

Calendar No. 106

118TH CONGRESS }
1st Session }

SENATE

{ REPORT
{ 118-59

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2024

—————
JULY 13, 2023.—Ordered to be printed
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Mr. WARNER, from the Select Committee on Intelligence,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany S. 2103]

The Select Committee on Intelligence, having considered an original bill (S. 2103) to authorize appropriations for fiscal year 2024 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, reports favorably thereon and recommends that the bill do pass.

CLASSIFIED ANNEX TO THE COMMITTEE REPORT

Pursuant to Section 364 of the *Intelligence Authorization Act for Fiscal Year 2010* (Public Law 111-259), the Director of National Intelligence (DNI) publicly disclosed on March 14, 2023, that the request for the National Intelligence Program for Fiscal Year 2024 was \$72.4 billion. Other than for limited unclassified appropriations, primarily the Intelligence Community Management Account, the classified nature of United States intelligence activities precludes any further disclosure, including by the Committee, of the details of its budgetary recommendations. Accordingly, the Committee has prepared a classified annex to this report that contains a classified Schedule of Authorizations. The classified Schedule of Authorizations is incorporated by reference in the Intelligence Authorization Act and has the legal status of public law. The classi-

fied annex is made available to the Committees on Appropriations of the Senate and the House of Representatives and to the President. It is also available for review by any Member of the Senate subject to the provisions of Senate Resolution 400 of the 94th Congress (1976).

SECTION-BY-SECTION ANALYSIS AND EXPLANATION

The following is a section-by-section analysis and explanation of the Intelligence Authorization Act for Fiscal Year 2024 (the “Act”) reported by the Committee.

TITLE I—INTELLIGENCE ACTIVITIES

Section 101. Authorization of appropriations

Section 101 specifies that the Act authorizes appropriations for intelligence and intelligence-related activities of the Intelligence Community for Fiscal Year 2024.

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 for Fiscal Year 2024 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. Intelligence Community Management Account

Section 103 authorizes appropriations for the Intelligence Community Management Account of the Office of the Director of National Intelligence (ODNI) for Fiscal Year 2024.

Section 104. Increase in employee compensation and benefits authorized by law

Section 104 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.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Section 201. Authorization of appropriations

Section 201 authorizes appropriations for the CIA Retirement and Disability Fund for Fiscal Year 2024.

TITLE III—INTELLIGENCE COMMUNITY MATTERS

Subtitle A—General Intelligence Community Matters

Section 301. Post-graduate employment of Department of Defense Cyber and Digital Service Academy scholarship recipients in intelligence community

Section 301 enables recipients of a Cyber and Digital Services Academy Scholarship to fulfill their post-award employment obligations through service in Intelligence Community agencies.

Section 302. Plan to recruit, train, and retain personnel with experience in financial intelligence and emerging technologies

Section 302 requires the DNI, in coordination with the heads of human capital of the CIA, the National Security Agency, and the Federal Bureau of Investigation, to submit to the congressional intelligence committees a plan for the Intelligence Community to recruit, train, and retain personnel who have expertise and experience in financial intelligence and emerging technologies in order to improve analytic tradecraft.

Section 303. Policy and performance framework for mobility of intelligence community workforce

Section 303 requires the DNI to develop and implement a policy and performance framework to ensure the timely and effective mobility of employees and contractors of the Federal Government who are transferring employment between elements of the Intelligence Community.

Section 304. In-State tuition rates for active duty members of the intelligence community

Section 304 allows officers employed in the Intelligence Community to obtain in-state tuition benefits, consistent with members of armed forces and the Foreign Service.

Section 305. Standards, criteria, and guidance for counterintelligence vulnerability assessments and surveys

Section 305 amends the Counterintelligence Enhancement Act of 2002 to require the National Counterintelligence and Security Center (NCSC) to develop standards, criteria, and guidance that U.S. Government and private sector entities could use to conduct their own vulnerability surveys.

Section 306. Improving administration of certain post-employment restrictions for intelligence community

Section 306 provides the Intelligence Community with the authorities necessary to effectively administer the post-employment restriction requirements in the National Security Act of 1947.

Section 307. Mission of the National Counterintelligence and Security Center

Section 307 amends the Counterintelligence Enhancement Act of 2002 to establish the NCSC's mission to include organizing and leading strategic planning for counterintelligence activities of the U.S. Government.

Section 308. Prohibition relating to transport of individuals detained at United States Naval Station, Guantanamo Bay, Cuba

Section 308 prohibits any IC element from chartering private or commercial aircraft to transport any individual who is or was detained at Guantanamo Bay.

Section 309. Department of Energy review of certain foreign visitors and assignees to National Laboratories

Section 309 requires the Director of the Office of Intelligence and Counterintelligence of the Department of Energy to vet foreign national visitors or assignees to National Labs from sensitive countries for counterintelligence risks, notify a National Lab of its determination of whether a visitor or assignee poses a counterintelligence risk, and make a recommendation to the National Lab whether to grant or deny access. Section 309 further requires quarterly reporting of each instance where a National Lab granted access and the respective recommendation.

Section 310. Congressional oversight of intelligence community risk assessments

Section 310 requires the DNI, within 30 days of commencing a risk assessment arising from the mishandling or improper disclosure of classified information, to submit to the congressional intelligence committees copies of such documents and materials within the committees' jurisdiction and provide a briefing.

Section 311. Inspector General review of dissemination by Federal Bureau of Investigation Richmond, Virginia, field office of certain document

Section 311 requires the Inspector General of the Department of Justice to conduct a review of the actions and events, including any underlying policy direction, that served as a basis for the FBI Richmond Field Office's January 23, 2023 dissemination of the document titled "Interest of Racially or Ethnically Motivated Violent Extremists in Radical-Traditionalist Catholic Ideology Almost Certainly Presents New Mitigation Opportunities."

Section 312. Office of Intelligence and Analysis

Section 312 prohibits employees of the Department of Homeland Security's (DHS) Office of Intelligence and Analysis (I&A) from engaging in the collection of information or intelligence targeting U.S. persons, except when carried out by I&A officials responsible for collecting information or intelligence from state, local, or Tribal territory governments or a private employer.

