

[House Report 112-504]  
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2d Session

HOUSE OF REPRESENTATIVES

Report  
112-504

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PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 5743) TO AUTHORIZE APPROPRIATIONS FOR FISCAL YEAR 2013 FOR INTELLIGENCE AND INTELLIGENCE-RELATED ACTIVITIES OF THE UNITED STATES GOVERNMENT, THE COMMUNITY MANAGEMENT ACCOUNT, AND THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM, AND FOR OTHER PURPOSES; PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 5854) MAKING APPROPRIATIONS FOR MILITARY CONSTRUCTION, THE DEPARTMENT OF VETERANS AFFAIRS, AND RELATED AGENCIES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2013, AND FOR OTHER PURPOSES; PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 5855) MAKING APPROPRIATIONS FOR THE DEPARTMENT OF HOMELAND SECURITY FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2013, AND FOR OTHER PURPOSES; AND PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 5325) MAKING APPROPRIATIONS FOR ENERGY AND WATER DEVELOPMENT AND RELATED AGENCIES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2013, AND FOR OTHER PURPOSES

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May 30, 2012.--Referred to the House Calendar and ordered to be printed

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Mr. Nugent, from the Committee on Rules,  
submitted the following

R E P O R T

[To accompany H. Res. 667]

The Committee on Rules, having had under consideration House Resolution 667, by a record vote of 7 to 3, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 5743, the Intelligence Authorization Act for Fiscal Year 2013, under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Permanent Select Committee on Intelligence. The resolution waives all points of order against consideration of the bill. The resolution provides that the amendment in the nature of a substitute recommended by the Permanent Select Committee on Intelligence now printed in the bill shall be considered as original text for the purpose of amendment and shall be considered as read. The resolution waives all points of order against the amendment in the nature of a substitute. The resolution makes in order only those amendments printed in this report. Each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The resolution waives all points of order against the amendments printed in this report. The resolution provides one motion to recommit with or without instructions.

The resolution further provides for consideration of the following bills under open rules: H.R. 5854, the Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2013; H.R. 5855, the Department of Homeland

Security Appropriations Act, 2013; and H.R. 5325, the Energy and Water Development and Related Agencies Appropriations Act, 2013. The resolution provides one hour of general debate on each bill equally divided and controlled by the chair and ranking minority member of the Committee on Appropriations. The resolution waives all points of order against consideration of each bill. The resolution waives points of order against provisions in each bill for failure to comply with clause 2 of rule XXI. Under the Rules of the House each bill shall be read for amendment by paragraph. The resolution provides that each bill shall be considered for amendment under the five-minute rule. The resolution provides that the Chair may accord priority in recognition to Members who have preprinted their amendments in the Congressional Record. Finally, the resolution provides one motion to recommit each bill with or without instructions.

#### EXPLANATION OF WAIVERS

Although the resolution waives all points of order against consideration of H.R. 5743, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

The waiver of all points of order against the amendment in the nature of a substitute to H.R. 5743, recommended by the Permanent Select Committee on Intelligence and made in order as original text, includes the following:

A waiver of clause 4 of rule XXI, which prohibits a bill or joint resolution carrying an appropriation from being reported by a committee not having jurisdiction to report appropriations. Sections 401 and 403 of the bill as reported by the Permanent Select Committee on Intelligence fall within the jurisdiction of the Committee on Appropriations. However, the Manager's amendment, if adopted, would strike the offending provisions.

A waiver of clause 7 of rule XVI because the bill as ordered reported by the Permanent Select Committee on Intelligence includes provisions that are not germane to the bill as introduced.

Although the resolution waives all points of order against the amendments to H.R. 5742 printed in this report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

It is important to note that the estimate for H.R. 5743 provided by the Congressional Budget Office (CBO) to the Permanent Select Committee on Intelligence and the Committee on the Budget is incomplete due to the fact that CBO is only permitted to score the unclassified portions of the bill. Because the estimate is incomplete, the Chairman of the Committee on the Budget is unable to accurately advise the Chair on budget related points of order.

The waiver of all points of order against consideration of the three Appropriations measures includes the following:

A waiver of clause 4(c) of rule XIII, against H.R. 5854, H.R. 5855, and H.R. 5325, which prohibits consideration of a general appropriations bill reported by the Committee on Appropriations in the House until the third calendar day on which printed hearings of the Committee on Appropriations thereon have been available to Members.

