

Calendar No. 106

118TH CONGRESS
1ST SESSION

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.

IN THE SENATE OF THE UNITED STATES

JUNE 22, 2023

Mr. WARNER, from the Select Committee on Intelligence, reported the following original bill; which was read twice and placed on the calendar

A BILL

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Intelligence Authorization Act for Fiscal Year 2024”.

1 (1) An outline of a plan for Federal agencies to
2 engage in industry outreach and public education on
3 the risks posed by, and directed at, artificial intel-
4 ligence systems.

5 (2) Use of research and development, stake-
6 holder outreach, and risk management frameworks
7 established pursuant to provisions of law in effect on
8 the day before the date of the enactment of this Act
9 or Federal agency guidelines.

10 **TITLE VI—WHISTLEBLOWER**
11 **MATTERS**

12 **SEC. 601. SUBMITTAL TO CONGRESS OF COMPLAINTS AND**
13 **INFORMATION BY WHISTLEBLOWERS IN THE**
14 **INTELLIGENCE COMMUNITY.**

15 (a) AMENDMENTS TO CHAPTER 4 OF TITLE 5.—

16 (1) APPOINTMENT OF SECURITY OFFICERS.—

17 Section 416 of title 5, United States Code, is
18 amended by adding at the end the following:

19 “(i) APPOINTMENT OF SECURITY OFFICERS.—Each
20 Inspector General under this section, including the des-
21 ignees of the Inspector General of the Department of De-
22 fense pursuant to subsection (b)(3), shall appoint within
23 their offices security officers to provide, on a permanent
24 basis, confidential, security-related guidance and direction
25 to an employee of their respective establishment, an em-

1 ployee assigned or detailed to such establishment, or an
2 employee of a contractor of such establishment who in-
3 tends to report to Congress a complaint or information,
4 so that such employee can obtain direction on how to re-
5 port to Congress in accordance with appropriate security
6 practices.”.

7 (2) PROCEDURES.—Subsection (e) of such sec-
8 tion is amended—

9 (A) in paragraph (1), by inserting “or any
10 other committee of jurisdiction of the Senate or
11 the House of Representatives” after “either or
12 both of the intelligence committees”;

13 (B) by amending paragraph (2) to read as
14 follows:

15 “(2) LIMITATION.—

16 “(A) IN GENERAL.—Except as provided in
17 subparagraph (B), the employee may contact an
18 intelligence committee or another committee of
19 jurisdiction directly as described in paragraph
20 (1) of this subsection or in subsection (b)(4)
21 only if the employee—

22 “(i) before making such a contact,
23 furnishes to the head of the establishment,
24 through the Inspector General (or des-
25 ignee), a statement of the employee’s com-

1 complaint or information and notice of the em-
2 ployee’s intent to contact an intelligence
3 committee or another committee of juris-
4 diction of the Senate or the House of Rep-
5 resentatives directly; and

6 “(ii)(I) obtains and follows, from the
7 head of the establishment, through the In-
8 spector General (or designee), procedural
9 direction on how to contact an intelligence
10 committee or another committee of juris-
11 diction of the Senate or the House of Rep-
12 resentatives in accordance with appropriate
13 security practices; or

14 “(II) obtains and follows such proce-
15 dural direction from the applicable security
16 officer appointed under subsection (i).

17 “(B) LACK OF PROCEDURAL DIRECTION.—

18 If an employee seeks procedural direction under
19 subparagraph (A)(ii) and does not receive such
20 procedural direction within 30 days, or receives
21 insufficient direction to report to Congress a
22 complaint or information, the employee may
23 contact an intelligence committee or any other
24 committee of jurisdiction of the Senate or the
25 House of Representatives directly without ob-

1 taining or following the procedural direction
2 otherwise required under such subparagraph.”;
3 and

4 (C) by redesignating paragraph (3) as
5 paragraph (4); and

6 (D) by inserting after paragraph (2) the
7 following:

