

proceeding under paragraph (1) shall be final and not appealable.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective as if included in the amendment made by section 3(i) of the Leahy-Smith America Invents Act.

(3) REVIEW OF INTERFERENCE DECISIONS.—The provisions of sections 6 and 141 of title 35, United States Code, and section 1295(a)(4)(A) of title 28, United States Code, as in effect on September 15, 2012, shall apply to interference proceedings that are declared after September 15, 2012, under section 135 of title 35, United States Code, as in effect before the effective date under section 3(n) of the Leahy-Smith America Invents Act. The Patent Trial and Appeal Board may be deemed to be the Board of Patent Appeals and Interferences for purposes of such interference proceedings.

(1) PATENT AND TRADEMARK PUBLIC ADVISORY COMMITTEES.—

(1) IN GENERAL.—Section 5(a) of title 35, United States Code, is amended—

(A) in paragraph (1), by striking “Members of” and all that follows through “such appointments.” and inserting the following: “In each year, 3 members shall be appointed to each Advisory Committee for 3-year terms that shall begin on December 1 of that year. Any vacancy on an Advisory Committee shall be filled within 90 days after it occurs. A new member who is appointed to fill a vacancy shall be appointed to serve for the remainder of the predecessor’s term.”;

(B) by striking paragraph (2) and inserting the following:

“(2) CHAIR.—The Secretary of Commerce, in consultation with the Director, shall designate a Chair and Vice Chair of each Advisory Committee from among the members appointed under paragraph (1). If the Chair resigns before the completion of his or her term, or is otherwise unable to exercise the functions of the Chair, the Vice Chair shall exercise the functions of the Chair.”; and

(C) by striking paragraph (3).

(2) TRANSITION.—

(A) IN GENERAL.—The Secretary of Commerce shall, in the Secretary’s discretion, determine the time and manner in which the amendments made by paragraph (1) shall take effect, except that, in each year following the year in which this Act is enacted, 3 members shall be appointed to each Advisory Committee (to which such amendments apply) for 3-year terms that begin on December 1 of that year, in accordance with section 5(a) of title 35, United States Code, as amended by paragraph (1) of this subsection.

(B) DEEMED TERMINATION OF TERMS.—In order to implement the amendments made by paragraph (1), the Secretary of Commerce may determine that the term of an existing member of an Advisory Committee under section 5 of title 35, United States Code, shall be deemed to terminate on December 1 of a year beginning after the date of the enactment of this Act, regardless of whether December 1 is before or after the date on which such member’s term would terminate if this Act had not been enacted.

(m) CLERICAL AMENDMENT.—Section 123(a) of title 35, United States Code, is amended in the matter preceding paragraph (1) by inserting “of this title” after “For purposes”.

(n) EFFECTIVE DATE.—Except as otherwise provided in this Act, the amendments made by this Act shall take effect on the date of enactment of this Act, and shall apply to proceedings commenced on or after such date of enactment.

UNANIMOUS CONSENT AGREEMENT—H.R. 8

Mr. REID. Mr. President, I ask unanimous consent that at a time to be de-

termined by the majority leader, with the concurrence of the Republican leader, the Senate proceed to the consideration of Calendar No. 502, H.R. 8.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that following leader remarks on Sunday, December 30, the Senate proceed to executive session to consider Calendar No. 518 under the previous order; further, that after the use or yielding back of the time, we proceed to consideration of Calendar No. 909 and proceed to vote on Calendar No. 909 and Calendar No. 518; that there be 2 minutes for debate equally divided in the usual form prior to each vote; that the motions to reconsider be considered made and laid on the table; that there being no intervening action or debate and no further motions be in order to the nomination; that any statements related to the nominations be printed in the RECORD, President Obama be immediately notified of the Senate’s action, and the Senate then resume legislative session.

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

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2013

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 475, S. 3454.

The PRESIDING OFFICER. The clerk will report the bill by title.

A bill (S. 3454) to authorize appropriations for fiscal year 2013 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.

