

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5743
OFFERED BY MR. ROGERS OF MICHIGAN**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

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

TITLE I—INTELLIGENCE ACTIVITIES

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

**TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND
DISABILITY SYSTEM**

Sec. 201. Authorization of appropriations.

TITLE III—GENERAL PROVISIONS

Sec. 301. Increase in employee compensation and benefits authorized by law.
Sec. 302. Restriction on conduct of intelligence activities.
Sec. 303. Non-reimbursable details.
Sec. 304. Strategy for security clearance reciprocity.
Sec. 305. Repeal or modification of certain reporting requirements.

**TITLE IV—MATTERS RELATING TO ELEMENTS OF THE
INTELLIGENCE COMMUNITY**

Sec. 401. Clarification on authority of CIA to transfer funds to CIA activities authorized by law.
Sec. 402. Authorities of the Inspector General for the Central Intelligence Agency.

Sec. 403. Working capital fund.

TITLE V—OTHER MATTERS

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

Sec. 502. Technical amendment to title 5, United States Code.

Sec. 503. Technical amendment to the National Security Act of 1947.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

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

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

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

10 (2) INTELLIGENCE COMMUNITY.—The term
11 “intelligence community” has the meaning given
12 that term in section 3(4) of the National Security
13 Act of 1947 (50 U.S.C. 401a(4)).

14 **TITLE I—INTELLIGENCE**
15 **ACTIVITIES**

16 **SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

17 Funds are hereby authorized to be appropriated for
18 fiscal year 2013 for the conduct of the intelligence and
19 intelligence-related activities of the following elements of
20 the United States Government:

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

3 (2) The Central Intelligence Agency.

4 (3) The Department of Defense.

5 (4) The Defense Intelligence Agency.

6 (5) The National Security Agency.

7 (6) The Department of the Army, the Depart-
8 ment of the Navy, and the Department of the Air
9 Force.

10 (7) The Coast Guard.

11 (8) The Department of State.

12 (9) The Department of the Treasury.

13 (10) The Department of Energy.

14 (11) The Department of Justice.

15 (12) The Federal Bureau of Investigation.

16 (13) The Drug Enforcement Administration.

17 (14) The National Reconnaissance Office.

18 (15) The National Geospatial-Intelligence Agen-
19 cy.

20 (16) The Department of Homeland Security.

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

22 (a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL
23 LEVELS.—The amounts authorized to be appropriated
24 under section 101 and, subject to section 103, the author-
25 ized personnel ceilings as of September 30, 2013, for the

1 conduct of the intelligence activities of the elements listed
2 in paragraphs (1) through (16) of section 101, are those
3 specified in the classified Schedule of Authorizations pre-
4 pared to accompany the bill H.R. 5743 of the One Hun-
5 dred Twelfth Congress.

6 (b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AU-
7 THORIZATIONS.—

8 (1) AVAILABILITY TO COMMITTEES OF CON-
9 GRESS.—The classified Schedule of Authorizations
10 referred to in subsection (a) shall be made available
11 to the Committee on Appropriations of the Senate,
12 the Committee on Appropriations of the House of
13 Representatives, and to the President.

14 (2) DISTRIBUTION BY THE PRESIDENT.—Sub-
15 ject to paragraph (3), the President shall provide for
16 suitable distribution of the classified Schedule of Au-
17 thORIZATIONS, or of appropriate portions of the Sched-
18 ule, within the executive branch.

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

1 **SEC. 103. PERSONNEL CEILING ADJUSTMENTS.**

2 (a) **AUTHORITY FOR INCREASES.**—With the approval
3 of the Director of the Office of Management and Budget,
4 the Director of National Intelligence may authorize em-
5 ployment of civilian personnel in excess of the number au-
6 thorized for fiscal year 2013 by the classified Schedule of
7 Authorizations referred to in section 102(a) if the Director
8 of National Intelligence determines that such action is
9 necessary to the performance of important intelligence
10 functions, except that the number of personnel employed
11 in excess of the number authorized under such section may
12 not, for any element of the intelligence community, exceed
13 3 percent of the number of civilian personnel authorized
14 under such Schedule for such element.

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

17 (1) **IN GENERAL.**—In addition to the authority
18 in subsection (a) and subject to paragraph (2), if the
19 head of an element of the intelligence community
20 makes a determination that activities currently being
21 performed by contract personnel should be per-
22 formed by employees of such element, the Director
23 of National Intelligence, in order to reduce a com-
24 parable number of contract personnel, may authorize
25 for that purpose employment of additional full-time
26 equivalent personnel in such element equal to the

1 number of full-time equivalent contract personnel
2 performing such activities.

