

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR
2013

MAY 22, 2012.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. ROGERS of Michigan, from the Permanent Select Committee on
Intelligence, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 5743]

[Including cost estimate of the Congressional Budget Office]

The Permanent Select Committee on Intelligence, to whom was referred the bill (H.R. 5743) to authorize appropriations for fiscal year 2013 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, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Intelligence Authorization Act for Fiscal Year 2013”.

(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—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.
Sec. 102. Classified Schedule of Authorizations.
Sec. 103. Personnel ceiling adjustments.
Sec. 104. Intelligence Community Management Account.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 201. Authorization of appropriations.

TITLE III—GENERAL PROVISIONS

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

- Sec. 304. Strategy for security clearance reciprocity.
 Sec. 305. Repeal or modification of certain reporting requirements.

TITLE IV—MATTERS RELATING TO ELEMENTS OF THE INTELLIGENCE COMMUNITY

- Sec. 401. Clarification on authority of CIA to transfer funds to CIA activities authorized by law.
 Sec. 402. Authorities of the Inspector General for the Central Intelligence Agency.
 Sec. 403. Working capital fund.
 Sec. 404. Intelligence community assistance to counter drug trafficking organizations using public lands.

TITLE V—OTHER MATTERS

- Sec. 501. Extension of National Commission for the Review of the Research and Development Programs of the United States Intelligence Community.
 Sec. 502. Technical amendment to title 5, United States Code.
 Sec. 503. Technical amendment to the National Security Act of 1947.

SEC. 2. DEFINITIONS.

In this Act:

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

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2013 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 Intelligence.
- (2) The Central Intelligence Agency.
- (3) The Department of Defense.
- (4) The Defense Intelligence Agency.
- (5) The National Security Agency.
- (6) The Department of the Army, the Department 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.
- (12) The Federal Bureau of Investigation.
- (13) The Drug Enforcement Administration.
- (14) The National Reconnaissance Office.
- (15) The National Geospatial-Intelligence Agency.
- (16) The Department of Homeland Security.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL LEVELS.—The amounts authorized to be appropriated under section 101 and, subject to section 103, the authorized personnel ceilings as of September 30, 2013, 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 H.R. 5743 of the One Hundred Twelfth Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—

(1) AVAILABILITY TO COMMITTEES OF CONGRESS.—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.

(2) DISTRIBUTION BY THE PRESIDENT.—Subject to paragraph (3), the President shall provide for suitable distribution of the classified Schedule of Authorizations, or of appropriate portions of the Schedule, within the executive branch.

(3) LIMITS ON DISCLOSURE.—In carrying out paragraph (2), the President may disclose only that budget-related information necessary to execute the classified Schedule of Authorizations and shall not disclose the Schedule or any portion of the Schedule publicly.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR INCREASES.—With the approval of the Director of the Office of Management and Budget, the Director of National Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year

2013 by the classified Schedule of Authorizations referred to in section 102(a) if the Director of National Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed 3 percent of the number of civilian personnel authorized under such Schedule for such element.

(b) **AUTHORITY FOR CONVERSION OF ACTIVITIES PERFORMED BY CONTRACT PERSONNEL.**—

(1) **IN GENERAL.**—In addition to the authority in subsection (a) and subject to paragraph (2), if the head of an element of the intelligence community makes a determination that activities currently being performed by contract personnel should be performed by employees of such element, the Director of National Intelligence, in order to reduce a comparable number of contract personnel, may authorize for that purpose employment of additional full-time equivalent personnel in such element equal to the number of full-time equivalent contract personnel performing such activities.

(2) **CONCURRENCE AND APPROVAL.**—The authority described in paragraph (1) may not be exercised unless the Director of National Intelligence concurs with the determination described in such paragraph.

(c) **NOTICE TO CONGRESSIONAL INTELLIGENCE COMMITTEES.**—The Director of National Intelligence shall notify the congressional intelligence committees in writing at least 15 days prior to each exercise of an authority described in subsection (a).

SEC. 104. 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 2013 the sum of \$530,652,000. 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, 2014.

(b) **AUTHORIZED PERSONNEL LEVELS.**—The elements within the Intelligence Community Management Account of the Director of National Intelligence are authorized 831 full-time or full-time equivalent personnel as of September 30, 2013. 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 2013 such additional amounts as are specified in the classified Schedule of Authorizations referred to in section 102(a). Such additional amounts for advanced research and development shall remain available until September 30, 2014.

(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, 2013, there are authorized such additional 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 2013 the sum of \$514,000,000.

TITLE III—GENERAL PROVISIONS

SEC. 301. 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. 302. 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. 303. NON-REIMBURSABLE DETAILS.

Section 113A of the National Security Act of 1947 (50 U.S.C. 404h-1) is amended—

- (1) by striking “An officer or employee of the United States or member of the Armed Forces” and inserting “(a) CIVILIAN EMPLOYEES.—An officer or employee of the United States”;
- (2) by striking the second sentence; and
- (3) by adding at the end the following new subsections:
 - “(b) MEMBERS OF THE ARMED FORCES.—A member of the Armed Forces may be detailed to the staff of an element of the intelligence community funded through the National Intelligence Program on a non-reimbursable basis, as jointly agreed to by the head of the receiving and detailing elements, for a period not to exceed three years.
 - “(c) NO LIMITATION ON OTHER AUTHORITY.—This section does not limit any other source of authority for or non-reimbursable details.
 - “(d) NO EFFECT ON APPROPRIATIONS.—A non-reimbursable detail made under this section shall not be considered an augmentation of the appropriations of the element of the intelligence community receiving such detail.”

SEC. 304. STRATEGY FOR SECURITY CLEARANCE RECIPROCITY.

(a) STRATEGY.—The President shall develop a strategy and a timeline for carrying out the requirements of section 3001(d) of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 435b(d)). Such strategy and timeline shall include—

- (1) a process for accomplishing the reciprocity required under such section for a security clearance issued by a department or agency of the Federal Government, including reciprocity for security clearances that are issued to both persons who are and who are not employees of the Federal Government; and
 - (2) a description of the specific circumstances under which a department or agency of the Federal Government may not recognize a security clearance issued by another department or agency of the Federal Government.
- (b) CONGRESSIONAL NOTIFICATION.—Not later than 180 days after the date of the enactment of this Act, the President shall inform Congress of the strategy and timeline developed under subsection (a).

SEC. 305. REPEAL OR MODIFICATION OF CERTAIN REPORTING REQUIREMENTS.

(a) REPEAL OF REPORTING REQUIREMENTS.—

(1) ACQUISITION OF TECHNOLOGY RELATING TO WEAPONS OF MASS DESTRUCTION AND ADVANCED CONVENTIONAL MUNITIONS.—Section 721 of the Intelligence Authorization Act for Fiscal Year 1997 (50 U.S.C. 2366) is repealed.

(2) THREAT OF ATTACK ON THE UNITED STATES USING WEAPONS OF MASS DESTRUCTION AND THE SAFETY AND SECURITY OF RUSSIAN NUCLEAR FACILITIES AND NUCLEAR MILITARY FORCES.—Section 114 of the National Security Act of 1947 (50 U.S.C. 404i) is amended—

(A) in the heading, by striking “ADDITIONAL ANNUAL REPORTS FROM THE DIRECTOR OF NATIONAL INTELLIGENCE” and inserting “ANNUAL REPORT ON HIRING AND RETENTION OF MINORITY EMPLOYEES”;

(B) by striking subsections (a), (c), and (d);

(C) by striking “(b) ANNUAL REPORT ON HIRING AND RETENTION OF MINORITY EMPLOYEES.—”;

(D) by redesignating paragraphs (1) through (5) as subsections (a) through (e), respectively;

(E) in subsection (b) (as so redesignated)—

(i) by redesignating subparagraphs (A), (B), and (C), as paragraphs (1), (2), and (3), respectively; and

(ii) in paragraph (2) (as so redesignated), by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively; and

(F) in subsection (e) (as redesignated by subparagraph (D)), by redesignating subparagraphs (A), (B), and (C), as paragraphs (1), (2), and (3), respectively.