There being no objection, the Senate proceeded to consider the bill.

Mrs. FEINSTEIN. Mr. President, among the unfinished business before the Senate is the consideration of the Intelligence Authorization Act for Fiscal Year 2013. I am asking today for unanimous consent to approve this legislation with a managers’ amendment worked out both with vice chairman CHAMBLISS and the chairman and ranking member of the House Permanent Select Committee on Intelligence, in consultation with the Armed Services and Appropriations Committees.

The Senate Select Committee on Intelligence reported its Fiscal Year 2013 bill, S. 3454, with its accompanying report, S. Rpt. 112-192, on July 30, 2012 by a vote of 14-1. The bill and report have been publicly available since it was reported. The classified annex reported from the Committee was also available for all Senators to review in the Committee’s office.

S. 3454 as reported from our Committee was not without controversy,

especially with regard to provisions in the bill that were meant to address the wholly unacceptable and large-scale disclosures of classified information to the media.

Since the bill was reported out, the Committee has received thoughtful comments from our colleagues, media organizations, and from organizations that advocate for greater governmental transparency. As a result of these comments, and technical suggestions received from the Executive Branch, we have decided to remove ten of the twelve sections in the title of the original bill that addressed unauthorized disclosures of classified information so that we might ensure enactment this year of the important other provisions of the bill.

Unfortunately, I am certain that damaging leaks of classified information will continue, and so the Committee will need to continue to look for acceptable ways to address this problem.

Let me briefly describe the managers’ amendment and where we have made modifications in what was reported from the Committee.

As always, the intelligence authorization bill has two pieces: the legislative text, which is unclassified, and a classified annex that contains the Committee’s authorization of intelligence spending.

The bill contains a number of legislative provisions requested by the Administration to give the intelligence community the authorities and flexibilities it needs to continue protecting the American people and providing policymakers information for foreign policy and security decisions, as well as for the effective and appropriate functioning of our intelligence apparatus.

Among other things, this bill includes:

Repeal of four recurring reporting requirements burdensome to Intelligence Community agencies when the information in such reports is duplicative, or is provided to the Congress through other means. We regularly hear from intelligence officials that they spend so much time writing reports that it interferes with collection, analysis, and management of intelligence activities.

Modification of personnel authorities to facilitate more “joint duty” assignments within the Intelligence Community that will create shared knowledge across different elements of the IC.

These provisions, and several others that are mainly technical in nature, were requested by the director of National Intelligence and incorporated into the bill.

Other sections were initiated by the Committee to assist Congressional oversight efforts. These include, for example, a requirement for corrective action plans to be developed to address

the issue of improper payments made by intelligence agencies. We also require notification to the congressional intelligence committees under certain circumstances with respect to certain disclosures of national intelligence information.

As this managers' amendment represents the combined efforts of the Senate and House, we have also included three provisions from the House-passed bill which were not in the Committee's original bill. These address security clearance reciprocity, subcontractor business opportunities in the Intelligence Community, and a report on supply chain vulnerabilities.

I am attaching at the end of this statement a section-by-section analysis that describes each of the sections of this managers' amendment.

It is my hope that the provisions in this bill will continue to aid the Intelligence Community as it conducts its missions, ensure better stewardship of taxpayer dollars, and support the thousands of civilians and military employees who work throughout the Intelligence Community.

As I mentioned, this managers' amendment also includes modifications to the classified annex and the Schedule of Authorizations, modified to represent the consensus of both congressional intelligence committees. I am unable to describe in detail the Committee's classified schedule and annex, but it is available to all Senators for their review in the Committee's spaces. The Committee has sought to ensure that funding is authorized to continue and enhance important intelligence collection and analysis programs, covert actions, and counterintelligence. At the same time, we have cut funding for programs that were functioning poorly or at expenditure rates below expectations, and to shift funding from lower priorities to higher ones.

