The bill (H.R. 4681), as amended, was passed.

Mr. SCHATZ. I ask unanimous consent that the motion to reconsider be made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT EXPLANATORY STATEMENT TO ACCOMPANY THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2015

The following consists of the explanatory material to accompany the Intelligence Authorization Act for Fiscal Year 2015.

This joint explanatory statement shall have the same effect with respect to the implementation of this Act as if it were a joint explanatory statement of a committee of conference.

This explanatory statement is accompanied by a classified annex that contains a classified Schedule of Authorizations. The classified Schedule of Authorizations is incorporated by reference in the Act and has the legal status of public law.

The classified annex and classified Schedule of Authorizations are the result of negotiations between the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence to reconcile differences in their respective versions of the Intelligence Authorization Act for Fiscal Year 2015. The congressionally directed actions described in Senate Report No. 113–233, the classified annex that accompanied Senate Report No. 113–463 should be carried out to the extent they are not amended, altered, or supplemented.

The following is a section-by-section analysis and explanation of the Intelligence Authorization Act for Fiscal Year 2015.

TITLE I—INTELLIGENCE ACTIVITIES

Section 101. Authorization of appropriations

Section 101 lists the United States Government departments, agencies, and other elements for which the Act authorizes appropriations for intelligence and intelligence-related activities for Fiscal Year 2015.

Section 102. Classified Schedule of Authorizations

Section 102 provides that the details of the amounts authorized to be appropriated for intelligence and intelligence-related activities and the applicable personnel levels by program for Fiscal Year 2015 are contained in the classified Schedule of Authorizations and that the classified Schedule of Authorizations shall be made available to the Committees on the Intelligence of the Senate and House of Representatives and to the President.

Section 103. Personnel ceiling adjustments

Section 103 is intended to provide additional flexibility to the DNI in managing the civilian personnel of the Intelligence Community (IC). Section 103 provides that the DNI may authorize employment of civilian personnel in Fiscal Year 2015 in excess of the number of authorized positions by an amount not exceeding three percent of the total limit applicable to each IC element under authorization.

Section 104. Intelligence Community Management Account

Section 104 authorizes appropriations for the Intelligence Community Management Account (ICMA) and authorizes personnel levels for the elements within the ICMA for Fiscal Year 2015.

TITLE II—CENTRAL INTELLIGENCE AGENCY

Section 201. Authorization of appropriations

Section 201 authorizes appropriations in the amount of $514,000,000 for Fiscal Year 2015 for the Central Intelligence Agency Retirement and Disability Fund.

Section 202. Classified Schedule of Authorizations

Section 202 provides that the details of the appropriations for Fiscal Year 2015 are contained in a classified Schedule of Authorizations for which the Act authorizes appropriations.

Section 203. Reporting of certain employment and benefits authorized by law

Section 203 provides that funds authorized to be appropriated by the 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 compensation or benefits authorized by law.

Section 204. Software licensing

Section 204 amends the National Security Act of 1947 to require the DNI to develop a comprehensive national intelligence strategy every four years beginning in 2017.

Section 205. Reporting of certain employment activities by former intelligence officers and employees

Section 205 requires the head of each element of the IC to issue regulations that require an employee occupying positions with access to particularly sensitive information within such element to sign a written agreement that requires reporting of any employment by, representation of, or provision of advice relating to national security to the government of a foreign country, or any person whose activities are supervised, directed, controlled, financed, or subsidized by any government of a foreign country, for a two-year period after the employee ceases employment with the IC element.

Section 206. Inclusion of Predominantly Black Institutions in intelligence officer training programs

Section 206 amends the National Security Act of 1947 to include predominantly black institutions in the intelligence officer training programs established under Section 1024 of the Act.

Section 207. Management and oversight of financial intelligence

Section 207 requires the DNI to prepare a plan for publication by the Act to carry out financial intelligence activities.

Section 208. Analysis of private sector policies and procedures for countering insider threats

Section 208 directs the DNI to submit to the congressional intelligence committees an analysis of private sector policies and procedures for countering insider threats.

Section 301. Increase in employee compensation and benefits authorized by law

Section 301 provides that funds authorized to be appropriated by the 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 compensation or benefits authorized by law.

Section 302. Restriction on conduct of intelligence activities

Section 302 provides that the authorization of appropriations by the Act for conduct of any intelligence activity that is not otherwise authorized by the Constitution or laws of the United States is permissible if the conduct of such activity is necessary to protect the national security of the United States.

Section 303. National intelligence strategy

Section 303 amends the National Security Act of 1947 to require the DNI to develop a comprehensive national intelligence strategy every four years beginning in 2017.

Section 304. Software licensing

Section 304 amends Section 109 of the National Security Act of 1947, which requires the heads of the intelligence agencies to select and maintain information systems that are capable of handling classified information, to include the use and procurement of software licenses, to make certain enhancements to the biennial assessments required under Section 109.

