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

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

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

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

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

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

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

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

SECTION-BY-SECTION ANALYSIS AND EXPLANATION

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

TITLE I—INTELLIGENCE ACTIVITIES

Section 101. Authorization of appropriations

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

Section 102. Classified Schedule of Authorizations

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

Section 103. Personnel ceiling adjustments

Section 103 is intended to provide additional flexibility to the DNI in managing the civilian personnel of the Intelligence Community (IC). Section 103 provides that the DNI may authorize employment of civilian personnel in Fiscal Year 2015 in excess of the number of authorized positions by an amount not exceeding three percent of the total limit applicable to each IC element under Section 102. The DNI may do so only if necessary to the performance of important intelligence functions.

Section 104. Intelligence Community Management Account

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

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Section 201. Authorization of appropriations

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

TITLE III—GENERAL PROVISIONS

SUBTITLE A—GENERAL MATTERS

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

Section 301 provides that funds authorized to be appropriated by the Act for salary, pay, retirement, and other benefits for federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in compensation or benefits authorized by law.

Section 302. Restriction on conduct of intelligence activities

Section 302 provides that the authorization of appropriations by the Act shall not be deemed to constitute authority for the conduct of any intelligence activity that is not otherwise authorized by the Constitution or laws of the United States.

Section 303. National intelligence strategy

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

Section 304. Software licensing

Section 304 amends Section 109 of the National Security Act of 1947, which requires chief information officers within the IC to prepare biennial inventories and assessments concerning the use and procurement of software licenses, to make certain enhancements to the biennial assessments required under Section 109.

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

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

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

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

Section 307. Management and oversight of financial intelligence

Section 307 requires the DNI to prepare a plan for management of the elements of the IC that carry out financial intelligence activities.

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

Section 308 directs the DNI to submit to the congressional intelligence committees an analysis of private sector policies and procedures for countering insider threats.

Section 309. Procedures for the retention of incidentally acquired communications

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

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

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

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

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

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

Section 307 requires the DNI to conduct a feasibility study on consolidating classified databases of cyber threat indicators and malware samples in the IC and to provide a report to the congressional intelligence committees summarizing the feasibility study.

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

Section 312 expresses the sense of Congress concerning cybersecurity threat and

cybercrime cooperation between the United States and Ukraine.

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

Section 313 requires the Secretary of State to ensure that every supervisory position at a U.S. diplomatic facility in the Russian Federation is occupied by a citizen of the United States who has passed a background check and to provide Congress with a plan to further reduce reliance on locally employed staff.

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

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

SUBTITLE B—REPORTING

Section 321. Report on declassification process

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

Section 322. Report on intelligence community efficient spending targets

Section 322 requires the DNI to submit a report to the congressional intelligence committees on the status and effectiveness of efforts to reduce administrative costs for the IC during the preceding year.

Section 323. Annual report on violations of law or executive order

Section 323 requires the DNI to report annually to the congressional intelligence committees on violations of law or executive order by personnel of an element of the IC that were identified during the previous calendar year. Under the National Security Act, the President is required to keep the congressional intelligence committees fully and currently informed of the intelligence activities of the United States government. Nonetheless, this annual reporting requirement is necessary to ensure that the intelligence oversight committees of the House and Senate are made fully aware of violations of law or executive order, including, in particular, violations of Executive order 12333 for activities not otherwise subject to the Foreign Intelligence Surveillance Act.

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

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

The HSIP budget was established to fund those intelligence activities that principally support missions of the DHS separately from those of the NIP. To date, however, this mechanism has only been used to supplement the budget for the office of Intelligence and Analysis. It has not been used to fund the activities of the non-IC components in the DHS that conduct intelligence-related activities. As a result, there is no comprehensive reporting to Congress regarding the overall resources and personnel required in support of the Department's intelligence activities.

Section 325. Report on political prison camps in North Korea

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

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

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

Section 327. Enhanced contractor level assessments for the intelligence community

Section 327 amends the National Security Act of 1947 to require that the annual personnel level assessments for the IC, required under Section 506B of the Act, include a separate estimate of the number of intelligence collectors and analysts contracted by each element of the IC and a description of the functions performed by such contractors.

Section 328. Assessment of the efficacy of memoranda of understanding to facilitate intelligence-sharing

Section 328 requires the Under Secretary of Homeland Security for Intelligence and Analysis to provide appropriate congressional committees with an assessment of the efficacy of the memoranda of understanding signed between Federal, State, local, tribal, and territorial agencies to facilitate intelligence-sharing within and separate from the Joint Terrorism Task Force. This study should help identify any obstacles to intelligence sharing between agencies, particularly any obstacles that might have impeded intelligence sharing in the wake of the April 2013 bombing of the Boston Marathon, and find improvements to existing intelligence sharing relationships.

Section 329. Report on foreign man-made electromagnetic pulse weapons

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

Section 330. Report on United States counterterrorism strategy to disrupt, dismantle, and defeat al-Qaeda and its affiliated or associated groups

Section 330 requires the DNI to provide appropriate congressional committees with a report on the United States counterterrorism strategy to disrupt, dismantle, and defeat al Qaeda and its affiliated or associated groups.

Section 331. Feasibility study on retraining veterans in cybersecurity

Section 331 requires the DNI to submit to Congress a feasibility study on retraining veterans and retired members of elements of the IC in cybersecurity.

DENOUNCING THE USE OF CIVILIANS AS HUMAN SHIELDS BY HAMAS AND OTHER TERRORIST ORGANIZATIONS IN VIOLATION OF INTERNATIONAL HUMANITARIAN LAW

Mr. SCHATZ. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 616, H. Con. Res. 107.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 107) denouncing the use of civilians as human shields by Hamas and other terrorist organizations in violation of international humanitarian law.

There being no objection, the Senate proceeded to consider the concurrent resolution, which had been reported from the Committee on Foreign Relations, with an amendment and an amendment to the preamble and an amendment to the title.

(Strike out all after the resolving clause and insert the part printed in italic.)

(Strike the preamble and insert the part printed in italic.)

H. CON. RES. 107

Whereas the use of human shields is unconscionable and morally unacceptable;

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

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

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

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

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

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

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

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

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

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