As always, the Committee has held numerous hearings and briefings on the President's spending request. As was announced in late October, intelligence spending decreased slightly in Fiscal Year 2012, and that trend will continue in Fiscal Year 2013. Our annex contains an overall funding level that is very close to the President's request, and we have attempted to find places to reduce spending that will not sacrifice any important work of the intelligence agencies.

I believe we have addressed all of the concerns that have been brought to our attention by our colleagues and the public. I thus urge passage of this managers' amendment and enactment of this important legislation before the end of the session.

I ask unanimous consent that the section by section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS AND
EXPLANATION

The following is a section-by-section analysis and explanation of the Intelligence Authorization Act for Fiscal Year 2013.

TITLE I—BUDGET AND PERSONNEL
AUTHORIZATIONS

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 2013.

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 2013 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 Director of National Intelligence (DNI) in managing the civilian personnel of the Intelligence Community. Section 103(a) provides that the DNI may authorize employment of civilian personnel in Fiscal Year 2013 in excess of the number of authorized positions by an amount not exceeding 3 percent of the total limit applicable to each Intelligence Community element under Section 102. The DNI may do so only if necessary to the performance of important intelligence functions.

Section 103(b) requires the DNI to establish guidelines that would ensure a uniform and accurate method of counting certain personnel. The DNI has issued such a policy. Subsection (b) confirms in statute the obligation of the DNI to establish these guidelines.

The DNI must report the decision to allow an Intelligence Community element to exceed the personnel ceiling in advance to the congressional intelligence committees.

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 2013.

Subsection (a) authorizes appropriations of \$540,721,000 for Fiscal Year 2013 for the activities of the ICMA. Subsection (b) authorizes 835 positions for elements within the ICMA for Fiscal Year 2013 and provides that personnel serving in such elements may be permanent employees of the Office of the Director of National Intelligence (ODNI) or detailed from other elements of the United States Government.

Subsection (c) authorizes additional appropriations and personnel for the classified Community Management Account as specified in the classified Schedule of Authorizations and permits the funding for advanced research and development to remain available through September 30, 2014.

TITLE II—CENTRAL INTELLIGENCE AGENCY
RETIREMENT AND DISABILITY SYSTEM

Section 201. Authorization of appropriations

Section 201 authorizes appropriations in the amount of \$514,000,000 for Fiscal Year 2013 for the Central Intelligence Agency (CIA) Retirement and Disability Fund.

TITLE III—GENERAL INTELLIGENCE COMMUNITY
MATTERS

Section 301. Restriction on conduct of intelligence activities

Section 301 provides that the authorization of appropriations by the Act shall not be deemed to constitute authority for the con-

duct of any intelligence activity that is not otherwise authorized by the Constitution or laws of the United States.

Section 302. Increase in employee compensation and benefits authorized by law

Section 302 provides that funds authorized to be appropriated by this Act for salary, pay, retirement, and other benefits for federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in compensation or benefits authorized by law.

Section 303. Non-reimbursable details

Section 303 amends Section 113A of the National Security Act of 1947 (50 U.S.C. 404h-1) to increase the length of time an officer or employee of the federal government can be detailed to the staff of an element of the Intelligence Community funded through the National Intelligence Program (NIP) from two years to three. In addition, Section 303 clarifies that a non-reimbursable detail made under Section 113A shall not be considered an augmentation of the appropriations of the receiving element of the Intelligence Community.

The DNI requested that an extension of the length of service from two years to three years be made for members of the Armed Forces detailed to an element of Intelligence Community. This request was intended to align Section 113A with requirements for joint duty assignments among the military. Section 664(a) of Title 10 provides that joint duty assignments for military officers, other than general and flag officers, shall be no less than three years. Section 303 provides the flexibility of a three-year length of service to civilian employees as well as military officers.

Section 304. Automated insider threat detection program

Section 304 extends by one year the milestones for establishment of an automated insider threat detection program under Section 402 of the Intelligence Authorization Act for Fiscal Year 2011 (Public Law 112-18). The administration had requested a two-year extension of the milestone for "initial operating capability" and a three-year extension of the milestone for "full operating capability." The one-year extensions are intended to ensure that the Intelligence Community moves more rapidly toward establishment of this program.