Subtitle B—Central Intelligence Agency

Section 321. Protection of Central Intelligence Agency facilities and assets from unmanned aircraft

Section 321 amends the Central Intelligence Agency Act of 1949 to allow authorized CIA personnel to better detect and respond to threats posed to CIA facilities and assets by unmanned aircraft.

Section 322. Change to penalties and increased availability of mental health treatment for unlawful conduct on Central Intelligence Agency installations

Section 322 allows the U.S. Government to seek penalties for violations of CIA regulations prohibiting certain conduct on CIA installations, such as driving under the influence and trespass, that are consistent with other federal and state jurisdictions.

Section 323. Modifications to procurement authorities of the Central Intelligence Agency

Section 323 amends the Central Intelligence Agency Act of 1949 to ensure that the CIA's advance payment delegation authorities conform to those of other U.S. government agencies.

Section 324. Establishment of Central Intelligence Agency standard workplace sexual misconduct complaint investigation procedure

Section 324 requires the Director of the CIA to establish and implement a standard workplace sexual misconduct complaint investigation procedure and provide annual reports to the congressional intelligence committees regarding the number and disposition of workplace sexual misconduct complaints brought to each individual or office of the CIA.

Section 325. Pay cap for diversity, equity, and inclusion staff and contract employees of the Central Intelligence Agency

Section 325 requires the Director of the CIA to establish a pay cap on the salaries of CIA Diversity, Equity, and Inclusion staff and contract employees at the same level as an officer of the Directorate of Operations in the Clandestine Services Trainee program.

TITLE IV—MATTERS CONCERNING FOREIGN COUNTRIES

Subtitle A—People's Republic of China

Section 401. Intelligence community coordinator for accountability of atrocities of the People's Republic of China

Section 401 requires the DNI to designate an Intelligence Community coordinator for accountability of atrocities of the People's Republic of China (PRC).

Section 402. Interagency working group and report on the malign efforts of the People's Republic of China in Africa

Section 402 requires the DNI to establish an interagency working group within the Intelligence Community to analyze the PRC's tactics and capabilities in Africa.

Section 403. Amendment to requirement for annual assessment by intelligence community working group for monitoring the economic and technological capabilities of the People's Republic of China

Section 403 amends section 6503 of the *Intelligence Authorization Act for Fiscal Year 2023* to ensure the DNI provides a comprehensive unclassified list of PRC businesses, academic and research institutions and other entities that support the Chinese Communist

Party, the Chinese military, and other Chinese government entities.

Section 404. Assessments of reciprocity in the relationship between the United States and the People's Republic of China

Section 404 requires the Assistant Secretary of State for Intelligence and Research, together with the DNI and other appropriate Intelligence Community leaders, to submit an assessment of critical areas in which the United States does not maintain a reciprocal relationship with the PRC, and how any lack of reciprocity provides advantages to the PRC.

Section 405. Annual briefing on intelligence community efforts to identify and mitigate Chinese Communist Party political influence operations and information warfare against the United States

Section 405 requires the Director of the Foreign Malign Influence Center to provide the congressional intelligence committees with a briefing on the ways in which relevant Intelligence Community elements are working to identify and mitigate actions of Chinese entities engaged in political influence operations and information warfare against the United States (including U.S. persons).

Section 406. Assessment of threat posed to United States ports by cranes manufactured by countries of concern

Section 406 requires the DNI to coordinate with the Secretary of Defense and other heads of the Intelligence Community as appropriate to conduct an assessment and submit a report on the threat posed to the United States by cranes manufactured by countries of concern and commercial entities of those countries, including the Shanghai Zhenhua Heavy Industries Co.

Subtitle B—Russian Federation

Section 411. Assessment of lessons learned by intelligence community with respect to conflict in Ukraine

Section 411 requires the DNI to submit an assessment of the lessons learned by the Intelligence Community with respect to the war in Ukraine, including the quality and timeliness of the United States' intelligence support.

Section 412. National intelligence estimate on long-term confrontation with Russia

Section 412 requires the DNI to submit a national intelligence estimate on the implications of the Ukraine war with respect to a long-term United States and North Atlantic Treaty Organization confrontation with Russia.

Subtitle C—Other Foreign Countries

Section 421. Report on efforts to capture and detain United States citizens as hostages

Section 421 requires the DNI to submit a report on the efforts of the Maduro regime in Venezuela to arrest, capture, detain, and/or imprison United States citizens and lawful permanent residents.

Section 422. Sense of Congress on priority of fentanyl in National Intelligence Priorities Framework

Section 422 provides a sense of Congress that the trafficking of illicit fentanyl from the PRC and Mexico should be among the highest priorities in the National Intelligence Priorities Framework.

TITLE V—MATTERS PERTAINING TO UNITED STATES ECONOMIC AND EMERGING TECHNOLOGY COMPETITION WITH UNITED STATES ADVERSARIES

Subtitle A—General Matters

Section 501. Office of Global Competition Analysis

Section 501 requires the President to establish an office for analysis of global competition regarding United States leadership in science, technology, and innovation sectors critical to national security and economic prosperity and to support related intelligence, policy development, and decision making across the federal government.

Section 502. Assignment of detailees from intelligence community to Department of Commerce

Section 502 provides the DNI with discretionary authority to assign members of the Intelligence Community to be detailees to the Bureau of Industry and Security of the Department of Commerce.

Section 503. Threats posed by information and communications technology and services transactions and other activities

Section 503 requires the DNI to carry out threat assessments of significant information and communications technology and services transactions.

Section 504. Revision of regulations defining sensitive national security property for Committee on Foreign Investment in the United States reviews

Section 504 requires the Secretary of the Treasury to revise regulations for the Committee on Foreign Investment in the United States in order to treat facilities and property of elements of the Intelligence Community and National Laboratories comparably to military installations.

Section 505. Support of intelligence community for export controls and other missions of the Department of Commerce

Section 505 codifies authority for the DNI to collect, analyze, and share information necessary to support the missions of the Department of Commerce, including with respect to the administration of export controls. Section 505 further ensures that classified and sensitive information shared by the Intelligence Community is protected in the course of civil litigation challenging an action or finding of the Secretary of Commerce.

