



Legislative Bulletin.....December 10, 2014

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**Concur in the Senate Amendment to H.R. 4681 — Intelligence Authorization Act for Fiscal Year 2015
(Rep. Rogers, R-MI)**

Order of Business: The bill is scheduled to be considered on December 10, 2014, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority for passage.

Summary: [H.R. 4681](#) would authorize appropriations for fiscal year 2015 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. The unclassified portion mainly deals with technical and administrative changes. The Committee Report (H. Rept. 113-463) to accompany H.R. 4681 can be found [here](#). The Senate-amended version of H.R. 4681 mainly reflects technical changes related to the House passing an authorization bill for both fiscal years 2014 and 2015, while the Senate passed two separate authorization bills for [fiscal year 2014](#) and [fiscal year 2015](#).

- Section 104 of the bill would authorize appropriations of \$507.4 million for fiscal year 2015, respectively, for the Intelligence Community Management Account (ICMA). The ICMA provides the principal source of funding for the Office of the Director of National Intelligence and resources for managing the intelligence agencies. The Congressional Budget Office (CBO) estimated that implementing section 104 of the House-passed version would cost about \$330 million in fiscal year 2015 and about \$500 million over the 2015-2019 period.
- Section 201 would authorize the appropriation of \$514 million for the Central Intelligence Agency Retirement and Disability System for fiscal year 2015 (CIARDS). According to CBO, appropriations to CIARDS are considered mandatory, and fund various unfunded liabilities of the system.

- Section 309 (**not contained in the House-passed version of H.R. 4681**) would require the adoption of procedures approved by the Attorney General when acquiring covered communication, or any nonpublic telephone or electronic communication acquired without the consent of a person who is a party to the communication, including communications in electronic storage. The procedures shall apply to any intelligence collection activity that is reasonably anticipated to result in the acquisition of covered communications to or from a United States person not otherwise authorized by court order. A covered communication may not be retained in excess of 5 years, unless:
- The communication has been affirmatively determined to constitute foreign intelligence or counterintelligence or is necessary to understand or assess foreign intelligence or counterintelligence;
 - The communication is reasonably believed to constitute evidence of a crime and is retained by a law enforcement agency;
 - The communication is enciphered or reasonably believed to have a secret meaning;
 - All parties to the communication are reasonably believed to be non-United States persons;
 - Retention is necessary to protect against an imminent threat to human life, in which case both the nature of the threat and the information to be retained shall be reported to the congressional intelligence committees not later than 30 days after the date such retention is extended under this clause;
 - Retention is necessary for technical assurance or compliance purposes in which case access to information retained for technical assurance or compliance purposes shall be reported to the congressional intelligence committees on an annual basis; or
 - Retention for a period in excess of 5 years is approved by the head of the element of the intelligence community, based on a determination that retention is necessary to protect the national security of the United States, in which case the head of such element shall provide to the congressional intelligence committees a written certification.
- Section 312 would include a sense of Congress on cybersecurity threat and cybercrime cooperation with Ukraine. Section 313 authorizes the replacement of locally employed staff serving at United States diplomatic facilities in Russia. Section 314 would authorize the inclusion of Sensitive Compartmented Information Facilities in U.S. diplomatic facilities in Russia.

Additional Information: This legislation is mainly in a classified annex. The RSC's legislative bulletin for the House-passed version of H.R. 4681 can be found [here](#). According to the House

Permanent Select Committee on Intelligence, Section 309 provides no authority to collect any communications whatsoever. Instead, Section 309 protects privacy rights by requiring the government to adopt procedures to destroy communications collected outside the United States after five years unless the communications relate to terrorists or foreign governments, relate to an imminent threat to human life, or fall into other clearly defined exceptions. Although the executive branch already follows procedures along these lines, Section 309 would enshrine the requirement in law.