Section 305. Reporting of certain employment activities by former intelligence officers and employees

Section 305 provides that the head of each element of the IC to adopt regulations that require an employee occupying positions with access to particularly sensitive information within such element to sign a written agreement that requires reporting of any employment by, representation of, or provision of advice relating to national security to the government of a foreign country, or any person whose activities are supervised, directed, controlled, financed, or subsidized by any government of a foreign country, for a two-year period after the employee ceases employment with the IC element.

Section 306. Inclusion of Predominantly Black Institutions in intelligence officer training programs

Section 306 amends the National Security Act of 1947 to include predominantly black institutions in the intelligence officer training programs established under Section 1024 of the Act.

Section 307. Management and oversight of financial intelligence

Section 307 requires the DNI to prepare a plan for publication by the Act to carry out financial intelligence activities.

Section 308. Analysis of private sector policies and procedures for countering insider threats

Section 308 directs the DNI to submit to the congressional intelligence committees and procedures for countering insider threats.

Section 309. Procedures for the retention of incendiary acquired communications

Section 309 provides that the head of each element of the IC to adopt, if approved, procedures that govern the retention of nonpublic telephone or electronic communications acquired without consent of the person who is a party to the communications, including communications in electronic storage.

The procedures required under this section shall apply to any intelligence activity that is reasonably anticipated to result in the acquisition of such telephone or electronic communications to or from a United States person not otherwise authorized by a court order, subpoena, or similar legal process, regardless of the location where the collection occurs. The procedures shall prohibit the retention of such telephone or electronic communications for a period in excess of five years, unless the communications are determined to fall within one of several categories, enumerated in subsection (b)(3)(B), for which retention in excess of five years is authorized, to include communications that have been affirmatively determined to constitute foreign intelligence or counterintelligence, communications that are reasonably believed to constitute evidence of a crime and are retained by a law enforcement agency, communications that are reasonably believed to have a secret meaning.

It may be necessary in certain instances for IC elements to retain communications covered by this section for a period in excess of five years that do not fall into the categories specified in subsection (b)(3)(B), subsection (b)(3)(B)(vi) provides flexibility for the head of each element of the intelligence community to authorize such extended retention where the head of the element determines that it is necessary to protect the national security of the United States. In the absence of such a determination, Section 309 is intended to establish a default rule for intelligence collection activities, not otherwise authorized by legal process, that requires agencies to delete communications immediately after collection, but not more than five years, unless a determination is made that the communications constitute foreign intelligence or counterintelligence or meet the retention requirements set forth in this section.

Section 310. Clarification of limitation of review to retaliatory security clearance or access determinations

Section 310 makes a technical amendment to Section 3001(b)(7) of the Intelligence Reform and Terrorism Prevention Act of 2004 to clarify that the policies and procedures prescribed by that section (to permit individuals to appeal adverse security clearance or access determinations) are only required to apply to adverse security clearance or access determinations affirmed by a court of law for having made a protected whistleblower disclosure.

Section 311. Feasibility study on consolidating classified databases and cyber threat indicators and malware samples

Section 311 makes a feasibility study on consolidating classified databases and cyber threat indicators and malware samples.

Section 312. Sense of Congress on cybersecurity threat and cybercrime cooperation with Ukraine

Section 312 expresses the sense of Congress concerning cybersecurity threat and...
cybercrime cooperation between the United States and Ukraine.

Section 313. Replacement of locally employed staff serving at United States diplomatic facilities in the Russian Federation

Section 314 requires the Secretary of State to ensure that every supervisory position at a U.S. diplomatic facility in the Russian Federation is occupied by a citizen of the United States, unless an individual passes a background check and to provide Congress with a plan to further reduce reliance on locally employed staff.

Section 314. Inclusion of Sensitive Compartmented Information Facilities in the Russian Federation and adjacent countries

Section 314 requires that each U.S. diplomatic facility that is constructed in, or undergoes a construction upgrade, the Russian Federation, any country that shares a land border with the Russian Federation, or any country that is a former member of the Soviet Union, shall be constructed to include a Sensitive Compartmented Information Facility. The Secretary of State may waive the requirements of this section upon a determination that it is in the national security interest of the United States.

SUBTITLE B—REPORTING

Section 321. Report on declassification process

Section 321 requires the DNI to submit a report to Congress describing proposals to improve the classification process, including the steps the IC could take or legislation that may be necessary, to enable the National Declassification Center to better accomplish the missions assigned to the Center by Executive Order 13526.

Section 322. Report on intelligence community efficient spending targets

Section 322 requires the DNI to submit a report to the congressional intelligence committees with an assessment of the efficiency of the IC, required under Section 506B of the Act, a separate estimate of the number of intelligence collectors and analysts contracted by each element of the IC and a description of the functions performed by such contractors.