Section 506. Review regarding information collection and analysis with respect to economic competition

Section 506 requires the DNI to review open-source commercial databases utilized by the Intelligence Community to identify

threats and gaps regarding economic competition with foreign countries, including the PRC.

Subtitle B—Next Generation Energy, Biotechnology, and Artificial Intelligence

Section 511. Expanded annual assessment of economic and technological capabilities of the People’s Republic of China

Section 511 amends Section 6503(c)(3) of the *Intelligence Authorization Act for Fiscal Year 2023* to expand the scope of annual assessments of the economic and technological strategy, efforts, and progress of the PRC to include next-generation energy, biotechnology, and artificial intelligence.

Section 512. Procurement of public utility contracts

Section 512 extends the period of time to establish a contract for public utility services to 30 years for any executive agency that is, or has a component that is, an element of the Intelligence Community.

Section 513. Assessment of using civil nuclear energy for intelligence community capabilities

Section 513 requires the DNI to conduct an assessment of Intelligence Community facilities that have unique energy needs to ascertain the feasibility and advisability of using civil nuclear reactors to meet such needs.

Section 514. Policies established by Director of National Intelligence for artificial intelligence capabilities

Section 514 amends Section 6702 of the *Intelligence Authorization Act for Fiscal Year 2023* to require the DNI to establish policies for the acquisition, adoption, development, use, coordination, and maintenance of artificial intelligence capabilities.

Section 515. Strategy for submittal of notice by private persons to Federal agencies regarding certain risks and threats relating to artificial intelligence

Section 515 directs the President to develop a strategy to more effectively enable private sector actors, commercial users, and independent researchers to notify relevant U.S. Government agencies of information security risks from artificial intelligence systems.

TITLE VI—WHISTLEBLOWER MATTERS

Section 601. Submittal to Congress of complaints and information by whistleblowers in the intelligence community

Section 601 establishes security officers and protocols to facilitate Intelligence Community employees’ and contractors’ submissions of complaints and information to Congress. Section 601 further clarifies the requirements for submitting whistleblower complaints and information, and ensures bipartisan notification of such materials.

Section 602. Prohibition against disclosure of whistleblower identity as reprisal against whistleblower disclosure by employees and contractors in intelligence community

Section 602 adds a prohibition on knowing or willful disclosures that reveal an Intelligence Community employee's or contractor employee's identifying information without consent, so as to identify such employee or contractor employee as a whistleblower, except as necessary during the course of an investigation. Section 602 further establishes a private right of action for an Intelligence Community whistleblower if such disclosure is taken as a reprisal against the whistleblower for bringing a complaint.

Section 603. Establishing process parity for adverse security clearance and access determinations

Section 603 requires an agency, in justifying an adverse security clearance or access determination against a whistleblower, to demonstrate by clear and convincing evidence that the agency would have made the same security clearance or access determination in the absence of the whistleblower's disclosure. Section 603 further establishes parity in the legal standards applied to Intelligence Community whistleblower matters.

Section 604. Elimination of cap on compensatory damages for retaliatory revocation of security clearances and access determinations

Section 604 removes the cap on compensatory damages for an employee or former employee who was subjected to a reprisal with respect to the employee's or former employee's security clearance or access determination.

Section 605. Modification and repeal of reporting requirements

Section 605 enhances the efficiency of whistleblower notifications to the Inspector General of the Intelligence Community.

TITLE VII—CLASSIFICATION REFORM

Subtitle A—Classification Reform Act of 2023

CHAPTER 1—SHORT TITLE; DEFINITIONS

Section 701. Short title

Section 701 contains the short title for this subtitle.

Section 702. Definitions

Section 702 contains the definitions for this subtitle.

CHAPTER 2—GOVERNANCE AND ACCOUNTABILITY FOR REFORM OF THE SECURITY CLASSIFICATION SYSTEM

Section 711. Executive Agent for Classification and Declassification

Section 711 designates the DNI as Executive Agent for Classification and Declassification with responsibility to lead whole-of-government technological modernization of the classification and declassification system.

Section 712. Executive Committee on Classification and Declassification Programs and Technology

Section 712 establishes an interagency committee to provide direction, advice, and guidance to the Executive Agent for Classification and Declassification on matters relating to classification and declassification programs and technology.

Section 713. Advisory bodies for Executive Agent for Classification and Declassification

Section 713 designates several existing bodies, including the Public Interest Declassification Board, as advisory bodies to the Executive Agent for Classification and Declassification.

Section 714. Information Security Oversight Office

Section 714 codifies establishment of an Information Security Oversight Office within the Executive Branch.

CHAPTER 3—REDUCING OVERCLASSIFICATION

Section 721. Classification and declassification of information

Section 721 authorizes the President to establish a system for the classification and declassification of information, subject to certain minimum requirements including with regard to the scope of information that may be classified, the duration of classification, and the processes for reviewing classified records and materials. Among other things, it provides that information may only be classified, or remain classified, where the harm to national security reasonably expected from disclosure outweighs the public interest. It also sets the maximum period for classification at 25 years, grants agency heads the authority to extend that period to 50 years, and grants the President the authority to extend beyond 50 years in 10 year increments.

Section 722. Declassification working capital funds

Section 722 establishes working capital funds that are funded relative to how many classified records an agency generates. The proceeds of these funds may be used with the concurrence of the Executive Agent for Classification and Declassification to promote and implement interoperable technological and automated solutions for automatic declassification.

Section 723. Transparency officers

Section 723 codifies a requirement for privacy and civil liberties officers to also serve as transparency officers to assist agencies in identifying records of significant public interest and prioritizing review of such records for public release.

CHAPTER 4—PREVENTING MISHANDLING OF CLASSIFIED INFORMATION

Section 731. Security review of certain records of the President and Vice President

Section 731 establishes a process for security review of certain President and Vice-Presidential records to ensure that records bearing classification markings are not improperly categorized as personal records and removed from secure facilities.

Section 732. Mandatory counterintelligence risk assessments

Section 732 requires NCSC to prepare a written risk assessment following any mishandling or unauthorized disclosure of classified information by certain senior government officials.

Section 733. Minimum standards for Executive agency insider threat programs

Section 733 requires each agency with access to classified information to establish an insider threat program that meets certain minimum standards, including establishing a capability to monitor user activity on all classified networks.

