

Transportation be authorized to meet during the session of the Senate on September 16, 2009, at 2:30 p.m. in room 253 of the Russell Senate Office Building.

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

PRIVILEGES OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that Amy Pope, a Justice Department legislative detailee in my office, be granted the privilege of the floor for the duration of this Congress.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar Nos. 371, 372, and 373; that the nominations be confirmed en bloc and that the motions to reconsider be laid upon the table en bloc; that no further motions be in order; that any statements relating to the nominations appear in the appropriate place in the RECORD as if read; that the President be immediately notified of the Senate's action and the Senate then resume legislative session.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF DEFENSE

John M. McHugh, of New York, to be Secretary of the Army.

Joseph W. Westphal, of New York, to be Under Secretary of the Army.

Juan M. Garcia III, of Texas, to be an Assistant Secretary of the Navy.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2010

Mr. CASEY. Mr. President, I ask unanimous consent the Senate proceed to the consideration of Calendar No. 120, S. 1494.

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

The legislative clerk read as follows:

A bill (S. 1494) to authorize appropriations for fiscal year 2010 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.

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

Mrs. FEINSTEIN. Mr. President, I rise today to speak about the Intelligence Authorization Act for fiscal

year 2010, S. 1494, that the Senate has approved by unanimous consent.

The legislation is the product of a bipartisan effort in the Intelligence Committee, which was reflected by the committee's unanimous vote of 15 to 0 on the bill. I thank Vice Chairman BOND for his efforts on the legislation and the full committee staff for their work.

It has been 4 years since the Congress has passed and the President has signed an intelligence authorization act. This has meant that the law has not kept up with changes in the intelligence community and that Congress has not been able to require reforms and provide flexibilities that are sorely needed. I am pleased that the Senate has taken a major step toward enactment.

Before summarizing some of the key provisions of this legislation, let me briefly describe the way in which it was written.

The committee has worked with the Director of National Intelligence, DNI, ADM Dennis Blair, to identify areas where legislation is needed to better run and oversee the Nation's 16 intelligence agencies. Many of these provisions have been proposed and included in previous legislation reported out by the Intelligence Committee but have yet to be passed into law.

At the request of the White House, we have separated issues of terrorist detention and interrogation from this bill and the committee intends to take up legislation on those issues separately. The committee has not changed its position from previous legislation on the need to have an effective and humane interrogation program that operates fully within the nation's laws and international commitments.

The major themes of this bill are to strengthen the Director of National Intelligence to make sure that he has the management authorities and flexibilities needed to direct the intelligence community; insist upon stronger accountability and oversight mechanisms for intelligence activities, both within the executive branch and by the Congress; and to fund fully the intelligence community's share of the war efforts in Iraq and Afghanistan and the continuing counterterrorism operations against al-Qaida and other terrorist organizations worldwide.

There is also a classified annex to this bill, which lays out the authorized funding levels for the National Intelligence Program. The theme of the annex is to shift funds from intelligence activities that are less capable, lower priority, or not performing to those that will provide the Nation with better capabilities for intelligence collection, analysis, counterintelligence, and covert action.

The details of the classified annex are necessarily secret, but all Members are welcome to review them at the committee's offices at any time.

Let me describe some of the notable provisions in more detail.

To add to the management authorities of the Director of National Intelligence, the bill gives the Director of National Intelligence greater flexibility in personnel matters, including extending the length of time that personnel may be detailed to an intelligence agency to 3 years from the current 1 year. It also provides the Director, working with individual intelligence agencies, to shift or hire personnel by up to 5 percent above authorized personnel levels if intelligence requirements demand doing so. The bill authorizes the DNI to conduct accountability reviews of personnel and elements within the intelligence community, further clarifying that the Director is the senior official in the intelligence community. It seeks to prevent repetitions of information sharing problems by enabling the DNI to purchase necessary equipment or technology to improve information sharing with governmental departments or agencies regardless of whether they are part of the intelligence community. The bill also requires the intelligence community to continue putting in place the information technology necessary to assure information flows between its agencies.

The committee has longstanding concerns with the way the intelligence community has briefed, or has failed to brief, the congressional Intelligence Committees on all intelligence activities and covert actions. Two major controversies, over CIA detention and interrogation and over the warrantless surveillance program of the National Security Agency, were both briefed only to the chairman and vice chairman of the Senate Intelligence Committee. The rest of the committee's membership was unaware of these programs for years.

The bill strengthens the statutory requirements to keep the congressional intelligence committees "fully and currently informed" of intelligence activities and covert actions. The legislation makes clear that there is no exception to the obligation to brief Congress on intelligence activities and covert actions; requires that notifications include a description of the legal authority on which activities are undertaken; and requires that all committee members be provided with the broad outlines—the "main features"—of intelligence programs in those instances where the sensitive operational details are provided only to a limited number of Senators.

In addition to ensuring that notifications to the Congress are conducted, the bill includes a number of additional provisions intended to strengthen intelligence oversight. These include creating an independent inspector general, confirmed by the Senate, to help the DNI oversee the intelligence community and strengthening the inspectors general of the National Security Agency, NSA, Defense Intelligence Agency, DIA, National Reconnaissance Office, NRO, and National Geospatial-Intelligence Agency, NGA, by listing them

under the Inspector General Act of 1978.

They include requiring Senate confirmation for the Directors of the National Security Agency, the National Security Agency, the National Security Agency, the National Geospatial-Intelligence Agency, and for the Deputy Director of the CIA. For several years, the Intelligence Committee has viewed these positions as holding substantial budgetary and policy responsibilities.

They also include improving the intelligence community's ability to budget, manage finances, and run program acquisitions. I am unable to state publicly why these provisions are so important, but it is fair to say that intelligence agencies have had major failures in this regard. In this bill, we have sought to apply best practices from other parts of the government to intelligence community management and acquisitions with the goal of more efficiently and effectively using taxpayer dollars to fund intelligence activities.

Finally, while I am unable to provide specifics due to reasons of classification, let me highlight five other parts of the bill and its classified annex that merit recognition.

Satellites. To address a problem created by years of mismanagement and acquisition failures, the annex to this bill recommends a more capable and more affordable imagery satellite architecture that addresses the requirements of both our civilian policymakers and military warfighters.

Languages. As our committee report notes, the intelligence community's language capabilities are abysmal. This bill authorizes increased funding to significantly improve language proficiencies. Rather than funding separate initiatives across the various intelligence agencies, this funding is provided to the Director of National Intelligence for allocation and coordination to maximize effectiveness.

Research and Development. The U.S. intelligence community leads the world in the technical collection of intelligence. This success is the result of decades of investment in research and development. The annex to this bill recommends increases in investment on research and development to return to the level of funding necessary to maintain the nation's technological edge.

Cybersecurity. The committee has held numerous hearings with the Acting Senior Director for Cybersecurity in the National Security Council, the Director of the National Security Agency, and the committee's Technical Advisory Group. I believe strongly that cyber attack and espionage by adversary nations and nonstate actors pose a grave threat to our Nation's national and economic security. I also believe, however, that initiatives underway to provide for security of the government's cyber networks need to be implemented and overseen carefully to ensure that privacy rights are upheld.

For this reason, the bill includes a provision that establishes a framework for executive and congressional oversight for cybersecurity. Specifically, it requires reporting to Congress on the legal authorities for cyber-security programs, privacy assessments, and details of the concept of operations for these activities. The provision also requires thorough auditing of cyber-security programs by the relevant inspectors general, especially to determine compliance with law and privacy rights. Finally, the provision authorizes the detail of cyber experts from the intelligence community to the Department of Homeland Security and FBI to assist in their roles in cyber defense and law enforcement. The annex to the bill also adjusts funding levels to ensure that the President's request for cyber-security activities are appropriately funded and are proceeding under clear legal and policy guidance.

Report on compliance with laws related to detention and interrogation. As I noted, the administration and our committee continue to conduct reviews of detention and interrogation practices begun after September 11, 2001. This bill requires the DNI to report on how the intelligence community complies with all laws, international obligations, and executive orders related to the detention and interrogation of persons under their control.

Following the reporting of our bill on July 22, we have worked with three committees of the Senate to resolve several questions.

We have worked with the Armed Services Committee to develop a Senate resolution that will govern the sequence of referral, between that committee and the Intelligence Committee, of nominations for Director of the National Security Agency, the National Reconnaissance Office, and the National Geospatial-Intelligence Agency. That resolution has the support of Chairman LEVIN and Ranking Member MCCAIN of the Armed Services Committee, as well as having my and Vice Chairman BOND's support. I will address the proposed resolution in a separate colloquy today with Chairman LEVIN.

We have worked with Ranking Member COCHRAN of the Appropriations Committee on an agreement to strike, in a managers' amendment, section 341 of the bill that would have expressed the sense of the Senate on an Appropriations Subcommittee on Intelligence. That internal Senate matter will continue to be discussed within the Senate but will not be a part of this bill.

We have worked with Chairman LEAHY of the Judiciary Committee to resolve several matters. The managers' amendment that Vice Chairman BOND and I have offered amends three provisions which require the submission of reports on various matters. The purpose of the amendments to sections 336, 407, and 445 is to ensure that the Judiciary Committee receives reports on

matters within its jurisdiction. In consultation with the Office of the Director of National Intelligence, the managers' amendment amends section 411 on a FOIA operational file exemption to state more precisely the intent of the provision. The managers' amendment also strikes section 352 that establishes a FOIA exemption for terrorist identity information that is disseminated for terrorist screening purposes. As a comparable provision has been reported in the House, we expect that the provision will be the subject of further consideration at conference.

Mr. President, the vice chairman and I have worked hard to produce bipartisan legislation that provides the intelligence community with the tools and resources needed to keep the Nation safe and to inform decision-makers. This bill does just that. It strikes a balance between allowing intelligence agencies the latitude to conduct their operations while ensuring their legality and efficiency.

I very much appreciate the Senate's approval of this legislation and look forward to bringing a conference report to the Senate as soon as possible.

Mr. BOND. Mr. President, for too many years, Congress has failed to pass an intelligence authorization bill that could be signed into law. We came close once, only to have our efforts derailed by a problematic interrogation provision. We have solved that problem this year, and now I believe we finally have a product that we can move forward with the hope that it will soon be signed into law.

The intelligence authorization bill before us will give the intelligence community the flexibility and authorities it needs to function effectively and will ensure appropriate intelligence oversight by this committee.

Over the past several months, we have worked closely with the administration and other committees to address their concerns over various provisions. Of course, some concerns were easier to resolve than others. But we are now at a point that I believe we can pass this bill through the Senate.

I have often said that in creating the Director of National Intelligence, we gave him an awful lot of responsibility without all the authority he needed. Well, our bill attempts to address that problem by giving the DNI clearer authority and greater flexibility in overseeing the intelligence community.

There are also a number of provisions in this bill that I believe are essential for promoting good government. Too often, we have seen programs or acquisitions of major systems balloon in cost and decrease in performance. That is unacceptable. We are in difficult economic times and the taxpayers are spending substantial sums of money to ensure that the intelligence community has the tools it needs to keep us safe. If we don't demand accountability for how these tools are operated or created, then we are failing the taxpayers, and we are failing the intelligence community.

So, for the past several years, I have sponsored amendments that require the intelligence community to perform vulnerability assessments of major systems and to keep track of excessive cost growth of major systems. This latter provision is modeled on the Nunn-McCurdy provision which has guided Defense Department acquisitions for years. I am happy to say that these provisions are part of this year's bill too. I believe that these, and other good-government provisions, will encourage earlier identification and solving of problems relating to the acquisition of major systems. Too often, such problems have not been identified until exorbitant sums of money have been spent—and, unfortunately, at that point, there is often reluctance to cancel the project.

Similarly, the intelligence community must get a handle on its personnel levels. Now, I do not share the belief that the Office of the Director of National Intelligence is too large; in fact, I think we need to make sure that our National Counterterrorism Center and National Counterproliferation Center have more resources, not less. However, I am concerned about the number of contractors used by the intelligence community to perform functions better left to government employees. There are some jobs that demand the use of contractors—for example, certain technical jobs or short-term functions—but too often, the quick fix is just to hire contractors, not long-term support. So, our bill includes a provision calling for annual personnel level assessments for the intelligence community. These assessments will ensure that, before more people are brought in, there are adequate resources to support them and enough work to keep them busy.

