

Calendar No. 244

113TH CONGRESS
1ST SESSION

S. 1681

To authorize appropriations for fiscal year 2014 for intelligence and intelligence-related activities of the United States Government and the Office of the Director of National Intelligence, the Central Intelligence Agency Retirement and Disability System, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 12, 2013

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

A BILL

To authorize appropriations for fiscal year 2014 for intelligence and intelligence-related activities of the United States Government and the Office of the Director of National Intelligence, the Central Intelligence Agency Retirement and Disability System, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Intelligence Authorization Act for Fiscal Year 2014”.

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

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

TITLE I—BUDGET AND PERSONNEL AUTHORIZATIONS

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

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND
 DISABILITY SYSTEM

- Sec. 201. Authorization of appropriations.
 Sec. 202. CIARDS and FERS special retirement credit for service on detail to
 another agency.

TITLE III—GENERAL INTELLIGENCE COMMUNITY MATTERS

Subtitle A—General Matters

- Sec. 301. Restriction on conduct of intelligence activities.
 Sec. 302. Increase in employee compensation and benefits authorized by law.
 Sec. 303. Open FOIA protections.
 Sec. 304. Functional managers.
 Sec. 305. Auditability.
 Sec. 306. Software licensing.
 Sec. 307. Public Interest Declassification Board.
 Sec. 308. Reports of fraud, waste, and abuse.

Subtitle B—Targeted Lethal Force Oversight

- Sec. 311. Targeted lethal force oversight reform.
 Sec. 312. Unclassified annual report on the use of targeted lethal force outside
 the United States.

Subtitle C—Reporting

- Sec. 321. Opinions of the Office of Legal Counsel concerning intelligence activi-
 ties.
 Sec. 322. Submittal to Congress by heads of elements of intelligence community
 of plans for orderly shutdown in event of absence of appropri-
 ations.
 Sec. 323. Reports on chemical weapons in Syria.
 Sec. 324. Reports to the intelligence community on penetrations of networks
 and information systems of certain contractors.
 Sec. 325. Repeal or modification of certain reporting requirements.

TITLE IV—MATTERS RELATING TO ELEMENTS OF THE
 INTELLIGENCE COMMUNITY

Subtitle A—National Security Agency

- Sec. 401. Appointment of the Director of the National Security Agency.

Sec. 402. Appointment of the Inspector General of the National Security Agency.

Subtitle B—National Reconnaissance Office

Sec. 411. Appointment of the Director of the National Reconnaissance Office.

Sec. 412. Appointment of the Inspector General of the National Reconnaissance Office.

TITLE V—SECURITY CLEARANCE REFORM

Sec. 501. Appropriate committees of Congress defined.

Sec. 502. Technology improvements to security clearance processing.

Sec. 503. Enhanced reciprocity of security clearances.

Sec. 504. Report on reciprocity of security clearances.

Sec. 505. Improving the periodic reinvestigation process.

TITLE VI—INTELLIGENCE COMMUNITY WHISTLEBLOWER PROTECTIONS

Sec. 601. Protection of intelligence community whistleblowers.

Sec. 602. Review of security clearance or access determinations.

Sec. 603. Revisions of other laws.

Sec. 604. Regulations; reporting requirements; nonapplicability to certain terminations.

TITLE VII—OTHER MATTERS

Sec. 701. Repeal of the termination of notification requirements regarding the authorized disclosure of national intelligence.

Sec. 702. Gifts, devises, and bequests.

Sec. 703. Budgetary effects.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) CONGRESSIONAL INTELLIGENCE COMMIT-
4 TEES.—The term “congressional intelligence com-
5 mittees” means—

6 (A) the Select Committee on Intelligence of
7 the Senate; and

8 (B) the Permanent Select Committee on
9 Intelligence of the House of Representatives.

10 (2) INTELLIGENCE COMMUNITY.—The term
11 “intelligence community” has the meaning given

1 that term in section 3(4) of the National Security
2 Act of 1947 (50 U.S.C. 3003(4)).

3 **TITLE I—BUDGET AND**
4 **PERSONNEL AUTHORIZATIONS**

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

6 Funds are hereby authorized to be appropriated for
7 fiscal year 2014 for the conduct of the intelligence and
8 intelligence-related activities of the following elements of
9 the United States Government:

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

12 (2) The Central Intelligence Agency.

13 (3) The Department of Defense.

14 (4) The Defense Intelligence Agency.

15 (5) The National Security Agency.

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

19 (7) The Coast Guard.

20 (8) The Department of State.

21 (9) The Department of the Treasury.

22 (10) The Department of Energy.

23 (11) The Department of Justice.

24 (12) The Federal Bureau of Investigation.

25 (13) The Drug Enforcement Administration.

1 (14) The National Reconnaissance Office.

2 (15) The National Geospatial-Intelligence Agen-
3 cy.

4 (16) The Department of Homeland Security.

5 **SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.**

6 (a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL
7 LEVELS.—The amounts authorized to be appropriated
8 under section 101 and the authorized personnel ceilings
9 as of September 30, 2014, for the conduct of the intel-
10 ligence activities of the elements listed in paragraphs (1)
11 through (16) of section 101, are those specified in the clas-
12 sified Schedule of Authorizations prepared to accompany
13 the bill S. _____ of the One Hundred Thirteenth Con-
14 gress.

15 (b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AU-
16 THORIZATIONS.—

17 (1) IN GENERAL.—The classified Schedule of
18 Authorizations referred to in subsection (a) shall be
19 made available to the Committee on Appropriations
20 of the Senate, the Committee on Appropriations of
21 the House of Representatives, and to the President.

22 (2) DISTRIBUTION BY THE PRESIDENT.—Sub-
23 ject to paragraph (3), the President shall provide for
24 suitable distribution of the classified Schedule of Au-

1 thorizations, or of appropriate portions of the Sched-
2 ule, within the executive branch.

3 (3) LIMITS ON DISCLOSURE.—The President
4 shall not publicly disclose the classified Schedule of
5 Authorizations or any portion of such Schedule ex-
6 cept—

7 (A) as provided in section 601(a) of the
8 Implementing Recommendations of the 9/11
9 Commission Act of 2007 (50 U.S.C. 3306);

10 (B) to the extent necessary to implement
11 the budget; or

12 (C) as otherwise required by law.

13 **SEC. 103. PERSONNEL CEILING ADJUSTMENTS.**

14 (a) AUTHORITY FOR INCREASES.—The Director of
15 National Intelligence may authorize the employment of ci-
16 vilian personnel in excess of the number of positions for
17 fiscal year 2014 authorized by the classified Schedule of
18 Authorizations referred to in section 102(a) if the Director
19 of National Intelligence determines that such action is
20 necessary to the performance of important intelligence
21 functions, except that the number of personnel employed
22 in excess of the number authorized under such section may
23 not, for any element of the intelligence community, exceed
24 3 percent of the number of civilian personnel authorized
25 under such section for such element.

1 (b) TREATMENT OF CERTAIN PERSONNEL.—The Di-
2 rector of National Intelligence shall establish guidelines
3 that govern, for each element of the intelligence commu-
4 nity, the treatment under the personnel levels authorized
5 under section 102(a), including any exemption from such
6 personnel levels, of employment or assignment in—

7 (1) a student program, trainee program, or
8 similar program;

9 (2) a reserve corps or as a reemployed annu-
10 itant; or

11 (3) details, joint duty, or long term, full-time
12 training.

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

18 **SEC. 104. INTELLIGENCE COMMUNITY MANAGEMENT AC-**
19 **COUNT.**

20 (a) AUTHORIZATION OF APPROPRIATIONS.—There is
21 authorized to be appropriated for the Intelligence Commu-
22 nity Management Account of the Director of National In-
23 telligence for fiscal year 2014 the sum of \$568,736,000.
24 Within such amount, funds identified in the classified
25 Schedule of Authorizations referred to in section 102(a)

1 for advanced research and development shall remain avail-
2 able until September 30, 2015.

3 (b) AUTHORIZED PERSONNEL LEVELS.—The ele-
4 ments within the Intelligence Community Management
5 Account of the Director of National Intelligence are au-
6 thorized 855 positions as of September 30, 2014. Per-
7 sonnel serving in such elements may be permanent em-
8 ployees of the Office of the Director of National Intel-
9 ligence or personnel detailed from other elements of the
10 United States Government.

11 (c) CLASSIFIED AUTHORIZATIONS.—

12 (1) AUTHORIZATION OF APPROPRIATIONS.—In
13 addition to amounts authorized to be appropriated
14 for the Intelligence Community Management Ac-
15 count by subsection (a), there are authorized to be
16 appropriated for the Community Management Ac-
17 count for fiscal year 2014 such additional amounts
18 as are specified in the classified Schedule of Author-
19 izations referred to in section 102(a). Such addi-
20 tional amounts for advanced research and develop-
21 ment shall remain available until September 30,
22 2015.

23 (2) AUTHORIZATION OF PERSONNEL.—In addi-
24 tion to the personnel authorized by subsection (b)
25 for elements of the Intelligence Community Manage-

1 ment Account as of September 30, 2014, there are
2 authorized such additional personnel for the Com-
3 munity Management Account as of that date as are
4 specified in the classified Schedule of Authorizations
5 referred to in section 102(a).

6 **TITLE II—CENTRAL INTEL-**
7 **LIGENCE AGENCY RETIRE-**
8 **MENT AND DISABILITY SYS-**
9 **TEM**

10 **SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

11 There is authorized to be appropriated for the Cen-
12 tral Intelligence Agency Retirement and Disability Fund
13 for fiscal year 2014 the sum of \$514,000,000.

14 **SEC. 202. CIARDS AND FERS SPECIAL RETIREMENT CREDIT**
15 **FOR SERVICE ON DETAIL TO ANOTHER AGEN-**
16 **CY.**

17 (a) IN GENERAL.—Section 203(b) of the Central In-
18 telligence Retirement Act (50 U.S.C. 2013(b)) is amended
19 by striking “For purposes of this Act,” and all that follows
20 through the end and inserting “For purposes of this chap-
21 ter, qualifying service is service performed by an Agency
22 employee in carrying out duties that are determined by
23 the Director—

24 “(1) to be in support of intelligence activities
25 abroad hazardous to life or health; or

1 “(2) to be so specialized because of security re-
2 quirements as to be clearly distinguishable from nor-
3 mal government employment.”.

4 (b) APPLICATION.—The amendment made by sub-
5 section (a) shall be applied to retired or deceased officers
6 of the Central Intelligence Agency who were designated
7 at any time under section 203(b) or 302(a) of the Central
8 Intelligence Retirement Act (50 U.S.C. 2013(b) and
9 2152(a)) prior to the date of the enactment of this Act.

10 **TITLE III—GENERAL INTEL-**
11 **LIGENCE COMMUNITY MAT-**
12 **TERS**

13 **Subtitle A—General Matters**

14 **SEC. 301. RESTRICTION ON CONDUCT OF INTELLIGENCE**
15 **ACTIVITIES.**

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

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

22 Appropriations authorized by this Act for salary, pay,
23 retirement, and other benefits for Federal employees may
24 be increased by such additional or supplemental amounts

1 as may be necessary for increases in such compensation
2 or benefits authorized by law.