(3) MEASURES TO PROTECT THE IDENTITIES OF COVERT AGENTS.—Title VI of the National Security Act of 1947 (50 U.S.C. 421 et seq.) is amended—

(A) by striking section 603; and

(B) by redesignating sections 604, 605, and 606 as sections 603, 604, and 605, respectively.

(b) MODIFICATION OF REPORTING REQUIREMENTS.—

(1) INTELLIGENCE ADVISORY COMMITTEES.—Section 410(b) of the Intelligence Authorization Act for Fiscal Year 2010 (Public Law 111-259; 124 Stat. 2725) is amended to read as follows:

“(b) NOTIFICATION OF ESTABLISHMENT OF ADVISORY COMMITTEE.—The Director of National Intelligence and the Director of the Central Intelligence Agency shall each notify the congressional intelligence committees each time each such Director creates an advisory committee. Each notification shall include—

“(1) a description of such advisory committee, including the subject matter of such committee;

“(2) a list of members of such advisory committee; and

“(3) in the case of an advisory committee created by the Director of National Intelligence, the reasons for a determination by the Director under section 4(b)(3) of the Federal Advisory Committee Act (5 U.S.C. App) that an advisory committee cannot comply with the requirements of such Act.”

(2) CUSTOMER FEEDBACK ON DEPARTMENT OF HOMELAND SECURITY INTELLIGENCE REPORTING.—Section 210A(g)(2) of the Homeland Security Act of 2002 (6 U.S.C. 124h) is amended—

(A) by inserting “and the Select Committee on Intelligence” after “Committee on Homeland Security and Governmental Affairs”; and

(B) by inserting “and the Permanent Select Committee on Intelligence” after “and the Committee on Homeland Security”.

(3) INTELLIGENCE INFORMATION SHARING.—Section 102A(g)(4) of the National Security Act of 1947 (50 U.S.C. 403–1(g)(4)) is amended to read as follows:

“(4) The Director of National Intelligence shall, in a timely manner, report to Congress any statute, regulation, policy, or practice that the Director believes impedes the ability of the Director to fully and effectively ensure maximum availability of access to intelligence information within the intelligence community consistent with the protection of the national security of the United States.”

(c) CONFORMING AMENDMENTS.—

(1) REPORT SUBMISSION DATES.—Section 507 of the National Security Act of 1947 (50 U.S.C. 415b) is amended—

(A) in subsection (a)—

(i) by striking “(1) The date” and inserting “The date”;

(ii) in the matter preceding subparagraph (A), by striking “subsection (c)(1)(A)” and inserting “subsection (c)(1)”;

(iii) by striking paragraph (2);

(iv) by striking subparagraphs (A) and (C);

(v) in subparagraph (G), by striking “114(c)” and inserting “114”; and

(vi) by redesignating subparagraphs (B), (D), (E), (F), (G), (H), and (I), as paragraphs (1), (2), (3), (4), (5), (6), and (7), respectively; and

(B) in subsection (c)(1)—

(i) by striking “(A) Except as provided” and inserting “Except as provided”; and

(ii) by striking subparagraph (B).

(2) TABLE OF CONTENTS OF THE NATIONAL SECURITY ACT OF 1947.—The table of contents in the first section of the National Security Act of 1947 is amended—

(A) by striking the item relating to section 114 and inserting the following new item:

“Sec. 114. Annual report on hiring and retention of minority employees.”; and

(B) by striking the items relating to sections 603, 604, 605, and 606 and inserting the following new items:

“Sec. 603. Extraterritorial jurisdiction.

“Sec. 604. Providing information to Congress.

“Sec. 605. Definitions.”.

TITLE IV—MATTERS RELATING TO ELEMENTS OF THE INTELLIGENCE COMMUNITY

SEC. 401. CLARIFICATION ON AUTHORITY OF CIA TO TRANSFER FUNDS TO CIA ACTIVITIES AUTHORIZED BY LAW.

Section 5(a)(1) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f(a)(1)) is amended by striking “any of the functions or activities authorized under section 104A of the National Security Act of 1947 (50 U.S.C. 403–4a)” and inserting “any functions or activities of the Agency authorized by law”.

SEC. 402. AUTHORITIES OF THE INSPECTOR GENERAL FOR THE CENTRAL INTELLIGENCE AGENCY.

Section 17(e)(7) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(e)(7)) is amended—

(1) by striking “Subject to applicable law” and inserting “(A) Subject to applicable law”; and

(2) by adding at the end the following new subparagraph:

“(B)(i) The Inspector General may designate an officer or employee appointed in accordance with subparagraph (A) as a law enforcement officer solely for purposes of subchapter III of chapter 83 or chapter 84 of title 5, United States Code, if such officer or employee is appointed to a position in which the duty is to investigate suspected offenses against the criminal laws of the United States.

“(ii) In carrying out clause (i), the Inspector General shall ensure that any authority under such clause is exercised in a manner consistent with the provisions of section 3307 of title 5, United States Code, as they relate to law enforcement officers.

“(iii) For purposes of applying sections 3307(d), 8335(b), and 8425(b) of title 5, United States Code, the Inspector General may exercise the functions, powers, and duties of an agency head or appointing authority with respect to the Office.”.

SEC. 403. WORKING CAPITAL FUND.

Section 21 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a) is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (B), by striking “; and” and inserting a semicolon;

(B) in subparagraph (C), by striking the period and inserting “; and”; and

(C) by adding at the end the following new subparagraph:

“(D) authorize such providers to advertise through Federal Government-owned websites the services of such providers to the entities to which such providers are providing items under the program, provided that the Director shall not authorize such providers to distribute gifts or promotional items.”; and

(2) in subsection (c)—

(A) in paragraph (2)(E), by striking “equipment or property” and inserting “equipment, recyclable materials, or property”; and

(B) in paragraph (3)(B), by striking “subsection (f)(2)” and inserting “subsections (b)(1)(D) and (f)(2)”.

SEC. 404. INTELLIGENCE COMMUNITY ASSISTANCE TO COUNTER DRUG TRAFFICKING ORGANIZATIONS USING PUBLIC LANDS.

Section 401(b) of the Intelligence Authorization Act for Fiscal Year 2012 (Public Law 112–87; 125 Stat. 1887) is amended in the matter preceding paragraph (1)—

(1) by inserting “and annually thereafter,” after “Not later than 180 days after the date of the enactment of this Act.”;

(2) by striking “submit to” and inserting “inform”;

(3) by striking “a report on the results” and inserting “of the results”; and

(4) by striking “Such report” and inserting “Information provided under this subsection”.

TITLE V—OTHER MATTERS

SEC. 501. EXTENSION OF NATIONAL COMMISSION FOR THE REVIEW OF THE RESEARCH AND DEVELOPMENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY.