8 “(3) COMMITTEE MEMBERS AND STAFF.—An
9 employee of an element of the intelligence commu-
10 nity who intends to report to Congress a complaint
11 or information may report such complaint or infor-
12 mation to the Chairman and Vice Chairman or
13 Ranking Member, as the case may be, of an intel-
14 ligence committee or another committee of jurisdic-
15 tion of the Senate or the House of Representatives,
16 a nonpartisan member of the committee staff des-
17 ignated for purposes of receiving complaints or in-
18 formation under this section, or a member of the
19 majority staff and a member of the minority staff of
20 the committee.”.

21 (3) CLARIFICATION OF RIGHT TO REPORT DI-
22 RECTLY TO CONGRESS.—Subsection (b) of such sec-
23 tion is amended by adding at the end the following:

24 “(4) CLARIFICATION OF RIGHT TO REPORT DI-
25 RECTLY TO CONGRESS.—Subject to paragraphs (2)

1 and (3) of subsection (e), an employee of an element
2 of the intelligence community who intends to report
3 to Congress a complaint or information may report
4 such complaint or information directly to Congress,
5 regardless of whether the complaint or information
6 is with respect to an urgent concern—

7 “(A) in lieu of reporting such complaint or
8 information under paragraph (1); or

9 “(B) in addition to reporting such com-
10 plaint or information under paragraph (1).”.

11 (b) AMENDMENTS TO NATIONAL SECURITY ACT OF
12 1947.—

13 (1) APPOINTMENT OF SECURITY OFFICERS.—

14 Section 103H(j) of the National Security Act of
15 1947 (50 U.S.C. 3033(j)) is amended by adding at
16 the end the following:

17 “(5) The Inspector General shall appoint within
18 the Office of the Inspector General security officers
19 as required by section 416(i) of title 5, United
20 States Code.”.

21 (2) PROCEDURES.—Subparagraph (D) of sec-
22 tion 103H(k)(5) of such Act (50 U.S.C. 3033(k)(5))
23 is amended—

24 (A) in clause (i), by inserting “or any
25 other committee of jurisdiction of the Senate or

1 the House of Representatives” after “either or
2 both of the congressional intelligence commit-
3 tees”;

4 (B) by amending clause (ii) to read as fol-
5 lows:

6 “(ii)(I) Except as provided in subclause (II), an
7 employee may contact a congressional intelligence
8 committee or another committee of jurisdiction di-
9 rectly as described in clause (i) only if the em-
10 ployee—

11 “(aa) before making such a contact, fur-
12 nishes to the Director, through the Inspector
13 General, a statement of the employee’s com-
14 plaint or information and notice of the employ-
15 ee’s intent to contact a congressional intel-
16 ligence committee or another committee of ju-
17 risdiction of the Senate or the House of Rep-
18 resentatives directly; and

19 “(bb)(AA) obtains and follows, from the
20 Director, through the Inspector General, proce-
21 dural direction on how to contact a congress-
22 sional intelligence committee or another com-
23 mittee of jurisdiction of the Senate or the
24 House of Representatives in accordance with
25 appropriate security practices; or

1 “(BB) obtains and follows such procedural
2 direction from the applicable security officer ap-
3 pointed under section 416(i) of title 5, United
4 States Code.

5 “(II) If an employee seeks procedural di-
6 rection under subclause (I)(bb) and does not re-
7 ceive such procedural direction within 30 days,
8 or receives insufficient direction to report to
9 Congress a complaint or information, the em-
10 ployee may contact a congressional intelligence
11 committee or any other committee of jurisdic-
12 tion of the Senate or the House of Representa-
13 tives directly without obtaining or following the
14 procedural direction otherwise required under
15 such subclause.”;

16 (C) by redesignating clause (iii) as clause
17 (iv); and

18 (D) by inserting after clause (ii) the fol-
19 lowing:

20 “(iii) An employee of an element of the intel-
21 ligence community who intends to report to Con-
22 gress a complaint or information may report such
23 complaint or information to the Chairman and Vice
24 Chairman or Ranking Member, as the case may be,
25 of a congressional intelligence committee or another

1 committee of jurisdiction of the Senate or the House
2 of Representatives, a nonpartisan member of the
3 committee staff designated for purposes of receiving
4 complaints or information under this section, or a
5 member of the majority staff and a member of the
6 minority staff of the committee.”.