Finally, the CIA's interrogation program has been a hot topic over the past few months. This spring, the administration declassified several Office of Legal Counsel opinions pertaining to the program but redacted much of the information concerning its effectiveness. I am generally opposed to releasing information about some of our most sensitive intelligence sources and methods, but in this case, I believe the record needed to be set straight. So I sponsored an amendment, that was accepted by the committee, requiring the Director of the CIA to release an unclassified summary of several memos that discuss the effectiveness of the interrogation program. The American people may decide for themselves whether or not the CIA's program was effective in preventing terrorist attacks on our nation and our allies.

These are just a few of the provisions in this bill that I believe are important for the success of our intelligence collection efforts and equally important for ensuring sound oversight by the Intelligence Committee.

I commend Senator FEINSTEIN for her leadership in shepherding this bill through the committee and the Senate. I appreciated her willingness to work

through the many issues raised throughout this process.

I ask my colleagues to support this bill so that we can get back on track with performing effective intelligence oversight.

CLARIFYING RESPONSIBILITIES OF COMMITTEES

Mrs. FEINSTEIN. Mr. President, section 432 of S. 1494, the Intelligence Authorization Act for Fiscal year 2010 that is before the Senate today, provides that the Directors of the National Security Agency, the National Geospatial-Intelligence Agency, and the National Reconnaissance Office shall be appointed by the President with the advice and consent of the Senate. For several years, the Select Committee on Intelligence has been seeking the enactment of legislation to provide for Senate confirmation of these important positions. The Senate has previously endorsed this effort by including this requirement in the proposed Intelligence Authorization for Fiscal Year 2008.

It is our strong hope that the time has come to enact this fundamental measure to ensure adequate oversight of these three agencies whose spending constitutes a significant portion of the entire intelligence budget. In preparation for that, my colleague at the Intelligence Committee, our vice chairman KIT BOND, and I have worked with the leadership of the Armed Services Committee, Chairman CARL LEVIN and Ranking Member JOHN MCCAIN, to settle on the process by which our two committees will assist the Senate in a careful examination of the qualifications of nominees to head these agencies. The insights of both committees is important in that process because the three entities are housed in the Department of Defense and perform significant responsibilities there while also being major components of the intelligence community.

The resolution that we have prepared recognizes the contribution that each of our committees should make to a thorough and timely process. It provides that if the nominee is an Active-Duty military officer, the confirmation process will begin in the Armed Services Committee and, if reported, the nomination will be sequentially referred to the Intelligence Committee for a prescribed period of time; namely, 30 days plus an additional 5 days if the 30-day period expires when the Senate is in recess. If the nominee is a civilian, the confirmation process will begin in the Intelligence Committee with a sequential referral to the Armed Services Committee under those same time limits. To ensure that the sequential referral does not delay completion of the committee part of the nomination process, the resolution provides for the automatic discharge of the nominations from the second committee if it has not reported with the prescribed period of time.

This referral system recognizes the equities of each committee and will ensure that the Senate receives the ben-

efit of the recommendations made by the two committees with the expertise necessary to advise the Senate about the qualifications of nominees to head these three important agencies.

Although we are not formally introducing the resolution at this time, Vice Chairman BOND joins me in this public commitment to the Senate that we will ask our committee to report the resolution in time for consideration and adoption by the Senate in conjunction with a conference report on the fiscal year 2010 Intelligence authorization.

I ask unanimous consent that the full text of the resolution, showing its cosponsorship by myself, Senator LEVIN, Senator BOND, and Senator MCCAIN, be printed in the RECORD at the conclusion of the colloquy.

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

[See Exhibit 1.]

Mrs. FEINSTEIN. I should note for the Senate that while the full text of the amendment includes language pertinent to other nominations, such as the Assistant Attorney General for National Security, the substantive change to section 17 of S. Res. 400 only bears on the sequence of responsibilities between the Armed Services and Intelligence Committees.

I now turn to Senator LEVIN for his remarks.

Mr. LEVIN. I would like to express my support for the proposed resolution which I believe will enable both of our committees to fulfill their responsibilities for ensuring that the nominations to head these important intelligence elements within the Department of Defense are thoroughly considered. I thank my distinguished colleague on the Armed Services Committee, our ranking member, Senator MCCAIN, and our colleagues on the Intelligence Committee for reaching this agreement.

EXHIBIT 1

111TH CONGRESS
1ST SESSION

S. RES. ____

Amending Senate Resolution 400 (94th Congress) to clarify the responsibility of committees of the Senate in the provision of the advice and consent of the Senate to nominations to positions in the intelligence community.

IN THE SENATE OF THE UNITED STATES

Mrs. FEINSTEIN (for herself, Mr. LEVIN, Mr. BOND, and Mr. MCCAIN) submitted the following resolution; which was referred to the Committee on _____

RESOLUTION

Amending Senate Resolution 400 (94th Congress) to clarify the responsibility of committees of the Senate in the provision of the advice and consent of the Senate to nominations to positions in the intelligence community.

Resolved, That section 17 of Senate Resolution 400 (94th Congress) is amended to read as follows:

“SEC. 17. (a)(1) Except as provided in subsection (b), the select committee shall have jurisdiction to review, hold hearings, and report the nominations of individuals for positions in the intelligence community for

which appointments are made by the President, by and with the advice and consent of the Senate.

“(2) Except as provided in subsection (b), a committee with jurisdiction over the department or agency of the Executive Branch within which is a position referred to in paragraph (1) may hold hearings and interviews with individuals nominated for such position, but only the select committee shall report such nomination.

“(3) In this subsection, the term ‘intelligence community’ means an element of the intelligence community specified in or designated under section 3(4) of the National Security Act of 1947.

“(b)(1) With respect to the confirmation of appointment to the position of Assistant Attorney General for National Security, or any successor position, the nomination of any individual by the President to serve in such position shall be referred to the Committee on the Judiciary and, if and when reported, to the select committee for not to exceed 20 calendar days, except that in cases when the 20-day period expires while the Senate is in recess, the select committee shall have 5 additional calendar days after the Senate reconvenes to report the nomination.

“(2)(A) With respect to the confirmation of appointment to the position of Director of the National Geospatial-Intelligence Agency, Director of the National Reconnaissance Office, or Director of the National Security Agency, or any successor position to such position, the nomination of any individual by the President to serve in such position, who at the time of the nomination is a member of the Armed Forces on active duty, shall be referred to the Committee on Armed Services, and, if and when reported, to the select committee for not to exceed 30 calendar days, except that in cases when the 30-day period expires while the Senate is in recess, the select committee shall have 5 additional calendar days after the Senate reconvenes to report the nomination.

“(B) With respect to the confirmation of appointment to the position of Director of the National Geospatial-Intelligence Agency, Director of the National Reconnaissance Office, or Director of the National Security Agency, or any successor to such position, the nomination of any individual by the President to serve in such position, who at the time of the nomination is not a member of the Armed Forces on active duty, shall be referred to the select committee and, if and when reported, to the Committee on Armed Services for not to exceed 30 calendar days, except that in cases when the 30-day period expires while the Senate is in recess, the Committee on Armed Services shall have an additional 5 calendar days after the Senate reconvenes to report the nomination.

“(3) If, upon the expiration of the period of sequential referral described in paragraphs (1) and (2), the committee to which the nomination was sequentially referred has not reported the nomination, the nomination shall be automatically discharged from that committee and placed on the Executive Calendar.”

Mr. LEAHY. Mr. President, today the Senate will pass the amended Intelligence Authorization Act for fiscal year 2010, S.1494. I appreciate the commitment of Senator FEINSTEIN, the chair of the Senate Select Committee on Intelligence, to work with me to strengthen this important legislation. The bill the Senate has approved recognizes the shared jurisdiction of the Committee on the Judiciary, and the Select Committee on Intelligence, in several legislative areas.

The first opportunity to review this legislation arose on August 5, shortly before the Senate was scheduled to recess, and in the midst of the debate on the confirmation of Associate Justice Sonia Sotomayor. At that time, I recognized several provisions in the bill that fall under the jurisdiction of the Judiciary Committee, as well as issues about which the committee shares an interest with the Select Committee on Intelligence. Since that time, Senator FEINSTEIN and I, as well as our staffs, have engaged in serious negotiations concerning these provisions. We negotiated agreements regarding exemptions to the Freedom of Information Act, FOIA, as well as numerous reporting requirements, such as a significant, new requirement for the Federal Bureau of Investigation, FBI, an agency clearly under the jurisdiction of the Judiciary Committee, and an important new cybersecurity oversight provision.

The amendment to the intelligence authorization bill agreed to today identifies the Judiciary Committee as a recipient of relevant reporting provisions, narrows the operational files FOIA exemption for information provided by intelligence agencies to the Office of the Director of National Intelligence, ODNI, and strikes a FOIA (b)(3) exemption for terrorist identity information. Senator FEINSTEIN has told me she is also committed to ensuring that the Judiciary Committee will receive reports required by the bill's section 340, cybersecurity oversight. I appreciate Senator FEINSTEIN's support for these improvements.

The intelligence authorization bill includes several reporting requirements that involve areas of long-standing interest and jurisdiction of the Judiciary Committee. The amended bill ensures that the Judiciary Committee is a recipient of those reports. Section 336 of the bill directs the Director of National Intelligence to provide a comprehensive report on all measures taken by the Office of the Director of National Intelligence and by elements of the intelligence community to comply with the provisions of applicable law, international obligations, and executive orders relating to the detention or interrogation activities of the intelligence community. These include compliance with the Detainee Treatment Act of 2005; the Military Commissions Act of 2006; common Article 3 of the Geneva Conventions; the Convention Against Torture; Executive Order 13492, relating to lawful interrogations; and Executive Order No. 13493, relating to detention policy options.

The amendment to the intelligence authorization bill modifies section 336 to ensure that to the extent that the report addresses an element of the intelligence community within the Department of Justice, it shall be submitted, along with associated material, to the Judiciary Committees of the House and Senate.

I fought for years to obtain information about the Bush administration's

detention and interrogation policies and practices, and the legal advice from that administration authorizing those policies and practices. The last administration refused to give this information to Congress, instead issuing secret legal advice that misconstrued our laws and international obligations with regard to the treatment of people in our custody. Years later we found out that the administration had sanctioned cruel interrogation techniques, including torture. It is imperative that the Judiciary Committee be fully informed of the extent to which the government is complying with our laws and international treaties relating to detention and interrogation in order to be able to conduct proper oversight and ensure that our government cannot shield policies that authorize practices in violation of our laws. The Judiciary Committee is an important partner in this oversight.

Section 407 of the bill establishes a new office of inspector general of the intelligence community to conduct independent investigations, inspections, audits and reviews on programs and activities conducted under the authority of the Director of National Intelligence. Under this new authority, the inspector general is required to submit a semiannual report to the Director of National Intelligence summarizing its activities. The amendment incorporated into S.1494 modifies the reporting provision to require the inspector general to submit reports that focus on Government officials to the committees of the Senate and the House of Representatives with jurisdiction over the department that official represents.

Section 407 of the bill creates an entirely new inspector general with significant authority and responsibility in the intelligence community. That authority will implicate agencies within the jurisdiction of the Judiciary Committee, including the Department of Justice and components of the Department of Homeland Security. I believe this modification to the bill provides an important recognition of the Judiciary Committee's need to be involved in the investigations and activities of this new inspector general.

Another significant new provision is section 445 of the bill, report and assessment on transformation of the intelligence capabilities of the Federal Bureau of Investigation, which creates a broad new reporting requirement for the FBI. The Judiciary Committee has always had primary oversight over the FBI. As the FBI takes on more responsibility in the areas of intelligence and national security, its policies and practices in these areas must be subject to the oversight of Congress. The Intelligence Committees have particular expertise that make them an important partner in this oversight. However, it is the Judiciary Committee that has the primary legislative and oversight responsibilities over the FBI.