3 **SEC. 303. OPEN FOIA PROTECTIONS.**

4 Section 103H(g)(3)(A) of the National Security Act
5 of 1947 (50 U.S.C. 3033(g)(3)(A)) is amended by striking
6 “undertaken;” and inserting “undertaken, and this provi-
7 sion shall qualify as a withholding statute pursuant to sub-
8 section (b)(3) of section 552 of title 5, United States Code
9 (commonly known as the ‘Freedom of Information Act’);”.

10 **SEC. 304. FUNCTIONAL MANAGERS.**

11 (a) IN GENERAL.—The President shall designate of-
12 ficers or employees of the United States to serve as func-
13 tional managers for signals intelligence, human intel-
14 ligence, geospatial intelligence, and such other intelligence
15 disciplines as the President determines necessary. Unless
16 the President directs otherwise—

17 (1) the Director of the National Security Agen-
18 cy shall be designated the functional manager for
19 signals intelligence;

20 (2) the Director of the Central Intelligence
21 Agency shall be designated the functional manager
22 for human intelligence; and

23 (3) the Director of the National Geospatial-In-
24 telligence Agency shall be designated the functional
25 manager for geospatial intelligence.

1 (b) DUTIES.—Each functional manager designated
2 under subsection (a) shall act as the principal adviser to
3 the Director of National Intelligence and the Secretary of
4 Defense for their respective intelligence function.

5 (c) ANNUAL REPORTS TO CONGRESS.—Each year, on
6 a date not later than 2 weeks after the date on which the
7 President submits to Congress the budget for the next fis-
8 cal year under section 1105 of title 31, United States
9 Code, each functional manager shall report to the congres-
10 sional intelligence committees and congressional armed
11 services committees concerning the performance of the
12 function. In addition to such other information as the
13 functional manager elects to include in a report, each re-
14 port shall—

15 (1) identify all programs, projects, and activi-
16 ties that fall within the intelligence discipline for
17 which the functional manager is responsible;

18 (2) identify any issues related to the application
19 of technical and interoperability standards in such
20 programs, projects, and activities;

21 (3) identify any concerns the functional man-
22 ager has regarding the allocation of resources among
23 such programs, projects, and activities within the in-
24 telligence discipline for which the functional man-
25 ager is responsible;

1 (4) assess the sufficiency of resources included
2 in the President’s budget request for the next fiscal
3 year to meet requirements within the intelligence
4 discipline for which the functional manager is re-
5 sponsible;

6 (5) identify the operational overlap and need for
7 de-confliction within the intelligence discipline for
8 which the functional manager is responsible; and

9 (6) identify any concerns the functional man-
10 ager has related to compliance within the intelligence
11 discipline for which the functional manager is re-
12 sponsible.

13 (d) CONGRESSIONAL ARMED SERVICES COMMITTEES
14 DEFINED.—In this section, the term “congressional
15 armed services committees” means—

16 (1) the Committee on Armed Services and the
17 Subcommittee on Defense of the Committee on Ap-
18 propriations of the Senate; and

19 (2) the Committee on Armed Services and the
20 Subcommittee on Defense of the Committee on Ap-
21 propriations of the House of Representatives.

22 **SEC. 305. AUDITABILITY.**

23 (a) REQUIREMENT FOR ANNUAL AUDITS.—Each cov-
24 ered entity shall undergo a full financial audit each year
25 beginning with each covered entity’s fiscal year 2014 fi-

1 nancial statements. Such audits may be conducted by an
2 internal or external independent accounting or auditing
3 organization.

4 (b) REQUIREMENT FOR UNQUALIFIED OPINION.—
5 Not later than the audit required by subsection (a) of fis-
6 cal year 2016 financial statements, each covered entity
7 shall obtain an audit with an unqualified opinion on its
8 financial statements for each fiscal year.

9 (c) COVERED ENTITY DEFINED.—In this section, the
10 term “covered entity” means the Office of the Director
11 of National Intelligence, the Central Intelligence Agency,
12 the Defense Intelligence Agency, the National Security
13 Agency, the National Reconnaissance Office, and the Na-
14 tional Geospatial-Intelligence Agency.

15 (d) REPORTS TO CONGRESS.—The chief financial ex-
16 ecutive of each covered entity shall provide to the congres-
17 sional intelligence committees an annual audit report from
18 an accounting or auditing organization on each audit of
19 the covered entity conducted pursuant to subsection (a).

20 **SEC. 306. SOFTWARE LICENSING.**

21 (a) REQUIREMENT FOR INVENTORIES OF SOFTWARE
22 LICENSES.—

23 (1) INVENTORIES BY ELEMENTS OF THE IN-
24 TELLIGENCE COMMUNITY.—Not later than 120 days
25 after the date of the enactment of this Act, and once

1 every 2 years thereafter, the chief information offi-
2 cer of each element of the intelligence community, in
3 consultation with the Chief Information Officer of
4 the Intelligence Community, shall—

5 (A) conduct an inventory of all existing
6 software licenses of such element, including uti-
7 lized and unutilized licenses;

8 (B) assess the actions that could be carried
9 out by such element to achieve the greatest pos-
10 sible economies of scale and associated cost sav-
11 ings in software procurement and usage; and

12 (C) submit to the Chief Information Offi-
13 cer of the Intelligence Community each inven-
14 tory required by subparagraph (A) and each as-
15 sessment required by subparagraph (B).

16 (2) INITIAL INVENTORY.—The initial inventory
17 conducted for each element of the intelligence com-
18 munity under paragraph (1)(A) shall be based on
19 the inventory of software licenses conducted pursu-
20 ant to section 305 of the Intelligence Authorization
21 Act for Fiscal Year 2013 (Public Law 112–277; 126
22 Stat. 2472) for such element.

23 (b) INVENTORIES BY THE CHIEF INFORMATION OF-
24 FICER OF THE INTELLIGENCE COMMUNITY.—Not later
25 than 180 days after the enactment of this Act, and once

1 every 2 years thereafter, the Chief Information Officer of
2 the Intelligence Community shall, based on the inventories
3 and assessments required by subsection (a)—

4 (1) compile an inventory of all existing software
5 licenses of the intelligence community, including uti-
6 lized and unutilized licenses; and

7 (2) assess the actions that could be carried out
8 by the intelligence community to achieve the greatest
9 possible economies of scale and associated cost sav-
10 ings in software procurement and usage.

11 (c) REPORTS TO CONGRESS.—The Chief Information
12 Officer of the Intelligence Community shall submit to the
13 congressional intelligence committees a copy of each inven-
14 tory compiled under subsection (b)(1).

15 **SEC. 307. PUBLIC INTEREST DECLASSIFICATION BOARD.**

16 Section 710(b) of the Public Interest Declassification
17 Act of 2000 (Public Law 106–567; 50 U.S.C. 3161 note)
18 is amended by striking “2014.” and inserting “2018.”.

19 **SEC. 308. REPORTS OF FRAUD, WASTE, AND ABUSE.**

20 Section 8H(a) of the Inspector General Act of 1978
21 (5 U.S.C. App.) is amended in paragraph (1)—

22 (1) by redesignating subparagraphs (B) and
23 (C) as subparagraphs (C) and (D), respectively;

24 (2) by inserting after subparagraph (A) the fol-
25 lowing:

1 “(B) An employee of an element of the intelligence
 2 community, an employee assigned or detailed to an ele-
 3 ment of the intelligence community, or an employee of a
 4 contractor to the intelligence community, who intends to
 5 report to Congress a complaint or information with respect
 6 to an urgent concern may report such complaint or infor-
 7 mation to the Inspector General of the Intelligence Com-
 8 munity.”; and

9 (3) in subparagraph (D), as redesignated by
 10 paragraph (1)—

11 (A) by striking “Act or section 17” and in-
 12 serting “Act, section 17”; and

13 (B) by striking the period at the end and
 14 inserting “, or section 103H(k) of the National
 15 Security Act of 1947 (50 U.S.C. 3033(k)).”.

16 **Subtitle B—Targeted Lethal Force** 17 **Oversight**

18 **SEC. 311. TARGETED LETHAL FORCE OVERSIGHT REFORM.**

19 (a) DEFINITIONS.—In this section:

20 (1) DIRECTOR.—The term “Director” means
 21 the Director of National Intelligence.

22 (2) UNITED STATES PERSON.—The term
 23 “United States person” means a citizen of the
 24 United States or an alien lawfully admitted for per-
 25 manent residence (as defined in section 101(a)(20)

1 of the Immigration and Nationality Act (8 U.S.C.
2 1101(a)(20)).

3 (b) ALTERNATIVE ANALYSIS.—

4 (1) NOTIFICATION OF DIRECTOR.—Upon a de-
5 termination by the head of an element of the intel-
6 ligence community that a particular, known United
7 States person is knowingly engaged in acts of inter-
8 national terrorism against the United States, such
9 that the United States Government is considering
10 the legality or the use of targeted lethal force
11 against that United States person, the head of the
12 element shall, as soon as practicable, notify the Di-
13 rector of the determination.

14 (2) INDEPENDENT ALTERNATIVE ANALYSIS.—

15 (A) REQUIREMENT FOR ALTERNATIVE
16 ANALYSIS.—Not later than 15 days after the
17 date the Director receives a notification under
18 paragraph (1), the Director shall complete an
19 independent alternative analysis (commonly re-
20 ferred to as “red-team analysis”) of the infor-
21 mation relied on to support the determination
22 made under paragraph (1).

23 (B) INDEPENDENT LEADERSHIP.—In com-
24 pleting the independent alternative analysis re-
25 quired by subparagraph (A), the Director shall

1 ensure that the individual appointed to lead
2 such alternative analysis does not report to the
3 head of the element of the intelligence commu-
4 nity who made the determination under para-
5 graph (1).

6 (3) NOTIFICATION OF THE INSPECTOR GEN-
7 ERAL OF THE INTELLIGENCE COMMUNITY.—As soon
8 as practicable, the Director shall notify the Inspector
9 General of the Intelligence Community of the receipt
10 of a notification under paragraph (1).

11 (4) NOTIFICATION TO CONGRESS.—As soon as
12 practicable, the Director shall notify the congres-
13 sional intelligence committees, in writing, of the re-
14 ceipt of a notification under paragraph (1), includ-
15 ing the identity of the United States person, and the
16 results of the independent alternative analysis per-
17 formed under paragraph (2), including any written
18 product containing the alternative analysis, or if no
19 product has been created, a summary of such anal-
20 ysis.

21 (5) CONSTRUCTION WITH OTHER LAW.—Noth-
22 ing in this section shall be construed to impede the
23 ability of the United States Government to conduct
24 any operation consistent with otherwise applicable
25 law.