A waiver of section 306 of the Congressional Budget Act, against H.R. 5854 and H.R. 5855, which prohibits consideration of legislation within the jurisdiction of the Committee on the Budget unless referred to or reported by the Budget Committee.

The resolution includes a waiver of points of order against provisions in the three Appropriations measures for failure to comply with clause 2 of rule XXI, which prohibits unauthorized appropriations or legislative provisions in an appropriations bill. This waiver is necessary because the bill contains unauthorized appropriations and legislative provisions.

#### COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 310

Motion by Mr. McGovern to remove the waivers of all points of order for sections 566 and 567 of H.R. 5855, the Homeland Security appropriations bill. Defeated: 2-7

Majority Members	Vote	Minority Members	Vote
Ms. Foxx.....	Nay	Mr. McGovern.....	Yea
Mr. Bishop of Utah.....	Nay	Mr. Hastings of Florida.....	Yea
Mr. Woodall.....	Nay		
Mr. Nugent.....	Nay		
Mr. Scott of South Carolina.....	Nay		
Mr. Webster.....	Nay		
Mr. Dreier, Chairman.....	Nay		

Rules Committee record vote No. 311

Motion by Mr. Hastings of Florida to make in order and provide the appropriate waivers for the following amendments to H.R. 5743, which would be en bloc: amendment #8, offered by Rep. Clarke, which would require a threat assessment for cyber threats to critical infrastructure; amendment #6, offered by Rep. Cuellar (TX), which would direct each agency that deals with classified documents to report back in 1 year potential security risks associated with the acquisition of computer hardware. Would require the agencies report to Congress with recommendations of what steps need to be taken to ensure computer hardware that is acquired for use with classified documents is not at risk being used to disclose information to outside sources; amendment #7, offered by Rep. Cuellar (TX), which would direct the Director on National Intelligence and the Secretary of Defense to work together to develop and implement a combined National and Defense Intelligence Strategy in conjunction with existing strategies; amendment #11, offered by Rep. Hahn (CA), which would require the Civil Liberties Protection Officer to review on an ongoing basis, and prepare, as necessary, privacy impact assessments on, the cybersecurity policies, programs, and activities of the Intelligence Community for such purposes as ensuring compliance with all relevant constitutional and legal protections; amendment #13, offered by Rep. Hahn (CA), which would establish the sense of Congress that the Intelligence community should prioritize the security of our nation's ports as they play a crucial role to our nation's supply chain and economy; amendment #16, offered by Rep. Hahn (CA), which would require the Director of Intelligence to ensure that each element of the intelligence community appropriately coordinates with Federal, State, and local officials responsible for the protection of United States ports to detect, prevent, and respond to potential terrorist activity; amendment #9, offered by Rep. Hinchey (NY), which would require the Director of National Intelligence (DNI) to report to the House and Senate Intelligence panels on information it has regarding the human rights violations of the military government in Argentina that resulted in 30,000 disappearances between the mid-1970's and mid-1980's; amendment #19, offered by Rep. Holt (NJ), which would require the AG and DNI to reveal how many U.S. Persons had their domestic communications intercepted since the implementation of the FISA Amendments Act; amendment #20, offered by Rep. Holt (NJ), which would amend the National Security Act of 1947 to provide administrative penalties, up to and including termination, for any officer or employee of an intelligence community element who retaliates against an intelligence community employee or contractor who reports covered information (a violation of any law, rule, or regulation, or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety) to an authorized member of Congress; amendment #21, offered by Rep. Holt (NJ), which would prohibit any Intelligence Community employee or contractor from engaging in the assassination/targeted killing of a U.S. person unless specific criteria are met; amendment #22, offered by Rep. Holt (NJ), which would require the Director of National Intelligence and Director of the CIA to publicly disclose any legal opinions or memoranda used to justify the President's target killing program against United States persons; amendment

#2, offered by Rep. Jackson Lee (TX), which would prevent any of the funds authorized under this Act from being used to violate a person's civil liberties; and amendment #15, offered by Rep. Thompson (CA) and Rep. Heck (NV), which would direct the National Reconnaissance Office to establish and implement a program to utilize, train and deploy SCI cleared undergraduate and graduate students from the Science, Technology, Engineering and Math (STEM) areas of study. Defeated: 3-7.