I am very pleased that the amendment adopted today contains several

important improvements that I recommended to strengthen FOIA. I am particularly pleased that the bill, as amended, deletes a broad and unnecessary exemption to FOIA's disclosure requirements for terrorist identity information.

No one would quibble with the notion that our government can—and should—keep some information secret to protect our national security. But, in the case of terrorist identity information, our government has successfully withheld this sensitive information under the existing FOIA exemptions for classified and law enforcement information. In addition, the many instances of mistaken identities and other errors on terrorist watchlists and “no-fly” lists make it clear that FOIA can be a valuable tool to help innocent Americans redress and correct mistakes on these lists.

Lastly, the revised bill also narrows the exemption to FOIA's search requirements for operational files information that the Nation's intelligence agencies share with the ODNI. The bill now makes it clear that operational files that are already exempt from these search requirements retain this exemption under circumstances where the files are disseminated to the ODNI. This carefully crafted compromise will help ensure both effective information sharing among our intelligence agencies and the free flow of information to the American public.

I believe the amendment strengthens this legislation by recognizing the value and significance of the shared jurisdiction in many areas of national security between the Judiciary and Intelligence Committees. I appreciate Senator FEINSTEIN's cooperation in adopting these improvements. In a letter sent to me today, Senator FEINSTEIN has also committed to continuing to work with the Judiciary Committee in the area of cyber matters. I will ask to have her letter printed in the RECORD.

The agreement to proceed with the intelligence authorization bill today includes a commitment to ensure that the Judiciary Committee receives reports required by the bill's section 340, cybersecurity oversight. The Judiciary Committee has long engaged in oversight and legislative activity regarding cyber threats and cybersecurity. Senator FEINSTEIN and I have worked together in the Judiciary Committee for many years on these issues, and we both recognize the shared jurisdiction and responsibilities of the Judiciary and Intelligence Committees with regard to oversight of cyber matters and cybersecurity.

As Senator FEINSTEIN has described it, section 340 of the bill is intended to provide a preliminary framework for executive and congressional oversight of cybersecurity programs, as defined in the section, to ensure that these programs are consistent with legal authorities, preserve reasonable expectations of privacy, and are subject to independent audit and review. Section

340 of the bill creates several reporting requirements with regard to the executive and congressional oversight of cybersecurity programs. These include Presidential notifications to Congress, reports to Congress and the President from the head of a department or agency with responsibility for cybersecurity programs, in conjunction with the inspector general of that department or agency, and a joint report to Congress and the President from the inspector general of the Department of Homeland Security and the inspector general of the intelligence community on the status of the sharing of cyber threat information within one year. I look forward to continuing to work with Senator FEINSTEIN in the Judiciary Committee and in the Senate to ensure strong oversight and legislation with regard to cyber matters.

I am pleased the Senate today will pass the amended Intelligence Authorization Act for Fiscal Year 2010. The progress that Senator FEINSTEIN and I have made to improve this bill demonstrates the success we can have when we work together constructively.

Mr. President. I ask unanimous consent to have the letter to which I referred printed in the RECORD.

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

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, September 15, 2009.

HON. PATRICK LEAHY,
Chairman, Committee on the Judiciary,
Washington, DC.

DEAR CHAIRMAN LEAHY: As you know, our staffs have been in discussions since the beginning of recess over various provisions of S. 1494, the Intelligence Authorization Act for Fiscal Year 2010, ordered reported from the Committee on July 22, 2009. Among the provisions at issue is Section 340, Cybersecurity Oversight.

Section 340 is intended to provide a preliminary framework for executive and congressional oversight of cybersecurity programs, as defined in the section, to ensure that these programs are consistent with legal authorities, preserve reasonable expectations of privacy, and are subject to independent audit and review.

Section 340 contains several reporting requirements. One requires the President to provide certain notifications to Congress. In addition, the head of a department or agency with responsibility for cybersecurity programs, in conjunction with the inspector general of that department or agency, is to submit to Congress and the President periodic reports on the program. Finally, the Inspector General of the Department of Homeland Security and the Inspector General of the Intelligence Community are jointly to submit a report to Congress and the President on the status of the sharing of cyber threat information within one year.

Under the provision as reported, notifications and reports under the section are to be submitted “to the Congress.” Vice Chairman Bond and I have consulted with the Senate parliamentarian to convey our recommendations for how referrals of notifications and reports under the section should be made.

As we have discussed before, cybersecurity is a matter of interest to many of the committees of the Senate. Of note is the long-standing interest in, and jurisdiction over,

cyber matters by the Judiciary Committee. This includes but is not necessarily limited to the cybersecurity of the Justice Department and other departments and agencies under the Committee's jurisdiction, privacy interests of the American people, and legal dimensions of the government's cyber activities. Given the Judiciary Committee's role in these matters and the expectation that reports under Section 340 will touch on one or more of the Committee's areas of jurisdiction, it is my strong belief that documents provided to the Congress should be provided to the Judiciary Committee.

In addition, should the Intelligence Committee receive reports under this section that are within the jurisdiction of the Judiciary Committee but that are not provided to the Judiciary Committee, I will ensure that access to those reports is provided to Judiciary Committee members and staff as appropriate.

Thank you for your cooperation over this issue, and other provisions of the intelligence legislation.

Sincerely,

DIANNE FEINSTEIN,
Chairman.

Mr. CASEY. Mr. President, I ask unanimous consent that the Feinstein-Bond amendment, which is at the desk, be considered and agreed to and that the motion to reconsider be laid upon the table, that the bill as amended be read a third time, passed, that the motion to reconsider be laid upon the table, and that any statements be printed at the appropriate place in the RECORD as if read with the above occurring without intervening action or debate.

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

The amendment (No. 2422) was agreed to.

(The text of the amendment is printed in today's RECORD under “Text of Amendments.”)

The bill (S. 1494), as amended, was read the third time and passed, as follows:

S. 1494

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Intelligence Authorization Act for Fiscal Year 2010”.

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

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

**TITLE I—BUDGET AND PERSONNEL
AUTHORIZATIONS**

Sec. 101. Authorization of appropriations.
Sec. 102. Classified Schedule of Authorizations.
Sec. 103. Personnel ceiling adjustments.
Sec. 104. Intelligence Community Management Account.
Sec. 105. Restriction on conduct of intelligence activities.

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

Sec. 201. Authorization of appropriations.
Sec. 202. Technical modification to mandatory retirement provision of the Central Intelligence Agency Retirement Act.

- TITLE III—GENERAL INTELLIGENCE COMMUNITY MATTERS
- Subtitle A—Personnel Matters
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- TITLE IV—MATTERS RELATING TO ELEMENTS OF THE INTELLIGENCE COMMUNITY
- Subtitle A—Office of the Director of National Intelligence
- Sec. 401. Accountability reviews by the Director of National Intelligence.
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- Sec. 407. Inspector General of the Intelligence Community.
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- Sec. 409. Leadership and location of certain offices and officials.
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- Sec. 411. Protection of certain files of the Office of the Director of National Intelligence.
- Sec. 412. Counterintelligence initiatives for the intelligence community.
- Sec. 413. Applicability of the Privacy Act to the Director of National Intelligence and the Office of the Director of National Intelligence.
- Sec. 414. Inapplicability of Federal Advisory Committee Act to advisory committees of the Office of the Director of National Intelligence.
- Sec. 415. Membership of the Director of National Intelligence on the Transportation Security Oversight Board.
- Sec. 416. Repeal of certain authorities relating to the Office of the National Counterintelligence Executive.
- Sec. 417. Misuse of the Office of the Director of National Intelligence name, initials, or seal.
- Subtitle B—Central Intelligence Agency
- Sec. 421. Additional functions and authorities for protective personnel of the Central Intelligence Agency.
- Sec. 422. Appeals from decisions involving contracts of the Central Intelligence Agency.
- Sec. 423. Deputy Director of the Central Intelligence Agency.
- Sec. 424. Authority to authorize travel on a common carrier.
- Sec. 425. Inspector General for the Central Intelligence Agency.
- Sec. 426. Budget of the Inspector General for the Central Intelligence Agency.
- Sec. 427. Public availability of unclassified versions of certain intelligence products.
- Subtitle C—Defense Intelligence Components
- Sec. 431. Inspector general matters.
- Sec. 432. Confirmation of appointment of heads of certain components of the intelligence community.
- Sec. 433. Clarification of national security missions of National Geospatial-Intelligence Agency for analysis and dissemination of certain intelligence information.
- Sec. 434. Defense Intelligence Agency counterintelligence and expenditures.
- Subtitle D—Other Elements
- Sec. 441. Codification of additional elements of the intelligence community.
- Sec. 442. Authorization of appropriations for Coast Guard National Tactical Integration Office.
- Sec. 443. Retention and relocation bonuses for the Federal Bureau of Investigation.
- Sec. 444. Extending the authority of the Federal Bureau of Investigation to waive mandatory retirement provisions.
- Sec. 445. Report and assessments on transformation of the intelligence capabilities of the Federal Bureau of Investigation.
- TITLE V—REORGANIZATION OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE
- Sec. 501. Reorganization of the Diplomatic Telecommunications Service Program Office.
- TITLE VI—FOREIGN INTELLIGENCE AND INFORMATION COMMISSION ACT
- Sec. 601. Short title.
- Sec. 602. Definitions.
- Sec. 603. Findings.
- Sec. 604. Establishment and functions of the Commission.
- Sec. 605. Members and staff of the Commission.
- Sec. 606. Powers and duties of the Commission.
- Sec. 607. Report of the Commission.
- Sec. 608. Termination.
- Sec. 609. Nonapplicability of Federal Advisory Committee Act.
- Sec. 610. Funding.
- TITLE VII—TECHNICAL AMENDMENTS
- Sec. 701. Technical amendments to the Foreign Intelligence Surveillance Act of 1978.
- Sec. 702. Technical amendments to the Central Intelligence Agency Act of 1949.
- Sec. 703. Technical amendments to title 10, United States Code.
- Sec. 704. Technical amendments to the National Security Act of 1947.
- Sec. 705. Technical amendments relating to the multiyear National Intelligence Program.
- Sec. 706. Technical amendments to the Intelligence Reform and Terrorism Prevention Act of 2004.
- Sec. 707. Technical amendments to the Executive Schedule.
- Sec. 708. Technical amendments to section 105 of the Intelligence Authorization Act for Fiscal Year 2004.
- Sec. 709. Technical amendments to section 602 of the Intelligence Authorization Act for Fiscal Year 1995.
- Sec. 710. Technical amendments to section 403 of the Intelligence Authorization Act, Fiscal Year 1992.
- SEC. 2. DEFINITIONS.**
- In this Act:
- (1) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term “congressional intelligence committees” means—
- (A) the Select Committee on Intelligence of the Senate; and

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

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

TITLE I—BUDGET AND PERSONNEL AUTHORIZATIONS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2010 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

- (1) The Office of the Director of National Intelligence.
- (2) The Central Intelligence Agency.
- (3) The Department of Defense.
- (4) The Defense Intelligence Agency.
- (5) The National Security Agency.
- (6) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
- (7) The Coast Guard.
- (8) The Department of State.
- (9) The Department of the Treasury.
- (10) The Department of Energy.
- (11) The Department of Justice.
- (12) The Federal Bureau of Investigation.
- (13) The Drug Enforcement Administration.
- (14) The National Reconnaissance Office.
- (15) The National Geospatial-Intelligence Agency.
- (16) The Department of Homeland Security.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL LEVELS.—The amounts authorized to be appropriated under section 101 and, subject to section 103, the authorized personnel levels (expressed as full-time equivalent positions) as of September 30, 2010, for the conduct of the intelligence activities of the elements listed in paragraphs (1) through (16) of section 101, are those specified in the classified Schedule of Authorizations prepared to accompany the conference report on the bill of the One Hundred Eleventh Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The classified Schedule of Authorizations referred to in subsection (a) shall be made available to the Committee on Appropriations of the Senate, the Committee on Appropriations of the House of Representatives, and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR INCREASES.—The Director of National Intelligence may authorize the employment of civilian personnel in excess of the number of full-time equivalent positions for fiscal year 2010 authorized by the classified Schedule of Authorizations referred to in section 102(a) if the Director of National Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed 5 percent of the number of civilian personnel authorized under such section for such element.