Section 1007 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 50 U.S.C. 401 note) is amended by striking “Not later than one year after the date on which all members of the Commission are appointed pursuant to section 701(a)(3) of the Intelligence Authorization Act for Fiscal Year 2010” and inserting “Not later than March 31, 2013”.

SEC. 502. TECHNICAL AMENDMENT TO TITLE 5, UNITED STATES CODE.

Section 3132(a)(1)(B) of title 5, United States Code, is amended by inserting “, the Office of the Director of National Intelligence” after “the Central Intelligence Agency”.

SEC. 503. TECHNICAL AMENDMENT TO THE NATIONAL SECURITY ACT OF 1947.

Section 605 of the National Security Act of 1947 (50 U.S.C. 426) (as redesignated by section 305 of this Act) is amended—

(1) in paragraph (4)—

(A) in subparagraph (A), by striking “intelligence agency” each place it appears and inserting “element of the intelligence community”;

(B) in subparagraph (B)(i), by striking “intelligence agency” and inserting “element of the intelligence community”; and

(C) in subparagraph (C), by striking “intelligence agency” and inserting “element of the intelligence community”;

(2) by striking paragraph (5);

(3) by redesignating paragraphs (6) through (10) as paragraphs (5) through (9), respectively; and

(4) in paragraph (5) (as so redesignated), by striking “intelligence agency” and inserting “element of the intelligence community”.

PURPOSE

The purpose of H.R. 5743 is to authorize the intelligence and intelligence-related activities of the United States Government for Fiscal Year 2013 in order to enhance the national security of the United States, to support and assist the armed forces of the United States, and to support the President in the execution of the foreign policy of the United States. The bill also clarifies certain Intelligence Community authorities.

CLASSIFIED ANNEX AND COMMITTEE INTENT

The classified annex to this report includes the classified Schedule of Authorizations and its associated explanatory language. The Committee views the classified annex as an integral part of this legislation. The classified annex contains a thorough discussion of the issues considered by the Committee underlying the funding authorizations found in the classified Schedule of Authorizations. The Committee intends that all intelligence programs discussed in the classified annex to this report be conducted in accordance with the guidance and limitations set forth as associated language therein.

The classified Schedule of Authorizations is incorporated directly into this legislation by virtue of section 102 of the bill. The classified annex is available for review by all Members of the House of Representatives, subject to the requirements of clause 13 of rule XXIII of the Rules of the House of Representatives, and rule 14 of the Rules of Procedure for the House Permanent Select Committee on Intelligence.

SCOPE OF COMMITTEE REVIEW

The bill authorizes U.S. intelligence and intelligence-related activities within the jurisdiction of the Committee, including the National Intelligence Program (NIP), and the Military Intelligence Program (MIP). The NIP consists of all activities of the Office of the Director of National Intelligence, as well as those national foreign intelligence, intelligence-related, and/or counterintelligence activities conducted by: (1) the Central Intelligence Agency; (2) the Department of Defense; (3) the Defense Intelligence Agency; (4) the National Security Agency; (5) the National Reconnaissance Office; (6) the National Geospatial-Intelligence Agency; (7) the Departments of the Army, Navy, and Air Force; (8) the Department of State; (9) the Department of the Treasury; (10) the Department of Energy; (11) the Department of Justice; (12) the Federal Bureau of Investigation; (13) the U.S. Coast Guard; (14) the Department of Homeland Security; and (15) the Drug Enforcement Administration. The Committee has exclusive legislative, authorizing and oversight jurisdiction of these programs.

COMMITTEE STATEMENT AND VIEWS

The Fiscal Year 2013 Intelligence Authorization bill represents a return to regular order for the Committee. After nearly six years without a full bill and classified annex authorizing the Intelligence Community's (IC's) classified programs, the Committee worked together on a bipartisan basis to pass the Fiscal Year 2011 and Fiscal Year 2012 intelligence authorization bills on a compressed timeframe. This year, however, the Committee returned to regular order. The Fiscal Year 2013 bill and classified annex is a continu-

ation of the Committee's effort to prioritize necessary funding and provide consistent oversight in tighter fiscal times.

This Committee's primary responsibility is to conduct oversight and to authorize the funding levels for the elements of the IC spanning 16 separate agencies. It provides authorization for critical national security functions, including: CIA personnel and their activities worldwide; tactical intelligence support to combat units in Afghanistan and Iraq; NSA's signals intelligence and network defense missions; global monitoring of foreign militaries, weapons tests, and arms control treaties, including use of satellites and radars; real-time analysis and reporting on political and economic events; and research and technology to maintain the country's technological edge, including work on code breaking, listening devices, and satellites.

As most of that budget involves highly classified programs, the bulk of this Committee's recommendations each year are found in the classified annex to the bill. This year's annex includes increased funding for counterintelligence against spies; authorizes the new Defense Clandestine Service; enhances counterterrorism efforts to continue the fight against al Qaeda and its affiliates around the world; increases oversight on the spending of domestic intelligence agencies; and supports global coverage initiatives of the IC to ensure the U.S. is postured to address emerging issues and threats around the world.

The legislative provisions that the Committee and Congress consider each year are comprised of changes to statute that serve two primary goals: (1) To better enable the Community to conduct its important mission and (2) To strengthen oversight mechanisms where needed as a result of the Committee's oversight throughout the year.

INSPECTOR GENERAL

Section 402 of the bill contains a provision that permits the Inspector General (IG) of the CIA to designate certain positions as law enforcement officer positions solely for the purpose of certain retirement benefits. The Committee included this provision at the request of the Administration in response to concerns raised by the CIA IG about his ability to recruit and retain a cadre of experienced professional investigators. The CIA IG has identified a need for experienced criminal investigators to fulfill its mission, which includes a variety of criminal, civil and regulatory investigations similar to other inspectors general offices in the Executive Branch. The IG indicated that his office was at a distinct disadvantage in particular when trying to hire experienced investigators from other law enforcement agencies because most are not willing to give up their law enforcement benefits to do so.

In the Fiscal Year 2012 bill, the Committee discussed providing this authority and ultimately directed OPM to do a study of the personnel authorities and available personnel benefits of the CIA IG to include: (1) identification of any barriers or disincentives to the recruitment or retention of experienced investigators within the IG's office; and (2) a comparison of the personnel authorities of the CIA IG with those of inspectors general of other agencies. On May 10, 2012, OPM's Office of the Inspector General issued a preliminary report on its study.

OPM's preliminary findings concluded that the CIA IG's inability to designate certain positions as law enforcement officers for the purpose of retirement has made it "difficult to recruit the investigative staff required to meet its mission-related critical needs." Moreover, to compensate for this problem, OPM noted that the IG "has resorted to measures such as offering high-end salaries for mid-level positions and using employees other than professionally trained investigators in an investigative role" and as a result has a workforce that is "older, more highly graded and paid, and yet less well-trained for investigative duties, compared to the Title 5 OIG's." The preliminary report went on to recommend legislative changes to address this discrepancy.

REPORTS REPEAL

In Section 305, the Committee voted to repeal or modify six reporting requirements in a manner so as to alleviate the burden on the IC.¹ The Committee is mindful of the numerous reporting requirements levied on the Intelligence Community each year that often become perpetual reporting requirements unless revisited by a future Congress. We are also mindful of levying new reporting requirements in a time of declining budgets where prioritization of resources is even more critical. The Committee's best work is conducted by hands-on, direct oversight including briefings, hearings and reviewing the daily finished intelligence products we receive. Many formal reports are time consuming to produce and may require analysis beyond what the Community would be doing absent congressional direction. The Committee is committed to attempting to lessen the burden of formal written reports where the usefulness of the report may have waned since its inception, but remains committed to conducting regular oversight on the topics contained in the reports.