Majority Members		Minority Members	
	Vote		Vote
Ms. Foxx.....	Nay	Mr. McGovern.....	Yea
Mr. Bishop of Utah.....	Nay	Mr. Hastings of Florida.....	Yea
Mr. Woodall.....	Nay	Mr. Polis.....	Yea
Mr. Nugent.....	Nay		
Mr. Scott of South Carolina.....	Nay		
Mr. Webster.....	Nay		
Mr. Dreier, Chairman.....	Nay		

Rules Committee record vote No. 312

Motion by Ms. Foxx to report the rule. Adopted: 7-3

Majority Members		Minority Members	
	Vote		Vote
Ms. Foxx.....	Yea	Mr. McGovern.....	Nay
Mr. Bishop of Utah.....	Yea	Mr. Hastings of Florida.....	Nay
Mr. Woodall.....	Yea	Mr. Polis.....	Nay
Mr. Nugent.....	Yea		
Mr. Scott of South Carolina.....	Yea		
Mr. Webster.....	Yea		
Mr. Dreier, Chairman.....	Yea		

SUMMARY OF THE AMENDMENTS MADE IN ORDER

1. Rogers, Mike (MI): MANAGER'S AMENDMENT Would strike sections 401 and 403 to ensure compliance with House Rules relating to provisions regarding appropriated funds. (10 minutes)
2. Thompson, Mike (CA): Would require the Director of National Intelligence to report to Congress how the Intelligence Community can improve the methods by which subcontractors are granted security clearances and notified of classified contracting opportunities within the federal government. (10 minutes)
3. Conyers (MI), Ellison (MN), Lee, Barbara (CA): Would require the Director of National Intelligence to submit to the congressional intelligence committees a report containing an assessment of the consequences of a military strike against Iran within 60 days. (10 minutes)
4. Farr (CA): Would establish the sense of Congress that those assigned to lead the development of training, tools, and methodologies in support of cyber security, should be reminded to include foreign language and culture in the development process. (10 minutes)
5. Cuellar (TX): Would authorize the Director of National Intelligence to participate in information sharing with Mexico and Canada for purposes of border security and combating drug trafficking. (10 minutes)
6. Hahn (CA): Would require the Civil Liberties Protection Officer to ensure that the coordination and training between the intelligence community and local law enforcement agencies shall not violate the constitutional safeguards of racial and ethnic minorities. (10 minutes)
7. Jackson Lee (TX): Would establish the Sense of Congress that the Director of the Central Intelligence Agency should take such actions as the Director considers necessary to increase the recruitment and training of ethnic minorities as officers and employees of the Central Intelligence Agency. (10 minutes)
8. Jackson Lee (TX): Would establish the Sense of Congress that the intelligence community should take all appropriate actions necessary to protect the civil liberties of religious

and ethnic minorities. (10 minutes)

9. Myrick (NC), Wolf (VA): Would require a report from the Director of National Intelligence that would identify and assess various risks in information technology supply chains. (10 minutes)

TEXT OF AMENDMENTS TO H.R. 5743 MADE IN ORDER

1. An Amendment To Be Offered by Representative Rogers of Michigan or His Designee, Debatable for 10 Minutes

Strike section 401 (page 18, lines 4 through 12).  
Strike section 403 (page 19, line 13 through page 20, line 11).

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2. An Amendment To Be Offered by Representative Thompson of California or His Designee, Debatable for 10 Minutes

At the end of title III, add the following new section:

SEC. 306. SUBCONTRACTOR NOTIFICATION PROCESS.

Not later than October 1, 2013, the Director of National Intelligence shall submit to the congressional intelligence committees a report 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. Such report shall include--

- (1) an assessment of the current method by which contractors at any tier under a contract entered into with an element of the intelligence community are notified of classified contracting opportunities;
- (2) an assessment of any problems that may reduce the overall effectiveness of the ability of the intelligence community to identify appropriate contractors at any tier under such a contract;
- (3) an assessment of the role the existing security clearance process has in enhancing or hindering the ability of the intelligence community to notify such contractors of contracting opportunities;
- (4) an assessment of the role the current security clearance process in enhancing or hindering the ability of contractors at any tier under a contract entered into with an element of the intelligence community to execute classified contracts;
- (5) a description of the method used by the Director of National Intelligence for assessing the effectiveness of the notification process of the intelligence community to produce a talented pool of subcontractors;
- (6) a description of appropriate goals, schedules, milestones, or metrics used to measure the effectiveness of such notification process; and
- (7) recommendations for improving such notification process.

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3. An Amendment To Be Offered by Representative Conyers, Jr. of Michigan or His Designee, Debatable for 10 Minutes

At the end of title III, add the following new section:

SEC. 306. REPORT ON CONSEQUENCES OF MILITARY STRIKE AGAINST IRAN.