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

(1) IN GENERAL.—In addition to the authority in subsection (a) and subject to paragraph (2), if the head of an element of the intelligence community makes a determination that activities currently being performed by contract personnel should be performed by employees of such element, the

Director of National Intelligence, in order to reduce a comparable number of contract personnel, may authorize for that purpose employment of additional full-time equivalent personnel in such element equal to the number of full-time equivalent contract personnel performing such activities.

(2) CONCURRENCE AND APPROVAL.—The authority described in paragraph (1) may not be exercised unless the Director of National Intelligence concurs with the determination described in such paragraph.

(c) TREATMENT OF CERTAIN PERSONNEL.—The Director of National Intelligence shall establish guidelines that govern, for each element of the intelligence community, the treatment under the personnel levels authorized under section 102(a), including any exemption from such personnel levels, of employment or assignment in—

- (1) a student program, trainee program, or similar program;
- (2) a reserve corps or as a reemployed annuitant; or
- (3) details, joint duty, or long term, full-time training.

(d) NOTICE TO CONGRESSIONAL INTELLIGENCE COMMITTEES.—The Director of National Intelligence shall notify the congressional intelligence committees in writing at least 15 days prior to the initial exercise of an authority described in subsection (a) or (b).

SEC. 104. INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Intelligence Community Management Account of the Director of National Intelligence for fiscal year 2010 the sum of \$786,812,000. Within such amount, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for advanced research and development shall remain available until September 30, 2011.

(b) AUTHORIZED PERSONNEL LEVELS.—The elements within the Intelligence Community Management Account of the Director of National Intelligence are authorized 792 full-time equivalent personnel as of September 30, 2010. Personnel serving in such elements may be permanent employees of the Office of the Director of National Intelligence or personnel detailed from other elements of the United States Government.

(c) CONSTRUCTION OF AUTHORITIES.—The authorities available to the Director of National Intelligence under section 103 are also available to the Director for the adjustment of personnel levels within the Intelligence Community Management Account.

(d) CLASSIFIED AUTHORIZATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated for the Intelligence Community Management Account by subsection (a), there are authorized to be appropriated for the Community Management Account for fiscal year 2010 such additional amounts as are specified in the classified Schedule of Authorizations referred to in section 102(a). Such additional amounts for advanced research and development shall remain available until September 30, 2011.

(2) AUTHORIZATION OF PERSONNEL.—In addition to the personnel authorized by subsection (b) for elements of the Intelligence Community Management Account as of September 30, 2010, there are authorized such additional full-time equivalent personnel for the Community Management Account as of that date as are specified in the classified Schedule of Authorizations referred to in section 102(a).

SEC. 105. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute

authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 2010 the sum of \$290,900,000.

SEC. 202. TECHNICAL MODIFICATION TO MANDATORY RETIREMENT PROVISION OF THE CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT.

Subparagraph (A) of section 235(b)(1) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2055(b)(1)) is amended by striking “receiving compensation under the Senior Intelligence Service pay schedule at the rate” and inserting “who is at the Senior Intelligence Service rank”.

TITLE III—GENERAL INTELLIGENCE COMMUNITY MATTERS

Subtitle A—Personnel Matters

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

Appropriations authorized 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 such compensation or benefits authorized by law.

SEC. 302. ENHANCED FLEXIBILITY IN DETAILS TO ELEMENTS OF THE INTELLIGENCE COMMUNITY.

Except as provided in section 113 of the National Security Act of 1947 (50 U.S.C. 404h) and section 904(g)(2) of the Counterintelligence Enhancement Act of 2002 (title IX of Public Law 107-306; 50 U.S.C. 402c(g)(2)) and notwithstanding any other provision of law, an officer or employee of the United States or member of the Armed Forces may be detailed to the staff of an element of the intelligence community funded through the National Intelligence Program from another element of the intelligence community or from another element of the United States Government on a reimbursable or nonreimbursable basis, as jointly agreed to by the head of the receiving element and the head of the detailing element (or the designees of such officials), for a period not to exceed 3 years.

SEC. 303. ENHANCEMENT OF AUTHORITY OF THE DIRECTOR OF NATIONAL INTELLIGENCE FOR FLEXIBLE PERSONNEL MANAGEMENT AMONG THE ELEMENTS OF THE INTELLIGENCE COMMUNITY.

Section 102A of the National Security Act of 1947 (50 U.S.C. 403-1) is amended by adding at the end the following new subsections:

“(s) AUTHORITY TO ESTABLISH POSITIONS IN EXCEPTED SERVICE.—(1) The Director of National Intelligence may, with the concurrence of the head of the department or agency concerned and in coordination with the Director of the Office of Personnel Management—

“(A) convert competitive service positions, and the incumbents of such positions, within an element of the intelligence community to excepted service positions as the Director of National Intelligence determines necessary to carry out the intelligence functions of such element; and

“(B) establish the classification and ranges of rates of basic pay for positions so converted, notwithstanding otherwise applicable laws governing the classification and rates of basic pay for such positions.

“(2)(A) At the request of the Director of National Intelligence, the head of a department or agency may establish new positions

in the excepted service within an element of such department or agency that is part of the intelligence community if the Director determines that such positions are necessary to carry out the intelligence functions of such element.

“(B) The Director of National Intelligence may establish the classification and ranges of rates of basic pay for any position established under subparagraph (A), notwithstanding otherwise applicable laws governing the classification and rates of basic pay for such positions.

“(3) The head of the department or agency concerned is authorized to appoint individuals for service in positions converted under paragraph (1) or established under paragraph (2) without regard to the provisions of chapter 33 of title 5, United States Code, governing appointments in the competitive service, and to fix the compensation of such individuals within the applicable ranges of rates of basic pay established by the Director of National Intelligence.

“(4) The maximum rate of basic pay established under this subsection is the rate for level III of the Executive Schedule under section 5314 of title 5, United States Code.

“(5) Not later than 60 days prior to the date that Director of National Intelligence will convert a position under paragraph (1) or establish a position under paragraph (2), the Director shall submit to the congressional intelligence committees a notification of such conversion or establishment.

“(t) **PAY AUTHORITY FOR CRITICAL POSITIONS.**—(1) Notwithstanding any pay limitation established under any other provision of law applicable to employees in elements of the intelligence community, the Director of National Intelligence may, in coordination with the Director of the Office of Personnel Management and the Director of the Office of Management and Budget, grant authority to fix the rate of basic pay for 1 or more positions within the intelligence community at a rate in excess of any applicable limitation, subject to the provisions of this subsection. The exercise of authority so granted is at the discretion of the head of the department or agency employing the individual in a position covered by such authority, subject to the provisions of this subsection and any conditions established by the Director of National Intelligence when granting such authority.

“(2) Authority under this subsection may be granted or exercised only—

“(A) with respect to a position which requires an extremely high level of expertise and is critical to successful accomplishment of an important mission; and

“(B) to the extent necessary to recruit or retain an individual exceptionally well qualified for the position.

“(3) A rate of basic pay may not be fixed under this subsection at a rate greater than the rate payable for level II of the Executive Schedule under section 5313 of title 5, United States Code, except upon written approval of the Director of National Intelligence or as otherwise authorized by law.

“(4) A rate of basic pay may not be fixed under this subsection at a rate greater than the rate payable for level I of the Executive Schedule under section 5312 of title 5, United States Code, except upon written approval of the President in response to a request by the Director of National Intelligence or as otherwise authorized by law.

“(5) Any grant of authority under this subsection for a position shall terminate at the discretion of the Director of National Intelligence.

“(6) The Director of National Intelligence shall notify the congressional intelligence committees within 30 days of any grant or exercise of authority under this subsection.

“(u) **EXTENSION OF FLEXIBLE PERSONNEL MANAGEMENT AUTHORITIES.**—(1) Notwithstanding any other provision of law, in order to ensure the equitable treatment of employees across the intelligence community, the Director of National Intelligence may, with the concurrence of the head of the department or agency concerned, or for those matters that fall under the responsibilities of the Office of Personnel Management under statute or executive order, in coordination with the Director of the Office of Personnel Management, authorize 1 or more elements of the intelligence community to adopt compensation authority, performance management authority, and scholarship authority that have been authorized for another element of the intelligence community if the Director of National Intelligence—

“(A) determines that the adoption of such authority would improve the management and performance of the intelligence community; and

“(B) submits to the congressional intelligence committees, not later than 60 days before such authority is to take effect, notice of the adoption of such authority by such element or elements, including the authority to be so adopted, and an estimate of the costs associated with the adoption of such authority.

“(2) To the extent that an existing compensation authority within the intelligence community is limited to a particular category of employees or a particular situation, the authority may be adopted in another element of the intelligence community under this subsection only for employees in an equivalent category or in an equivalent situation.

“(3) In this subsection, the term ‘compensation authority’ means authority involving basic pay (including position classification), premium pay, awards, bonuses, incentives, allowances, differentials, student loan repayments, and special payments, but does not include authorities as follows:

“(A) Authorities related to benefits such as leave, severance pay, retirement, and insurance.

“(B) Authority to grant a rank award by the President under section 4507, 4507a, or 3151(c) of title 5, United States Code, or any other provision of law.

“(C) Compensation authorities and performance management authorities provided under provisions of law relating to the Senior Executive Service.”.

SEC. 304. AWARD OF RANK TO MEMBERS OF THE SENIOR NATIONAL INTELLIGENCE SERVICE.

Section 102A of the National Security Act of 1947 (50 U.S.C. 403–1), as amended by section 303, is further amended by adding at the end the following:

“(v) **AWARD OF RANK TO MEMBERS OF THE SENIOR NATIONAL INTELLIGENCE SERVICE.**—The President, based on the recommendations of the Director of National Intelligence, may award ranks to members of the Senior National Intelligence Service and other intelligence community senior civilian officers not already covered by such a rank award program in a manner consistent with the provisions of section 4507 of title 5, United States Code. The award of such rank shall be made per the direction of the Director of National Intelligence and in a manner consistent with the provisions of such section 4507.”.

SEC. 305. ANNUAL PERSONNEL LEVEL ASSESSMENTS FOR THE INTELLIGENCE COMMUNITY.

(a) **ASSESSMENT.**—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.) is amended by inserting after section 506A the following new section:

“SEC. 506B. ANNUAL PERSONNEL LEVEL ASSESSMENTS FOR THE INTELLIGENCE COMMUNITY.

“(a) **REQUIREMENT TO PROVIDE.**—The Director of National Intelligence shall for the Office of the Director of National Intelligence and, in consultation with the head of the element of the intelligence community concerned, prepare an annual personnel level assessment for such element of the intelligence community that assesses the personnel levels for each such element for the fiscal year following the fiscal year in which the assessment is submitted.

“(b) **SCHEDULE.**—Each assessment required by subsection (a) shall be submitted to the congressional intelligence committees each year along with the budget submitted by the President under section 1105 of title 31, United States Code.

“(c) **CONTENTS.**—Each assessment required by subsection (a) submitted during a fiscal year shall contain the following information for the element of the intelligence community concerned:

“(1) The budget submission for personnel costs for the upcoming fiscal year.

“(2) The dollar and percentage increase or decrease of such costs as compared to the personnel costs of the current fiscal year.

“(3) The dollar and percentage increase or decrease of such costs as compared to the personnel costs during the prior 5 fiscal years.

“(4) The number of full-time equivalent positions that is the basis for which personnel funds are requested for the upcoming fiscal year.

“(5) The numerical and percentage increase or decrease of such number as compared to the number of full-time equivalent positions of the current fiscal year.

“(6) The numerical and percentage increase or decrease of such number as compared to the number of full-time equivalent positions during the prior 5 fiscal years.