1 (c) INSPECTOR GENERAL OF THE INTELLIGENCE
2 COMMUNITY REVIEW.—On an annual basis the Inspector
3 General of the Intelligence Community shall—

4 (1) conduct a review of any notifications re-
5 ceived under subsection (b)(3) with respect to the
6 element of the intelligence community’s compliance
7 with all appropriate policies and procedures related
8 to consideration of the use of targeted lethal force
9 against a particular, known United States person;
10 and

11 (2) submit to the Director and the congres-
12 sional intelligence committees a report on the find-
13 ings of such review.

14 (d) CONSTRUCTION.—Nothing in this section may be
15 construed to authorize the use of targeted lethal force
16 against a United States person.

17 **SEC. 312. UNCLASSIFIED ANNUAL REPORT ON THE USE OF**
18 **TARGETED LETHAL FORCE OUTSIDE THE**
19 **UNITED STATES.**

20 (a) REQUIREMENT FOR ANNUAL REPORT.—For each
21 year, the President shall prepare and make public an an-
22 nual report that sets forth the following:

23 (1) The total number of combatants killed or
24 injured during the preceding year by the use of tar-

1 targeted lethal force outside the United States by re-
2 motely piloted aircraft.

3 (2) The total number of noncombatant civilians
4 killed or injured during the preceding year by such
5 use of targeted lethal force outside the United
6 States.

7 (b) TARGETED LETHAL FORCE DEFINED.—In this
8 section, the term “targeted lethal force” means the act
9 of directing lethal force at a particular person or group
10 with the specific intent of killing those persons.

11 (c) EXCEPTION.—A report required by subsection (a)
12 shall not include—

13 (1) any use of targeted lethal force in Afghani-
14 stan prior to the end of combat operations by the
15 United States; or

16 (2) any use of targeted lethal force in a foreign
17 country described by a future declaration of war or
18 authorization for the use of military force.

19 **Subtitle C—Reporting**

20 **SEC. 321. OPINIONS OF THE OFFICE OF LEGAL COUNSEL** 21 **CONCERNING INTELLIGENCE ACTIVITIES.**

22 (a) ANNUAL SUBMISSION.—

23 (1) REQUIREMENT TO PROVIDE LIST OF OPIN-
24 IONS TO CONGRESS.—Except as provided in sub-
25 sections (b) and (c), not later than 180 days after

1 the date of the enactment of this Act and annually
2 thereafter, the Attorney General, in coordination
3 with the Director of National Intelligence, shall pro-
4 vide to the congressional intelligence committees a
5 listing of every opinion of the Office of Legal Coun-
6 sel of the Department of Justice that has been pro-
7 vided to an element of the intelligence community.

8 (2) CONTENT.—Each listing submitted under
9 paragraph (1) shall include—

10 (A) as much detail as possible about the
11 subject of each opinion;

12 (B) the date the opinion was issued;

13 (C) a listing of each recipient agency;

14 (D) whether the opinion has been made
15 available to Congress or a specific committee of
16 Congress, including the identity of each such
17 committee; and

18 (E) for any opinion that has not been
19 made available to Congress or a specific com-
20 mittee of Congress, the basis for such with-
21 holding.

22 (b) EXCEPTION FOR COVERT ACTION.—If the Presi-
23 dent determines that it is essential to limit access to a
24 covert action finding under section 503(c)(2) of the Na-
25 tional Security Act of 1947 (50 U.S.C. 3093(c)(2)), the

1 President may limit access to information concerning such
 2 finding that is subject to disclosure under subsection (a)
 3 to those members of Congress who have been granted ac-
 4 cess to the relevant finding under such section 503(c)(2).

5 (c) EXCEPTION FOR INFORMATION SUBJECT TO EX-
 6 ECUTIVE PRIVILEGE.—If the President determines that a
 7 particular listing subject to disclosure under subsection (a)
 8 is subject to an executive privilege that protects against
 9 such disclosure, the Attorney General shall not be required
 10 to disclose such opinion or listing if the Attorney General
 11 notifies the congressional intelligence committees, in writ-
 12 ing, of the legal justification for such assertion of execu-
 13 tive privilege prior to the date by which the opinion or
 14 listing is required to be disclosed.

15 **SEC. 322. SUBMITTAL TO CONGRESS BY HEADS OF ELE-**
 16 **MENTS OF INTELLIGENCE COMMUNITY OF**
 17 **PLANS FOR ORDERLY SHUTDOWN IN EVENT**
 18 **OF ABSENCE OF APPROPRIATIONS.**

19 (a) IN GENERAL.—Whenever the head of an applica-
 20 ble agency submits a plan to the Director of the Office
 21 of Management and Budget in accordance with section
 22 124 of Office of Management and Budget Circular A–11,
 23 pertaining to agency operations in the absence of appro-
 24 priations, or any successor circular of the Office that re-
 25 quires the head of an applicable agency to submit to the

1 Director a plan for an orderly shutdown in the event of
2 the absence of appropriations, such head shall submit a
3 copy of such plan to the following:

4 (1) The congressional intelligence committees.

5 (2) The Committee on Armed Services of the
6 Senate.

7 (3) The Subcommittee on Defense of the Com-
8 mittee on Appropriations of the Senate.

9 (4) The Committee on Armed Services of the
10 House of Representatives.

11 (5) The Subcommittee on Defense of the Com-
12 mittee on Appropriations of the House of Represent-
13 atives.

14 (b) HEAD OF AN APPLICABLE AGENCY DEFINED.—

15 In this section, the term “head of an applicable agency”
16 includes the following:

17 (1) The Director of National Intelligence.

18 (2) The Director of the Central Intelligence
19 Agency.

20 (3) Each head of each element of the intel-
21 ligence community that is within the Department of
22 Defense.

23 **SEC. 323. REPORTS ON CHEMICAL WEAPONS IN SYRIA.**

24 (a) IN GENERAL.—Not later than 30 days after the
25 date of the enactment of this Act, the Director of National

1 Intelligence shall submit to the appropriate congressional
2 committees a report on the Syrian chemical weapons pro-
3 gram.

4 (b) ELEMENTS.—The report required under sub-
5 section (a) shall include the following elements:

6 (1) A comprehensive assessment of chemical
7 weapon stockpiles in Syria, including names, types,
8 and quantities of chemical weapons agents, types of
9 munitions, and location and form of storage, produc-
10 tion, and research and development facilities.

11 (2) A listing of key personnel associated with
12 the Syrian chemical weapons program.

13 (3) An assessment of undeclared chemical
14 weapons stockpiles, munitions, and facilities.

15 (4) An assessment of how these stockpiles, pre-
16 cursors, and delivery systems were obtained.

17 (5) A description of key intelligence gaps re-
18 lated to the Syrian chemical weapons program.

19 (6) An assessment of any denial and deception
20 efforts on the part of the Syrian regime related to
21 its chemical weapons program.

22 (c) PROGRESS REPORTS.—Every 90 days until the
23 Director of National Intelligence makes the certification
24 described in subsection (d) or 18 months after the date
25 of the enactment of this Act, whichever is earlier, the Di-

1 rector of National Intelligence shall submit to the appro-
2 priate congressional committees a progress report pro-
3 viding any material updates to the report required under
4 subsection (a).

5 (d) CERTIFICATION.—The certification described in
6 this subsection is a certification by the Director of Na-
7 tional Intelligence to the appropriate congressional com-
8 mittees that the Syrian regime has completely and
9 verifiably destroyed all components of its chemical weap-
10 ons program.

11 (e) APPROPRIATE CONGRESSIONAL COMMITTEES DE-
12 FINED.—In this section, the term “appropriate congres-
13 sional committees” means—

14 (1) the Select Committee on Intelligence, the
15 Committee on Armed Services, the Committee on
16 Foreign Relations, and the Committee on Appropria-
17 tions of the Senate; and

18 (2) the Permanent Select Committee on Intel-
19 ligence, the Committee on Armed Services, the Com-
20 mittee on Foreign Affairs, and the Committee on
21 Appropriations of the House of Representatives.

1 **SEC. 324. REPORTS TO THE INTELLIGENCE COMMUNITY ON**
2 **PENETRATIONS OF NETWORKS AND INFOR-**
3 **MATION SYSTEMS OF CERTAIN CONTRAC-**
4 **TORS.**

5 (a) PROCEDURES FOR REPORTING PENETRA-
6 TIONS.—The Director of National Intelligence shall estab-
7 lish procedures that require each cleared intelligence con-
8 tractor to report to an element of the intelligence commu-
9 nity designated by the Director for purposes of such proce-
10 dures when a network or information system of such con-
11 tractor that meets the criteria established pursuant to sub-
12 section (b) is successfully penetrated.

13 (b) NETWORKS AND INFORMATION SYSTEMS SUB-
14 JECT TO REPORTING.—The Director of National Intel-
15 ligence shall, in consultation with appropriate officials, es-
16 tablish criteria for covered networks to be subject to the
17 procedures for reporting system penetrations under sub-
18 section (a).

19 (c) PROCEDURE REQUIREMENTS.—

20 (1) RAPID REPORTING.—The procedures estab-
21 lished pursuant to subsection (a) shall require each
22 cleared intelligence contractor to rapidly report to an
23 element of the intelligence community designated
24 pursuant to subsection (a) of each successful pene-
25 tration of the network or information systems of
26 such contractor that meet the criteria established

1 pursuant to subsection (b). Each such report shall
2 include the following:

3 (A) A description of the technique or
4 method used in such penetration.

5 (B) A sample of the malicious software, if
6 discovered and isolated by the contractor, in-
7 volved in such penetration.

8 (C) A summary of information created by
9 or for such element in connection with any pro-
10 gram of such element that has been potentially
11 compromised due to such penetration.

12 (2) ACCESS TO EQUIPMENT AND INFORMATION
13 BY INTELLIGENCE COMMUNITY PERSONNEL.—The
14 procedures established pursuant to subsection (a)
15 shall—

16 (A) include mechanisms for intelligence
17 community personnel to, upon request, obtain
18 access to equipment or information of a cleared
19 intelligence contractor necessary to conduct fo-
20 rensic analysis in addition to any analysis con-
21 ducted by such contractor;

22 (B) provide that a cleared intelligence con-
23 tractor is only required to provide access to
24 equipment or information as described in sub-
25 paragraph (A) to determine whether informa-

1 tion created by or for an element of the intel-
2 ligence community in connection with any intel-
3 ligence community program was successfully
4 exfiltrated from a network or information sys-
5 tem of such contractor and, if so, what informa-
6 tion was exfiltrated; and

7 (C) provide for the reasonable protection of
8 trade secrets, commercial or financial informa-
9 tion, and information that can be used to iden-
10 tify a specific person.

11 (3) LIMITATION ON DISSEMINATION OF CER-
12 TAIN INFORMATION.—The procedures established
13 pursuant to subsection (a) shall prohibit the dissemi-
14 nation outside the intelligence community of infor-
15 mation obtained or derived through such procedures
16 that is not created by or for the intelligence commu-
17 nity except with the approval of the contractor pro-
18 viding such information.