CHAPTER 5—OTHER MATTERS

Section 741. Prohibitions

Section 741 establishes certain prohibitions applicable to this subtitle, including with respect to withholding information from Congress and judicial review.

Section 742. Conforming amendment

Section 742 contains a conforming amendment to the National Security Act of 1947.

Section 743. Clerical amendment

Section 743 contains a clerical amendment to the National Security Act of 1947.

Subtitle B—Sensible Classification Act of 2023

Section 751. Short title

Section 751 contains the short title for this subtitle.

Section 752. Definitions

Section 752 contains the definitions for this subtitle.

Section 753. Findings and sense of the Senate

Section 753 contains findings and a Sense of the Senate that the classification system is in urgent need of reform, and classification should be limited to the minimum necessary to protect national security while balancing the public's interest in disclosure.

Section 754. Classification authority

Section 754 codifies the exercise of classification authority by the President, Vice President, and other officials. Section 754 also specifies how the authority is delegated and the training required to receive delegated classification authority.

Section 755. Promoting efficient declassification review

Section 755 requires agencies that identify records more than 25 years old while processing requests pursuant to the Freedom of Information Act or mandatory declassification review procedures to review and process such records for release by the National Declassification Center.

Section 756. Training to promote sensible classification

Section 756 requires the head of each agency with classification authority to conduct training to discourage over-classification and promote sensible classification.

Section 757. Improvements to Public Interest Declassification Board

Section 757 allows members of the Public Interest Declassification Board whose term has expired to continue to serve until a successor is appointed and sworn in. Section 757 also authorized the Board to hire up to 12 staff members.

Section 758. Implementation of technology for classification and declassification

Section 758 directs the Administrator of the Office of Electronic Government to research and submit recommendations to the President and Congress concerning technology-based solutions to support classification and declassification that are interoperable across the government.

Section 759. Studies and recommendations on necessity of security clearances

Section 759 directs the head of each agency that grants security clearances to conduct a study on the number and types of security clearances and their justification. Section 759 also provides for independent review of each study.

TITLE VIII—SECURITY CLEARANCE AND TRUSTED WORKFORCE

Section 801. Review of shared information technology services for personnel vetting

Section 801 requires the DNI to submit to the congressional intelligence committees a review of the extent to which the Intelligence Community can use information technology services shared among the Intelligence Community for purposes of personnel vetting.

Section 802. Timeliness standard for rendering determinations of trust for personnel vetting

Section 802 requires the President, acting through the Security Executive Agent and Suitability and Credentialing Executive Agent, to establish and publish in the Federal Register new timeliness performance standards for processing personnel vetting trust determinations in accordance with the Federal personnel vetting performance management standards.

Section 803. Annual report on personnel vetting trust determinations

Section 803 requires the DNI, acting as the Security Executive Agent, and the Director of the Office of Personnel Management, acting as the Suitability and Credentialing Executive Agent, in coordination with the Security, Suitability, and Credentialing Performance Accountability Council, to jointly make available to the public an annual report on specific types of personnel vetting trust determinations.

Section 804. Survey to assess strengths and weaknesses of Trusted Workforce 2.0

Section 804 requires the Comptroller General of the United States to administer a survey to assess the strengths and weaknesses of the implementation of the Trusted Workforce 2.0 initiative.

Section 805. Prohibition on denial of eligibility for access to classified information solely because of past use of cannabis

Section 805 prohibits the head of an element of the Intelligence Community from denying eligibility for access to classified information to an individual solely on the use of cannabis by that individual prior to the submission of an application for a security clearance.

TITLE IX—ANOMALOUS HEALTH INCIDENTS

Section 901. Improved funding flexibility for payments made by the Central Intelligence Agency for qualifying injuries to the brain

Section 901 amends the Central Intelligence Agency Act of 1949 to allow flexibility of funding, if necessary, to pay qualified individuals who apply for payments for certain injuries.

Section 902. Clarification of requirements to seek certain benefits relating to injuries to the brain

Section 902 clarifies that covered dependents, covered employees, or covered individuals shall not be required to seek any other benefit furnished by the U.S. Government to be eligible for a payment for a qualifying injury to the brain authorized under the Helping American Victims Afflicted by Neurological Attacks Act of 2021 (HAVANA Act) (Public Law 117–46).

Section 903. Intelligence community implementation of HAVANA Act of 2021 authorities

Section 903 requires each head of an element of the Intelligence Community that has not already done so to issue regulations and procedures to implement the authorities provided by the HAVANA Act (Public Law 117–46).

Section 904. Report and briefing on Central Intelligence Agency handling of anomalous health incidents

Section 904 requires the Director of the CIA to submit to the congressional intelligence committees a report on the handling of anomalous health incidents by the Agency.

TITLE X—ELECTION SECURITY

Section 1001. Strengthening Election Cybersecurity to Uphold Respect for Elections through Independent Testing Act of 2023

Section 1001 directs the Election Assistance Commission (EAC) to require that voting systems undergo penetration testing as part of the standard certification process for such systems. Section 1001 also directs the National Institute of Standards and Technology to accredit entities that can perform such testing and would direct the

EAC to create a voluntary vulnerability disclosure program for election systems.

Section 1002. Protecting Ballot Measures from Foreign Influence Act of 2023

Section 1002 makes it unlawful for a foreign national to contribute money, either directly or indirectly, to a State or local ballot initiative or ballot referendum.

TITLE XI—OTHER MATTERS

Section 1101. Modification of reporting requirement for All-domain Anomaly Resolution Office

Section 1101 amends section 1683(k)(1) of the National Defense Authorization Act for Fiscal Year 2022 (as amended by the Intelligence Authorization Act for Fiscal Year 2023) to ensure the Director of the All-Domain Anomaly Resolution Office (AARO) prepares the relevant reporting.

Section 1102. Modifications to notification on the provision of defense sensitive support

Section 1102 permits the Secretary of Defense to notify the congressional defense committees and, when appropriate, the congressional intelligence committees after providing support requiring time-sensitive support and extraordinary security protections.

Section 1103. Modification of congressional oversight of special access programs

Section 1103 amends Title 50 to ensure that annual reports on Special Access Programs currently provided to the congressional defense committees are also provided to the congressional intelligence committees.