“(7) The best estimate of the number and costs of contract personnel to be funded by the element for the upcoming fiscal year.

“(8) The numerical and percentage increase or decrease of such costs of contract personnel as compared to the best estimate of the costs of contract personnel of the current fiscal year.

“(9) The numerical and percentage increase or decrease of such costs of contract personnel as compared to the cost of contract personnel, and the number of contract personnel, during the prior 5 fiscal years.

“(10) A justification for the requested personnel and contract personnel levels.

“(11) The number of intelligence collectors and analysts employed or contracted by each element of the intelligence community.

“(12) A list of all contract personnel who have been the subject of an investigation or review completed by the inspector general of any element of the intelligence community during the preceding fiscal year, or are or have been the subject of an investigation or review by such an inspector general during the current fiscal year.

“(13) A statement by the Director of National Intelligence that, based on current and projected funding, the element concerned will have sufficient—

“(A) internal infrastructure to support the requested personnel and contract personnel levels;

“(B) training resources to support the requested personnel levels; and

“(C) funding to support the administrative and operational activities of the requested personnel levels.”.

(b) **APPLICABILITY DATE.**—The first assessment required to be submitted under section 506B(b) of the National Security Act of 1947, as added by subsection (a), shall be submitted with the budget for fiscal year 2011

submitted to Congress by the President under section 1105 of title 31, United States Code.

(c) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947 is amended by inserting after the item relating to section 506A the following new item:

“Sec. 506B. Annual personnel levels assessment for the intelligence community.”

SEC. 306. TEMPORARY PERSONNEL AUTHORIZATIONS FOR CRITICAL LANGUAGE TRAINING.

(a) FINDINGS.—Congress makes the following findings:

(1) In 2009, eight years after the terrorist attacks of September 11, 2001, the intelligence community continues to lack an adequate supply of personnel trained in critical foreign languages.

(2) A number of elements of the intelligence community are attempting to address that lack of supply by recruiting applicants who can speak, read, and understand critical foreign languages.

(3) Leaders in the intelligence community have recognized that improved recruiting practices are only a partial solution and that improved language training for current intelligence community employees is also necessary.

(4) While language education and instruction provides long-term benefits for both intelligence agencies and individual employees, it has short-term costs for supervisors whose staff are absent due to language training and could provide supervisors with an incentive to resist allowing individual employees to pursue language training.

(5) If the head of an element of the intelligence community was able to increase the number of personnel at that element during the period that an employee is participating in language training, that element would not have to sacrifice short-term priorities to address language training needs.

(6) The Director of National Intelligence is uniquely situated to evaluate language training needs across the intelligence community and assess whether that training would be enhanced if elements of the intelligence community were given temporary additional personnel authorizations.

(7) The intelligence community has a difficult time finding, training, and providing security clearances to native foreign language speakers who are able to serve as translators and it would be beneficial if all elements of the intelligence community were able to harness the capabilities of these individuals.

(8) The Director of National Intelligence is uniquely situated to identify translators within the intelligence community and provide for their temporary transfer from one element of the intelligence community to another element.

(b) TEMPORARY PERSONNEL AUTHORIZATIONS.—

(1) AUTHORIZED ADDITIONAL FTES.—In addition to the number of full-time equivalent positions authorized for the Office of the Director of National Intelligence for a fiscal year, there is authorized for such Office for each fiscal year an additional 100 full-time equivalent positions that may be utilized only for the purposes described in paragraph (2).

(2) PURPOSES.—The Director of National Intelligence may use a full-time equivalent position authorized under paragraph (1) only for the purposes of providing a temporary transfer of personnel made pursuant to the authority in section 102A(e)(2) of the National Security Act of 1947 (50 U.S.C. 4031(e)(2)) to an element of the intelligence

community to enable such element to increase its total authorized number of personnel, on a temporary basis—

(A) during a period in which a permanent employee of such element is absent to participate in critical language training; or

(B) to accept a permanent employee of another element of the intelligence community to provide language-capable services a temporary basis.

(c) INAPPLICABILITY OF OTHER LAW.—Subparagraph (B) of section 102A(e)(2) of the National Security Act of 1947 (50 U.S.C. 4031(e)(2)) shall not apply to a transfer of personnel authorizations made under this section.

(d) REPORTING REQUIREMENTS.—

(1) REPORT TO THE DIRECTOR OF NATIONAL INTELLIGENCE.—An element of the intelligence community that receives a temporary transfer of personnel authorized under subsection (b) shall submit to the Director of National Intelligence a report on such transfer that includes the length of time of the temporary transfer and which critical language need of such element was fulfilled or partially fulfilled by the transfer.

(2) ANNUAL REPORT TO CONGRESS.—The Director of National Intelligence shall submit to the congressional intelligence committees an annual report on this section. Each such report shall include a description of—

(A) the number of transfers of personnel made by the Director pursuant to subsection (b), disaggregated by each element of the intelligence community;

(B) the critical language that needs were fulfilled or partially fulfilled through the use of such transfers; and

(C) the cost to carry out subsection (b).

Subtitle B—Education Programs

SEC. 311. PERMANENT AUTHORIZATION FOR THE PAT ROBERTS INTELLIGENCE SCHOLARS PROGRAM.

(a) IN GENERAL.—Subsection (a) of section 318 of the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108-177; 50 U.S.C. 441g note) is amended—

(1) in the heading, by striking “PILOT PROGRAM” and inserting “IN GENERAL”;

(2) in paragraph (1)—

(A) by striking “pilot”;

(B) by inserting “, acquisition, scientific, and technical, or other” after “analytic” in both places that term appears;

(3) in paragraph (2), by striking “pilot”;

and

(4) in paragraph (3), by striking “pilot”.

(b) ELEMENTS.—Subsection (b) of section 318 of the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108-177; 50 U.S.C. 411g note) is amended—

(1) in the matter preceding paragraph (1), by striking “pilot”;

(2) in paragraph (1), by striking “analysts” and inserting “professionals”;

(3) in paragraph (2), by inserting “, acquisition, scientific, and technical, or other” after “analytic”.

(c) PERMANENT AUTHORIZATION.—Section 318 of the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108-177; 50 U.S.C. 411g note) is amended by striking subsections (c), (d), (e), (f), and (g).

(d) USE OF FUNDS.—Section 318 of the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108-177; 50 U.S.C. 411g note), as amended by subsection (c), is further amended by adding at the end the following:

“(c) USE OF FUNDS.—Funds made available for the program may be used for the following purposes:

“(1) To provide a monthly stipend for each month that the individual is pursuing a course of study described in subsection (a).

“(2) To pay such individual’s full tuition to permit the individual to complete such a course of study.

“(3) To provide an allowance for books and materials that such individual requires to complete such a course of study.

“(4) To pay such individual’s expenses for travel as requested by an element of the intelligence community related to the program.”

(e) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The section heading of section 318 of the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108-177; 117 Stat. 2613) is amended to read as follows:

“SEC. 318. PAT ROBERTS INTELLIGENCE SCHOLARS PROGRAM.”

(2) TABLE OF CONTENTS.—The table of contents in section 1(b) of the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108-177; 117 Stat. 2599) is amended by striking the item relating to section 318 and inserting the following:

“Sec. 318. Pat Roberts Intelligence Scholars Program.”

SEC. 312. MODIFICATIONS TO THE LOUIS STOKES EDUCATIONAL SCHOLARSHIP PROGRAM.

(a) EXPANSION OF THE LOUIS STOKES EDUCATIONAL SCHOLARSHIP PROGRAM TO GRADUATE STUDENTS.—Section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended—

(1) in subsection (a)—

(A) by inserting “and graduate” after “undergraduate”;

(B) by striking “the baccalaureate” and inserting “a baccalaureate or graduate”;

(2) in subsection (b), by inserting “or graduate” after “undergraduate”;

(3) in subsection (e)(2), by inserting “and graduate” after “undergraduate”;

(4) by adding at the end “Such program shall be known as the Louis Stokes Educational Scholarship Program.”

(b) AUTHORITY FOR PARTICIPATION BY INDIVIDUALS WHO ARE NOT EMPLOYED BY THE FEDERAL GOVERNMENT.—

(1) IN GENERAL.—Subsection (b) of section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note), as amended by subsection (a)(2), is further amended by striking “civilian employees” and inserting “civilians who may or may not be employees”.

(2) REPLACEMENT OF THE TERM “EMPLOYEE”.—Section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note), as amended by subsection (a), is further amended—

(A) in subsection (c), by striking “employees” and inserting “program participants”;

(B) in subsection (d)—

(i) in paragraph (1)—

(I) in the matter preceding subparagraph (A), strike “an employee of the Agency” and insert “a program participant”;

(II) in subparagraph (A), by striking “employee” and inserting “program participant”;

(III) in subparagraph (C)—

(aa) by striking “employee” each place that term appears and inserting “program participant”;

(bb) by striking “employee’s” each place that term appears and inserting “program participant’s”;

(IV) in subparagraph (D)—

(aa) by striking “employee” each place that term appears and inserting “program participant”;

(bb) by striking “employee’s” each place that term appears and inserting “program participant’s”;

(ii) in paragraph (3)(C)—

(I) by striking “employee” both places that term appears and inserting “program participant”;

(II) by striking “employee’s” and inserting “program participant’s”;

(C) in subsection (e)(1), by striking “employee” and inserting “program participant”.

(C) **TERMINATION OF PROGRAM PARTICIPANTS.**—Subsection (d)(1)(C) of section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note), as amended by subsection (b)(2)(B)(i)(III), is further amended by striking “terminated” and all that follows and inserting “terminated—

“(i) by the Agency due to misconduct by the program participant;

“(ii) by the program participant voluntarily; or

“(iii) by the Agency for the failure of the program participant to maintain such level of academic standing in the educational course of training as the Director of the National Security Agency shall have specified in the agreement of the program participant under this subsection; and”.

(d) **AUTHORITY TO WITHHOLD DISCLOSURE OF AFFILIATION WITH NSA.**—Subsection (e) of Section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by striking “(1) When an employee” and all that follows through “(2) Agency efforts” and inserting “Agency efforts”.

(e) **AUTHORITY OF ELEMENTS OF THE INTELLIGENCE COMMUNITY TO ESTABLISH A STOKES EDUCATIONAL SCHOLARSHIP PROGRAM.**—Section 102A of the National Security Act of 1947 (50 U.S.C. 403-1), as amended by sections 303 and 304, is further amended by adding at the end the following new subsection:

“(w) **EDUCATIONAL SCHOLARSHIP PROGRAM.**—The head of a department or agency containing an element of the intelligence community may establish an undergraduate or graduate training program with respect to civilian employees and prospective civilian employees of such element similar in purpose, conditions, content, and administration to the program which the Secretary of Defense is authorized to establish under section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) for civilian employees of the National Security Agency.”.

SEC. 313. INTELLIGENCE OFFICER EDUCATION PROGRAMS.

(a) **AUTHORITY.**—The Director may carry out, or may authorize the head of an element of the intelligence community to carry out, programs in accordance with this section for the purposes described in subsection (c).

(b) **DEFINITIONS.**—In this section:

(1) **DIRECTOR.**—The term “Director” means “the Director of National Intelligence”.

(2) **INSTITUTION OF HIGHER EDUCATION.**—The term “institution of higher education” has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(c) **PURPOSES.**—The purpose of a program carried out under this section shall be—

(1) to encourage the preparation, recruitment, and retention of civilian intelligence community personnel who possess language, analytic, scientific, technical, or other skills necessary to meet the needs of the intelligence community, as identified by the Director; and

(2) to enhance recruitment and retention of an ethnically and culturally diverse workforce for the intelligence community with capabilities critical to the national security interests of the United States.

(d) **AUTHORIZED PROGRAMS.**—The programs authorized under this section are as follows:

(1) **GRANTS TO INDIVIDUALS.**—A program carried out in accordance with subsection (e) to provide financial aid to an individual to pursue a program at an institution of higher education in language, analysis, science, technical fields, or other skills necessary to meet the needs of the intelligence community, as identified by the Director.