19 (d) ISSUANCE OF PROCEDURES AND ESTABLISH-
20 MENT OF CRITERIA.—

21 (1) IN GENERAL.—Not later than 90 days after
22 the date of the enactment of this Act—

23 (A) the Director of National Intelligence
24 shall establish the procedures required under
25 subsection (a); and

1 (B) the senior official designated under
2 subsection (b)(1) shall establish the criteria re-
3 quired under such subsection.

4 (2) APPLICABILITY DATE.—The requirements
5 of this section shall apply on the date on which the
6 Director of National Intelligence establishes the pro-
7 cedures required under this section.

8 (e) COORDINATION WITH THE SECRETARY OF DE-
9 FENSE TO PREVENT DUPLICATE REPORTING.—Not later
10 than 180 days after the date of the enactment of this Act,
11 the Director of National Intelligence and the Secretary of
12 Defense shall establish procedures to permit a contractor
13 that is a cleared intelligence contractor and a cleared de-
14 fense contractor under section 941 of the National De-
15 fense Authorization Act for Fiscal Year 2013 (10 U.S.C.
16 2224 note) to submit a single report that satisfies the re-
17 quirements of this section and such section 941 for an
18 incident of penetration of network or information system.

19 (f) DEFINITIONS.—In this section:

20 (1) CLEARED INTELLIGENCE CONTRACTOR.—
21 The term “cleared intelligence contractor” means a
22 private entity granted clearance by the Director of
23 National Intelligence or the head of an element of
24 the intelligence community to access, receive, or
25 store classified information for the purpose of bid-

1 ding for a contract or conducting activities in sup-
 2 port of any program of an element of the intelligence
 3 community.

4 (2) COVERED NETWORK.—The term “covered
 5 network” means a network or information system of
 6 a cleared intelligence contractor that contains or
 7 processes information created by or for an element
 8 of the intelligence community with respect to which
 9 such contractor is required to apply enhanced pro-
 10 tection.

11 **SEC. 325. REPEAL OR MODIFICATION OF CERTAIN REPORT-**
 12 **ING REQUIREMENTS.**

13 (a) REPEAL OF CERTAIN REPORTING REQUIRE-
 14 MENTS.—

15 (1) ANNUAL REPORT ON THE THREAT OF AT-
 16 TACK ON THE UNITED STATES USING WEAPONS OF
 17 MASS DESTRUCTION.—

18 (A) REPEAL.—Section 114 of the National
 19 Security Act of 1947 (50 U.S.C. 3050) is
 20 amended to read as follows:

21 **“SEC. 114. ANNUAL REPORT ON HIRING AND RETENTION**
 22 **OF MINORITY EMPLOYEES.**

23 “(a) REQUIREMENT FOR REPORT.—The Director of
 24 National Intelligence shall, on an annual basis, submit to
 25 Congress a report on the employment of covered persons

1 within each element of the intelligence community for the
2 preceding fiscal year.

3 “(b) CONTENT.—Each such report shall include
4 disaggregated data by category of covered person from
5 each element of the intelligence community on the fol-
6 lowing:

7 “(1) Of all individuals employed in the element
8 during the fiscal year involved, the aggregate per-
9 centage of such individuals who are covered persons.

10 “(2) Of all individuals employed in the element
11 during the fiscal year involved at the levels referred
12 to in subparagraphs (A) and (B), the percentage of
13 covered persons employed at such levels:

14 “(A) Positions at levels 1 through 15 of
15 the General Schedule.

16 “(B) Positions at levels above GS-15.

17 “(3) Of all individuals hired by the element in-
18 volved during the fiscal year involved, the percentage
19 of such individuals who are covered persons.

20 “(c) FORM OF REPORT.—Each such report shall be
21 submitted in unclassified form, but may contain a classi-
22 fied annex.

23 “(d) CONSTRUCTION.—Nothing in this section shall
24 be construed as providing for the substitution of any simi-
25 lar report required under another provision of law.

1 “(e) COVERED PERSONS DEFINED.—In this section,
2 the term ‘covered persons’ means—

3 “(1) racial and ethnic minorities;

4 “(2) women; and

5 “(3) individuals with disabilities.”.

6 (B) TABLE OF CONTENTS AMENDMENT.—

7 The table of contents in the first section of the
8 National Security Act of 1947 (50 U.S.C. 3001
9 et seq.) is amended by striking the item relating
10 to section 114 and inserting the following:

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

11 (2) REPORTS ON COMMERCE WITH, AND AS-
12 SISTANCE TO, CUBA FROM OTHER FOREIGN COUN-
13 TRIES.—

14 (A) REPEAL.—Section 108 of the Cuban
15 Liberty and Democratic Solidarity
16 (LIBERTAD) Act of 1996 (22 U.S.C. 6038) is
17 repealed.

18 (B) TABLE OF CONTENTS AMENDMENT.—

19 The table of contents in section 1(b) of the
20 Cuban Liberty and Democratic Solidarity
21 (LIBERTAD) Act of 1996 (22 U.S.C. 6021 et
22 seq.) is amended by striking the item relating
23 to section 108.

24 (3) ANNUAL REPORT ON UNCONTROLLED TREA-
25 TY-LIMITED EQUIPMENT.—Section 2(5)(E) of the

1 Senate resolution advising and consenting to ratifi-
2 cation of the Document Agreed Among the States
3 Parties to the Treaty on Conventional Armed Forces
4 in Europe (CFE) of November 19, 1990, adopted at
5 Vienna May 31, 1996 (Treaty Doc. 105-5) (com-
6 monly referred to as the "CFE Flank Document"),
7 105th Congress, agreed to May 14, 1997, is re-
8 pealed.

9 (b) MODIFICATION OF CERTAIN REPORTING RE-
10 QUIREMENTS.—

11 (1) INTELLIGENCE ADVISORY COMMITTEES.—

12 Section 410(b) of the Intelligence Authorization Act
13 for Fiscal Year 2010 (50 U.S.C. 3309) is amended
14 to read as follows:

15 “(b) NOTIFICATION OF ESTABLISHMENTS OF ADVI-
16 SORY COMMITTEE.—The Director of National Intelligence
17 and the Director of the Central Intelligence Agency shall
18 each notify the congressional intelligence committees each
19 time such Director creates an advisory committee. Each
20 notification shall include—

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

23 “(2) a list of members of such advisory com-
24 mittee; and

1 “(3) in the case of an advisory committee cre-
2 ated by the Director of National intelligence, the
3 reasons for a determination by the Director under
4 section 4(b)(3) of the Federal Advisory Committee
5 Act (5 U.S.C. App.) that an advisory committee can-
6 not comply with the requirements of such Act.”.

7 (2) REPORTS ON INTELLIGENCE COMMUNITY
8 BUSINESS SYSTEM TRANSFORMATION.—Section
9 506D(j) of the National Security Act of 1947 (50
10 U.S.C. 3100(j)) is amended in the matter preceding
11 paragraph (1) by striking “2015,” and inserting
12 “2014,”.

13 (3) REPORTS ON THE ACTIVITIES OF PRIVACY
14 AND CIVIL LIBERTIES OFFICERS.—Section
15 1062(f)(1) of the Intelligence Reform and Terrorism
16 Prevention Act of 2004 (42 U.S.C. 2000ee-1(f)(1))
17 is amended in the matter preceding subparagraph
18 (A) by striking “quarterly,” and inserting “semi-
19 annually,”.

20 (4) NOTIFICATIONS OF WAIVERS OF CONDI-
21 TIONS FOR DISQUALIFICATION FOR SECURITY
22 CLEARANCES.—Section 3002(c)(4) of the Intel-
23 ligence Reform and Terrorism Prevention Act of
24 2004 (50 U.S.C. 3343(c)(4)) is amended to read as
25 follows:

1 “(4) WAIVERS OF CONDITIONS FOR DISQUALI-
2 FICATION FOR SECURITY CLEARANCES.—

3 “(A) NOTIFICATION.—The head of a Fed-
4 eral agency shall notify the appropriate commit-
5 tees of Congress if such agency employs or em-
6 ployed a person for whom a waiver was granted
7 in accordance with paragraph (2) within 15
8 days of granting such waiver. Such notification
9 shall not reveal the identity of such person, but
10 shall include the disqualifying factor under
11 paragraph (1) and the reasons for the waiver of
12 the disqualifying factor.

13 “(B) DEFINITIONS.—In this paragraph:

14 “(i) APPROPRIATE COMMITTEES OF
15 CONGRESS.—The term ‘appropriate com-
16 mittees of Congress’ means, with respect
17 to a notification submitted under subpara-
18 graph (A) by the head of a Federal agen-
19 cy—

20 “(I) the congressional defense
21 committees;

22 “(II) the congressional intel-
23 ligence committees;

1 “(III) the Committee on Home-
2 land Security and Governmental Af-
3 fairs of the Senate;

4 “(IV) the Committee on Over-
5 sight and Government Reform of the
6 House of Representatives; and

7 “(V) each Committee of the Sen-
8 ate or the House of Representatives
9 with oversight authority over such
10 Federal agency.

11 “(ii) CONGRESSIONAL DEFENSE COM-
12 MITTEES.—The term ‘congressional de-
13 fense committees’ has the meaning given
14 that term in section 101(a)(16) of title 10,
15 United States Code.

16 “(iii) CONGRESSIONAL INTELLIGENCE
17 COMMITTEES.—The term ‘congressional in-
18 telligence committees’ has the meaning
19 given that term in section 3 of the Na-
20 tional Security Act of 1947 (50 U.S.C.
21 3003).”.

1 **TITLE IV—MATTERS RELATING**
2 **TO ELEMENTS OF THE INTEL-**
3 **LIGENCE COMMUNITY**
4 **Subtitle A—National Security**
5 **Agency**

6 **SEC. 401. APPOINTMENT OF THE DIRECTOR OF THE NA-**
7 **TIONAL SECURITY AGENCY.**

8 (a) DIRECTOR OF THE NATIONAL SECURITY AGEN-
9 CY.—Section 2 of the National Security Agency Act of
10 1959 (50 U.S.C. 3602) is amended—

11 (1) by inserting “(b)” before “There”; and

12 (2) by inserting before subsection (b), as so
13 designated by paragraph (1), the following:

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

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

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

23 (b) POSITION OF IMPORTANCE AND RESPONSI-
24 BILITY.—The President may designate the Director of the
25 National Security Agency as a position of importance and

1 responsibility under section 601 of title 10, United States
2 Code.

3 (c) EFFECTIVE DATE AND APPLICABILITY.—

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

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

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

22 (2) POSITIONS OF IMPORTANCE AND RESPONSI-
23 BILITY.—Subsection (b) shall take effect on the date
24 of the enactment of this Act.