7 (3) CLARIFICATION OF RIGHT TO REPORT DI-
8 RECTLY TO CONGRESS.—Subparagraph (A) of such
9 section is amended—

10 (A) by inserting “(i)” before “An employee
11 of”; and

12 (B) by adding at the end the following:

13 “(ii) Subject to clauses (ii) and (iii) of subpara-
14 graph (D), an employee of an element of the intel-
15 ligence community who intends to report to Con-
16 gress a complaint or information may report such
17 complaint or information directly to Congress, re-
18 gardless of whether the complaint or information is
19 with respect to an urgent concern—

20 “(I) in lieu of reporting such complaint or
21 information under clause (i); or

22 “(II) in addition to reporting such com-
23 plaint or information under clause (i).”.

24 (c) AMENDMENTS TO THE CENTRAL INTELLIGENCE
25 AGENCY ACT OF 1949.—

1 (1) APPOINTMENT OF SECURITY OFFICERS.—
2 Section 17(d)(5) of the Central Intelligence Agency
3 Act of 1949 (50 U.S.C. 3517(d)(5)) is amended by
4 adding at the end the following:

5 “(I) The Inspector General shall appoint within the
6 Office of the Inspector General security officers as re-
7 quired by section 416(i) of title 5, United States Code.”.

8 (2) PROCEDURES.—Subparagraph (D) of such
9 section is amended—

10 (A) in clause (i), by inserting “or any
11 other committee of jurisdiction of the Senate or
12 the House of Representatives” after “either or
13 both of the intelligence committees”;

14 (B) by amending clause (ii) to read as fol-
15 lows:

16 “(ii)(I) Except as provided in subclause (II), an em-
17 ployee may contact an intelligence committee or another
18 committee of jurisdiction directly as described in clause
19 (i) only if the employee—

20 “(aa) before making such a contact, furnishes
21 to the Director, through the Inspector General, a
22 statement of the employee’s complaint or informa-
23 tion and notice of the employee’s intent to contact
24 an intelligence committee or another committee of

1 jurisdiction of the Senate or the House of Rep-
2 resentatives directly; and

3 “(bb)(AA) obtains and follows, from the Direc-
4 tor, through the Inspector General, procedural direc-
5 tion on how to contact an intelligence committee or
6 another committee of jurisdiction of the Senate or
7 the House of Representatives in accordance with ap-
8 propriate security practices; or

9 “(BB) obtains and follows such procedural di-
10 rection from the applicable security officer appointed
11 under section 416(i) of title 5, United States Code.

12 “(II) If an employee seeks procedural direction
13 under subclause (I)(bb) and does not receive such
14 procedural direction within 30 days, or receives in-
15 sufficient direction to report to Congress a complaint
16 or information, the employee may contact an intel-
17 ligence committee or another committee of jurisdic-
18 tion of the Senate or the House of Representatives
19 directly without obtaining or following the proce-
20 dural direction otherwise required under such sub-
21 clause.”;

22 (C) by redesignating clause (iii) as clause
23 (iv); and

24 (D) by inserting after clause (ii) the fol-
25 lowing:

1 “(iii) An employee of the Agency who intends to re-
2 port to Congress a complaint or information may report
3 such complaint or information to the Chairman and Vice
4 Chairman or Ranking Member, as the case may be, of an
5 intelligence committee or another committee of jurisdic-
6 tion of the Senate or the House of Representatives, a non-
7 partisan member of the committee staff designated for
8 purposes of receiving complaints or information under this
9 section, or a member of the majority staff and a member
10 of the minority staff of the committee.”.