(2) **GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.**—A program carried out in accord-

ance with subsection (f) to provide a grant to an institution of higher education to develop a program of study in an area of study referred to in paragraph (1).

(e) **GRANTS TO INDIVIDUALS.**—

(1) **IN GENERAL.**—The Director, or the head of an element of the intelligence community authorized by the Director under subsection (a), may award a grant to an individual who is pursuing an associate, baccalaureate, advanced degree, or certification in an area of study referred to in subsection (c)(1) at an institution of higher education.

(2) **USE OR FUNDS.**—A grant awarded to an individual under this section to enroll in a program at an institution of higher education may be used—

(A) to pay the tuition, fees, and other costs of such program;

(B) to pay the living expenses of the individual during the time the individual is enrolled in such program; or

(C) to support internship activities of the individual within the intelligence community during the academic year or periods between academic years in which the individual is enrolled in such program.

(3) **ADMINISTRATION OF GRANTS.**—A grant of financial aid to an individual under this section shall be administered through—

(A) the Pat Roberts Intelligence Scholars Program carried out under section 318 of the Intelligence Authorization Act for Fiscal Year 2004 (50 U.S.C. 441g note); or

(B) the Louis Stokes Educational Scholarship Program carried out under section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note).

(4) **SELECTION.**—In selecting an individual to receive a grant under this section to enroll in a program at an institution of higher education, the Director or head of an element of the intelligence community, as appropriate, shall consider whether such institution has been awarded a grant under this section.

(5) **AUTHORITY FOR SCREENING.**—The Director is authorized to screen and qualify each individual selected to receive a grant under this section for the appropriate security clearance without regard to the date that the employment relationship between the individual and an element of the intelligence community is formed, or whether it is ever formed.

(f) **GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.**—

(1) **IN GENERAL.**—The Director may award a grant to an institution of higher education to support the establishment, continued development, improvement, or administration of a program of study referred to in subsection (c)(1) at such institution.

(2) **USE OF FUNDS.**—A grant awarded to an institution of higher education under this section may be used for the following:

(A) Curriculum or program development.

(B) Faculty development.

(C) Laboratory equipment or improvements.

(D) Faculty research in language, analysis, science, technical, or other fields that meet current or emerging needs of the intelligence community as identified by the Director of National Intelligence.

(3) **REPORTS.**—An institution of higher education awarded a grant under this section shall submit to the Director regular reports regarding the use of such grant, including—

(A) a description of the benefits to students who participate in the course of study funded by such grant;

(B) a description of the results and accomplishments related to such course of study; and

(C) any other information that the Director may require.

(g) **APPLICATION.**—An individual or an institution of higher education seeking a grant under this section shall submit an application to the Director describing the proposed use of the grant at such time and in such manner as the Director may require.

(h) **REGULATIONS.**—The Director shall prescribe such regulations as are necessary to carry out this section.

(i) **REPEAL OF PRIOR PROGRAMS.**—

(1) **IN GENERAL.**—The following provisions are repealed:

(A) Section 319 of Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108-177; 50 U.S.C. 403 note).

(B) Section 1003 of the National Security Act of 1947 (50 U.S.C. 441g-2).

(C) Section 922 of Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 50 U.S.C. 402 note).

(2) **EFFECT ON PRIOR AGREEMENTS.**—An agreement, contract, or employment relationship that was in effect pursuant to a provision repealed by subparagraph (A), (B), or (C) of paragraph (1) prior to the date of the enactment of this Act shall remain in effect unless all parties mutually agree to amend, modify, or abrogate such agreement, contract, or relationship.

(3) **TABLE OF CONTENTS AMENDMENTS.**—

(A) **INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2004.**—The Intelligence Authorization Act for Fiscal Year 2004 is amended in the table of contents in section 1(b), by striking the item relating to section 319.

(B) **RONALD W. REAGAN NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005.**—The Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 118 Stat. 1811) is amended—

(i) in the table of contents in section 2(b), by striking the item relating to section 922; and

(ii) in title IV in the table of contents preceding subtitle A, by striking the item relating to section 922.

(j) **EFFECT OF OTHER LAW.**—The Director shall administer the Intelligence Officer Training Program pursuant to the provisions of chapter 63 of title 31, United States Code and chapter 75 of such title, except that the Comptroller General of the United States shall have no authority, duty, or responsibility in matters related to this program.

SEC. 314. REVIEW AND REPORT ON EDUCATION PROGRAMS.

(a) **REVIEW.**—

(1) **REQUIREMENT FOR REVIEW.**—The Director of National Intelligence shall review the programs described in paragraph (2) to determine if such programs—

(A) meet the needs of the intelligence community to prepare, recruit, and retain a skilled and diverse workforce;

(B) should be combined or otherwise integrated; and

(C) constitute all the education programs carried out by the Director of National Intelligence or the head of an element of the intelligence community and, if not, whether other such educational programs could be combined or otherwise integrated with the programs described in paragraph (2).

(2) **PROGRAMS DESCRIBED.**—The programs described in this paragraph are the following:

(A) The Pat Roberts Intelligence Scholars Program carried out under section 318 of the Intelligence Authorization Act for Fiscal Year 2004 (50 U.S.C. 441g note), as amended by section 311.

(B) The Louis Stokes Educational Scholarship Program carried out under section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note), as amended by section 312.

(C) The education grant programs carried out under section 313.

(D) Any other program that provides for education or training of personnel of an element of the intelligence community.

(b) REPORT.—Not later than February 1, 2010, the Director of National Intelligence shall submit to the congressional intelligence committees a report on the results of the review required by subsection (a).

Subtitle C—Acquisition Matters

SEC. 321. VULNERABILITY ASSESSMENTS OF MAJOR SYSTEMS.

(a) VULNERABILITY ASSESSMENTS OF MAJOR SYSTEMS.—

(1) IN GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by section 305 of this Act, is further amended by inserting after section 506B, as added by section 305(a), the following new section:

“VULNERABILITY ASSESSMENTS OF MAJOR SYSTEMS

“SEC. 506C. (a) INITIAL VULNERABILITY ASSESSMENTS.—

“(1) REQUIREMENT FOR INITIAL VULNERABILITY ASSESSMENTS.—The Director of National Intelligence shall conduct an initial vulnerability assessment for any major system and its significant items of supply that is proposed for inclusion in the National Intelligence Program prior to completion of Milestone B or an equivalent acquisition decision. The initial vulnerability assessment of a major system and its significant items of supply shall include use of an analysis-based approach to—

“(A) identify vulnerabilities;

“(B) define exploitation potential;

“(C) examine the system’s potential effectiveness;

“(D) determine overall vulnerability; and

“(E) make recommendations for risk reduction.

“(2) LIMITATION ON OBLIGATION OF FUNDS.—

For any major system for which an initial vulnerability assessment is required under paragraph (1) on the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2010, such assessment shall be submitted to the congressional intelligence committees within 180 days of such date of enactment. If such assessment is not submitted to the congressional intelligence committees within 180 days of such date of enactment, funds appropriated for the acquisition of the major system may not be obligated for a major contract related to the major system. Such prohibition on the obligation of funds for the acquisition of the major system shall cease to apply at the end of the 30-day period of a continuous session of Congress that begins on the date on which Congress receives the initial vulnerability assessment.

“(b) SUBSEQUENT VULNERABILITY ASSESSMENTS.—(1) The Director of National Intelligence shall, periodically throughout the life span of a major system or if the Director determines that a change in circumstances warrants the issuance of a subsequent vulnerability assessment, conduct a subsequent vulnerability assessment of each major system and its significant items of supply within the National Intelligence Program.

“(2) Upon the request of a congressional intelligence committee, the Director of National Intelligence may conduct a subsequent vulnerability assessment of a particular major system and its significant items of supply within the National Intelligence Program.

“(3) Any subsequent vulnerability assessment of a major system and its significant items of supply shall include use of an analysis-based approach and, if applicable, a testing-based approach, to monitor the exploitation potential of such system and reexamine the factors described in subparagraphs (A) through (E) of subsection (a)(1).

“(c) MAJOR SYSTEM MANAGEMENT.—The Director of National Intelligence shall give due consideration to the vulnerability assessments prepared for a given major system when developing and determining the National Intelligence Program budget.

“(d) CONGRESSIONAL OVERSIGHT.—(1) The Director of National Intelligence shall provide to the congressional intelligence committees a copy of each vulnerability assessment conducted under subsection (a) or (b) not later than 10 days after the date of the completion of such assessment.

“(2) The Director of National Intelligence shall provide the congressional intelligence committees with a proposed schedule for subsequent vulnerability assessments of a major system under subsection (b) when providing such committees with the initial vulnerability assessment under subsection (a) of such system as required by paragraph (1).

“(e) DEFINITIONS.—In this section:

“(1) The term ‘items of supply’—

“(A) means any individual part, component, subassembly, assembly, or subsystem integral to a major system, and other property which may be replaced during the service life of the major system, including spare parts and replenishment parts; and

“(B) does not include packaging or labeling associated with shipment or identification of items.

“(2) The term ‘major system’ has the meaning given that term in section 506A(e).

“(3) The term ‘Milestone B’ means a decision to enter into system development and demonstration pursuant to guidance prescribed by the Director of National Intelligence.

“(4) The term ‘vulnerability assessment’ means the process of identifying and quantifying vulnerabilities in a major system and its significant items of supply.”

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947, as amended by section 305 of this Act, is further amended by inserting after the item relating to section 506B, as added by section 305(b), the following:

“Sec. 506C. Vulnerability assessments of major systems.”

(b) DEFINITION OF MAJOR SYSTEM.—Paragraph (3) of section 506A(e) of the National Security Act of 1947 (50 U.S.C. 415a-1(e)) is amended to read as follows:

“(3) The term ‘major system’ has the meaning given that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).”

SEC. 322. INTELLIGENCE COMMUNITY BUSINESS SYSTEM TRANSFORMATION.

(a) INTELLIGENCE COMMUNITY BUSINESS SYSTEM TRANSFORMATION.—

(1) IN GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by sections 305 and 321 of this Act, is further amended by inserting after section 506C, as added by section 321(a), the following new section:

“INTELLIGENCE COMMUNITY BUSINESS SYSTEM TRANSFORMATION

“SEC. 506D. (a) LIMITATION ON OBLIGATION OF FUNDS.—(1) After February 1, 2010, no funds appropriated to any element of the intelligence community may be obligated for an intelligence community business system transformation that will have a total cost in excess of \$1,000,000 unless—

“(A) the approval authority designated by the Director of National Intelligence under subsection (c)(2) makes the certification described in paragraph (2) with respect to the intelligence community business system transformation; and

“(B) the certification is approved by the appropriate authorities within the intel-

ligence community business system transformation governance structure identified in subsection (f).

“(2) The certification described in this paragraph for an intelligence community business system transformation is a certification, made by the approval authority designated by the Director under subsection (c)(2) that the intelligence community business system transformation—

“(A) complies with the enterprise architecture under subsection (b) and other Director of National Intelligence policy and standards; or

“(B) is necessary—

“(i) to achieve a critical national security capability or address a critical requirement in an area such as safety or security; or

“(ii) to prevent a significant adverse effect on a project that is needed to achieve an essential capability, taking into consideration the alternative solutions for preventing such adverse effect.

“(b) ENTERPRISE ARCHITECTURE FOR INTELLIGENCE COMMUNITY BUSINESS SYSTEMS.—(1) The Director of National Intelligence shall, acting through the intelligence community business system transformation governance structure identified in subsection (f), develop and implement an enterprise architecture to cover all intelligence community business systems, and the functions and activities supported by such business systems. The enterprise architecture shall be sufficiently defined to effectively guide, constrain, and permit implementation of interoperable intelligence community business system solutions, consistent with applicable policies and procedures established by the Director of the Office of Management and Budget.