1 **SEC. 402. APPOINTMENT OF THE INSPECTOR GENERAL OF**
2 **THE NATIONAL SECURITY AGENCY.**

3 (a) IN GENERAL.—The Inspector General Act of
4 1978 (5 U.S.C. App.) is amended—

5 (1) in section 8G(a)(2), by striking “the Na-
6 tional Security Agency;” and

7 (2) in section 12—

8 (A) in paragraph (1), by striking “or the
9 Federal Cochairpersons of the Commissions es-
10 tablished under section 15301 of title 40,
11 United States Code;” and inserting “the Fed-
12 eral Cochairpersons of the Commissions estab-
13 lished under section 15301 of title 40, United
14 States Code; the Director of the National Secu-
15 rity Agency;” and

16 (B) in paragraph (2), by striking “or the
17 Commissions established under section 15301
18 of title 40, United States Code,” and inserting
19 “the Commissions established under section
20 15301 of title 40, United States Code, the Na-
21 tional Security Agency;”.

22 (b) EFFECTIVE DATE; INCUMBENT.—

23 (1) EFFECTIVE DATE.—The amendments made
24 by subsection (a) shall take effect on the date on
25 which the first Director of the National Security

1 Agency takes office on or after the date of the enact-
2 ment of this Act.

3 (2) INCUMBENT.—The individual serving as In-
4 spector General of the National Security Agency on
5 the date of the enactment of this Act shall be eligible
6 to be appointed by the President to a new term of
7 service under section 3 of the Inspector General Act
8 of 1978 (5 U.S.C. App.), by and with the advice and
9 consent of the Senate.

10 **Subtitle B—National**
11 **Reconnaissance Office**

12 **SEC. 411. APPOINTMENT OF THE DIRECTOR OF THE NA-**
13 **TIONAL RECONNAISSANCE OFFICE.**

14 (a) IN GENERAL.—The National Security Act of
15 1947 (50 U.S.C. 3001 et seq.) is amended by adding after
16 section 106 the following:

17 **“SEC. 106A. DIRECTOR OF THE NATIONAL RECONNAIS-**
18 **SANCE OFFICE.**

19 “(a) IN GENERAL.—There is a Director of the Na-
20 tional Reconnaissance Office.

21 “(b) APPOINTMENT.—The Director of the National
22 Reconnaissance Office shall be appointed by the President,
23 by and with the advice and consent of the Senate.

24 “(c) FUNCTIONS AND DUTIES.—The Director of the
25 National Reconnaissance Office shall be the head of the

1 National Reconnaissance Office and shall discharge such
2 functions and duties as are provided by this Act or other-
3 wise by law or executive order.

4 “(d) POSITION OF IMPORTANCE AND RESPONSI-
5 BILITY.—The President may designate the Director of the
6 National Reconnaissance Office as a position of impor-
7 tance and responsibility under section 601 of title 10,
8 United States Code.”.

9 (b) TABLE OF CONTENTS AMENDMENT.—The table
10 of contents in the first section of the National Security
11 Act of 1947 (50 U.S.C. 3001 et seq.) is amended by in-
12 serting after the item relating to section 106 the following:

“Sec. 106A. Director of the National Reconnaissance Office.”.

13 (c) EFFECTIVE DATE AND APPLICABILITY.—

14 (1) IN GENERAL.—Subsection (a) shall take ef-
15 fect on the date of enactment of this Act and shall
16 apply upon the earlier of—

17 (A) the date of the nomination by the
18 President of an individual to serve as the Direc-
19 tor of the National Reconnaissance Office, ex-
20 cept that the individual serving as such Direc-
21 tor as of the date of the enactment of this Act
22 may continue to perform such duties after such
23 date of nomination and until the individual ap-
24 pointed as such Director, by and with the ad-

1 vice and consent of the Senate, assumes the du-
2 ties of such Director; or

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

7 (2) POSITIONS OF IMPORTANCE AND RESPONSI-
8 BILITY.—Subsection (d) of section 106A of the Na-
9 tional Security Act of 1947, as added by subsection
10 (a), shall take effect on the date of the enactment
11 of this Act.

12 **SEC. 412. APPOINTMENT OF THE INSPECTOR GENERAL OF**
13 **THE NATIONAL RECONNAISSANCE OFFICE.**

14 (a) IN GENERAL.—The Inspector General Act of
15 1978 (5 U.S.C. App.)—

16 (1) in section 8G(a)(2), as amended by section
17 402, is further amended by striking “the National
18 Reconnaissance Office,”; and

19 (2) in section 12, as amended by section 402,
20 is further amended—

21 (A) in paragraph (1), by inserting “or the
22 Director of the National Reconnaissance Of-
23 fice;” before “as the case may be;” and

1 (B) in paragraph (2), by inserting “or the
2 National Reconnaissance Office,” before “as the
3 case may be;”.

4 (b) EFFECTIVE DATE; INCUMBENT.—

5 (1) EFFECTIVE DATE.—The amendments made
6 by subsection (a) shall take effect on the date on
7 which the first Director of the National Reconnaissance
8 Office takes office on or after the date of enactment
9 of this Act.

10 (2) INCUMBENT.—The individual serving as Inspector
11 General of the National Reconnaissance Office on the date
12 of enactment of this Act shall be eligible to be appointed
13 by the President to a new term of service under section 3
14 of the Inspector General Act of 1978 (5 U.S.C. App.), by and
15 with the advice and consent of the Senate.
16

17 **TITLE V—SECURITY CLEARANCE**
18 **REFORM**

19 **SEC. 501. APPROPRIATE COMMITTEES OF CONGRESS DEFINED.**
20

21 In this title, the term “appropriate committees of
22 Congress” means—

23 (1) the congressional intelligence committees;

- 1 (A) the clearance application process;
- 2 (B) case management;
- 3 (C) adjudication management;
- 4 (D) investigation methods for the collec-
- 5 tion, analysis, storage, retrieval, and transfer of
- 6 data and records; and
- 7 (E) records management for access and
- 8 eligibility determinations;
- 9 (2) the elimination or reduction, if possible, of
- 10 the use of databases and information sources that
- 11 cannot be accessed and processed automatically elec-
- 12 tronically, or modification of such databases and in-
- 13 formation sources, to enable electronic access and
- 14 processing;
- 15 (3) the use of government-developed and com-
- 16 mercial technology for continuous monitoring and
- 17 evaluation of government and commercial data
- 18 sources that can identify and flag information perti-
- 19 nent to adjudication guidelines and eligibility deter-
- 20 minations;
- 21 (4) the standardization of forms used for rou-
- 22 tine reporting required of cleared personnel (such as
- 23 travel, foreign contacts, and financial disclosures)
- 24 and use of continuous monitoring technology to ac-
- 25 cess databases containing such reportable informa-

1 tion to independently obtain and analyze reportable
2 data and events;

3 (5) the establishment of an authoritative central
4 repository of personnel security information that is
5 accessible electronically at multiple levels of classi-
6 fication and eliminates technical barriers to rapid
7 access to information necessary for eligibility deter-
8 minations and reciprocal recognition thereof;

9 (6) using digitally processed fingerprints, as a
10 substitute for ink or paper prints, to reduce error
11 rates and improve portability of data;

12 (7) expanding the use of technology to improve
13 an applicant's ability to discover the status of a
14 pending security clearance application or reinvestiga-
15 tion; and

16 (8) using government and publicly available
17 commercial data sources, including social media,
18 that provide independent information pertinent to
19 adjudication guidelines to improve quality and time-
20 liness, and reduce costs, of investigations and re-
21 investigations.

22 (c) REPORT TO CONGRESS.—Not later than 6
23 months after the date of the enactment of this Act, the
24 Director of National Intelligence shall submit to the ap-

1 appropriate committees of Congress a report on the analysis
2 required by subsection (a).

3 **SEC. 503. ENHANCED RECIPROCITY OF SECURITY CLEAR-**
4 **ANCES.**

5 Section 3001(d) of the Intelligence Reform and Ter-
6 rorism Prevention Act of 2004 (50 U.S.C. 3341(d)) is
7 amended by adding at the end the following:

8 “(7)(A) No agency may reject another agency’s deter-
9 mination that an individual is eligible for access to classi-
10 fied information on the basis that such eligibility deter-
11 mination is out-of-scope, unless the head of the entity se-
12 lected pursuant to subsection (b) certifies to the appro-
13 priate committees of Congress that the rejecting agency
14 does not employ any personnel who have background in-
15 vestigations that are out-of-scope.

16 “(B) In this paragraph, the term ‘out-of-scope’
17 means a background investigation or reinvestigation that
18 is more than—

19 “(i) 7 years old in the case of a top secret clear-
20 ance;

21 “(ii) 10 years old in the case of a secret clear-
22 ance; or

23 “(iii) 15 years old in the case of a confidential
24 clearance.

1 “(8) All personnel who have been determined to be
2 eligible for access to classified information shall be pre-
3 sumed to be suitable for employment, unless and until the
4 head of an agency determines on a case-by-case basis that
5 an individual is not suitable for employment, in which case
6 the individual shall be notified of such suitability deter-
7 mination in writing within 15 days.”.

8 **SEC. 504. REPORT ON RECIPROCITY OF SECURITY CLEAR-**
9 **ANCES.**

10 The head of the entity selected pursuant to section
11 3001(b) of the Intelligence Reform and Terrorism Preven-
12 tion Act of 2004 (50 U.S.C. 3341(b)) shall submit to the
13 appropriate committees of Congress a report each year
14 through 2017 that describes for the preceding year—

15 (1) the periods of time required by authorized
16 adjudicative agencies for accepting background in-
17 vestigations and determinations completed by an au-
18 thorized investigative entity or authorized adjudica-
19 tive agency;

20 (2) the total number of cases in which a back-
21 ground investigation or determination completed by
22 an authorized investigative entity or authorized ad-
23 judicative agency is accepted by another agency;

24 (3) the total number of cases in which a back-
25 ground investigation or determination completed by

1 an authorized investigative entity or authorized ad-
2 judicative agency is not accepted by another agency;
3 and

4 (4) such other information or recommendations
5 as the head of the entity selected pursuant to such
6 section 3001(b) considers appropriate.

7 **SEC. 505. IMPROVING THE PERIODIC REINVESTIGATION**
8 **PROCESS.**

9 (a) IN GENERAL.—Not later than 6 months after the
10 date of the enactment of this Act, and annually thereafter
11 until 2017, the Director of National Intelligence, in con-
12 sultation with the Secretary of Defense and the Director
13 of the Office of Personnel Management, shall transmit to
14 the appropriate committees of Congress a strategic plan
15 for improving the process for periodic reinvestigations.

16 (b) CONTENTS.—The plan required by subsection (a)
17 shall include—

18 (1) an analysis of the costs and benefits associ-
19 ated with conducting more frequent or less frequent
20 periodic reinvestigations; and

21 (2) an analysis of the potential benefits of ex-
22 panding the Government's use of continuous evalua-
23 tion tools as a means of improving the effectiveness
24 and efficiency of procedures for confirming the eligi-

1 bility of personnel for continued access to classified
2 information.

3 (c) PERIODIC REINVESTIGATIONS DEFINED.—In this
4 section, the term “periodic reinvestigations” has the
5 meaning given that term in section 3001(a) of the Intel-
6 ligence Reform and Terrorism Prevention Act of 2004 (50
7 U.S.C. 3341(a)).