11 (3) CLARIFICATION OF RIGHT TO REPORT DI-
12 RECTLY TO CONGRESS.—Subparagraph (A) of such
13 section is amended—

14 (A) by inserting “(i)” before “An employee
15 of”; and

16 (B) by adding at the end the following:

17 “(ii) Subject to clauses (ii) and (iii) of subparagraph
18 (D), an employee of the Agency who intends to report to
19 Congress a complaint or information may report such
20 complaint or information directly to Congress, regardless
21 of whether the complaint or information is with respect
22 to an urgent concern—

23 “(I) in lieu of reporting such complaint or in-
24 formation under clause (i); or

1 “(II) in addition to reporting such complaint or
2 information under clause (i).”.

3 (d) **RULE OF CONSTRUCTION.**—Nothing in this sec-
4 tion or an amendment made by this section shall be con-
5 strued to revoke or diminish any right of an individual
6 provided by section 2303 of title 5, United States Code.

7 **SEC. 602. PROHIBITION AGAINST DISCLOSURE OF WHIS-**
8 **TLEBLOWER IDENTITY AS REPRISAL**
9 **AGAINST WHISTLEBLOWER DISCLOSURE BY**
10 **EMPLOYEES AND CONTRACTORS IN INTEL-**
11 **LIGENCE COMMUNITY.**

12 (a) **IN GENERAL.**—Section 1104 of the National Se-
13 curity Act of 1947 (50 U.S.C. 3234) is amended—

14 (1) in subsection (a)(3) of such section—

15 (A) in subparagraph (I), by striking “; or”
16 and inserting a semicolon;

17 (B) by redesignating subparagraph (J) as
18 subparagraph (K); and

19 (C) by inserting after subparagraph (I) the
20 following:

21 “(J) a knowing and willful disclosure re-
22 vealing the identity or other personally identifi-
23 able information of an employee or contractor
24 employee so as to identify the employee or con-
25 tractor employee as an employee or contractor

1 employee who has made a lawful disclosure de-
2 scribed in subsection (b) or (c); or”;

3 (2) by redesignating subsections (f) and (g) as
4 subsections (g) and (h), respectively; and

5 (3) by inserting after subsection (e) the fol-
6 lowing:

7 “(f) PERSONNEL ACTIONS INVOLVING DISCLOSURE
8 OF WHISTLEBLOWER IDENTITY.—A personnel action de-
9 scribed in subsection (a)(3)(J) shall not be considered to
10 be in violation of subsection (b) or (c) under the following
11 circumstances:

12 “(1) The personnel action was taken with the
13 express consent of the employee or contractor em-
14 ployee.

15 “(2) An Inspector General with oversight re-
16 sponsibility for a covered intelligence community ele-
17 ment determines that—

18 “(A) the personnel action was unavoidable
19 under section 103H(g)(3)(A) of this Act (50
20 U.S.C. 3033(g)(3)(A)), section 17(e)(3)(A) of
21 the Central Intelligence Agency Act of 1949 (50
22 U.S.C. 3517(e)(3)(A)), section 407(b) of title 5,
23 United States Code, or section 420(b)(2)(B) of
24 such title;

1 “(B) the personnel action was made to an
2 official of the Department of Justice responsible
3 for determining whether a prosecution should
4 be undertaken; or

5 “(C) the personnel action was required by
6 statute or an order from a court of competent
7 jurisdiction.”.

8 (b) APPLICABILITY TO DETAILEES.—Subsection (a)
9 of section 1104 of such Act (50 U.S.C. 3234) is amended
10 by adding at the end the following:

11 “(5) EMPLOYEE.—The term ‘employee’, with
12 respect to an agency or a covered intelligence com-
13 munity element, includes an individual who has been
14 detailed to such agency or covered intelligence com-
15 munity element.”.