Section 323. Annual report on violations of law or ethical standards

Section 323 requires the IC to report annually to the congressional intelligence committees on violations of law or executive order by personnel of an element of the IC that were in effect during the previous calendar year. Under the National Security Act, the President is required to keep the congressional intelligence committees fully and currently informed of the intelligence activities of the United States government. Nonetheless, this annual reporting requirement is necessary to ensure that the intelligence oversight committees of the House and Senate are made fully aware of violations of law or executive order, including, in particular, violations of Executive order 12533 for activities not otherwise subject to the Foreign Intelligence Surveillance Act.

Section 324. Annual report on intelligence activities of the Department of Homeland Security

Section 324 requires the Under Secretary for Intelligence and Analysis of the DHS to provide the congressional intelligence committees with a report on each intelligence activity outside the homeland component of the Department that includes, among other things, the amount of funding requested, the number of full-time employees, and the number of full-time contractor employees. In addition, Section 324 requires the Secretary of Homeland Security to submit to the congressional intelligence committees a report that examines the policy and administrative challenges and consolidating the planning, programming, and resourcing of such activities within the Homeland Security Intelligence Program (HSIP).

The HSIP budget was established to fund those intelligence activities that principally support homeland security independently from those of the NIP. To date, however, this mechanism has only been used to supplement the budget for the office of Intelligence and Analysis, which are used to fund the activities of the non-IC components in the DHS that conduct intelligence-related activities. As a result, there is no comprehensive reporting to Congress regarding the overall resources and personnel required in support of the Department’s intelligence activities.

Section 325. Report on political prison camps in North Korea

Section 325 requires the DNI to submit a report on political prison camps in North Korea to the congressional intelligence committees.

Section 326. Assessment of security of domestic oil refineries and related rail transportation infrastructure

Section 326 requires the Under Secretary of Homeland Security for Intelligence and Analysis to conduct an intelligence assessment of the security of domestic oil refineries and related rail transportation infrastructure.

Section 327. Enhanced contractor level assessments for the intelligence community

Section 327 requires the Under Secretary of Homeland Security for Intelligence and Analysis to provide appropriate congressional committees with an assessment of the efficacy of the memoranda of understanding signed between Federal, State, local, tribal, and territorial agencies to facilitate intelligence-sharing from the Joint Terrorism Task Force. This study should help identify any obstacles to intelligence sharing between agencies, particularly any obstacles that have impeded intelligence sharing in the wake of the April 2013 bombing of the Boston Marathon, and find improvements to existing intelligence sharing relationships.

Section 328. Report on foreign man-made electromagnetic pulse weapons

Section 328 requires the DNI to provide appropriate congressional committees with a report on the threat posed by man-made electromagnetic pulse weapons to United States interests through 2025.

Section 329. Report on United States counterterrorism strategy to disrupt, dismantle, and defeat al-Qaeda and its affiliated or associated groups

Section 329 requires the DNI to provide appropriate congressional committees with a report on the threat posed by man-made electromagnetic pulse weapons to United States interests through 2025.

Section 330. Report on the threat posed by manmade electromagnetic pulse weapons to United States infrastructure

Whereas since June 15, 2014, there have been over 2,000 rockets fired by Hamas and other terrorist organizations from Gaza into Israel;

Whereas Hamas uses civilian populations as human shields by placing their missile batteries in densely populated areas and near schools, hospitals, and mosques;

Whereas Israel dropped leaflets, made announcements, placed phone calls, and sent text messages to the Palestinian people in Gaza warning them in advance that an attack was imminent, and went to extraordinary lengths to target only terrorist actors and to minimize collateral damage;

Whereas Hamas urges the residents of Gaza to ignore the Israeli warnings and to remain in their homes and encouraged Palestinians to gather on the roofs of their homes to act as human shields.

Whereas on July 23, 2014, the 46-Member UN Human Rights Council passed a resolution to form a commission of inquiry over Israel’s operations in Gaza that completely fails to condemn Hamas for its indiscriminate rocket attacks and its unconscionable use of human shields, with the United States being the lone dissenting vote;

Whereas public reports have cited the role of Iran and Syria in providing material support and training to Hamas and other terrorist groups carrying out rocket and mortar attacks from Gaza;

Whereas throughout the summer of 2006 conflict between the State of Israel and the terrorist organization Hezbollah, Hezbollah forces utilized human shields as human shields;

Whereas al Qaeda, Al-Shabaab, Islamic State of Iraq and the Levant (ISIL), and other foreign terrorist organizations typically use innocent civilians as human shields;

Whereas the United States and Israel have cooperated on missile defense projects, including Iron Dome, David’s Sling, and the Arrow Anti-Missile System, projects that use a diverse range of threats, including short-range missiles and rockets fired by non-state actors, such as Hamas;

Whereas the United States provided $460,000,000 in fiscal year 2014 for Iron Dome research, development, and production;