3 (2) CONCURRENCE AND APPROVAL.—The au-
4 thority described in paragraph (1) may not be exer-
5 cised unless the Director of National Intelligence
6 concurs with the determination described in such
7 paragraph.

8 (c) NOTICE TO CONGRESSIONAL INTELLIGENCE
9 COMMITTEES.—The Director of National Intelligence
10 shall notify the congressional intelligence committees in
11 writing at least 15 days prior to each exercise of an au-
12 thority described in subsection (a).

13 **SEC. 104. INTELLIGENCE COMMUNITY MANAGEMENT AC-**
14 **COUNT.**

15 (a) AUTHORIZATION OF APPROPRIATIONS.—There is
16 authorized to be appropriated for the Intelligence Commu-
17 nity Management Account of the Director of National In-
18 telligence for fiscal year 2013 the sum of \$530,652,000.
19 Within such amount, funds identified in the classified
20 Schedule of Authorizations referred to in section 102(a)
21 for advanced research and development shall remain avail-
22 able until September 30, 2014.

23 (b) AUTHORIZED PERSONNEL LEVELS.—The ele-
24 ments within the Intelligence Community Management
25 Account of the Director of National Intelligence are au-

1 thORIZED 831 full-time or full-time equivalent personnel as
2 of September 30, 2013. Personnel serving in such ele-
3 ments may be permanent employees of the Office of the
4 Director of National Intelligence or personnel detailed
5 from other elements of the United States Government.

6 (c) CLASSIFIED AUTHORIZATIONS.—

7 (1) AUTHORIZATION OF APPROPRIATIONS.—In
8 addition to amounts authorized to be appropriated
9 for the Intelligence Community Management Ac-
10 count by subsection (a), there are authorized to be
11 appropriated for the Community Management Ac-
12 count for fiscal year 2013 such additional amounts
13 as are specified in the classified Schedule of Author-
14 izations referred to in section 102(a). Such addi-
15 tional amounts for advanced research and develop-
16 ment shall remain available until September 30,
17 2014.

18 (2) AUTHORIZATION OF PERSONNEL.—In addi-
19 tion to the personnel authorized by subsection (b)
20 for elements of the Intelligence Community Manage-
21 ment Account as of September 30, 2013, there are
22 authorized such additional personnel for the Com-
23 munity Management Account as of that date as are
24 specified in the classified Schedule of Authorizations
25 referred to in section 102(a).

1 **TITLE II—CENTRAL INTEL-**
2 **LIGENCE AGENCY RETIRE-**
3 **MENT AND DISABILITY SYS-**
4 **TEM**

5 **SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

6 There is authorized to be appropriated for the Cen-
7 tral Intelligence Agency Retirement and Disability Fund
8 for fiscal year 2013 the sum of \$514,000,000.

9 **TITLE III—GENERAL**
10 **PROVISIONS**

11 **SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND**
12 **BENEFITS AUTHORIZED BY LAW.**

13 Appropriations authorized by this Act for salary, pay,
14 retirement, and other benefits for Federal employees may
15 be increased by such additional or supplemental amounts
16 as may be necessary for increases in such compensation
17 or benefits authorized by law.

18 **SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE**
19 **ACTIVITIES.**

20 The authorization of appropriations by this Act shall
21 not be deemed to constitute authority for the conduct of
22 any intelligence activity which is not otherwise authorized
23 by the Constitution or the laws of the United States.

1 **SEC. 303. NON-REIMBURSABLE DETAILS.**

2 Section 113A of the National Security Act of 1947
3 (50 U.S.C. 404h-1) is amended—

4 (1) by striking “An officer or employee of the
5 United States or member of the Armed Forces” and
6 inserting “(a) CIVILIAN EMPLOYEES.—An officer or
7 employee of the United States”;

8 (2) by striking the second sentence; and

9 (3) by adding at the end the following new sub-
10 sections:

11 “(b) MEMBERS OF THE ARMED FORCES.—A member
12 of the Armed Forces may be detailed to the staff of an
13 element of the intelligence community funded through the
14 National Intelligence Program on a non-reimbursable
15 basis, as jointly agreed to by the head of the receiving
16 and detailing elements, for a period not to exceed three
17 years.

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

21 “(d) NO EFFECT ON APPROPRIATIONS.—A non-reim-
22 bursable detail made under this section shall not be con-
23 sidered an augmentation of the appropriations of the ele-
24 ment of the intelligence community receiving such detail.”.