Section 1104. Funding limitations relating to unidentified anomalous phenomena

Section 1104 prohibits funds authorized by this Act from being used for activities involving unidentified anomalous phenomena protected under any form of special access or restricted access limitations that have not been briefed to appropriate congressional committees, congressional leadership, and the Director of AARO. Section 1104 also requires any person currently or formerly under contract with the Federal Government that has material or information relating to unidentified anomalous phenomena protected by any form of special access or restricted access to make the material or information available to the Director of AARO.

COMMITTEE COMMENTS AND DIRECTION

Civil Nuclear Technologies

Our national security depends on ensuring we innovate and deploy civil nuclear power ahead of our adversaries. The Committee is concerned that the Administration has not appointed a Civil Nuclear Coordinator to develop and implement a cohesive policy for building, operating, and deploying civil nuclear power at home and abroad. The last two Administrations both had such positions. Ap-

pointing a Civil Nuclear Coordinator is especially critical now, as our adversaries invest heavily and attempt to market competing civil nuclear reactors in regions of substantial geopolitical and economic importance. A Civil Nuclear Coordinator would ensure that necessary framework agreements and controls relating to civil nuclear materials and technologies are in place for competitive domestic and international licensing and deployment, and coordinate with U.S. industry and allies abroad to ensure that the United States remains competitive in the development, deployment, and export of civil nuclear technologies as compared to our adversaries.

CIA Policies and Processes for Managing and Evaluating the Performance of Agency Personnel

The Committee is concerned that the policies and processes used by the CIA for managing and evaluating the performance of CIA personnel are not being implemented in a manner that provides minimum safeguards consistent with CIA regulations. In addition, the Committee is concerned that these processes yield inconsistent results, which for any given matter may either be too harsh or too lenient. Therefore, the Committee directs CIA's Office of Inspector General to examine whether CIA's policies and processes for managing and evaluating the performance of Agency personnel are effective and applied consistently throughout the Agency, and whether there may be systemic problems or deficiencies in those areas for which corrective action may be appropriate.

Strategic Counterintelligence and Offensive Counterintelligence

The Committee is concerned that the U.S. counterintelligence enterprise is not currently postured to confront the whole-of-society foreign intelligence threat landscape facing the country today. In particular, the Committee is concerned that the Intelligence Community has not taken steps to address ambiguity around the meaning of fundamental terms, including "offensive counterintelligence" and "strategic counterintelligence."

Therefore, the Committee directs the DNI, in coordination with other elements of the Intelligence Community as appropriate, to adopt definitions for "offensive counterintelligence" and "strategic counterintelligence." The Committee directs the DNI to provide the congressional intelligence committees, not later than 120 days following enactment of this Act, with notification of definitions adopted for the terms "offensive counterintelligence" and "strategic counterintelligence."

In addition, the Committee further recommends that the DNI adopt the following language in defining roles and responsibilities for the government-wide counterintelligence mission:

"For purposes of carrying out the counterintelligence activities of the United States Government, the term 'offensive counterintelligence' means clandestine counterintelligence activity conducted for national security, strategic, and counterintelligence purposes against a target having suspected or known affiliation with a foreign intelligence entity to counter clandestine activities that threaten the United States or the national interests of the United States."

"For purposes of organizing and leading strategic planning for counterintelligence activities of the United States Govern-

ment, the term ‘strategic counterintelligence’ means the process and product of developing the context, tradecraft, capabilities, knowledge, and understanding of the strategic environment, including the intentions and capabilities of foreign adversaries and the national resources necessary to engage in counterintelligence activities, to support United States national security interests, policy development, and planning processes.”

Improving the Quality, Transparency, Impartiality, and Consistency in the Clearance Appeals Process

The Committee continues to be concerned with the quality, transparency, impartiality, and consistency in government processes that allow civilian, military, and contractor personnel to appeal decisions to deny or revoke access to classified national security information. Personnel, regardless of status or agency, deserve an appeals process that exhibits these characteristics. Recent memos by the Office of the Under Secretary of Defense (Intelligence & Security) indicate internal debates over how best to achieve these goals at the Department of Defense, the single largest granter of security clearances.

Therefore, the Committee directs the DNI, as the government’s Security Executive Agent, in coordination with the interagency Performance Accountability Council, chaired by the Office of Management and Budget, to provide Congress with a report, within 180 days after enactment of this Act, on the number of appeals filed in the previous year, the reasons appeals were filed, and the rates by which decisions to deny or revoke a clearance was made. Further, the Committee directs the DNI, in this report, to identify best practices for departments and agencies in considering appeals to deny or revoke accesses to classified national security information.

Intelligence Community Employment Protections

The Committee supports Intelligence Community employment policies that bolster the professionalism and independence of the workforce. This support is complicated, however, by the lack of transparency with regard to the protections currently granted employees by different Intelligence Community entities. Therefore, the Committee directs the DNI, working with the heads of each of the Intelligence Community entities, to provide the Committee a report within 90 days of the reporting of this bill. The report should describe: (1) the statutory basis for the rules governing employment protections for each Intelligence Community entity; (2) how each of the Intelligence Community entities categorizes its employees according to the competitive and excepted service and schedules associated with the excepted service; (3) how each of the Intelligence Community entities applies employment protections to personnel in each of those categories; and (4) what limits, if any, exist within each of the Intelligence Community entities to the involuntary transfer of employees from one category to another so as to diminish those protections.

COMMITTEE ACTION

On June 14, 2023 a quorum being present, the Committee met to consider the bill, classified annex, and amendments. The Committee took the following actions:

Votes on amendments to the committee bill and the classified annex

By unanimous consent, the Committee made the Chairman and Vice Chairman's bill, together with the classified annex for Fiscal Year 2024, the base text for purposes of amendment.