Not later than 60 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the congressional intelligence committees a report containing an assessment of the consequences of a military strike against Iran.

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4. An Amendment To Be Offered by Representative Farr of California or His Designee, Debatable for 10 Minutes

SEC. 306. SENSE OF CONGRESS ON THE CONSIDERATION OF FOREIGN LANGUAGES AND CULTURES IN THE DEVELOPMENT OF CYBER TOOLS BY THE INTELLIGENCE COMMUNITY.

It is the sense of Congress that the head of each element of the intelligence community should take into consideration foreign languages and cultures during the development by such element of the intelligence community of training, tools, and methodologies to protect the networks of the United States against cyber attacks and intrusions from foreign entities.

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5. An Amendment To Be Offered by Representative Cuellar of Texas or His Designee, Debatable for 10 Minutes

At the end of title IV, add the following new section:

SEC. 405. INTELLIGENCE SHARING WITH MEXICO AND CANADA.

(a) Authorization.--The Director of National Intelligence may--

- (1) if the Director determines that the sharing of intelligence information with Mexico and Canada for purposes of reducing drug trafficking would not threaten national security, allow the sharing of such intelligence information with Mexico and Canada; and
- (2) make use of intelligence information from Mexico and Canada for such purposes.

(b) Type of Information.--Information shared or used under subsection (a) may include the movements of drug cartels and other criminal behavior.

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6. An Amendment To Be Offered by Representative Hahn of California or Her Designee, Debatable for 10 Minutes

SEC. 405. CIVIL LIBERTIES PROTECTION OFFICER REVIEW OF CYBERSECURITY POLICIES, PROGRAMS, AND ACTIVITIES.

Section 103D(b) of the National Security Act of 1947 (50 U.S.C. 403-3d(b)) is amended--

- (1) in paragraph (6), by striking ``and'' at the end;
- (2) by redesignating paragraph (7) as paragraph (8);

and

(3) by inserting after paragraph (6) the following new paragraph:

``(7) ensure that any coordination and training between an element of the intelligence community and a law enforcement agency does not violate the Constitutional rights of racial or ethnic minorities; and''.

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7. An Amendment To Be Offered by Representative Jackson Lee of Texas or Her Designee, Debatable for 10 Minutes

At the end of title IV (page 21, after line 2), add the following new section:

SEC. 405. SENSE OF CONGRESS ON HIRING OF MINORITY EMPLOYEES BY THE CENTRAL INTELLIGENCE AGENCY.

It is the sense of Congress that the Director of the Central Intelligence Agency should take such actions as the Director considers necessary to increase the recruitment and training of ethnic minorities as officers and employees of the Central Intelligence Agency.

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8. An Amendment To Be Offered by Representative Jackson Lee of Texas or Her Designee, Debatable for 10 Minutes

After section 501 (page 21, after line 14), insert the following new section:

SEC. 502. SENSE OF CONGRESS ON THE NEED FOR THE INTELLIGENCE COMMUNITY TO PROTECT CIVIL LIBERTIES OF RELIGIOUS AND ETHNIC MINORITIES.

It is the sense of Congress that the intelligence community should take all appropriate actions necessary to protect the civil liberties of religious and ethnic minorities.

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9. An Amendment To Be Offered by Representative Myrick of North Carolina or Her Designee, Debatable for 10 Minutes

After section 501 (page 21, after line 14), insert the following new section:

SEC. 502. PROTECTING THE INFORMATION TECHNOLOGY SUPPLY CHAIN OF THE UNITED STATES.

(a) Report.--Not later than 90 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the congressional intelligence committees a report that--

(1) identifies foreign suppliers of information technology (including equipment, software, and services) that are linked directly or indirectly to a foreign government, including--

(A) by ties to the military forces of a foreign government;

(B) by ties to the intelligence services of a foreign government; or

(C) by being the beneficiaries of significant low interest or no interest loans, loan forgiveness, or other support by a foreign government;

(2) assesses the vulnerability to malicious activity, including cyber crime or espionage, of the telecommunications networks of the United States due to the presence of technology produced by suppliers identified under paragraph (1).

(b) Form.--The report required under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

(c) Telecommunications Networks of the United States Defined.--In this section, the term ``telecommunications networks of the United States'' includes--

(1) telephone systems;

(2) Internet systems;

(3) fiber optic lines, including cable landings;

(4) computer networks; and

(5) smart grid technology under development by the Department of Energy.