16 (c) PRIVATE RIGHT OF ACTION FOR UNLAWFUL DIS-
17 CLOSURE OF WHISTLEBLOWER IDENTITY.—Subsection
18 (g) of such section, as redesignated by subsection (a)(2)
19 of this section, is amended to read as follows:

20 “(g) ENFORCEMENT.—

21 “(1) IN GENERAL.—Except as otherwise pro-
22 vided in this subsection, the President shall provide
23 for the enforcement of this section.

24 “(2) HARMONIZATION WITH OTHER ENFORCE-
25 MENT.—To the fullest extent possible, the President

1 shall provide for enforcement of this section in a
2 manner that is consistent with the enforcement of
3 section 2302(b)(8) of title 5, United States Code, es-
4 pecially with respect to policies and procedures used
5 to adjudicate alleged violations of such section.

6 “(3) PRIVATE RIGHT OF ACTION FOR DISCLO-
7 SURES OF WHISTLEBLOWER IDENTITY IN VIOLATION
8 OF PROHIBITION AGAINST REPRISALS.—Subject to
9 paragraph (4), in a case in which an employee of an
10 agency takes a personnel action described in sub-
11 section (a)(3)(J) against an employee of a covered
12 intelligence community element as a reprisal in vio-
13 lation of subsection (b) or in a case in which an em-
14 ployee or contractor employee takes a personnel ac-
15 tion described in subsection (a)(3)(J) against an-
16 other contractor employee as a reprisal in violation
17 of subsection (c), the employee or contractor em-
18 ployee against whom the personnel action was taken
19 may, consistent with section 1221 of title 5, United
20 States Code, bring a private action for all appro-
21 priate remedies, including injunctive relief and com-
22 pensatory and punitive damages, in an amount not
23 to exceed \$250,000, against the agency of the em-
24 ployee or contracting agency of the contractor em-

1 ployee who took the personnel action, in a Federal
2 district court of competent jurisdiction.

3 “(4) REQUIREMENTS.—

4 “(A) REVIEW BY INSPECTOR GENERAL
5 AND BY EXTERNAL REVIEW PANEL.—Before
6 the employee or contractor employee may bring
7 a private action under paragraph (3), the em-
8 ployee or contractor employee shall exhaust ad-
9 ministrative remedies by—

10 “(i) first, obtaining a disposition of
11 their claim by requesting review by the ap-
12 propriate inspector general; and

13 “(ii) second, if the review under clause
14 (i) does not substantiate reprisal, by sub-
15 mitting to the Inspector General of the In-
16 telligence Community a request for a re-
17 view of the claim by an external review
18 panel under section 1106.

19 “(B) PERIOD TO BRING ACTION.—The em-
20 ployee or contractor employee may bring a pri-
21 vate right of action under paragraph (3) during
22 the 180-day period beginning on the date on
23 which the employee or contractor employee is
24 notified of the final disposition of their claim
25 under section 1106.”.

1 **SEC. 603. ESTABLISHING PROCESS PARITY FOR ADVERSE**
2 **SECURITY CLEARANCE AND ACCESS DETER-**
3 **MINATIONS.**

4 Subparagraph (C) of section 3001(j)(4) of the Intel-
5 ligence Reform and Terrorism Prevention Act of 2004 (50
6 U.S.C. 3341(j)(4)) is amended to read as follows:

7 “(C) CONTRIBUTING FACTOR.—

8 “(i) IN GENERAL.—Subject to clause
9 (iii), in determining whether the adverse
10 security clearance or access determination
11 violated paragraph (1), the agency shall
12 find that paragraph (1) was violated if the
13 individual has demonstrated that a disclo-
14 sure described in paragraph (1) was a con-
15 tributing factor in the adverse security
16 clearance or access determination taken
17 against the individual.