Section 305. Software licensing

Section 305 requires the chief information officer for an element of the Intelligence Community to conduct an inventory of software licenses held by such element, including those utilized and unutilized, by the element. This inventory is to be conducted in consultation with the Chief Information Officer of the Intelligence Community (CIO) and completed within 120 days of enactment. Not later than 180 days after enactment, the CIO shall provide the congressional intelligence committees with a copy of the reports along with any comments the CIO wishes to provide. The CIO shall transmit any portion of a report involving a component of a department of the U.S. government to the congressional committees with jurisdiction over such department simultaneously with submission of such report to the congressional intelligence committees.

Section 306. Strategy for security clearance reciprocity

Section 306 requires the President to develop a strategy and process for carrying out the requirements of section 3001(d) of the Intelligence Reform and Terrorism Prevention Act of 2004, which concerns reciprocity of security clearance access determinations across agencies.

Section 307. Improper Payments Elimination and Recovery Act of 2010 compliance

Section 307 requires the DNI and the directors of the CIA, the Defense Intelligence Agency (DIA), the National Geospatial-Intelligence Agency (NGA), and the National Security Agency (NSA) each to develop a corrective action plan, with major milestones, that delineates how such agencies will achieve compliance with the Improper Payments Elimination and Recovery Act of 2010, not later than September 30, 2013. Section 307(b) requires the relevant inspectors general to review the corrective action plan and assess whether it is likely to lead to compliance. Each assessment is to be provided to the congressional intelligence committees. The corrective action plans and inspector general assessments involving the DIA, NGA, and NSA shall also be submitted to the armed services committees of the Senate and House of Representatives.

Section 308. Subcontractor notification process

Section 308 requires the DNI to submit a report to the congressional intelligence committees assessing the method by which contractors at any tier under a contract entered into with an element of the Intelligence Community are granted security clearances and notified of classified contracting opportunities within the Federal Government and recommendations for the improvement of such method.

Section 309. Modification of reporting schedule

Section 309 changes the dates by which the inspectors general of the Intelligence Community and the CIA are required to prepare and submit semiannual reports on the activities of their offices from a calendar year basis to a fiscal year basis. This change will align these reporting requirements with the reporting requirements of other inspectors general in the Intelligence Community and facilitate joint audits, inspections and investigations.

Section 310. Repeal of certain reporting requirements

Congress frequently requests information from the Intelligence Community in the form of reports, the contents of which are specifically defined by statute. The reports prepared pursuant to these statutory requirements provide Congress with an invaluable source of information about specific matters of concern.

Congressional reporting requirements, and particularly recurring reporting requirements, can place a significant burden on the resources of the Intelligence Community. In some cases, annual reports can be replaced with briefings or notifications that provide the Congress with more timely information and offer the Intelligence Community a direct line of communication to respond to congressional concerns.

In response to a request from the DNI, Section 310 eliminates four reports that were burdensome to the Intelligence Community when the information in the reports could be obtained through other means or was no longer considered relevant to current concerns.

TITLE IV—MATTERS RELATING TO THE CENTRAL INTELLIGENCE AGENCY

Section 401. Working capital fund amendments

Section 401 amends Section 21 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403u) to provide authority for the service providers under the CIA Central Services Program to use resources to make their services known to their authorized customer base through government communication channels, but clarifies this authority shall not be used to distribute gifts or promotional items. In addition, Section 401 au-

thorizes service providers to deposit receipts from the sale of their recyclable materials into the CIA working capital fund.

TITLE V—OTHER MATTERS

Section 501. Homeland Security Intelligence Program

Section 501 establishes the Homeland Security Intelligence Program (HSIP) within the Department of Homeland Security for activities of the Office of Intelligence and Analysis (OIA) that serve predominantly a departmental mission. The OIA is currently funded through the NIP.