By voice vote, the Committee adopted en bloc fifteen amendments to the bill, as follows: (1) an amendment by Vice Chairman Rubio, to require the DNI, within 30 days of commencing a risk assessment arising from the mishandling or improper disclosure of classified information, to submit to the congressional intelligence committees copies of such documents and materials within the committees' jurisdiction and provide a briefing; (2) an amendment by Senator Collins, and cosponsored by Chairman Warner, to improve the security of voting and election systems; (3) an amendment by Vice Chairman Rubio to prohibit any Intelligence Community element from chartering private or commercial aircraft to transport any individual who is or was detained at Guantanamo Bay; (4) an amendment by Vice Chairman Rubio to ensure that annual reports on Special Access Programs currently provided to the congressional defense committees are also provided to the congressional intelligence committees; (5) an amendment by Vice Chairman Rubio, and cosponsored by Chairman Warner, to prohibit contributions and donations by foreign nationals in connection with State or local ballot initiatives and referenda; (6) an amendment by Senator Gillibrand, and cosponsored by Senators Cornyn, Rubio, and Rounds, to prohibit funds from being used for activities involving unidentified anomalous phenomena protected under any form of special access or restricted access limitations that have not been briefed to appropriate congressional committees, congressional leadership, and the Director of AARO; (7) an amendment by Senator Cornyn, and cosponsored by Chairman Warner and Senators Moran, Wyden, Collins, King, Rounds, Heinrich, Lankford, and Casey, to reform the classification system; (8) an amendment by Senator Bennet to require the Secretary of the Treasury to revise regulations for the Committee on Foreign Investment in the United States in order to treat facilities and property of elements of the Intelligence Community and National Laboratories comparably to military installations; (9) an amendment by Senator Bennet to codify authority for the DNI to collect, analyze, and share information necessary to support the missions of the Department of Commerce, including with respect to the administration of export controls; (10) an amendment by Senator Casey to require the DNI to review open-source commercial databases utilized by the Intelligence Community to identify threats and gaps regarding economic competition with foreign countries, including the PRC; (11) an amendment by Senator Bennet to modify Section 401, regarding designation of an Intelligence Community coordinator for accountability of atrocities of the PRC; (12) an amendment by Senator Wyden to modify Section 306 to retain the current law's application to contractors and the requirement of a written agreement requiring reporting on post-service employment with foreign governments; (13) an amendment by Senator Lankford to require Inspector General review of the dissemination of a certain document by the FBI's Richmond field office; (14) an amendment by Vice Chairman Rubio, and cosponsored by Senators Cotton and Lankford, to require the Director of the Office of Intelligence and Counterintelligence of the Depart-

ment of Energy to vet certain foreign national visitors or assignees to National Labs; and (15) an amendment by Senator Warner, and cosponsored by Senator Heinrich, to require a strategy to enable private sector actors, commercial users, and independent researchers to notify relevant U.S. Government agencies of information security risks from artificial intelligence systems.

By voice vote, the Committee adopted en bloc nine amendments to the classified annex.

By voice vote, the Committee adopted an amendment by Chairman Warner, and cosponsored by Senators Wyden, King, Heinrich, Cornyn, Bennet, Casey, Moran, and Rounds to implement classification and declassification reforms, with Vice Chairman Rubio and Senator Cotton recorded as noes.

By unanimous consent, the Committee agreed to vote on a second-degree amendment by Senator Ossoff to an amendment by Vice Chairman Rubio, and to vote on Vice Chairman Rubio's original amendment as filed and cosponsored by Senators Risch and Lankford. Senator Ossoff's second-degree amendment required the Inspector General of the Intelligence Community to undertake a review of DHS I&A. Vice Chairman Rubio's amendment prohibited I&A from engaging in the collection of information or intelligence targeting U.S. persons, except when carried out by I&A officials responsible for collecting information or intelligence from state, local, or Tribal territory governments or a private employer. By a vote of 8 ayes and 9 noes, the Committee did not adopt Senator Ossoff's second-degree amendment. The votes in person or by proxy were as follows: Chairman Warner—aye; Senator Feinstein—aye; Senator Wyden—aye; Senator Heinrich—no; Senator King—aye; Senator Bennet—aye; Senator Casey—aye; Senator Gillibrand—aye; Senator Ossoff—aye; Vice Chairman Rubio—no; Senator Risch—no; Senator Collins—no; Senator Cotton—no; Senator Cornyn—no; Senator Moran—no; Senator Lankford—no; Senator Rounds—no. By a vote of 10 ayes and 7 noes, the Committee adopted Vice Chairman Rubio's amendment. The votes in person or by proxy were as follows: Chairman Warner—no; Senator Feinstein—no; Senator Wyden—no; Senator Heinrich—aye; Senator King—no; Senator Bennet—no; Senator Casey—no; Senator Gillibrand—no; Senator Ossoff—aye; Vice Chairman Rubio—aye; Senator Risch—aye; Senator Collins—aye; Senator Cotton—aye; Senator Cornyn—aye; Senator Moran—aye; Senator Lankford—aye; Senator Rounds—aye.

By unanimous consent, the Committee agreed to vote on a second-degree amendment by Vice Chairman Rubio, which substituted for his original-filed amendment and permitted Intelligence Community employees to opt out of the "gender identity and inclusiveness" initiatives put forth in Intelligence Community Directive 125. The second-degree amendment substitute did the same and added a clause to ensure current legal protections remained intact. Senator Lankford offered a separate second-degree amendment to require sex-segregated restrooms and locker rooms in Intelligence Community agencies, and withdrew it pending future Committee consideration. By a vote of 8 ayes and 9 noes, the Committee did not adopt Vice Chairman Rubio's second-degree amendment substitute. The votes in person or by proxy were as follows: Chairman Warner—no; Senator Feinstein—no; Senator Wyden—no; Senator

Heinrich—no; Senator King—no; Senator Bennet—no; Senator Casey—no; Senator Gillibrand—no; Senator Ossoff—no; Vice Chairman Rubio—aye; Senator Risch—aye; Senator Collins—aye; Senator Cotton—aye; Senator Cornyn—aye; Senator Moran—aye; Senator Lankford—aye; Senator Rounds—aye.

Senator Wyden offered an amendment that prohibited the head of any U.S. Government agency from denying an individual's eligibility for access to classified information based solely on the individual's cannabis use prior to submitting a security clearance application, and withdrew it pending future Committee consideration.