Committee Action: The bill was introduced on May 20, 2014, and was referred to the House Permanent Select Committee on Intelligence. On May 22, 2014, the Committee held a mark-up session of the bill, and ordered it to be reported (amended) by Voice Vote. On May 30, 2014, the bill passed the House by a recorded vote of [345 – 59](#). On December 9, 2014, the bill passed the Senate with an amendment by voice vote.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: According to the Congressional Budget Office (CBO)’s estimate of the House-passed version of H.R. 4681, the bill would authorize appropriations for fiscal years 2014 and 2015 for intelligence activities of the U.S. government. Since CBO does not provide estimates for classified programs, [this estimate](#) addresses only the unclassified aspects of the bill. On that limited basis, CBO estimates that implementing H.R. 4681 would cost about \$500 million over the 2015-2019 period, subject to the appropriation of the specified and estimated amounts.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: The House-passed version of H.R. 4681 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

Constitutional Authority: Congress has the power to enact this legislation pursuant to the following: the intelligence and intelligence-related activities of the United States government are carried out to support the national security interests of the United States, to support and assist the armed forces of the United States, and to support the President in the execution of the foreign policy of the United States. Article I, section 8 of the Constitution of the United States provides, in pertinent part, that “Congress shall have power . . . to pay the debts and provide for the common defense and general welfare of the United States”; “. . . to raise and support armies . . .”; “To provide and maintain a Navy”; “To make Rules for the Government and Regulation of the land and naval Forces”; and “To make all laws which shall be necessary and proper for carrying into Execution the foregoing Powers and all other Powers vested in this Constitution in the Government of the United States, or in any Department or Officer thereof.”

RSC Staff Contact: Nicholas Rodman, nicholas.rodman@mail.house.gov, (202) 226-8576

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S. 2651— DHS OIG Mandates Revision Act of 2014 (Sen. Coburn, R-OK)

Order of Business: The bill is scheduled to be considered on December 10, 2014, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority for passage.

Summary: [S. 2651](#) would repeal certain mandates of the Department of Homeland Security Office of Inspector General. Section 2 of the bill would repeal three specific requirements:

- The Office of Inspector General requirement to conduct an annual evaluation of the Cargo Inspection Targeting System by repealing subsections (g) and (h) of section 809 of the [Coast Guard and Maritime Transportation Act of 2004](#);
- The Office of Inspector General requirement to conduct an annual review of Coast Guard Performance by repealing Section 888(f) of the [Homeland Security Act of 2002](#).
- The Office of Inspector General requirement to conduct an annual review of grants to states and high risk urban areas by repealing Section 2022(a)(3) of the [Homeland Security Act of 2002](#).

Additional Information: The Senate report (S. Rept. 113-261) accompanying S. 2651 can be found [here](#). According to the Senate report, the Annual Cargo Inspection Report is mandated by [The Coast Guard & Maritime Transportation Act of 2004](#) and requires the Inspector General to submit a report evaluating cargo inspection tracking systems for international intermodal cargo containers. The Inspector General audits and reviews cargo security during its normal course of business, and determines which aspects to review based on risk, referrals, and information discovered during the course of other audits.

The Department of Homeland Security Office of Inspector General report, mandated by the second requirement, does not include any additional information to what the U.S. Coast Guard reports on their own, and the Inspector General does not make any recommendations.

In the third requirement, several of the audits identified significant problems with the states' and territories' management of the grant funds. However, most of the audits resulted in similar findings and recommendations. Fraud was not identified in the audits, and most of the recommendations were for ways to improve the system and not necessarily mismanagement. The Department of Homeland Security Office of Inspector General did identify some questioned costs, but not to the extent originally expected as the grant programs matured. For the audit reports issued in fiscal year 2011 through 2013, estimated costs were more than \$15 million to complete and resulted in approximately \$19 million in questioned costs. However, the majority of those costs have since been allowed.

Committee Action: The bill was introduced on July 24, 2014, and was referred to the Senate Homeland Security and Governmental Affairs Committee. On September 17, 2014, the bill passed the Senate with an amendment by unanimous consent.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: Based on information from the Department of Homeland Security (DHS) about anticipated spending on these reports, the Congressional Budget Office (CBO) estimates that implementing S. 2651 could lower spending by \$1 million to \$2 million annually, assuming that future DHS appropriations are reduced consistent with the bill's provisions. Enacting the legislation would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. The CBO estimate can be found [here](#).

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: S. 2651 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

Constitutional Authority: Legislation introduced in the Senate does not require a constitutional authority statement.

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Concur in the Senate Amendment to H.R. 2719 —Transportation Security Acquisition Reform Act (Rep. Hudson, R-NC)

Order of Business: The bill is scheduled to be considered on December 10, 2014, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority for passage.

Summary: [H.R. 2719](#) creates a new framework for the Transportation Security Administration's (TSA) security-related technology acquisition policies and procedures. This bill establishes a five-year (**not an unspecified multi-year plan which was in the House-passed version**), strategic investment plan which includes defined objectives, goals, and measures for all planned technology projects and plans. Also included in the plan will be analysis of current trends in passenger travel, security technologies that are becoming outdated, identification of partnerships and collaboration with third parties, workforce needs, resources to protect security-related technology, and ways to streamline the acquisition process.