18 “(ii) CIRCUMSTANTIAL EVIDENCE.—

19 An individual under clause (i) may dem-
20 onstrate that the disclosure was a contrib-
21 uting factor in the adverse security clear-
22 ance or access determination taken against
23 the individual through circumstantial evi-
24 dence, such as evidence that—

1 “(I) the official making the de-
2 termination knew of the disclosure;
3 and

4 “(II) the determination occurred
5 within a period such that a reasonable
6 person could conclude that the dislo-
7 sure was a contributing factor in the
8 determination.

9 “(iii) DEFENSE.—In determining
10 whether the adverse security clearance or
11 access determination violated paragraph
12 (1), the agency shall not find that para-
13 graph (1) was violated if, after a finding
14 that a disclosure was a contributing factor,
15 the agency demonstrates by clear and con-
16 vincing evidence that it would have made
17 the same security clearance or access de-
18 termination in the absence of such dislo-
19 sure.”.

20 **SEC. 604. ELIMINATION OF CAP ON COMPENSATORY DAM-**
21 **AGES FOR RETALIATORY REVOCATION OF SE-**
22 **CURITY CLEARANCES AND ACCESS DETER-**
23 **MINATIONS.**

24 Section 3001(j)(4)(B) of the Intelligence Reform and
25 Terrorism Prevention Act of 2004 (50 U.S.C.

1 3341(j)(4)(B)) is amended, in the second sentence, by
2 striking “not to exceed \$300,000”.

3 **SEC. 605. MODIFICATION AND REPEAL OF REPORTING RE-**
4 **QUIREMENTS.**

5 (a) MODIFICATION OF FREQUENCY OF WHISTLE-
6 BLOWER NOTIFICATIONS TO INSPECTOR GENERAL OF
7 THE INTELLIGENCE COMMUNITY.—Section 5334(a) of the
8 Damon Paul Nelson and Matthew Young Pollard Intel-
9 ligence Authorization Act for Fiscal Years 2018, 2019,
10 and 2020 (Public Law 116–92; 50 U.S.C. 3033 note) is
11 amended by striking “in real time” and inserting “month-
12 ly”.

13 (b) REPEAL OF REQUIREMENT FOR INSPECTORS
14 GENERAL REVIEWS OF ENHANCED PERSONNEL SECU-
15 RITY PROGRAMS.—

16 (1) IN GENERAL.—Section 11001 of title 5,
17 United States Code, is amended—

18 (A) by striking subsection (d); and

19 (B) by redesignating subsection (e) as sub-
20 section (d).

21 (2) TECHNICAL CORRECTIONS.—Subsection (d)
22 of section 11001 of such title, as redesignated by
23 paragraph (1)(B), is amended—

24 (A) in paragraph (3), by adding “and”
25 after the semicolon at the end; and

1 (B) in paragraph (4), by striking “; and”
 2 and inserting a period.

3 **TITLE VII—CLASSIFICATION**
 4 **REFORM**

5 **Subtitle A—Classification Reform**
 6 **Act of 2023**

7 **CHAPTER 1—SHORT TITLE; DEFINITIONS**

8 **SEC. 701. SHORT TITLE.**

9 This subtitle may be cited as the “Classification Re-
 10 form Act of 2023”.

11 **SEC. 702. DEFINITIONS.**

12 Title VIII of the National Security Act of 1947 (50
 13 U.S.C. 3161 et seq.) is amended—

14 (1) in the title heading by striking “**ACCESS**
 15 **TO CLASSIFIED INFORMATION PROCE-**
 16 **DURES**” and inserting “**PROTECTION OF**
 17 **NATIONAL SECURITY INFORMATION**”;

18 (2) in the matter before section 801, by insert-
 19 ing the following:

20 **“Subtitle A—Definitions**

21 **“SEC. 800. DEFINITIONS.**

22 “In this title:

23 “(1) **AGENCY.**—The term ‘agency’ means any
 24 Executive agency as defined in section 105 of title
 25 5, United States Code, any military department as