By a vote of 10 ayes and 7 noes, the Committee adopted an amendment by Senator Wyden that prohibited the head of any Intelligence Community agency from denying an individual's eligibility for access to classified information based solely on the individual's cannabis use prior to submitting a security clearance application. The votes in person or by proxy were as follows: Chairman Warner—aye; Senator Feinstein—aye; Senator Wyden—aye; Senator Heinrich—aye; Senator King—aye; Senator Bennet—aye; Senator Casey—aye; Senator Gillibrand—aye; Senator Ossoff—aye; Vice Chairman Rubio—no; Senator Risch—no; Senator Collins—aye; Senator Cotton—no; Senator Cornyn—no; Senator Moran—no; Senator Lankford—no; Senator Rounds—no.

Senator Cotton offered an amendment that prohibited additional hiring by the CIA's Directorate of Analysis until CIA staffed each of the Directorate of Operations' authorized full-time equivalent positions, and withdrew it pending future Committee consideration.

By a vote of 9 ayes and 8 noes, the Committee adopted an amendment by Senator Cotton to establish a pay cap on the salaries of CIA Diversity, Equity, and Inclusion staff and contract employees at the same level as an officer of the Directorate of Operations in the Clandestine Services Trainee program. The votes in person or by proxy were as follows: Chairman Warner—no; Senator Feinstein—no; Senator Wyden—no; Senator Heinrich—no; Senator King—aye; Senator Bennet—no; Senator Casey—no; Senator Gillibrand—no; Senator Ossoff—no; Vice Chairman Rubio—aye; Senator Risch—aye; Senator Collins—aye; Senator Cotton—aye; Senator Cornyn—aye; Senator Moran—aye; Senator Lankford—aye; Senator Rounds—aye.

Senator Lankford offered an amendment to limit the availability of funds authorized by this Act to change the section of the Questionnaire for National Security Positions that pertains to association record, and withdrew it pending future Committee consideration.

By voice vote, the Committee did not adopt an amendment by Senator Wyden to the classified annex, with Senator Wyden recorded as an aye.

Votes to report the committee bill

On June 14, 2023, the Committee voted to report the bill, as amended, by a vote of 17 ayes and zero noes. The votes in person or by proxy were as follows: Chairman Warner—aye; Senator Feinstein—aye; Senator Wyden—aye; Senator Heinrich—aye; Senator King—aye; Senator Bennet—aye; Senator Casey—aye; Senator Gillibrand—aye; Senator Ossoff—aye; Vice Chairman Rubio—aye; Senator Risch—aye; Senator Collins—aye; Senator Cotton—aye;

Senator Cornyn—aye; Senator Moran—aye; Senator Lankford—aye; Senator Rounds—aye.

By unanimous consent, the Committee authorized the staff to make technical and conforming changes to the bill and classified annex.

COMPLIANCE WITH RULE XLIV

Rule XLIV of the Standing Rules of the Senate requires publication of a list of any “congressionally directed spending item, limited tax benefit, and limited tariff benefit” that is included in the bill or the committee report accompanying the bill. Consistent with the determination of the Committee not to create any congressionally directed spending items or earmarks, none have been included in the bill, the report to accompany it, or the classified schedule of authorizations. The bill, report, and classified schedule of authorizations also contain no limited tax benefits or limited tariff benefits.

ESTIMATE OF COSTS

Pursuant to paragraph 11(a)(3) of rule XXVI of the Standing Rules of the Senate, the Committee deems it impractical to include an estimate of the costs incurred in carrying out the provisions of this report due to the classified nature of the operations conducted pursuant to this legislation. On June 22, 2023, the Committee transmitted this bill to the Congressional Budget Office and requested an estimate of the costs incurred in carrying out the unclassified provisions.

EVALUATION OF REGULATORY IMPACT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee finds that no substantial regulatory impact will be incurred by implementing the provisions of this legislation.

CHANGES TO EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee finds that it is necessary to dispense with the requirement of paragraph 12 to expedite the business of the Senate.

ADDITIONAL VIEWS OF CHAIRMAN WARNER

I am pleased that the Senate Select Committee on Intelligence has again reported an Intelligence Authorization Act by a unanimous vote. The Intelligence Authorization Act for Fiscal Year 2024 reflects the Senate Intelligence Committee's continued, bipartisan commitment to ensuring America's intelligence agencies have the resources they need to protect our country. In addition, the bill addresses many of my oversight priorities, including technological and economic competition with China, reform of the classification and declassification system, election security, and security clearance reform.

Notwithstanding my strong support for the bill, I write separately in order to express my opposition to two provisions of the bill that were added as amendments during the Committee's markup. First, by a vote of 9–8 the Committee adopted an amendment that would cap the pay for any staff employee or contractor of the CIA whose duties include certain diversity-related functions at that of the most junior officers in the Clandestine Service. This amendment will handicap the efforts of the CIA to build a diverse workforce that reflects the Nation the agency serves. In 2015, a CIA-commissioned study found that the Agency lagged behind other employers in maintaining a diverse workforce, especially at the senior leadership ranks. In the wake of that study, the CIA, with the support of this Committee, instituted numerous reforms, which have benefited the Agency's mission by enabling it to draw upon the wide range of talent, abilities, and backgrounds unique to this country. This amendment imperils that progress. Moreover, while I oppose the intent of the amendment, its drafting is cause for additional concern. By its terms the amendment would cap the pay of every CIA employee whose duties include "developing, refining, and implementing diversity, equity, and inclusion policy," which certainly includes the senior leadership of the Agency, up to and including the Director, if not a significant portion of Agency workforce.

Second, by a vote of 10–7 the Committee adopted an amendment that would prohibit DHS I&A from engaging in the collection of information or intelligence targeting U.S. persons, except when carried out by I&A officials responsible for collecting information or intelligence from state, local, or Tribal territory governments or a private employer. I share the concerns of many of my colleagues regarding the activities of DHS I&A, particularly as they relate to the challenges the Office appears to face in consistently producing intelligence reports that meet analytic standards. Nonetheless, this amendment is not the solution. The amendment will fundamentally alter the mission of DHS I&A in ways the Committee has not taken adequate time to understand. Moreover, the Committee is hastily imposing these changes before the Committee has had an

opportunity to fully explore the causes of DHS I&A's difficulties or whether the Office's current leadership is succeeding in instituting needed reforms. The Committee will continue to vigorously oversee DHS I&A and hold the Office accountable for its actions, but this amendment needlessly limits the authorities of an important component of the Intelligence Community, with concerning implications.