“(2) The enterprise architecture under paragraph (1) shall include the following—

“(A) An information infrastructure that, at a minimum, will enable the intelligence community to—

“(i) comply with all Federal accounting, financial management, and reporting requirements;

“(ii) routinely produce timely, accurate, and reliable financial information for management purposes;

“(iii) integrate budget, accounting, and program information and systems; and

“(iv) provide for the measurement of performance, including the ability to produce timely, relevant, and reliable cost information.

“(B) Policies, procedures, data standards, and system interface requirements that apply uniformly throughout the intelligence community.

“(c) RESPONSIBILITIES FOR INTELLIGENCE COMMUNITY BUSINESS SYSTEM TRANSFORMATION.—(1) The Director of National Intelligence shall be responsible for the entire life cycle of an intelligence community business system transformation, to include review, approval, and oversight of the planning, design, acquisition, deployment, operation, and maintenance of the business system transformation.

“(2) The Director shall designate one or more appropriate officials of the intelligence community to be responsible for making certifications with respect to intelligence community business system transformation under subsection (a)(2).

“(d) INTELLIGENCE COMMUNITY BUSINESS SYSTEM INVESTMENT REVIEW.—(1) The approval authority designated under subsection (c)(2) shall establish and implement, not later than February 1, 2010, an investment review process for the intelligence community business systems for which the approval authority is responsible.

“(2) The investment review process under paragraph (1) shall—

“(A) meet the requirements of section 11312 of title 40, United States Code; and

“(B) specifically set forth the responsibilities of the approval authority under such review process.

“(3) The investment review process under paragraph (1) shall include the following elements:

“(A) Review and approval by an investment review board (consisting of appropriate representatives of the intelligence community) of each intelligence community business system as an investment before the obligation of funds for such system.

“(B) Periodic review, but not less often than annually, of every intelligence community business system investment.

“(C) Thresholds for levels of review to ensure appropriate review of intelligence community business system investments depending on the scope, complexity, and cost of the system involved.

“(D) Procedures for making certifications in accordance with the requirements of subsection (a)(2).

“(e) BUDGET INFORMATION.—For each fiscal year after fiscal year 2011, the Director of National Intelligence shall include in the materials the Director submits to Congress in support of the budget for such fiscal year that is submitted to Congress under section 1105 of title 31, United States Code, the following information:

“(1) An identification of each intelligence community business system for which funding is proposed in such budget.

“(2) An identification of all funds, by appropriation, proposed in such budget for each such system, including—

“(A) funds for current services to operate and maintain such system;

“(B) funds for business systems modernization identified for each specific appropriation; and

“(C) funds for associated business process improvement or reengineering efforts.

“(3) For each such system, identification of approval authority designated for such system under subsection (c)(2).

“(4) The certification, if any, made under subsection (a)(2) with respect to each such system.

“(f) INTELLIGENCE COMMUNITY BUSINESS SYSTEM TRANSFORMATION GOVERNANCE BOARD.—

“(1) The Director of National Intelligence shall establish a board within the intelligence community business system transformation governance structure (in this subsection referred to as the ‘Board’).

“(2) The Board shall—

“(A) recommend to the Director policies and procedures necessary to effectively integrate all business activities and any transformation, reform, reorganization, or process improvement initiatives under taken within the intelligence community;

“(B) review and approve any major update of—

“(i) the enterprise architecture developed under subsection (b); and

“(ii) any plans for an intelligence community business systems modernization;

“(C) manage cross-domain integration consistent with such enterprise architecture;

“(D) be responsible for coordinating initiatives for intelligence community business system transformation to maximize benefits and minimize costs for the intelligence community, and periodically report to the Director on the status of efforts to carry out an intelligence community business system transformation;

“(E) ensure that funds are obligated for intelligence community business system transformation in a manner consistent with subsection (a); and

“(F) carry out such other duties as the Director shall specify.

“(g) RELATION TO ANNUAL REGISTRATION REQUIREMENTS.—Nothing in this section shall be construed to alter the requirements of section 8083 of the Department of Defense Appropriations Act, 2005 (Public Law 108-287; 118 Stat. 989), with regard to information technology systems (as defined in subsection (d) of such section).

“(h) RELATIONSHIP TO DEFENSE BUSINESS ENTERPRISE ARCHITECTURE.—Nothing in this section, or the amendments made by this section, shall be construed to exempt funds authorized to be appropriated to the Department of Defense from the requirements of section 2222 of title 10, United States Code, to the extent that such requirements are otherwise applicable.

“(i) RELATION TO CLINGER-COHEN ACT.—(1) Executive agency responsibilities in chapter 113 of title 40, United States Code, for any intelligence community business system transformation shall be exercised jointly by—

“(A) the Director of National Intelligence and the Chief Information Officer of the Intelligence Community; and

“(B) the head of the executive agency that contains the element of the intelligence community involved and the chief information officer of that executive agency.

“(2) The Director of National Intelligence and the head of the executive agency shall enter a Memorandum of Understanding to carry out the requirements of this section in a manner that best meets the needs of the intelligence community and the executive agency.

“(j) REPORTS.—Not later than March 15 of each of the years 2011 through 2015, the Director of National Intelligence shall submit to the congressional intelligence committees a report on the compliance of the intelligence community with the requirements of this section. Each such report shall—

“(1) describe actions taken and proposed for meeting the requirements of subsection (a), including—

“(A) specific milestones and actual performance against specified performance measures, and any revision of such milestones and performance measures; and

“(B) specific actions on the intelligence community business system transformations submitted for certification under such subsection; and

“(2) identify the number of intelligence community business system transformations that received a certification described in subsection (a)(2)(B); and

“(3) describe specific improvements in business operations and cost savings resulting from successful intelligence community business systems transformation efforts.

“(k) DEFINITIONS.—In this section:

“(1) ENTERPRISE ARCHITECTURE.—The term ‘enterprise architecture’ has the meaning given that term in section 3601(4) of title 44, United States Code.

“(2) INFORMATION SYSTEM; INFORMATION TECHNOLOGY.—The terms ‘information system’ and ‘information technology’ have the meanings given those terms in section 11101 of title 40, United States Code.

“(3) INTELLIGENCE COMMUNITY BUSINESS SYSTEM.—The term ‘intelligence community business system’ means an information system, including national security systems, that are operated by, for, or on behalf of the intelligence community or elements of the intelligence community as defined by law and Executive Order, including financial systems, mixed systems, financial data feeder systems, and the business infrastructure capabilities shared by the systems of the business enterprise architecture, including people, process, and technology, that build upon the core infrastructure used to support business activities, such as acquisition, financial management, logistics, strategic planning

and budgeting, installations and environment, and human resource management.

“(4) INTELLIGENCE COMMUNITY BUSINESS SYSTEM TRANSFORMATION.—The term ‘intelligence community business system transformation’ means—

“(A) the acquisition or development of a new intelligence community business system; or

“(B) any significant modification or enhancement of an existing intelligence community business system (other than necessary to maintain current services).

“(5) NATIONAL SECURITY SYSTEM.—The term ‘national security system’ has the meaning given that term in section 3542 of title 44, United States Code.”.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of that Act, as amended by sections 305 and 321 of this Act, is further amended by inserting after the item relating to section 506C, as added by section 321(a)(2), the following new item:

“Sec. 506D. Intelligence community business systems transformation.”.

(b) IMPLEMENTATION.—

(1) CERTAIN DUTIES.—Not later than 60 days after the date of the enactment of this Act, the Director of National Intelligence shall—

(A) complete the delegation of responsibility for the review, approval, and oversight of intelligence community business systems required by subsection (c) of section 506D of the National Security Act of 1947 (as added by subsection (a)); and

(B) designate a chairman and personnel to serve on the appropriate intelligence community business system transformation governance board established under subsection (f) of such section 506D (as so added).

(2) ENTERPRISE ARCHITECTURE.—

(A) SCHEDULE FOR DEVELOPMENT.—The Director shall develop the enterprise architecture required by subsection (b) of such section 506D (as so added) to include the initial Business Enterprise Architecture for business transformation by December 31, 2009.

(B) REQUIREMENT FOR IMPLEMENTATION PLAN.—In developing such an enterprise architecture, the Director shall develop an implementation plan for such enterprise architecture that includes the following:

(i) An acquisition strategy for new systems that are expected to be needed to complete such enterprise architecture, including specific time-phased milestones, performance metrics, and a statement of the financial and nonfinancial resource needs.

(ii) An identification of the intelligence community business systems in operation or planned as of September 30, 2009, that will not be a part of such enterprise architecture, together with the schedule for the phased termination of the utilization of any such systems.

(iii) An identification of the intelligence community business systems in operation or planned as of September 30, 2009, that will be a part of such enterprise architecture, together with a strategy for modifying such systems to ensure that such systems comply with such enterprise architecture.

(C) SUBMISSION OF ACQUISITION STRATEGY.—Based on the results of an enterprise process management review and the availability of funds, the Director shall submit the acquisition strategy described in subparagraph (B)(i) to the congressional intelligence committees not later than December 31, 2009.

SEC. 323. REPORTS ON THE ACQUISITION OF MAJOR SYSTEMS.

(a) REPORTS.—

(1) IN GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by sections 305, 321, and 322 of this Act, is further amended by inserting after

section 506D, as added by section 322(a)(1), the following new section:

“REPORTS ON THE ACQUISITION OF MAJOR SYSTEMS

“SEC. 506E. (a) ANNUAL REPORTS REQUIRED.—(1) The Director of National Intelligence shall submit to the congressional intelligence committees each year, at the same time the budget of the President for the fiscal year beginning in such year is submitted to Congress pursuant to section 1105 of title 31, United States Code, a separate report on each acquisition of a major system by an element of the intelligence community.

“(2) Each report under this section shall be known as a ‘Report on the Acquisition of Major Systems’.

“(b) ELEMENTS.—Each report under this section shall include, for the acquisition of a major system, information on the following:

“(1) The current total acquisition cost for such system, and the history of such cost from the date the system was first included in a report under this section to the end of the fiscal year immediately preceding the submission of the report under this section.

“(2) The current development schedule for the system, including an estimate of annual development costs until development is completed.

“(3) The planned procurement schedule for the system, including the best estimate of the Director of National Intelligence of the annual costs and units to be procured until procurement is completed.

“(4) A full life-cycle cost analysis for such system.

“(5) The result of any significant test and evaluation of such major system as of the date of the submission of such report, or, if a significant test and evaluation has not been conducted, a statement of the reasons therefor and the results of any other test and evaluation that has been conducted of such system.

“(6) The reasons for any change in acquisition cost, or schedule, for such system from the previous report under this section, if applicable.

“(7) The major contracts or subcontracts related to the major system.

“(8) If there is any cost or schedule variance under a contract referred to in paragraph (7) since the previous report under this section, the reasons for such cost or schedule variance.

“(c) DETERMINATION OF INCREASE IN COSTS.—Any determination of a percentage increase in the acquisition costs of a major system for which a report is filed under this section shall be stated in terms of constant dollars from the first fiscal year in which funds are appropriated for such contract.

“(d) SUBMISSION TO THE CONGRESSIONAL ARMED SERVICES COMMITTEES.—To the extent that the report required by subsection (a) addresses an element of the intelligence community within the Department of Defense, the Director of National Intelligence shall submit that portion of the report, and any associated material that is necessary to make that portion understandable, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

“(e) DEFINITIONS.—In this section:

“(1) The term ‘acquisition cost’, with respect to a major system, means the amount equal to the total cost for development and procurement of, and system-specific construction for, such system.

“(2) The term ‘full life-cycle cost’, with respect to the acquisition of a major system, means all costs of development, procurement, construction, deployment, and operation and support for such program, without

regard to funding source or management control, including costs of development and procurement required to support or utilize such system.

“(3) The term ‘major contract,’ with respect to a major system acquisition, means each of the 6 largest prime, associate, or government-furnished equipment contracts under the program that is in excess of \$40,000,000 and that is not a firm, fixed price contract.

“(4) The term ‘major system’ has the meaning given that term in section 506A(e).

“(5) The term ‘significant test and evaluation’ means the functional or environmental testing of a major system or of the subsystems that combine to create a major system.”