1 **SEC. 304. STRATEGY FOR SECURITY CLEARANCE RECI-**
2 **PROCITY.**

3 (a) STRATEGY.—The President shall develop a strat-
4 egy and a timeline for carrying out the requirements of
5 section 3001(d) of the Intelligence Reform and Terrorism
6 Protection Act of 2004 (50 U.S.C. 435b(d)). Such strat-
7 egy and timeline shall include—

8 (1) a process for accomplishing the reciprocity
9 required under such section for a security clearance
10 issued by a department or agency of the Federal
11 Government, including reciprocity for security clear-
12 ances that are issued to both persons who are and
13 who are not employees of the Federal Government;
14 and

15 (2) a description of the specific circumstances
16 under which a department or agency of the Federal
17 Government may not recognize a security clearance
18 issued by another department or agency of the Fed-
19 eral Government.

20 (b) CONGRESSIONAL NOTIFICATION.—Not later than
21 180 days after the date of the enactment of this Act, the
22 President shall inform Congress of the strategy and
23 timeline developed under subsection (a).

24 **SEC. 305. REPEAL OR MODIFICATION OF CERTAIN REPORT-**
25 **ING REQUIREMENTS.**

26 (a) REPEAL OF REPORTING REQUIREMENTS.—

1 (1) ACQUISITION OF TECHNOLOGY RELATING
2 TO WEAPONS OF MASS DESTRUCTION AND AD-
3 VANCED CONVENTIONAL MUNITIONS.—Section 721
4 of the Intelligence Authorization Act for Fiscal Year
5 1997 (50 U.S.C. 2366) is repealed.

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

12 (A) in the heading, by striking “ADDI-
13 TIONAL ANNUAL REPORTS FROM THE DIRECTOR
14 OF NATIONAL INTELLIGENCE” and inserting
15 “ANNUAL REPORT ON HIRING AND RETENTION
16 OF MINORITY EMPLOYEES”;

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

19 (C) by striking “(b) ANNUAL REPORT ON
20 HIRING AND RETENTION OF MINORITY EM-
21 PLOYEES.—”;

22 (D) by redesignating paragraphs (1)
23 through (5) as subsections (a) through (e), re-
24 spectively;

1 (E) in subsection (b) (as so redesignig-
2 nated)—

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

6 (ii) in paragraph (2) (as so redesignig-
7 nated), by redesignating clauses (i) and (ii)
8 as subparagraphs (A) and (B), respec-
9 tively; and

10 (F) in subsection (e) (as redesignated by
11 subparagraph (D)), by redesignating subpara-
12 graphs (A), (B), and (C), as paragraphs (1),
13 (2), and (3), respectively.

14 (3) MEASURES TO PROTECT THE IDENTITIES
15 OF COVERT AGENTS.—Title VI of the National Secu-
16 rity Act of 1947 (50 U.S.C. 421 et seq.) is amend-
17 ed—

18 (A) by striking section 603; and

19 (B) by redesignating sections 604, 605,
20 and 606 as sections 605, 606, and 607, respec-
21 tively.

22 (b) MODIFICATION OF REPORTING REQUIRE-
23 MENTS.—

24 (1) INTELLIGENCE ADVISORY COMMITTEES.—

25 Section 410(b) of the Intelligence Authorization Act

1 for Fiscal Year 2010 (Public Law 111–259; 124
2 Stat. 2725) is amended to read as follows:

3 “(b) NOTIFICATION OF ESTABLISHMENT OF ADVI-
4 SORY COMMITTEE.—The Director of National Intelligence
5 and the Director of the Central Intelligence Agency shall
6 each notify the congressional intelligence committees each
7 time each such Director creates an advisory committee.
8 Each notification shall include—

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

11 “(2) a list of members of such advisory com-
12 mittee; and

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

19 (2) CUSTOMER FEEDBACK ON DEPARTMENT OF
20 HOMELAND SECURITY INTELLIGENCE REPORTING.—
21 Section 210A(g)(2) of the Homeland Security Act of
22 2002 (6 U.S.C. 124h) is amended—

23 (A) by inserting “and the Select Com-
24 mittee on Intelligence” after “Committee on

1 Homeland Security and Governmental Affairs”;
2 and

3 (B) by inserting “and the Permanent Se-
4 lect Committee on Intelligence” after “Com-
5 mittee on Homeland Security”.

6 (3) INTELLIGENCE INFORMATION SHARING.—
7 Section 102A(g)(4) of the National Security Act of
8 1947 (50 U.S.C. 403–1(g)(4)) is amended to read as
9 follows:

10 “(4) The Director of National Intelligence shall, in
11 a timely manner, report to Congress any statute, regula-
12 tion, policy, or practice that the Director believes impedes
13 the ability of the Director to fully and effectively ensure
14 maximum availability of access to intelligence information
15 within the intelligence community consistent with the pro-
16 tection of the national security of the United States.”.