The Committee makes note, however, that formal, written reports remain a critical part of Congressional oversight, where appropriate. Recurring reports can be an important tool for the Congress to gain information to study trends over long periods of time on important issues. One-time reports also serve an important purpose where the Committee believes it is necessary to make a written record of the Intelligence Community's analysis of or opinion on a certain subject—especially where Congress has repeatedly sought certain information in briefings and has not received sufficient response. One-time reports can also serve as an information gathering mechanism in lieu of, or prior to making a statutory change, such as described in the previous section of this report on changes to the CIA IG's authorities.

The Committee carefully reviewed the thirty reporting requirements nominated by the ODNI for possible repeal. While all of the reporting requirements proposed for repeal by the DNI contain some useful information that the Committee values, approximately half appeared to be viable candidates for repeal. The basis for repealing many of these reports is that the volume of reporting, briefings and other information we receive on the topics at issue alleviates the need for an annual report. While the reports are very use-

¹The Committee also modified one reporting requirement to include the Committee as a recipient to the required report. The report is required by the Homeland Security Act of 2002 and was not submitted to this Committee under the original text.

ful for year to year tracking of issues in those instances, the Committee weighed that value against the more limited resource environment we face today, particularly where an annual report appeared to add no “new” information by the time it was received.

However, as the IC is well-aware, we are not the only committee with equities in many of these reports. We considered the views of other congressional committees who receive several of the reports requested for repeal and where there was a strong objection to repeal or argument in favor of maintaining the report the report was maintained.

Where reports *are* repealed, the Committee fully expects the Executive Branch to continue to provide full and complete briefings on the relevant issues in lieu of formal annual reports.

OTHER PROVISIONS

The bill also includes a provision that extends a provision adopted in the Fiscal Year 2012 bill on Intelligence Community Assistance to Counter Drug Trafficking Organizations Using Public Lands. That provision required the DNI to consult with the heads of the Federal land management agencies on the appropriate actions the intelligence community can take to assist such agencies in responding to the threat from covered entities that are currently or have previously used public lands in the United States to further the operations of such entities. This year’s provision, offered in an amendment by Mr. Thompson, extended the one-time reporting requirement to an annual one, but changed the form to allow for briefings or another informational mechanism to alleviate the burden of another formal reporting requirement.

The bill also contains an amendment to the National Security Act of 1947 concerning non-reimbursable details. This section has been amended in recent years, and this year’s amendment would change the maximum duration that members of the Armed Forces can be detailed to the IC from two years to three years in an effort to make such details consistent with joint-duty minimum service requirements.

The bill also contains a provision requiring the President to develop a strategy and timeline for complying with Section 3001(d) of the Intelligence Reform and Terrorism Protection Act of 2004 concerning reciprocity of security clearance background investigations and determinations.

COMMITTEE CONSIDERATION AND ROLLCALL VOTES

On May 17, 2012, the Committee met in open and closed session and ordered the bill H.R. 5743 favorably reported, as amended.

OPEN SESSION

In open session, the Committee considered the text of the bill H.R. 5743. Chairman Rogers offered an amendment in the nature of a substitute to H.R. 5743. The contents of the amendment in the nature of a substitute are described in the Section-by-Section analysis and the Explanation of Amendment.

Mr. Thompson offered an amendment to the amendment in the nature of a substitute to extend a provision adopted in the FY 2012 Intelligence Authorization bill on Intelligence Community Assistance to Counter Drug Trafficking Organizations Using Public Lands. Mr. Thompson’s amendment would make the reporting to

Congress an annual requirement and would reduce the report from a formal, written report to a requirement that the Executive Branch inform Congress.

The amendment in the nature of a substitute as amended was agreed to by voice vote.

CLOSED SESSION

Mr. Ruppertsberger then moved to close the meeting because national security would be endangered if the matters to be considered were disclosed. The motion was agreed to by a record vote of 19 ayes and 0 noes:

Voting aye: Mr. Rogers (Chairman), Mr. Thornberry, Mrs. Myrick, Mr. Miller, Mr. King, Mr. LoBiondo, Mr. Nunes, Mr. Westmoreland, Mrs. Bachmann, Mr. Rooney, Mr. Heck, Mr. Ruppertsberger, Mr. Thompson, Ms. Schakowsky, Mr. Langevin, Mr. Schiff, Mr. Boren, Mr. Gutierrez, Mr. Chandler.

Voting no: none.

Mr. Rogers (Chairman) offered an amendment to the classified Schedule of Authorizations (annex) that was adopted by voice vote.

Ms. Schakowsky offered an amendment to the classified Schedule of Authorizations (annex) that was adopted by voice vote.

Mr. Rogers (Chairman) offered an amendment to the classified Schedule of Authorizations (annex) that was adopted by voice vote.

The Committee then adopted the classified Schedule of Authorizations by voice vote.

OPEN SESSION

By unanimous consent, the Committee returned to open session. The Committee then adopted a motion by the Chairman to favorably report the bill H.R. 5743 to the House, as amended, including by reference the classified schedule of authorizations. The motion was agreed to by record vote of 19 ayes and 0 noes.

Voting aye: Mr. Rogers (Chairman), Mr. Thornberry, Mr. Conaway, Mr. Miller, Mr. King, Mr. LoBiondo, Mr. Nunes, Mr. Westmoreland, Mrs. Bachmann, Mr. Rooney, Mr. Heck, Mr. Ruppertsberger, Mr. Thompson, Ms. Schakowsky, Mr. Langevin, Mr. Schiff, Mr. Boren, Mr. Gutierrez, Mr. Chandler.

Voting no: none.

SECTION-BY-SECTION ANALYSIS AND EXPLANATION OF THE AMENDMENT

Section 1—Short title and table of contents

Section 1 contains the short title for the bill and the Table of Contents.

Section 2—Definitions

Section 2 contains definitions of the terms “congressional intelligence committees” and “intelligence community.”

TITLE I—BUDGET AND PERSONNEL AUTHORIZATIONS

Section 101—Authorization of appropriations

Section 101 of the bill authorizes appropriations for the intelligence and intelligence-related activities of these elements of the United States Government: The Office of the Director of National Intelligence (including the National Counterterrorism Center), the Central Intelligence Agency, the Department of Defense, the De-

fense Intelligence Agency, the National Security Agency, the Departments of the Army, Navy and Air Force, the Coast Guard, the Department of State, the Department of the Treasury, the Department of Energy, the Department of Justice, the Federal Bureau of Investigation, the Drug Enforcement Administration, the National Reconnaissance Office, the National Geospatial Intelligence Agency, and the Department of Homeland Security.

Section 102—Classified Schedule of Authorizations

Section 102 provides that the amounts and personnel ceilings authorized under Section 101 shall be specified in the accompanying classified Schedule of Authorizations, which shall be made available to the Committee on Appropriations and to the President. The Committee again emphasizes that—because certain guidance with respect to classified programs cannot be fully contained in the unclassified bill text—its understanding and expectation is that the provisions of the annex will be fully and completely carried out in executing the broader, unclassified authorizations contained in the bill.

Section 103—Personnel Ceiling Adjustments

Section 103 authorizes the DNI to make certain increases to the authorized personnel levels for FY 2013 when necessary to the performance of important intelligence functions, but not to exceed three percent of the number of civilian personnel authorized.