8 **TITLE VI—INTELLIGENCE COM-**
9 **MUNITY WHISTLEBLOWER**
10 **PROTECTIONS**

11 **SEC. 601. PROTECTION OF INTELLIGENCE COMMUNITY**
12 **WHISTLEBLOWERS.**

13 (a) IN GENERAL.—Chapter 23 of title 5, United
14 States Code, is amended by inserting after section 2303
15 the following:

16 **“§ 2303A. Prohibited personnel practices in the intel-**
17 **ligence community**

18 “(a) DEFINITIONS.—In this section:

19 “(1) AGENCY.—The term ‘agency’ means an
20 executive department or independent establishment,
21 as defined under sections 101 and 104, that con-
22 tains an intelligence community element, except the
23 Federal Bureau of Investigation.

1 “(2) CONGRESSIONAL INTELLIGENCE COMMIT-
2 TEES.—The term ‘congressional intelligence commit-
3 tees’ means—

4 “(A) the Select Committee on Intelligence
5 of the Senate; and

6 “(B) the Permanent Select Committee on
7 Intelligence of the House of Representatives.

8 “(3) INTELLIGENCE COMMUNITY ELEMENT.—
9 The term ‘intelligence community element’—

10 “(A) means—

11 “(i) the Central Intelligence Agency,
12 the Defense Intelligence Agency, the Na-
13 tional Geospatial-Intelligence Agency, the
14 National Security Agency, the Office of the
15 Director of National Intelligence, and the
16 National Reconnaissance Office; and

17 “(ii) any executive agency or unit
18 thereof determined by the President under
19 section 2302(a)(2)(C)(ii) to have as its
20 principal function the conduct of foreign
21 intelligence or counterintelligence activities;
22 and

23 “(B) does not include the Federal Bureau
24 of Investigation; and

1 “(4) PERSONNEL ACTION.—The term ‘per-
2 sonnel action’ means any action described in clauses
3 (i) through (x) of section 2302(a)(2)(A) with respect
4 to an employee in a position in an intelligence com-
5 munity element (other than a position of a confiden-
6 tial, policy-determining, policymaking, or policy-ad-
7 vocating character).

8 “(b) IN GENERAL.—Any employee of an agency who
9 has authority to take, direct others to take, recommend,
10 or approve any personnel action, shall not, with respect
11 to such authority, take or fail to take a personnel action
12 with respect to any employee of an intelligence community
13 element as a reprisal for a disclosure of information by
14 the employee to the Director of National Intelligence (or
15 an employee designated by the Director of National Intel-
16 ligence for such purpose), the Inspector General of the In-
17 telligence Community, the head of the employing agency
18 (or an employee designated by the head of that agency
19 for such purpose), the appropriate inspector general of the
20 employing agency, a congressional intelligence committee,
21 or a member of a congressional intelligence committee,
22 which the employee reasonably believes evidences—

23 “(1) a violation of any law, rule, or regulation;
24 or

1 “(2) mismanagement, a gross waste of funds,
2 an abuse of authority, or a substantial and specific
3 danger to public health or safety.

4 “(c) ENFORCEMENT.—The President shall provide
5 for the enforcement of this section in a manner consistent
6 with applicable provisions of sections 1214 and 1221.

7 “(d) EXISTING RIGHTS PRESERVED.—Nothing in
8 this section shall be construed to—

9 “(1) preempt or preclude any employee, or ap-
10 plicant for employment, at the Federal Bureau of
11 Investigation from exercising rights currently pro-
12 vided under any other law, rule, or regulation, in-
13 cluding section 2303;

14 “(2) repeal section 2303; or

15 “(3) provide the President or Director of Na-
16 tional Intelligence the authority to revise regulations
17 related to section 2303, codified in part 27 of the
18 Code of Federal Regulations.”.

19 (b) TECHNICAL AND CONFORMING AMENDMENT.—
20 The table of sections for chapter 23 of title 5, United
21 States Code, is amended by inserting after the item relat-
22 ing to section 2303 the following:

 “2303A. Prohibited personnel practices in the intelligence community.”.

1 **SEC. 602. REVIEW OF SECURITY CLEARANCE OR ACCESS**
2 **DETERMINATIONS.**

3 (a) IN GENERAL.—Section 3001(b) of the Intel-
4 ligence Reform and Terrorism Prevention Act of 2004 (50
5 U.S.C. 3341(b)) is amended—

6 (1) in the matter preceding paragraph (1), by
7 striking “Not” and inserting “Except as otherwise
8 provided, not”;

9 (2) in paragraph (5), by striking “and” after
10 the semicolon;

11 (3) in paragraph (6), by striking the period at
12 the end and inserting “; and”; and

13 (4) by inserting after paragraph (6) the fol-
14 lowing:

15 “(7) not later than 180 days after the date of
16 the enactment of the Intelligence Authorization Act
17 for Fiscal Year 2014—

18 “(A) developing policies and procedures
19 that permit, to the extent practicable, individ-
20 uals who in good faith appeal a determination
21 to suspend or revoke a security clearance or ac-
22 cess to classified information to retain their
23 government employment status while such chal-
24 lenge is pending; and

25 “(B) developing and implementing uniform
26 and consistent policies and procedures to ensure

1 proper protections during the process for deny-
2 ing, suspending, or revoking a security clear-
3 ance or access to classified information, includ-
4 ing the provision of a right to appeal such a de-
5 nial, suspension, or revocation, except that
6 there shall be no appeal of an agency's suspen-
7 sion of a security clearance or access determina-
8 tion for purposes of conducting an investiga-
9 tion, if that suspension lasts no longer than 1
10 year or the head of the agency certifies that a
11 longer suspension is needed before a final deci-
12 sion on denial or revocation to prevent immi-
13 nent harm to the national security.

14 “Any limitation period applicable to an agency appeal
15 under paragraph (7) shall be tolled until the head of the
16 agency (or in the case of any component of the Depart-
17 ment of Defense, the Secretary of Defense) determines,
18 with the concurrence of the Director of National Intel-
19 ligence, that the policies and procedures described in para-
20 graph (7) have been established for the agency or the Di-
21 rector of National Intelligence promulgates the policies
22 and procedures under paragraph (7). The policies and pro-
23 cedures for appeals developed under paragraph (7) shall
24 be comparable to the policies and procedures pertaining

1 to prohibited personnel practices defined under section
2 2302(b)(8) of title 5, United States Code, and provide—

3 “(A) for an independent and impartial fact-
4 finder;

5 “(B) for notice and the opportunity to be
6 heard, including the opportunity to present relevant
7 evidence, including witness testimony;

8 “(C) that the employee or former employee may
9 be represented by counsel;

10 “(D) that the employee or former employee has
11 a right to a decision based on the record developed
12 during the appeal;

13 “(E) that not more than 180 days shall pass
14 from the filing of the appeal to the report of the im-
15 partial fact-finder to the agency head or the des-
16 ignee of the agency head, unless—

17 “(i) the employee and the agency con-
18 cerned agree to an extension; or

19 “(ii) the impartial fact-finder determines in
20 writing that a greater period of time is required
21 in the interest of fairness or national security;

22 “(F) for the use of information specifically re-
23 quired by Executive order to be kept classified in the
24 interest of national defense or the conduct of foreign
25 affairs in a manner consistent with the interests of

1 national security, including ex parte submissions if
2 the agency determines that the interests of national
3 security so warrant; and

4 “(G) that the employee or former employee
5 shall have no right to compel the production of in-
6 formation specifically required by Executive order to
7 be kept classified in the interest of national defense
8 or the conduct of foreign affairs, except evidence
9 necessary to establish that the employee made the
10 disclosure or communication such employee alleges
11 was protected by subparagraphs (A), (B), and (C) of
12 subsection (j)(1).”.

13 (b) RETALIATORY REVOCATION OF SECURITY
14 CLEARANCES AND ACCESS DETERMINATIONS.—Section
15 3001 of the Intelligence Reform and Terrorism Prevention
16 Act of 2004 (50 U.S.C. 3341) is amended by adding at
17 the end the following:

18 “(j) RETALIATORY REVOCATION OF SECURITY
19 CLEARANCES AND ACCESS DETERMINATIONS.—

20 “(1) IN GENERAL.—Agency personnel with au-
21 thority over personnel security clearance or access
22 determinations shall not take or fail to take, or
23 threaten to take or fail to take, any action with re-
24 spect to any employee’s security clearance or access
25 determination because of—

1 “(A) any disclosure of information to the
2 Director of National Intelligence (or an em-
3 ployee designated by the Director of National
4 Intelligence for such purpose) or the head of
5 the employing agency (or employee designated
6 by the head of that agency for such purpose) by
7 an employee that the employee reasonably be-
8 lieves evidences—

9 “(i) a violation of any law, rule, or
10 regulation; or

11 “(ii) gross mismanagement, a gross
12 waste of funds, an abuse of authority, or
13 a substantial and specific danger to public
14 health or safety;

15 “(B) any disclosure to the Inspector Gen-
16 eral of an agency or another employee des-
17 igned by the head of the agency to receive
18 such disclosures, of information which the em-
19 ployee reasonably believes evidences—

20 “(i) a violation of any law, rule, or
21 regulation; or

22 “(ii) gross mismanagement, a gross
23 waste of funds, an abuse of authority, or
24 a substantial and specific danger to public
25 health or safety;

1 “(C) any communication that complies
2 with—

3 “(i) subsections (a)(1), (d), and (h) of
4 section 8H of the Inspector General Act of
5 1978 (5 U.S.C. App.);

6 “(ii) subparagraphs (A), (D), and (H)
7 of section 17(d)(5) of the Central Intel-
8 ligence Agency Act of 1949 (50 U.S.C.
9 3517(d)(5)); or

10 “(iii) subparagraphs (A), (D), and (I)
11 of section 103H(k)(5) of the National Se-
12 curity Act of 1947 (50 U.S.C. 3033(k)(5));
13 and

14 “(D) if the actions do not result in the em-
15 ployee or applicant unlawfully disclosing infor-
16 mation specifically required by Executive order
17 to be kept classified in the interest of national
18 defense or the conduct of foreign affairs—

19 “(i) the exercise of any appeal, com-
20 plaint, or grievance right granted by any
21 law, rule, or regulation;

22 “(ii) testifying for or otherwise law-
23 fully assisting any individual in the exer-
24 cise of any right referred to in clause (i);
25 or

1 “(iii) cooperating with or disclosing
2 information to the Inspector General of an
3 agency, in accordance with applicable pro-
4 visions of law in connection with an audit,
5 inspection, or investigation conducted by
6 the Inspector General.

7 “(2) RULE OF CONSTRUCTION.—Consistent
8 with the protection of sources and methods, nothing
9 in paragraph (1) shall be construed to authorize the
10 withholding of information from Congress or the
11 taking of any personnel action against an employee
12 who discloses information to Congress.