MARK R. WARNER.

ADDITIONAL VIEWS OF VICE CHAIRMAN RUBIO

During the markup of the fiscal year 2024 Intelligence Authorization Act (IAA), the Committee voted on an amendment to prohibit the Department of Homeland Security's Office of Intelligence and Analysis (I&A) from collecting, overtly or through publicly available means, information and intelligence on U.S. persons. The amendment was adopted by a bipartisan vote of 10 to 7 and is Section 312 of our IAA.

Congress created I&A as a part of the Department of Homeland Security in 2002 and it is charged with numerous responsibilities geared toward bridging the gap between the federal government and the Intelligence Community (IC) on one hand, and state and local governments and the private sector on the other, in order to detect, identify, understand, and prevent another act of terror on the U.S. homeland. This remains a critical government function. The problem, however, is that I&A uses its authorities to collect—overtly or through publicly available means—information and intelligence on U.S. persons who have no affiliation with foreign intelligence or foreign adversaries. This has resulted in potential abuses of I&A's authorities.

For example, I&A collected U.S. journalists' social media posts reporting on civil unrest in Portland, Oregon, during the summer of 2020. Analysts used that collection to craft intelligence reports on these journalists and circulated them internally. One of these journalists filed a lawsuit against the federal government which is still in litigation. Most recently, a news story from March 2023 exposed a troubling I&A practice of conducting custodial debriefings of individuals—including American citizens—without those individuals having any representative counsel present. Lastly, I&A regularly publishes unclassified assessments of domestic violent extremists who have no foreign affiliations looking to engage in potentially criminal behavior in the name of a political ideology, and often I&A will cite these domestic extremists' use of online platforms in those products.

These are issues for law enforcement, not the IC. We strongly support federal, state, and local law enforcement investigating domestic violent extremism in its many manifestations. When there are threats of violence, or incitement to violence, the perpetrators should be prosecuted to the fullest extent of the law. The FBI already has the authorities, operational tools, and resources to undertake such collection, and I&A should not be devoting intelligence resources to collect information on Americans with no connection to foreign intelligence or adversaries. Domestic law enforcement is not a job for the IC.

Section 312 prohibits I&A from collecting, overtly or through publicly available means, information or intelligence on any U.S. person. In addition, the provision excepts from this prohibition the

collection of information from state and local governments and the private sector, preserving I&A's core function of ensuring that critical information about potential threats to our homeland is shared between the federal government and state and local governments and the private sector. We were pleased the amendment was approved in a bipartisan fashion and voted out unanimously as part of our Committee-reported IAA.

MARCO RUBIO.
JAMES E. RISCH.
SUSAN M. COLLINS.
TOM COTTON.
JOHN CORNYN.
JERRY MORAN.
JAMES LANKFORD.
M. MICHAEL ROUNDS.

ADDITIONAL VIEWS OF SENATORS WYDEN AND MORAN

The Fiscal Year 2024 Intelligence Authorization Act includes historic legislation addressing the chronic and long-standing problem of overclassification while reforming the Federal Government's broken classification and declassification system. Among the provisions of this legislation is a reform that we put forward in 2020—the designation of the Director of National Intelligence as the Executive Agent for Classification and Declassification.

There is unanimous agreement that the current system is obsolete and in need of technical modernization. As has been documented in numerous reports by the Information Security Oversight Office (ISOO) and the Public Interest Declassification Board (PIDB), as well as by the DNI herself, the onslaught of new classified digital records has overwhelmed an archaic declassification system, the result being that an ever-increasing number of records that should be declassified are never actually released to the public. Fortunately, there are technical solutions to this problem; they just require someone to promote and guide strategic investments in modernization technology across the Federal Government.

The DNI is uniquely situated to carry out this role. She already has a statutory responsibility to develop information technology systems while protecting sources and methods. The DNI is also tasked with providing guidance on budget priorities across agencies.

Technical solutions must be inter-operable and must be implemented across the Federal Government if they are going to work at all. Systems that are stovepiped among different agencies impede efforts to locate records and prevent coordination on their declassification. The DNI already serves as the Security Executive Agent, a role in which she develops policies related to security clearances that apply to the whole of Government and not just the Intelligence Community. This experience is directly relevant to the role of Executive Agent for Classification and Declassification.

Government-wide solutions are necessary not only to fix a broken declassification system but also to protect the information that remains classified. Records originating in dozens of agencies, departments and offices traverse the Federal Government at the speed of light. A modernized system that tracks these records is necessary both to ensure eventual declassification and to identify and resolve weaknesses in how currently classified records are protected.

RON WYDEN.
JERRY MORAN.

ADDITIONAL VIEWS OF SENATOR WYDEN

The Fiscal Year 2024 Intelligence Authorization Act includes a number of provisions that strengthen national security while promoting democratic oversight. First among these provisions is historic declassification reform legislation which I have addressed in separate Additional Views with Senator Moran.

As was the case last year, the Committee passed my amendment prohibiting the denial of security clearances based solely on the past use of cannabis. As more states legalize cannabis, it becomes less and less tenable to deny security clearances to those who have used it. The amendment, which was co-sponsored by Senators Heinrich and Bennet, will help the Intelligence Community recruit the qualified personnel needed to protect the country.

The bill also includes whistleblower provisions I have secured in previous years, including provisions that ensure that whistleblowers' security clearances cannot be revoked as a pretext, remove the damages cap for reprisals, ensure that whistleblowers can come straight to Congress, and prohibit public disclosure of a whistleblower's identity as a reprisal.

Finally, I am pleased that the Committee agreed to include in its public report direction to the Director of National Intelligence to report on how Intelligence Community personnel are or are not protected by virtue of their employment status. The American people expect the employees of the Intelligence Community to speak truth to power, to dissent when appropriate, and to be fully candid with Congress, all without fear of retaliation. Any current or future employment policies that would permit arbitrary or politically motivated firings risk placing that professionalism and independence in jeopardy. It is imperative that Congress act to address any vulnerabilities that might allow for such a contingency.

RON WYDEN.

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