Section 103 also authorizes the DNI to convert activities performed by contract personnel if the head of an IC element makes a determination that such duties should be performed by the employees of such element.

Section 104—Intelligence Community Management Account

Section 104 authorizes appropriations for the Intelligence Community Management Account (ICMA) of the DNI and sets the authorized full-time equivalent personnel levels for the elements within the ICMA for Fiscal Year 2013.

Section 104 also authorizes additional classified appropriations and personnel levels for the Community Management Account as specified in the classified Schedule of Authorizations and permits the funding for advanced research and development to remain available through September 30, 2014.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND
DISABILITY SYSTEM

Section 201—Authorization of appropriations

Section 201 authorizes \$514,000,000 for the Central Intelligence Agency Retirement and Disability System (CIARDS).

TITLE III—GENERAL INTELLIGENCE COMMUNITY MATTERS

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

Section 301 provides that the authorized amounts 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 this Act does not constitute authority for the conduct of any intelligence activity not otherwise authorized by the Constitution or laws of the United States.

Section 303—Non-reimbursable details

Section 303 amends the National Security Act to permit members of the Armed Forces to be detailed to the staff of an element of the intelligence community funded through the National Intelligence Program on a non-reimbursable basis for a period not to exceed three years and makes clear that a non-reimbursable detail under this section shall not be considered an augmentation of the appropriations of the element of the intelligence community receiving such detail.

Section 304—Strategy for security clearance reciprocity

Section 304 requires the President to develop a strategy and process for carrying out the requirements of section 3001(d) of the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA), which concerns reciprocity of security clearance access determinations across agencies.

Section 305—Repeal or modification of certain reporting requirements

Section 305 repeals or modifies various intelligence community reporting requirements.

TITLE IV—MATTERS RELATING TO ELEMENTS OF THE INTELLIGENCE
COMMUNITY

Section 401—Clarification on authority of CIA to transfer funds to CIA activities authorized by law.

Section 401 clarifies that the CIA may transfer funds under section 5(a)(1) of the Central Intelligence Agency Act to any functions or activities of the Agency authorized by law.

Section 402—Authorities of the Inspector General for the Central Intelligence Agency

Section 402 permits the Inspector General of the Central Intelligence Agency to designate positions in the Inspector General's office as law enforcement positions solely for the purpose of certain retirement and pension provisions of law.

Section 403—Working Capital Fund

Section 403 permits the service providers working under the Central Services Program to use their resources to advertise their capabilities to their authorized customer base. This provision also authorizes providers to pay the costs of advertising from the Working Capital Fund.

Section 404—Intelligence Community Assistance to Counter Drug Trafficking Organizations Using Public Lands

Section 404 amends section 401(b) of the Intelligence Authorization Act for Fiscal Year 2012 to make the one time report therein an annual requirement. It also amends section 401 to no longer require the DNI to submit a formal, written report to the committees.

TITLE V—OTHER MATTERS

Section 501—Extension of National Commission for the Review of the Research and Development Programs of the United States Intelligence Community

Section 501 extends the date the Commission’s final report is due to Congress to March 31, 2012.

Section 502—Technical amendment to Title 5, United States Code

Section 502 adds the Office of the Director of National Intelligence to a provision in Title 5 of the U.S. Code that exempts intelligence agencies from the definition of “agency” for the purposes of that provision.

Section 503—Technical amendment to the National Security Act of 1947

Section 503 amends section 605 of the National Security Act by striking the term “intelligence agency” and inserting “element of the intelligence community” as defined earlier in section 3(4) of the Act.

OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held multiple hearings on the classified budgetary issues raised by H.R. 5347. The bill, as reported by the Committee, reflects conclusions reached by the Committee in light of this oversight activity.

GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c) of House rule XIII, the Committee has undertaken extensive efforts to provide and clearly state performance goals and objectives and, where appropriate, to link those goals and objectives to specific classified programs.

The classified annex that accompanies this report reflects in great detail the Committee’s specific performance goals and objectives at the programmatic level with respect to classified programs.

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104–4) requires a statement of whether the provisions of the reported bill include unfunded mandates. In compliance with this requirement, the Committee has received a letter from the Congressional Budget Office included herein.

STATEMENT ON CONGRESSIONAL EARMARKS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee states that the bill as reported contains no congressional earmarks, limited tax benefits, or limited tariff benefits.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the

Congressional Budget Act of 1974 and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 5743 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC.

Hon. MIKE ROGERS,
*Chairman, Permanent Select Committee on Intelligence,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5743, the Intelligence Authorization Act for Fiscal Year 2013.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jason Wheelock.

Sincerely,

DOUGLAS W. ELMENDORF,
Director.

Enclosure.

H.R. 5743—Intelligence Authorization Act for Fiscal Year 2013

H.R. 5743 would authorize appropriations for fiscal year 2013 for intelligence activities of the U.S. government. Since CBO does not provide estimates for classified programs, this estimate addresses only the unclassified portions of the bill. On that limited basis, and assuming appropriation of the authorized amounts, CBO estimates that implementing the unclassified provisions of H.R. 5743 would cost \$525 million over the 2013–2017 period.

Section 103 would authorize the appropriation of \$531 million for the Intelligence Community Management Account, which provides the principal source of funding for the Office of the Director of National Intelligence and resources for coordinating programs, overseeing budgets, and managing the intelligence agencies.

Section 201 would authorize the appropriation of \$514 million for the Central Intelligence Agency Retirement and Disability System, which is a retirement and disability system for certain employees of the Central Intelligence Agency. The appropriation would cover various unfunded liabilities of the system and would be considered mandatory. However, because the authorization is the same as the amount assumed in the CBO baseline, CBO does not ascribe any additional cost to that provision relative to the baseline.

Enacting H.R. 5743 would affect direct spending; therefore, pay-as-you-go procedures apply. Section 403 would permit the Central Intelligence Agency to retain and spend receipts from the sale of recyclable materials through the agency's working capital fund. CBO estimates that the net effect of this provision would be insignificant for each year and in total over the 2013–2022 period. Enacting the bill would not affect revenues.

H.R. 5743 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Jason Wheelock. The estimate was approved by Theresa Gullo.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

NATIONAL SECURITY ACT OF 1947

SHORT TITLE

That this Act may be cited as the "National Security Act of 1947".

* * * * *

TITLE I—COORDINATION FOR NATIONAL SECURITY

* * * * *

[Sec. 114. Additional annual reports from the Director of National Intelligence.]

Sec. 114. Annual report on hiring and retention of minority employees.

* * * * *

TITLE VI—PROTECTION OF CERTAIN NATIONAL SECURITY INFORMATION

* * * * *

[Sec. 603. Report.

[Sec. 604. Extraterritorial jurisdiction.

[Sec. 605. Providing information to Congress.

[Sec. 606. Definitions.]

Sec. 603. Extraterritorial jurisdiction.

Sec. 604. Providing information to Congress.

Sec. 605. Definitions.

* * * * *

TITLE I—COORDINATION FOR NATIONAL SECURITY

* * * * *

RESPONSIBILITIES AND AUTHORITIES OF THE DIRECTOR OF NATIONAL INTELLIGENCE

SEC. 102A. (a) * * *

* * * * *

(g) INTELLIGENCE INFORMATION SHARING.—(1) * * *

* * * * *

[(4) Not later than February 1 of each year, the Director of National Intelligence shall submit to the President and to the Congress an annual report that identifies any statute, regulation, policy, or practice that the Director believes impedes the ability of the Director to fully and effectively implement paragraph (1).]