13 “(3) DISCLOSURES.—

14 “(A) IN GENERAL.—A disclosure shall not
15 be excluded from paragraph (1) because—

16 “(i) the disclosure was made to a per-
17 son, including a supervisor, who partici-
18 pated in an activity that the employee rea-
19 sonably believed to be covered by para-
20 graph (1)(A)(ii);

21 “(ii) the disclosure revealed informa-
22 tion that had been previously disclosed;

23 “(iii) of the employee’s motive for
24 making the disclosure;

1 “(iv) the disclosure was not made in
2 writing;

3 “(v) the disclosure was made while
4 the employee was off duty; or

5 “(vi) of the amount of time which has
6 passed since the occurrence of the events
7 described in the disclosure.

8 “(B) REPRISALS.—If a disclosure is made
9 during the normal course of duties of an em-
10 ployee, the disclosure shall not be excluded from
11 paragraph (1) if any employee who has author-
12 ity to take, direct others to take, recommend, or
13 approve any personnel action with respect to
14 the employee making the disclosure, took, failed
15 to take, or threatened to take or fail to take a
16 personnel action with respect to that employee
17 in reprisal for the disclosure.

18 “(4) AGENCY ADJUDICATION.—

19 “(A) REMEDIAL PROCEDURE.—An em-
20 ployee or former employee who believes that he
21 or she has been subjected to a reprisal prohib-
22 ited by paragraph (1) may, within 90 days after
23 the issuance of notice of such decision, appeal
24 that decision within the agency of that em-
25 ployee or former employee through proceedings

1 authorized by subsection (b)(7), except that
2 there shall be no appeal of an agency's suspen-
3 sion of a security clearance or access determina-
4 tion for purposes of conducting an investiga-
5 tion, if that suspension lasts not longer than 1
6 year (or a longer period in accordance with a
7 certification made under subsection (b)(7)).

8 “(B) CORRECTIVE ACTION.—If, in the
9 course of proceedings authorized under sub-
10 paragraph (A), it is determined that the ad-
11 verse security clearance or access determination
12 violated paragraph (1), the agency shall take
13 specific corrective action to return the employee
14 or former employee, as nearly as practicable
15 and reasonable, to the position such employee
16 or former employee would have held had the
17 violation not occurred. Such corrective action
18 shall include reasonable attorney's fees and any
19 other reasonable costs incurred, and may in-
20 clude back pay and related benefits, travel ex-
21 penses, and compensatory damages not to ex-
22 ceed \$300,000.

23 “(C) CONTRIBUTING FACTOR.—In deter-
24 mining whether the adverse security clearance
25 or access determination violated paragraph (1),

1 the agency shall find that paragraph (1) was
2 violated if a disclosure described in paragraph
3 (1) was a contributing factor in the adverse se-
4 curity clearance or access determination taken
5 against the individual, unless the agency dem-
6 onstrates by a preponderance of the evidence
7 that it would have taken the same action in the
8 absence of such disclosure, giving the utmost
9 deference to the agency's assessment of the par-
10 ticular threat to the national security interests
11 of the United States in the instant matter.

12 “(5) APPELLATE REVIEW OF SECURITY CLEAR-
13 ANCE ACCESS DETERMINATIONS BY DIRECTOR OF
14 NATIONAL INTELLIGENCE.—

15 “(A) DEFINITION.—In this paragraph, the
16 term ‘Board’ means the appellate review board
17 established under section 604(b) of the Intel-
18 ligence Authorization Act for Fiscal Year 2014.

19 “(B) APPEAL.—Within 60 days after re-
20 ceiving notice of an adverse final agency deter-
21 mination under a proceeding under paragraph
22 (4), an employee or former employee may ap-
23 peal that determination to the Board.

24 “(C) POLICIES AND PROCEDURES.—The
25 Board, in consultation with the Attorney Gen-

1 eral, Director of National Intelligence, and the
2 Secretary of Defense, shall develop and imple-
3 ment policies and procedures for adjudicating
4 the appeals authorized by subparagraph (B).
5 The Director of National Intelligence and Sec-
6 retary of Defense shall jointly approve any
7 rules, regulations, or guidance issued by the
8 Board concerning the procedures for the use or
9 handling of classified information.

10 “(D) REVIEW.—The Board’s review shall
11 be on the complete agency record, which shall
12 be made available to the Board. The Board may
13 not hear witnesses or admit additional evidence.
14 Any portions of the record that were submitted
15 ex parte during the agency proceedings shall be
16 submitted ex parte to the Board.

17 “(E) FURTHER FACT-FINDING OR IM-
18 PROPER DENIAL.—If the Board concludes that
19 further fact-finding is necessary or finds that
20 the agency improperly denied the employee or
21 former employee the opportunity to present evi-
22 dence that, if admitted, would have a substan-
23 tial likelihood of altering the outcome, the
24 Board shall remand the matter to the agency
25 from which it originated for additional pro-

1 proceedings in accordance with the rules of proce-
2 dure issued by the Board.

3 “(F) DE NOVO DETERMINATION.—The
4 Board shall make a de novo determination,
5 based on the entire record and under the stand-
6 ards specified in paragraph (4), of whether the
7 employee or former employee received an ad-
8 verse security clearance or access determination
9 in violation of paragraph (1). In considering the
10 record, the Board may weigh the evidence,
11 judge the credibility of witnesses, and determine
12 controverted questions of fact. In doing so, the
13 Board may consider the prior fact-finder’s op-
14 portunity to see and hear the witnesses.

15 “(G) ADVERSE SECURITY CLEARANCE OR
16 ACCESS DETERMINATION.—If the Board finds
17 that the adverse security clearance or access de-
18 termination violated paragraph (1), the Board
19 shall separately determine whether reinstating
20 the security clearance or access determination is
21 clearly consistent with the interests of national
22 security, with any doubt resolved in favor of na-
23 tional security, under Executive Order 12968
24 (60 Fed. Reg. 40245; relating to access to clas-
25 sified information) or any successor thereto (in-

1 including any adjudicative guidelines promulgated
2 under such orders) or any subsequent Executive
3 order, regulation, or policy concerning access to
4 classified information.

5 “(H) REMEDIES.—

6 “(i) CORRECTIVE ACTION.—If the
7 Board finds that the adverse security
8 clearance or access determination violated
9 paragraph (1), the Board shall order the
10 agency head to take specific corrective ac-
11 tion to return the employee or former em-
12 ployee, as nearly as practicable and reason-
13 able, to the position such employee or
14 former employee would have held had the
15 violation not occurred. Such corrective ac-
16 tion shall include reasonable attorney’s fees
17 and any other reasonable costs incurred,
18 and may include back pay and related ben-
19 efits, travel expenses, and compensatory
20 damages not to exceed \$300,000. The
21 Board may recommend, but may not order,
22 reinstatement or hiring of a former em-
23 ployee. The Board may order that the
24 former employee be treated as though the
25 employee were transferring from the most

1 recent position held when seeking other po-
2 sitions within the executive branch. Any
3 corrective action shall not include the rein-
4 stating of any security clearance or access
5 determination. The agency head shall take
6 the actions so ordered within 90 days, un-
7 less the Director of National Intelligence,
8 the Secretary of Energy, or the Secretary
9 of Defense, in the case of any component
10 of the Department of Defense, determines
11 that doing so would endanger national se-
12 curity.

13 “(ii) RECOMMENDED ACTION.—If the
14 Board finds that reinstating the employee
15 or former employee’s security clearance or
16 access determination is clearly consistent
17 with the interests of national security, the
18 Board shall recommend such action to the
19 head of the entity selected under sub-
20 section (b) and the head of the affected
21 agency.

22 “(I) CONGRESSIONAL NOTIFICATION.—

23 “(i) ORDERS.—Consistent with the
24 protection of sources and methods, at the

1 time the Board issues an order, the Chair-
2 person of the Board shall notify—

3 “(I) the Committee on Homeland
4 Security and Government Affairs of
5 the Senate;

6 “(II) the Select Committee on In-
7 telligence of the Senate;

8 “(III) the Committee on Over-
9 sight and Government Reform of the
10 House of Representatives;

11 “(IV) the Permanent Select Com-
12 mittee on Intelligence of the House of
13 Representatives; and

14 “(V) the committees of the Sen-
15 ate and the House of Representatives
16 that have jurisdiction over the employ-
17 ing agency, including in the case of a
18 final order or decision of the Defense
19 Intelligence Agency, the National
20 Geospatial-Intelligence Agency, the
21 National Security Agency, or the Na-
22 tional Reconnaissance Office, the
23 Committee on Armed Services of the
24 Senate and the Committee on Armed

1 Services of the House of Representa-
2 tives.

3 “(ii) RECOMMENDATIONS.—If the
4 agency head and the head of the entity se-
5 lected under subsection (b) do not follow
6 the Board’s recommendation to reinstate a
7 clearance, the head of the entity selected
8 under subsection (b) shall notify the com-
9 mittees described in subclauses (I) through
10 (V) of clause (i).

11 “(6) JUDICIAL REVIEW.—Nothing in this sec-
12 tion shall be construed to permit or require judicial
13 review of any—

14 “(A) agency action under this section; or

15 “(B) action of the appellate review board
16 established under section 604(b) of the Intel-
17 ligence Authorization Act for Fiscal Year 2014.

18 “(7) PRIVATE CAUSE OF ACTION.—Nothing in
19 this section shall be construed to permit, authorize,
20 or require a private cause of action to challenge the
21 merits of a security clearance determination.”.

22 (c) ACCESS DETERMINATION DEFINED.—Section
23 3001(a) of the Intelligence Reform and Terrorism Preven-
24 tion Act of 2004 (50 U.S.C. 3341(a)) is amended by add-
25 ing at the end the following:

1 “(9) The term ‘access determination’ means the
2 determination regarding whether an employee—

3 “(A) is eligible for access to classified in-
4 formation in accordance with Executive Order
5 12968 (60 Fed. Reg. 40245; relating to access
6 to classified information), or any successor
7 thereto, and Executive Order 10865 (25 Fed.
8 Reg. 1583; relating to safeguarding classified
9 information with industry), or any successor
10 thereto; and

11 “(B) possesses a need to know under such
12 an Order.”.

13 (d) RULE OF CONSTRUCTION.—Nothing in section
14 3001 of the Intelligence Reform and Terrorism Prevention
15 Act of 2004 (50 U.S.C. 3341), as amended by this title,
16 shall be construed to require the repeal or replacement of
17 agency appeal procedures implementing Executive Order
18 12968 (60 Fed. Reg. 40245; relating to access to classi-
19 fied information), or any successor thereto, and Executive
20 Order 10865 (25 Fed. Reg. 1583; relating to safeguarding
21 classified information with industry), or any successor
22 thereto, that meet the requirements of paragraph (7) of
23 section 3001(b) of such Act, as added by this section.

