as are provided
by this Act or otherwise by law.”.

(b) POSITIONS OF IMPORTANCE AND RESPONSIBILITY.—The President may designate the Director of the
National Security Agency as a position of importance and
responsibility under section 601 of title 10, United States
Code.

(c) EFFECTIVE DATE AND APPLICABILITY.—

(1) IN GENERAL.—The amendments made by
subsection (a) shall take effect on the date of the en-
actment of this Act and shall apply upon the earlier
of—

(A) the date of the nomination by the
President of an individual to serve as the Direc-
tor of the National Security Agency, except that
the individual serving as such Director as of the
date of the enactment of this Act may continue
to perform such duties after such date of nomi-
nation and until the individual appointed as
such Director, by and with the advice and con-
sent of the Senate, assumes the duties of such
Director; or

(B) the date of the cessation of the per-
formance of the duties of such Director by the
individual performing such duties as of the date
of the enactment of this Act.

(2) Positions of Importance and Responsibility.—Subsection (b) shall take effect on the date
of the enactment of this Act.
A BILL

S. 719

112TH CONGRESS
1ST SESSION

S. 719

To authorize appropriations for fiscal year 2011 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

APRIL 4, 2011

Read twice and placed on the calendar.