17 (c) CONFORMING AMENDMENTS.—

18 (1) REPORT SUBMISSION DATES.—Section 507
19 of the National Security Act of 1947 (50 U.S.C.
20 415b) is amended—

21 (A) in subsection (a)—

22 (i) by striking “(1) The dates” and
23 inserting “The dates”;

24 (ii) in the matter preceding subpara-
25 graph (A), by striking “subsection

1 (c)(1)(A)” and inserting “subsection
2 (c)(1)”;

3 (iii) by striking paragraph (2);

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

6 (v) in subparagraph (G), by striking
7 “114(c)” and inserting “114”; and

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

12 (B) in subsection (c)(1)—

13 (i) by striking “(A) Except as pro-
14 vided” and inserting “Except as provided”;
15 and

16 (ii) by striking subparagraph (B).

17 (2) TABLE OF CONTENTS OF THE NATIONAL
18 SECURITY ACT OF 1947.—The table of contents in
19 the first section of the National Security Act of
20 1947 is amended by striking the item relating to
21 section 114 and inserting the following new item:

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

1 **TITLE IV—MATTERS RELATING**
2 **TO ELEMENTS OF THE INTEL-**
3 **LIGENCE COMMUNITY**

4 **SEC. 401. CLARIFICATION ON AUTHORITY OF CIA TO**
5 **TRANSFER FUNDS TO CIA ACTIVITIES AU-**
6 **THORIZED BY LAW.**

7 Section 5(a)(1) of the Central Intelligence Agency
8 Act of 1949 (50 U.S.C. 403f(a)(1)) is amended by striking
9 “any of the functions or activities authorized under section
10 104A of the National Security Act of 1947 (50 U.S.C.
11 403–4a).” and inserting “any functions or activities of the
12 Agency authorized by law”.

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

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

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

19 (2) by adding at the end the following new sub-
20 paragraph:

21 “(B)(i) The Inspector General may designate an offi-
22 cer or employee appointed in accordance with subpara-
23 graph (A) as a law enforcement officer solely for purposes
24 of subchapter III of chapter 83 or chapter 84 of title 5,
25 United States Code, if such officer or employee is ap-

1 pointed to a position in which the duty is to investigate
2 suspected offenses against the criminal laws of the United
3 States.

4 “(ii) In carrying out clause (i), the Inspector General
5 shall ensure that any authority under such clause is exer-
6 cised in a manner consistent with the provisions of section
7 3307 of title 5, United States Code, as they relate to law
8 enforcement officers.

9 “(iii) For purposes of applying sections 3307(d),
10 8335(b), and 8425(b) of title 5, United States Code, the
11 Inspector General may exercise the functions, powers, and
12 duties of an agency head or appointing authority with re-
13 spect to the Office.”.

14 **SEC. 403. WORKING CAPITAL FUND.**

15 Section 21 of the Central Intelligence Agency Act of
16 1949 (50 U.S.C. 403u) is amended—

17 (1) in subsection (b)(1)—

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

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

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

24 “(D) authorize such providers to advertise
25 through Federal Government-owned websites the

1 services of such providers to the entities to which
2 such providers are providing items under the pro-
3 gram, provided that the Director shall not authorize
4 such providers to distribute gifts or promotional
5 items.”; and

6 (2) in subsection (c)—

7 (A) in paragraph (2)(E), by striking
8 “equipment or property” and inserting “equip-
9 ment, recyclable materials, or property”; and

10 (B) in paragraph (3)(B), by striking “sub-
11 section (f)(2)” and inserting “subsections
12 (b)(1)(D) and (f)(2)”.

13 **TITLE V—OTHER MATTERS**

14 **SEC. 501. EXTENSION OF NATIONAL COMMISSION FOR THE** 15 **REVIEW OF THE RESEARCH AND DEVELOP-** 16 **MENT PROGRAMS OF THE UNITED STATES IN-** 17 **TELLIGENCE COMMUNITY.**

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

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

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

7 **SEC. 503. TECHNICAL AMENDMENT TO THE NATIONAL SE-**
8 **CURITY ACT OF 1947.**

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

12 (1) in paragraph (4)—

13 (A) in subparagraph (A), by striking “in-

14 telligence agency” each place it appears and in-

15 serting “element of the intelligence commu-

16 nity”;

17 (B) in subparagraph (B)(i), by striking

18 “intelligence agency” and inserting “element of

19 the intelligence community”; and

20 (C) in subparagraph (C), by striking “in-

21 telligence agency” and inserting “element of the

22 intelligence community”;

23 (2) by striking paragraph (5);

24 (3) by redesignating paragraphs (6) through

25 (10) as paragraphs (5) through (9), respectively;

26 and

1 (4) in paragraph (5) (as so redesignated), by
2 striking “intelligence agency” and inserting “ele-
3 ment of the intelligence community”.