1 **SEC. 603. REVISIONS OF OTHER LAWS.**

2 (a) INSPECTOR GENERAL ACT OF 1978.—Section 8H
3 of the Inspector General Act of 1978 (5 U.S.C. App.) is
4 amended—

5 (1) in subsection (b)—

6 (A) by inserting “(1)” after “(b)”; and

7 (B) by adding at the end the following:

8 “(2) If the head of an establishment determines that
9 a complaint or information transmitted under paragraph
10 (1) would create a conflict of interest for the head of the
11 establishment, the head of the establishment shall return
12 the complaint or information to the Inspector General with
13 that determination and the Inspector General shall make
14 the transmission to the Director of National Intelligence
15 and, if the establishment is within the Department of De-
16 fense, to the Secretary of Defense. In such a case, the
17 requirements of this section for the head of the establish-
18 ment apply to each recipient of the Inspector General’s
19 transmission. Each recipient of the Inspector General’s
20 transmission shall consult with the members of the appel-
21 late review board established under section 604(b) of the
22 Intelligence Authorization Act for Fiscal Year 2014 re-
23 garding all transmissions under this paragraph.”;

24 (2) by designating subsection (h) as subsection
25 (i); and

1 (3) by inserting after subsection (g), the fol-
2 lowing:

3 “(h) An individual who has submitted a complaint or
4 information to an Inspector General under this section
5 may notify any member of Congress or congressional staff
6 member of the fact that such individual has made a sub-
7 mission to that particular Inspector General, and of the
8 date on which such submission was made.”.

9 (b) CENTRAL INTELLIGENCE AGENCY.—Section
10 17(d)(5) of the Central Intelligence Agency Act of 1949
11 (50 U.S.C. 3517(d)(5)) is amended—

12 (1) in subparagraph (B)—

13 (A) by inserting “(i)” after “(B)”; and

14 (B) by adding at the end the following:

15 “(ii) If the Director determines that a complaint or
16 information transmitted under paragraph (1) would create
17 a conflict of interest for the Director, the Director shall
18 return the complaint or information to the Inspector Gen-
19 eral with that determination and the Inspector General
20 shall make the transmission to the Director of National
21 Intelligence. In such a case, the requirements of this sub-
22 section for the Director apply to the Director of National
23 Intelligence. The Director of National Intelligence shall
24 consult with the members of the appellate review board
25 established under section 604(b) of the Intelligence Au-

1 thORIZATION Act for Fiscal Year 2014 regarding all trans-
2 missions under this clause.”; and

3 (2) by adding at the end the following:

4 “(H) An individual who has submitted a complaint
5 or information to the Inspector General under this section
6 may notify any member of Congress or congressional staff
7 member of the fact that such individual has made a sub-
8 mission to the Inspector General, and of the date on which
9 such submission was made.”.

10 (c) NATIONAL SECURITY ACT OF 1947.—Section
11 103H(k)(5) of the National Security Act of 1947 (50
12 U.S.C. 3033(k)(5)) is amended by adding at the end the
13 following:

14 “(I) An individual who has submitted a complaint or
15 information to the Inspector General under this section
16 may notify any member of Congress or congressional staff
17 member of the fact that such individual has made a sub-
18 mission to the Inspector General, and of the date on which
19 such submission was made.”.

20 **SEC. 604. REGULATIONS; REPORTING REQUIREMENTS;**
21 **NONAPPLICABILITY TO CERTAIN TERMI-**
22 **NATIONS.**

23 (a) DEFINITIONS.—In this section:

1 (1) CONGRESSIONAL OVERSIGHT COMMIT-
2 TEES.—The term “congressional oversight commit-
3 tees” means—

4 (A) the congressional intelligence commit-
5 tees;

6 (B) the Committee on Homeland Security
7 and Government Affairs of the Senate; and

8 (C) the Committee on Oversight and Gov-
9 ernment Reform of the House of Representa-
10 tives.

11 (2) INTELLIGENCE COMMUNITY ELEMENT.—
12 The term “intelligence community element”—

13 (A) means—

14 (i) the Central Intelligence Agency,
15 the Defense Intelligence Agency, the Na-
16 tional Geospatial-Intelligence Agency, the
17 National Security Agency, the Office of the
18 Director of National Intelligence, and the
19 National Reconnaissance Office; and

20 (ii) any executive agency or unit
21 thereof determined by the President under
22 section 2302(a)(2)(C)(ii) of title 5, United
23 States Code, to have as its principal func-
24 tion the conduct of foreign intelligence or
25 counterintelligence activities; and

1 (B) does not include the Federal Bureau of
2 Investigation.

3 (b) REGULATIONS.—

4 (1) IN GENERAL.—In consultation with the Sec-
5 retary of Defense, the Director of National Intel-
6 ligence shall prescribe regulations to ensure that a
7 personnel action shall not be taken against an em-
8 ployee of an intelligence community element as a re-
9 prisal for any disclosure of information described in
10 section 2303A(b) of title 5, United States Code, as
11 added by this title.

12 (2) APPELLATE REVIEW BOARD.—Not later
13 than 180 days after the date of the enactment of
14 this Act, the Director of National Intelligence, in
15 consultation with the Secretary of Defense, the At-
16 torney General, and the heads of appropriate agen-
17 cies, shall establish an appellate review board that is
18 broadly representative of affected Departments and
19 agencies and is made up of individuals with expertise
20 in merit systems principles and national security
21 issues—

22 (A) to hear whistleblower appeals related
23 to security clearance access determinations de-
24 scribed in subsection (j) of section 3001 of the
25 Intelligence Reform and Terrorism Prevention

1 Act of 2004 (50 U.S.C. 3341), as added by this
2 title; and

3 (B) that shall include a subpanel that re-
4 flects the composition of intelligence community
5 elements, which shall—

6 (i) be composed of intelligence com-
7 munity elements and inspectors general
8 from intelligence community elements, for
9 the purpose of hearing cases that arise in
10 intelligence community element; and

11 (ii) include the Inspector General of
12 the Intelligence Community and the In-
13 spector General of the Department of De-
14 fense.

15 (c) REPORT ON THE STATUS OF IMPLEMENTATION
16 OF REGULATIONS.—Not later than 2 years after the date
17 of the enactment of this Act, the Director of National In-
18 telligence shall submit a report on the status of the imple-
19 mentation of the regulations promulgated under sub-
20 section (b) to the congressional oversight committees.

21 (d) NONAPPLICABILITY TO CERTAIN TERMI-
22 NATIONS.—Section 2303A of title 5, United States Code,
23 as added by this title, and section 3001 of the Intelligence
24 Reform and Terrorism Prevention Act of 2004 (50 U.S.C.

1 3341), as amended by this title, shall not apply if the af-
2 fected employee is concurrently terminated under—

3 (1) section 1609 of title 10, United States
4 Code;

5 (2) the authority of the Director of National In-
6 telligence under section 102A(m) of the National Se-
7 curity Act of 1947 (50 U.S.C. 3024(m)), if—

8 (A) the Director personally summarily ter-
9 minates the individual; and

10 (B) the Director—

11 (i) determines the termination to be in
12 the interest of the United States;

13 (ii) determines that the procedures
14 prescribed in other provisions of law that
15 authorize the termination of the employ-
16 ment of such employee cannot be invoked
17 in a manner consistent with the national
18 security; and

19 (iii) not later than 5 days after such
20 termination, notifies the congressional
21 oversight committees of the termination;

22 (3) the authority of the Director of the Central
23 Intelligence Agency under section 104A(e) of the
24 National Security Act of 1947 (50 U.S.C. 3036(e)),
25 if—

1 (A) the Director personally summarily ter-
2 minates the individual; and

3 (B) the Director—

4 (i) determines the termination to be in
5 the interest of the United States;

6 (ii) determines that the procedures
7 prescribed in other provisions of law that
8 authorize the termination of the employ-
9 ment of such employee cannot be invoked
10 in a manner consistent with the national
11 security; and

12 (iii) not later than 5 days after such
13 termination, notifies the congressional
14 oversight committees of the termination; or

15 (4) section 7532 of title 5, United States Code,
16 if—

17 (A) the agency head personally terminates
18 the individual; and

19 (B) the agency head—

20 (i) determines the termination to be in
21 the interest of the United States;

22 (ii) determines that the procedures
23 prescribed in other provisions of law that
24 authorize the termination of the employ-
25 ment of such employee cannot be invoked

1 in a manner consistent with the national
2 security; and

3 (iii) not later than 5 days after such
4 termination, notifies the congressional
5 oversight committees of the termination.

6 **TITLE VII—OTHER MATTERS**

7 **SEC. 701. REPEAL OF THE TERMINATION OF NOTIFICATION** 8 **REQUIREMENTS REGARDING THE AUTHOR-** 9 **IZED DISCLOSURE OF NATIONAL INTEL-** 10 **LIGENCE.**

11 Section 504 of the Intelligence Authorization Act for
12 Fiscal Year 2013 (Public Law 112–277; 126 Stat. 2477)
13 is amended by striking subsection (e).

14 **SEC. 702. GIFTS, DEVISES, AND BEQUESTS.**

15 Section 12 of the Central Intelligence Agency Act of
16 1949 (50 U.S.C. 3512) is amended—

17 (1) by striking the section heading and insert-
18 ing “GIFTS, DEVISES, AND BEQUESTS”;

19 (2) in subsection (a)(2)—

20 (A) by inserting “by the Director as a gift
21 to the Agency” after “accepted”; and

22 (B) by striking “this section,” and insert-
23 ing “subsection (a),”;

24 (3) in subsection (b), by striking “this section,”
25 and inserting “subsection (a),”;

1 (4) in subsection (c), by striking “this section,”
2 and inserting “subsection (a),”;

3 (5) in subsection (d), by striking “this section”
4 and inserting “subsection (a)”;

5 (6) by redesignating subsection (f) as sub-
6 section (g); and

7 (7) by inserting after subsection (e) the fol-
8 lowing:

9 “(f)(1) The Director may engage in fundraising in
10 an official capacity for the benefit of nonprofit organiza-
11 tions that provide support to surviving family members of
12 deceased Agency employees or that otherwise provide sup-
13 port for the welfare, education, or recreation of Agency
14 employees, former Agency employees, or their family mem-
15 bers.

16 “(2) In this subsection, the term ‘fundraising’ means
17 the raising of funds through the active participation in the
18 promotion, production, or presentation of an event de-
19 signed to raise funds and does not include the direct solici-
20 tation of money by any other means.”.

21 **SEC. 703. BUDGETARY EFFECTS.**

22 The budgetary effects of this Act, for the purpose of
23 complying with the Statutory Pay-As-You-Go-Act of 2010,
24 shall be determined by reference to the latest statement
25 titled “Budgetary Effects of PAYGO Legislation” for this

1 Act, submitted for printing in the Congressional Record
2 by the Chairman of the Senate Budget Committee, pro-
3 vided that such statement has been submitted prior to the
4 vote on passage.

Calendar No. 244

113TH CONGRESS
1ST Session
S. 1681

A BILL

To authorize appropriations for fiscal year 2014 for intelligence and intelligence-related activities of the United States Government and the Office of the Director of National Intelligence, the Central Intelligence Agency Retirement and Disability System, and for other purposes.

NOVEMBER 12, 2013

Read twice and placed on the calendar