Section 502. Extension of National Commission for the Review of the Research and Development Programs of the United States Intelligence Community

Section 502 extends the date by which the National Commission for the Review of the Research and Development Programs of the United States Intelligence Community is required to submit a report on its findings from “not later than one year after the date on which all members of the Commission are appointed pursuant to Section 701(a)(3) of the Intelligence Authorization Act for Fiscal Year 2010” to not later than March 31, 2013, which is effectively one year after the Commission was able to begin its review. The extension was requested by the co-chairs of the Commission.

Section 503. Protecting the information technology supply chain of the United States

Section 503 requires the DNI to submit to the congressional intelligence committees a report that identifies foreign suppliers of information technology that are linked directly or indirectly to a foreign government and assesses the vulnerability to malicious activity of the telecommunications networks of the United States due to the presence of technology produced by such foreign suppliers.

Section 504. Notification regarding the authorized public disclosure of national intelligence

Section 504 requires government officials responsible for making certain authorized disclosures of national intelligence or intelligence related to national security to notify the congressional intelligence committees on a timely basis with respect to such disclosures. On a timely basis in this instance does not mean at the exact same time but should be sufficiently timely to keep the committees fully and currently informed.

This provision is intended to ensure that the intelligence committees are made aware of authorized disclosures of national intelligence or intelligence related to national security that are made to media personnel or likely to appear in the press, so that, among other things, these authorized disclosures may be distinguished from unauthorized “leaks.”

Section 504(c) provides that the notification requirement does not apply to a disclosure made pursuant to statutory requirements, in connection with civil, criminal or administrative proceedings, as a result of a declassification review process under Executive Order 13526, or to cleared government representatives with a need to know.

Section 504(e) provides a one-year sunset for the notification requirement in this section.

Section 505. Technical amendments related to the Office of the Director of National Intelligence

Sections 2302 and 3132 of Title 5 of the United States Code exclude from the definition of “agency” under those chapters certain specifically listed agencies such as the CIA. In addition, Sections 2302 and 3132 exclude from the definition of “agency” those

executive agencies that the President determines have as their principal function “the conduct of foreign intelligence or counterintelligence activities.” Section 505 amends the definition of agency in Sections 2302 and 3132 to expressly identify the ODNI as an agency excluded from the definition of “agency” under those chapters.

Section 506. Technical amendment for definition of intelligence agency

Title VI of the National Security Act of 1947 imposes criminal penalties for the disclosure of the identity of covert agents of an intelligence agency. The current definition of an “intelligence agency” does not include the counterintelligence elements of the Department of Defense or the intelligence and counterintelligence components of other elements of the Intelligence Community despite the fact that these components may be conducting counterintelligence operations jointly with the Federal Bureau of Investigation or under their own independent authority. Section 506 thus amends Section 606(5) of the National Security Act of 1947 (50 U.S.C. 426) to revise the definition of “intelligence agency” to include all elements of the Intelligence Community, as found in Section 3(4) of the National Security Act.

Section 507. Budgetary effects

Section 507 provides that the budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the CONGRESSIONAL RECORD by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

FISA

Mr. CHAMBLISS. Mr. President, earlier today, we were successful in passing H.R. 5949, the FISA Amendments Act Reauthorization Act of 2012, with strong bipartisan support. I am pleased that we are now in a position to pass the Intelligence Authorization Act for Fiscal Year 2013, again with strong bipartisan support. These two bills are the result of Chairman FEINSTEIN’s exceptional bipartisan leadership of the Select Committee on Intelligence. It has been my privilege and honor to work with her these past two years during my tenure as Vice Chairman of the Committee.

This bill looks a little different than the version we passed out of Committee back in July, by a vote of 14–1. The final product is the result of our extensive efforts to successfully address the concerns raised by the Executive branch, the House of Representatives, and, of course, our own membership.

It is a good bill. It contains a number of provisions requested by the administration that will provide the intelligence community with certain authorities necessary to perform its vital mission for our country. Most important, it authorizes the funds appropriated for the intelligence and intelligence-related activities of our government. This congressional budgetary oversight is crucial to our national security. I am also pleased that the bill