(4) The Director of National Intelligence shall, in a timely manner, report to Congress any statute, regulation, policy, or practice that the Director believes impedes the ability of the Director to fully and effectively ensure maximum availability of access to intelligence information within the intelligence community consistent with the protection of the national security of the United States.

* * * * *

NON-REIMBURSABLE DETAIL OF OTHER PERSONNEL

SEC. 113A. **[An officer or employee of the United States or member of the Armed Forces]** (a) *CIVILIAN EMPLOYEES.—An officer or*

employee of the United States 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 another 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) *MEMBERS OF THE ARMED FORCES.*—A member of the Armed Forces may be detailed to the staff of an element of the intelligence community funded through the National Intelligence Program on a non-reimbursable basis, as jointly agreed to by the head of the receiving and detailing elements, for a period not to exceed three years.

(c) *NO LIMITATION ON OTHER AUTHORITY.*—This section does not limit any other source of authority for or non-reimbursable details.

(d) *NO EFFECT ON APPROPRIATIONS.*—A non-reimbursable detail made under this section shall not be considered an augmentation of the appropriations of the element of the intelligence community receiving such detail.

[ADDITIONAL ANNUAL REPORTS FROM THE DIRECTOR OF NATIONAL INTELLIGENCE] ANNUAL REPORT ON HIRING AND RETENTION OF MINORITY EMPLOYEES

SEC. 114. **[(a) ANNUAL REPORT ON THE SAFETY AND SECURITY OF RUSSIAN NUCLEAR FACILITIES AND NUCLEAR MILITARY FORCES.—(1)** The Director of National Intelligence shall submit to the congressional leadership on an annual basis, and to the congressional intelligence committees on the date each year provided in section 507, an intelligence report assessing the safety and security of the nuclear facilities and nuclear military forces in Russia.

[(2) Each such report shall include a discussion of the following:

[(A) The ability of the Government of Russia to maintain its nuclear military forces.

[(B) The security arrangements at civilian and military nuclear facilities in Russia.

[(C) The reliability of controls and safety systems at civilian nuclear facilities in Russia.

[(D) The reliability of command and control systems and procedures of the nuclear military forces in Russia.

[(3) Each such report shall be submitted in unclassified form, but may contain a classified annex.]

[(b) ANNUAL REPORT ON HIRING AND RETENTION OF MINORITY EMPLOYEES.—(1)] (a) The Director of National Intelligence shall, on an annual basis, submit to Congress a report on the employment of covered persons within each element of the intelligence community for the preceding fiscal year.

[(2)] (b) Each such report shall include disaggregated data by category of covered person from each element of the intelligence community on the following:

[(A)] (1) Of all individuals employed in the element during the fiscal year involved, the aggregate percentage of such individuals who are covered persons.

[(B)] (2) Of all individuals employed in the element during the fiscal year involved at the levels referred to in clauses (i)

and (ii), the percentage of covered persons employed at such levels:

[(i)] (A) Positions at levels 1 through 15 of the General Schedule.

[(ii)] (B) Positions at levels above GS-15.

[(C)] (3) Of all individuals hired by the element involved during the fiscal year involved, the percentage of such individuals who are covered persons.

[(3)] (c) Each such report shall be submitted in unclassified form, but may contain a classified annex.

[(4)] (d) Nothing in this subsection shall be construed as providing for the substitution of any similar report required under another provision of law.

[(5)] (e) In this subsection, the term “covered persons” means—

[(A)] (1) racial and ethnic minorities;

[(B)] (2) women; and

[(C)] (3) individuals with disabilities.

[(c) ANNUAL REPORT ON THREAT OF ATTACK ON THE UNITED STATES USING WEAPONS OF MASS DESTRUCTION.—(1) Not later each year than the date provided in section 507, the Director of National Intelligence shall submit to the congressional committees specified in paragraph (3) a report assessing the following:

[(A) The current threat of attack on the United States using ballistic missiles or cruise missiles.

[(B) The current threat of attack on the United States using a chemical, biological, or nuclear weapon delivered by a system other than a ballistic missile or cruise missile.

[(2) Each report under paragraph (1) shall be a national intelligence estimate, or have the formality of a national intelligence estimate.

[(3) The congressional committees referred to in paragraph (1) are the following:

[(A) The congressional intelligence committees.

[(B) The Committees on Foreign Relations and Armed Services of the Senate.

[(C) The Committees on International Relations and Armed Services of the House of Representatives.

[(d) CONGRESSIONAL LEADERSHIP DEFINED.—In this section, the term “congressional leadership” means the Speaker and the minority leader of the House of Representatives and the majority leader and the minority leader of the Senate.]

* * * * *

TITLE V—ACCOUNTABILITY FOR INTELLIGENCE
ACTIVITIES

* * * * *

DATES FOR SUBMITTAL OF VARIOUS ANNUAL AND SEMIANNUAL
REPORTS TO THE CONGRESSIONAL INTELLIGENCE COMMITTEES

SEC. 507. (a) ANNUAL REPORTS.—[(1)] The date for the submittal to the congressional intelligence committees of the following annual reports shall be the date each year provided in [subsection (c)(1)(A)] subsection (c)(1):

[(A) The annual report on the protection of the identities of covert agents required by section 603.]

[(B)] (1) The annual report of the Inspectors General of the intelligence community on proposed resources and activities of their offices required by section 8H(g) of the Inspector General Act of 1978.

[(C)] The annual report on the acquisition of technology relating to weapons of mass destruction and advanced conventional munitions required by section 721 of the Intelligence Authorization Act for Fiscal Year 1997 (Public Law 104–293; 50 U.S.C. 2366).]

[(D)] (2) The annual report on commercial activities as security for intelligence collection required by section 437(c) of title 10, United States Code.

[(E)] (3) The annual report on certifications for immunity in interdiction of aircraft engaged in illicit drug trafficking required by section 1012(c)(2) of the National Defense Authorization Act for Fiscal Year 1995 (22 U.S.C. 2291–4(c)(2)).

[(F)] (4) The annual report on activities under the David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102–183; 50 U.S.C. 1901 et seq.) required by section 806(a) of that Act (50 U.S.C. 1906(a)).

[(G)] (5) The annual report on hiring and retention of minority employees in the intelligence community required by section [114(c)] 114.

[(H)] (6) The annual report on outside employment of employees of elements of the intelligence community required by section 102A(u)(2).

[(I)] (7) The annual report on financial intelligence on terrorist assets required by section 118.

[(2)] The date for the submittal to the congressional intelligence committees of the following annual reports shall be the date each year provided in subsection (c)(1)(B):

[(A)] The annual report on the safety and security of Russian nuclear facilities and nuclear military forces required by section 114(a).

[(B)] The annual report on the threat of attack on the United States from weapons of mass destruction required by section 114(c).]

* * * * *

(c) SUBMITTAL DATES FOR REPORTS.—(1)[(A) Except as provided] *Except as provided* in subsection (d), each annual report listed in subsection (a)(1) shall be submitted not later than February 1.

[(B) Except as provided in subsection (d), each annual report listed in subsection (a)(2) shall be submitted not later than December 1.]

* * * * *

TITLE VI—PROTECTION OF CERTAIN NATIONAL SECURITY INFORMATION

* * * * *

[REPORT

[SEC. 603. (a) The President, after receiving information from the Director of National Intelligence, shall submit to the congressional intelligence committees an annual report on measures to protect the identities of covert agents, including an assessment of

the need, if any, for modification of this title for the purpose of improving legal protections for covert agents, and on any other matter relevant to the protection of the identities of covert agents. The date for the submittal of the report shall be the date provided in section 507.