According to the House Committee on Homeland Security, Senator Ayotte's substitute amendment changes the House bill's required multi-year strategic investment plan to a five-year investment plan, requires consultation with airports before removing equipment, ensures the Transportation Security Administration will consider how travelers will react to the deployment

of a new technology, and adds more consultation with experts in the public and private sectors during the acquisition planning process.

Additional Information: The RSC’s legislative bulletin for the House-passed version of H.R. 2719 can be found [here](#). A list of cosponsors can be found [here](#). The House Report (H. Rept. 113-275) accompanying H.R. 2719 can be found [here](#).

Outside Groups: According to the Committee report, the House-passed bill has received letters of support from: The U.S. Travel Association; Airports Council International-North America; the Security Industry Manufacturers Coalition; the General Aviation Manufacturers Association; and the Security Industry Association.

Committee Action: The bill was introduced on July 18, 2013, and was referred to the House Committee on Homeland Security. On November 21, 2013, the bill was reported (amended) by the Committee and passed the House by the Yeas and Nays: (2/3 required): [416 – 0](#) on December 3, 2013. Senator Ayotte (R-NH) introduced the Senate companion bill ([S. 1893](#)) on December 20, 2013.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: The [Congressional Budget Office](#) (CBO) estimates that implementing the House-passed version of H.R. 2719 would have no significant cost. Enacting H.R. 2719 would not affect direct spending or revenues.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: The House-passed H.R. 2719 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

Constitutional Authority: According to the sponsor, “Congress has the power to enact this legislation pursuant to the following: Article I, section 8, clause 1; and Article I, section 8, clause 18 of the Constitution of the United States.”

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**Concur in the Senate Amendment to H.R. 1204 —Aviation Security
Stakeholder Participation Act of 2014
(Rep. Thompson, D-MS)**

Order of Business: The bill is scheduled to be considered on December 10, 2014, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority for passage.

Summary: [H.R. 1204](#) would codify an advisory committee known as the Aviation Security Advisory Committee (ASAC) within the Transportation Security Administration (TSA). The Assistant Secretary would consult with the advisory committee on aviation security matters including the development and implementation of polices, programs, and rulemaking. In turn, the advisory committee would develop recommendations and improvements for aviation security and submit reports to the Assistant Secretary.

The advisory committee members would be appointed by the Assistant Secretary and consist of individuals representing no more than **34** member organizations, including representatives of air carriers, all-cargo air transportation, indirect air carriers, labor organizations representing air carrier employees, labor organizations representing transportation security officers, aircraft manufacturers, airport operators, airport construction and maintenance contractors, labor organizations representing employees of airport construction and maintenance contractors, general aviation, privacy organizations, the travel industry, airport-based businesses, businesses that conduct security operations at airports, aeronautical repair stations, passenger advocacy groups, the aviation security technology industry, victims of terrorist acts against aviation, and law enforcement and security experts. These members will not receive pay or benefits from the Federal Government.

According to the House Committee on Homeland Security, Senator Tester's substitute amendment adds additional stakeholder groups to participate in the ASAC, limits the term of each ASAC member, gives the TSA more flexibility to create subcommittees as needed, and ensures transparency by requiring at least one ASAC meeting per year to be open to the public.

Additional Information: The RSC's legislative bulletin for the House-passed version of H.R. 1204 can be found [here](#).

Committee Action: The bill was introduced on March 14, 2013, and was referred to the House Committee on Homeland Security. On October 29, 2013, the bill was ordered by the Committee to be reported (amended) by voice vote. On December 3, 2013, the bill was passed by the House by the Yeas and Nays: (2/3 required): [411 – 3](#). Senator Tester (D-MT) introduced the Senate companion bill ([S. 1804](#)).

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: The Congressional Budget Office (CBO) estimates that implementing the House-passed version of H.R. 1204 would have no significant additional cost. H.R. 1204 would not affect direct spending or receipts; therefore, pay-as-you-go procedures do not apply. The CBO estimate can be found [here](#).

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates? H.R. 1204 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

Constitutional Authority: Congress has the power to enact this legislation pursuant to the following: The U.S. Constitution, including Article 1, Section 8.

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