[(b) The report described in subsection (a) shall be exempt from any requirement for publication or disclosure.]

EXTRATERRITORIAL JURISDICTION

SEC. [604.] 603. There is jurisdiction over an offense under section 601 committed outside the United States if the individual committing the offense is a citizen of the United States or an alien lawfully admitted to the United States for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act).

PROVIDING INFORMATION TO CONGRESS

SEC. [605.] 604. Nothing in this title may be construed as authority to withhold information from the Congress or from a committee of either House of Congress.

DEFINITIONS

SEC. [606.] 605. For the purposes of this title:

(1) * * *

* * * * *

(4) The term “covert agent” means—

(A) a present or retired officer or employee of an [intelligence agency] *element of the intelligence community* or a present or retired member of the Armed Forces assigned to duty with an [intelligence agency] *element of the intelligence community*—

(i) * * *

* * * * *

(B) a United States citizen whose intelligence relationship to the United States is classified information, and—

(i) who resides and acts outside the United States as an agent of, or informant or source of operational assistance to, an [intelligence agency] *element of the intelligence community*, or

* * * * *

(C) an individual, other than a United States citizen, whose past or present intelligence relationship to the United States is classified information and who is a present or former agent of, or a present or former informant or source of operational assistance to, an [intelligence agency] *element of the intelligence community*.

[(5) The term “intelligence agency” means the Central Intelligence Agency, a foreign intelligence component of the Department of Defense, or the foreign counterintelligence or foreign counterterrorism components of the Federal Bureau of Investigation.]

[(6)] (5) The term “informant” means any individual who furnishes information to an [intelligence agency] *element of the intelligence community* in the course of a confidential rela-

tionship protecting the identity of such individual from public disclosure.

[(7)] (6) The terms “officer” and “employee” have the meanings given such terms by section 2104 and 2105, respectively, of title 5, United States Code.

[(8)] (7) The term “Armed Forces” means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

[(9)] (8) The term “United States”, when used in a geographic sense, means all areas under the territorial sovereignty of the United States and the Trust Territory of the Pacific Islands.

[(10)] (9) The term “pattern of activities” requires a series of acts with a common purpose or objective.

* * * * *

**INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR
1997**

* * * * *

**TITLE VII—COMBATTING
PROLIFERATION**

* * * * *

Subtitle B—Other Matters

[SEC. 721. REPORTS ON ACQUISITION OF TECHNOLOGY RELATING TO WEAPONS OF MASS DESTRUCTION AND ADVANCED CONVENTIONAL MUNITIONS.

[(a) REPORTS.—The Director of Central Intelligence shall submit to Congress a report on—

[(1) the acquisition by foreign countries during the preceding 6 months of dual-use and other technology useful for the development or production of weapons of mass destruction (including nuclear weapons, chemical weapons, and biological weapons) and advanced conventional munitions; and

[(2) trends in the acquisition of such technology by such countries.

[(b) SUBMITTAL DATES.—(1) The report required by subsection (a) shall be submitted each year to the congressional intelligence committees and the congressional leadership on an annual basis on the dates provided in section 507 of the National Security Act of 1947.

[(2) In this subsection:

[(A) The term “congressional intelligence committees” has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

[(B) The term “congressional leadership” means the Speaker and the minority leader of the House of Representatives and the majority leader and the minority leader of the Senate.

[(c) FORM OF REPORTS.—Each report submitted under subsection (a) shall be submitted in unclassified form, but may include a classified annex.]

* * * * *

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR
2010

* * * * *

**TITLE IV—MATTERS RELATING TO ELE-
MENTS OF THE INTELLIGENCE COM-
MUNITY**

**Subtitle A—Office of the Director of
National Intelligence**

* * * * *

**SEC. 410. INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT
TO ADVISORY COMMITTEES OF THE OFFICE OF THE DI-
RECTOR OF NATIONAL INTELLIGENCE.**

(a) * * *

[(b) ANNUAL REPORT.—

[(1) IN GENERAL.—The Director of National Intelligence and the Director of the Central Intelligence Agency shall each submit to the congressional intelligence committees an annual report on advisory committees created by each such Director. Each report shall include—

[(A) a description of each such advisory committee, including the subject matter of the committee; and

[(B) a list of members of each such advisory committee.

[(2) REPORT ON REASONS FOR ODNI EXCLUSION OF ADVISORY COMMITTEE FROM FACA.—Each report submitted by the Director of National Intelligence in accordance with paragraph (1) shall include the reasons for a determination by the Director under section 4(b)(3) of the Federal Advisory Committee Act (5 U.S.C. App.), as added by subsection (a) of this section, that an advisory committee cannot comply with the requirements of such Act.]

(b) NOTIFICATION OF ESTABLISHMENT OF ADVISORY COMMITTEE.—The Director of National Intelligence and the Director of the Central Intelligence Agency shall each notify the congressional intelligence committees each time each such Director creates an advisory committee. Each notification shall include—

(1) a description of such advisory committee, including the subject matter of such committee;

(2) a list of members of such advisory committee; and

(3) in the case of an advisory committee created by the Director of National Intelligence, the reasons for a determination by the Director under section 4(b)(3) of the Federal Advisory Committee Act (5 U.S.C. App) that an advisory committee cannot comply with the requirements of such Act.

* * * * *

HOMELAND SECURITY ACT OF 2002

* * * * *

**TITLE II—INFORMATION ANALYSIS AND
INFRASTRUCTURE PROTECTION**

**Subtitle A—Information and Analysis and
Infrastructure Protection; Access to In-
formation**

* * * * *
**SEC. 210A. DEPARTMENT OF HOMELAND SECURITY STATE, LOCAL,
AND REGIONAL FUSION CENTER INITIATIVE.**

(a) * * *

* * * * *

(g) CONSUMER FEEDBACK.—

(1) * * *

(2) REPORT.—Not later than one year after the date of the enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, and annually thereafter, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs *and the Select Committee on Intelligence* of the Senate and the Committee on Homeland Security *and the Permanent Select Committee on Intelligence* of the House of Representatives a report that includes a description of the consumer feedback obtained under paragraph (1) and, if applicable, how the Department has adjusted its production of intelligence products in response to that consumer feedback.

* * * * *

CENTRAL INTELLIGENCE AGENCY ACT OF 1949

* * * * *

GENERAL AUTHORITIES

SEC. 5. (a) IN GENERAL.—In the performance of its functions, the Central Intelligence Agency is authorized to—

(1) Transfer to and receive from other Government agencies such sums as may be approved by the Office of Management and Budget, for the performance of [any of the functions or activities authorized under section 104A of the National Security Act of 1947 (50 U.S.C. 403–4a).] *any functions or activities of the Agency authorized by law*, and any other Government agency is authorized to transfer to or receive from the Agency such sums without regard to any provisions of law limiting or prohibiting transfers between appropriations. Sums transferred to the Agency in accordance with this paragraph may be expended for the purposes and under the authority of this Act without regard to limitations of appropriations from which transferred;

* * * * *

SEC. 17. INSPECTOR GENERAL FOR THE AGENCY.

(a) * * *

* * * * *

(e) AUTHORITIES OF THE INSPECTOR GENERAL.—(1) * * *

* * * * *

(7) **Subject to applicable law** (A) *Subject to applicable law* and the policies of the Director, the Inspector General shall select, appoint and employ such officers and employees as may be necessary to carry out his functions. In making such selections, the Inspector General shall ensure that such officers and employees have the requisite training and experience to enable him to carry out his duties effectively. In this regard, the Inspector General shall create within his organization a career cadre of sufficient size to provide appropriate continuity and objectivity needed for the effective performance of his duties.

(B)(i) *The Inspector General may designate an officer or employee appointed in accordance with subparagraph (A) as a law enforcement officer solely for purposes of subchapter III of chapter 83 or chapter 84 of title 5, United States Code, if such officer or employee is appointed to a position in which the duty is to investigate suspected offenses against the criminal laws of the United States.*

(ii) *In carrying out clause (i), the Inspector General shall ensure that any authority under such clause is exercised in a manner consistent with the provisions of section 3307 of title 5, United States Code, as they relate to law enforcement officers.*

(iii) *For purposes of applying sections 3307(d), 8335(b), and 8425(b) of title 5, United States Code, the Inspector General may exercise the functions, powers, and duties of an agency head or appointing authority with respect to the Office.*

* * * * *

CENTRAL SERVICES PROGRAM

SEC. 21. (a) * * *

(b) PARTICIPATION OF AGENCY ELEMENTS.—(1) In order to carry out the program, the Director shall—

(A) * * *

(B) specify the items or services to be provided under the program by such providers**]; and**;

(C) assign to such providers for purposes of the program such inventories, equipment, and other assets (including equipment on order) as the Director determines necessary to permit such providers to provide items or services under the program**].; and**

(D) *authorize such providers to advertise through Federal Government-owned websites the services of such providers to the entities to which such providers are providing items under the program, provided that the Director shall not authorize such providers to distribute gifts or promotional items.*

* * * * *

(c) CENTRAL SERVICES WORKING CAPITAL FUND.—(1) * * *

(2) There shall be deposited in the Fund the following:

(A) * * *

* * * * *

(E) Other receipts from the sale or exchange of **[equipment or property]** *equipment, recyclable materials, or property* of a central service provider as a result of activities under the program.

* * * * *

(3) Amounts in the Fund shall be available, without fiscal year limitation, for the following purposes:

(A) * * *

(B) To pay the costs of carrying out activities under [subsection (f)(2)] *subsections (b)(1)(D) and (f)(2)*.

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INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2012

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TITLE IV—MATTERS RELATING TO ELEMENTS OF THE INTELLIGENCE COMMUNITY

SUBTITLE A—OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

SEC. 401. INTELLIGENCE COMMUNITY ASSISTANCE TO COUNTER DRUG TRAFFICKING ORGANIZATIONS USING PUBLIC LANDS.

(a) * * *

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, *and annually thereafter*, the Director of National Intelligence shall [submit to] *inform* the congressional intelligence committees, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives [a report on the results] *of the results* of the consultation under subsection (a). [Such report] *Information provided under this subsection* shall include—

(1) * * *

* * * * *

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2003

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TITLE X—NATIONAL COMMISSION FOR REVIEW OF RESEARCH AND DEVELOPMENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY

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SEC. 1007. FINAL REPORT; TERMINATION.

(a) FINAL REPORT.—[Not later than one year after the date on which all members of the Commission are appointed pursuant to section 701(a)(3) of the Intelligence Authorization Act for Fiscal Year 2010] *Not later than March 31, 2013*, the Commission shall submit to the congressional intelligence committees, the Director of National Intelligence, and the Secretary of Defense a final report as required by section 1002(h)(2).

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TITLE 5, UNITED STATES CODE

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PART III—EMPLOYEES

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SUBPART B—EMPLOYMENT AND RETENTION

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CHAPTER 31—AUTHORITY FOR EMPLOYMENT

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SUBCHAPTER II—THE SENIOR EXECUTIVE SERVICE

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§ 3132. Definitions and exclusions

(a) For the purpose of this subchapter—

(1) “agency” means an Executive agency, except a Government corporation and the Government Accountability Office, but does not include—

(A) * * *

(B) the Federal Bureau of Investigation, the Drug Enforcement Administration, the Central Intelligence Agency, the Office of the Director of National Intelligence, the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Security Agency, Department of Defense intelligence activities the civilian employees of which are subject to section 1590 of title 10, and, as determined by the President, an Executive agency, or unit thereof, whose principal function is the conduct of foreign intelligence or counterintelligence activities;

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MINORITY VIEWS

As Members of the House Intelligence Committee, it is our responsibility to ensure that the men and women serving in the Intelligence Community (IC) have the resources, tools, and authorities they need to protect America. It is for this reason that the intelligence authorization bill is one of the most important bills the House passes each year. It provides and allocates resources to critical national security programs, including those that detect, prevent, and disrupt potential terrorist attacks against the American people.

We know America is facing tough economic times. The Intelligence Authorization Act for FY 2013 is 4% below last year's enacted budget. It holds personnel at last year's levels and authorizes an initiative to achieve major efficiencies and improve performance in Information Technology. It makes cuts where appropriate, eliminates redundancies and pushes programs to come in on time and on budget. As in past years, the Bill adds resources for global coverage and supports U.S. Intelligence capabilities to stay on top of key developments and identify emerging trends in areas of strategic interest.

The Intelligence Authorization Act also makes counterintelligence a priority. The bill makes strategic additions across the Intelligence Community by working with the National Counterintelligence Executive to pay for surveillance of foreign spies, improves supply chain security and pays for the counterintelligence analysts we need. It authorizes the Defense Clandestine Service created by the Department of Defense to reorganize its human intelligence collection and partner with the CIA's National Clandestine Service. It enhances counterterrorism efforts to continue the fight against al-Qaeda and its affiliates around the world. It increases oversight on the spending of domestic intelligence agencies and expands the Intelligence Community's global coverage initiatives to ensure the United States is capable and ready to address threats from any location around the world.

The Democrats on the House Intelligence Committee remain committed to giving our intelligence professionals what they need to do their jobs while also providing proper oversight and protecting personal privacy. Provisions offered by Minority Members were accepted as part of the Chairman's mark and other amendments were adopted unanimously by the Committee including:

- A provision that protects the Inspector General of the intelligence agencies from across the board cuts to preserve their role as a watchdog of organizations.
- A provision that extends efforts to prevent the cultivation of illegal drugs on federal lands for an additional year.

There are two initiatives that were not included in this bill that we will continue to pursue. The first would help small businesses

understand the intelligence community's contracting process and ensure they get a fair chance at contracting opportunities. The second would expand the availability of Science, Technology, Engineering and Math (STEM) cooperative programs at colleges and universities to supplement the Intelligence Community workforce, an issue we feel is critically important as we prepare our young people for the Intelligence Community careers of today and tomorrow. Each of these matters is impacted by the classification clearance process and retention policy. We need to do more work on both initiatives to ensure a thoughtful approach to solving these problems. Indicative of the bipartisan nature of this Committee, the Chairman and Ranking Member together with other Members of the Committee remain committed to working in these areas to determine what legislation might be appropriate in the future.

This bipartisan bill passed Committee by a unanimous vote of 19-0. It continues the tradition of removing politics from the committee process. The stakes simply are too high. If this bill is enacted, it will be the fourth intelligence bill in a row signed into law by the President.

C. A. DUTCH RUPPERSBERGER.
MIKE THOMPSON.
JAN SCHAKOWSKY.
JIM LANGEVIN.
ADAM SCHIFF.
DAN BOREN.
LUIS GUTIERREZ.
BEN CHANDLER.