(2) APPLICABILITY DATE.—The first report required to be submitted under section 506E(a) of the National Security Act of 1947, as added by paragraph (1), shall be submitted with the budget for fiscal year 2011 submitted by the President under section 1105 of title 31, United States Code.

(3) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of that Act, as amended by sections 305, 321, and 322 of this Act, is further amended by inserting after the item relating to section 506D, as added by section 322(a)(2), the following new item:

“Sec. 506E. Reports on the acquisition of major systems.”

(b) MAJOR DEFENSE ACQUISITION PROGRAMS.—Nothing in this section, section 324, or an amendment made by this section or section 324, shall be construed to exempt an acquisition program of the Department of Defense from the requirements of chapter 144 of title 10, United States Code or Department of Defense Directive 5000, to the extent that such requirements are otherwise applicable.

SEC. 324. EXCESSIVE COST GROWTH OF MAJOR SYSTEMS.

(a) NOTIFICATION.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by sections 305, 321, 322, and 323 of this Act, is further amended by inserting after section 506E, as added by section 323(a), the following new section:

“EXCESSIVE COST GROWTH OF MAJOR SYSTEMS

“SEC. 506F. (a) COST INCREASES OF AT LEAST 25 PERCENT.—(1)(A) On a continuing basis, and separate from the submission of any report on a major system required by section 506E of this Act, the program manager shall determine if the acquisition cost of such major system has increased by at least 25 percent as compared to the baseline cost of such major system.

“(B) Not later than 10 days after the date that a program manager determines that an increase described in subparagraph (A) has occurred, the program manager shall submit to the Director of National Intelligence notification of such increase.

“(2)(A) If, after receiving a notification described in paragraph (1)(B), the Director of National Intelligence determines that the acquisition cost of a major system has increased by at least 25 percent, the Director shall submit to the congressional intelligence committees a written notification of such determination as described in subparagraph (B), a description of the amount of the increase in the acquisition cost of such major system, and a certification as described in subparagraph (C).

“(B) The notification required by subparagraph (A) shall include—

“(i) an updated cost estimate;

“(ii) the date on which the determination covered by such notification was made;

“(iii) contract performance assessment information with respect to each significant contract or sub-contract related to such

major system, including the name of the contractor, the phase of the contract at the time of the report, the percentage of work under the contract that has been completed, any change in contract cost, the percentage by which the contract is currently ahead or behind schedule, and a summary explanation of significant occurrences, such as cost and schedule variances, and the effect of such occurrences on future costs and schedules;

“(iv) the prior estimate of the full life-cycle cost for such major system, expressed in constant dollars and in current year dollars;

“(v) the current estimated full life-cycle cost of such major system, expressed in constant dollars and current year dollars;

“(vi) a statement of the reasons for any increases in the full life-cycle cost of such major system;

“(vii) the current change and the total change, in dollars and expressed as a percentage, in the full life-cycle cost applicable to such major system, stated both in constant dollars and current year dollars;

“(viii) the completion status of such major system expressed as the percentage—

“(I) of the total number of years for which funds have been appropriated for such major system compared to the number of years for which it is planned that such funds will be appropriated; and

“(II) of the amount of funds that have been appropriated for such major system compared to the total amount of such funds which it is planned will be appropriated;

“(ix) the action taken and proposed to be taken to control future cost growth of such major system; and

“(x) any changes made in the performance or schedule of such major system and the extent to which such changes have contributed to the increase in full life-cycle costs of such major system.

“(C) The certification described in this subparagraph is a written certification made by the Director and submitted to the congressional intelligence committees that—

“(i) the acquisition of such major system is essential to the national security;

“(ii) there are no alternatives to such major system that will provide equal or greater intelligence capability at equal or lesser cost to completion;

“(iii) the new estimates of the full life-cycle cost for such major system are reasonable; and

“(iv) the management structure for the acquisition of such major system is adequate to manage and control full life-cycle cost of such major system.

“(b) COST INCREASES OF AT LEAST 50 PERCENT.—(1)(A) On a continuing basis, and separate from the submission of any report on a major system required by section 506E of this Act, the program manager shall determine if the acquisition cost of such major system has increased by at least 50 percent as compared to the baseline cost of such major system.

“(B) Not later than 10 days after the date that a program manager determines that an increase described in subparagraph (A) has occurred, the program manager shall submit to the Director of National Intelligence notification of such increase.

“(2) If, after receiving a notification described in paragraph (1)(B), the Director of National Intelligence determines that the acquisition cost of a major system has increased by at least 50 percent as compared to the baseline cost of such major system, the Director shall submit to the congressional intelligence committees a written certification stating that—

“(A) the acquisition of such major system is essential to the national security;

“(B) there are no alternatives to such major system that will provide equal or

greater intelligence capability at equal or lesser cost to completion;

“(C) the new estimates of the full life-cycle cost for such major system are reasonable; and

“(D) the management structure for the acquisition of such major system is adequate to manage and control the full life-cycle cost of such major system.

“(3) In addition to the certification required by paragraph (2), the Director of National Intelligence shall submit to the congressional intelligence committees an updated notification, with current accompanying information, as required by subsection (a)(2).

“(c) PROHIBITION ON OBLIGATION OF FUNDS.—(1) If a written certification required under subsection (a)(2)(A) is not submitted to the congressional intelligence committees within 90 days of the notification made under subsection (a)(1)(B), funds appropriated for the acquisition of a major system may not be obligated for a major contract under the program. Such prohibition on the obligation of funds shall cease to apply at the end of the 30-day period of a continuous session of Congress that begins on the date on which Congress receives the notification required under subsection (a)(2).

“(2) If a written certification required under subsection (b)(2) is not submitted to the congressional intelligence committees within 90 days of the notification made under subsection (b)(1)(B), funds appropriated for the acquisition of a major system may not be obligated for a major contract under the program. Such prohibition on the obligation of funds for the acquisition of a major system shall cease to apply at the end of the 30-day period of a continuous session of Congress that begins on the date on which Congress receives the notification required under subsection (b)(3).

“(d) INITIAL CERTIFICATIONS.—Notwithstanding subsection (c), for any major system for which a written certification is required under either subsection (a)(2) or (b)(2) on the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2010, such written certification shall be submitted to the congressional intelligence committees within 180 days of such date of enactment. If such written certification is not submitted to the congressional intelligence committees within 180 days of such date of enactment, funds appropriated for the acquisition of a major system may not be obligated for a major contract under the program. Such prohibition on the obligation of funds for the acquisition of a major system shall cease to apply at the end of the 30-day period of a continuous session of Congress that begins on the date on which Congress receives the notification required under subsection (a)(2) or (b)(3).

“(e) SUBMISSION TO THE CONGRESSIONAL ARMED SERVICES COMMITTEES.—To the extent that a submission required to be made to the congressional intelligence committees under this section addresses an element of the intelligence community within the Department of Defense, the Director of National Intelligence shall submit that portion of the submission, and any associated material that is necessary to make that portion understandable, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

“(f) DEFINITIONS.—In this section:

“(1) The term ‘acquisition cost’ has the meaning given that term in section 506E(d).

“(2) The term ‘baseline cost’, with respect to a major system, means the projected acquisition cost of such system that is approved by the Director of National Intelligence at Milestone B or an equivalent ac-

quisition decision for the development, procurement, and construction of such system. The baseline cost may be in the form of an independent cost estimate.

“(3) The term ‘cost estimate’—

“(A) means an assessment and quantification of all costs and risks associated with the acquisition of a major system based upon reasonably available information at the time a written certification is required under either subsection (a)(2) or (b)(2); and

“(B) does not mean an ‘independent cost estimate’.

“(4) The term ‘full life-cycle cost’ has the meaning given that term in section 506E(d).

“(5) The term ‘independent cost estimate’ has the meaning given that term in section 506A(e).

“(6) The term ‘major system’ has the meaning given that term in section 506A(e).

“(7) The term ‘Milestone B’ means a decision to enter into system development and demonstration pursuant to guidance prescribed by the Director of National Intelligence.

“(8) The term ‘program manager’, with respect to a major system, means—

“(A) the head of the element of the intelligence community which is responsible for the budget, cost, schedule, and performance of the major system; or

“(B) in the case of a major system within the Office of the Director of National Intelligence, the deputy who is responsible for the budget, cost, schedule, and performance of the major system.”

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of that Act, as amended by sections 305, 321, 322, and 323 of this Act, is further amended by inserting after the items relating to section 506E, as added by section 323(a)(3), the following new item:

“Sec. 506F. Excessive cost growth of major systems.”

SEC. 325. FUTURE BUDGET PROJECTIONS.

(a) IN GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by sections 305, 321, 322, 323, and 324 of this Act, is further amended by inserting after section 506F, as added by section 324(a), the following new section:

“FUTURE BUDGET PROJECTIONS

“SEC. 506G. (a) FUTURE YEAR INTELLIGENCE PLANS.—(1) The Director of National Intelligence, with the concurrence of the Office of Management and Budget, shall provide to the congressional intelligence committees a Future Year Intelligence Plan, as described in paragraph (2), for—

“(A) each expenditure center in the National Intelligence Program; and

“(B) each major system in the National Intelligence Program.

“(2)(A) A Future Year Intelligence Plan submitted under this subsection shall include the year-by-year proposed funding for each center or system referred to in subparagraph (A) or (B) of paragraph (1), for the budget year for which the Plan is submitted and not less than the 4 subsequent budget years.

“(B) A Future Year Intelligence Plan submitted under subparagraph (B) of paragraph (1) for a major system shall include—

“(i) the estimated total life-cycle cost of such major system; and

“(ii) any major acquisition or programmatic milestones for such major system.

“(b) LONG-TERM BUDGET PROJECTIONS.—(1) The Director of National Intelligence, with the concurrence of the Director of the Office of Management and Budget, shall provide to the congressional intelligence committees a Long-term Budget Projection for each element of the National Intelligence Program

acquiring a major system that includes the budget for such element for the 5-year period following the last budget year for which proposed funding was submitted under subsection (a)(2)(A).

“(2) A Long-term Budget Projection submitted under paragraph (1) shall include projections for the appropriate element of the intelligence community for—

“(A) pay and benefits of officers and employees of such element;

“(B) other operating and support costs and minor acquisitions of such element;

“(C) research and technology required by such element;

“(D) current and planned major system acquisitions for such element; and

“(E) any unplanned but necessary next-generation major system acquisitions for such element.

“(c) SUBMISSION TO CONGRESS.—Each Future Year Intelligence Plan or Long-term Budget Projection required under subsection (a) or (b) shall be submitted to Congress along with the budget for a fiscal year submitted to Congress by the President pursuant to section 1105 of title 31, United States Code.

“(d) CONTENT OF LONG-TERM BUDGET PROJECTIONS.—(1) Each Long-term Budget Projection submitted under subsection (b) shall include—

“(A) a budget projection based on constrained budgets, effective cost and schedule execution of current or planned major system acquisitions, and modest or no cost-growth for undefined, next-generation systems; and

“(B) a budget projection based on constrained budgets, modest cost increases in executing current and planned programs, and more costly next-generation systems.

“(2) Each budget projection required by paragraph (1) shall include a description of whether, and to what extent, the total projection for each year exceeds the level that would result from applying the most recent Office of Management and Budget inflation estimate to the budget of that element of the intelligence community.

“(e) NEW MAJOR SYSTEM AFFORDABILITY REPORT.—(1) Beginning on February 1, 2010, not later than 30 days prior to the date that an element of the intelligence community may proceed to Milestone A, Milestone B, or an analogous stage of system development, in the acquisition of a major system in the National Intelligence Program, the Director of National Intelligence, with the concurrence of the Director of the Office of Management and Budget, shall provide a report on such major system to the congressional intelligence committees.

“(2)(A) A report submitted under paragraph (1) shall include an assessment of whether, and to what extent, such acquisition, if developed, procured, and operated, is projected to cause an increase in the most recent Future Year Intelligence Plan and Long-term Budget Projection for that element of the intelligence community.

“(B) If an increase is projected under subparagraph (A), the report required by this subsection shall include a specific finding, and the reasons therefor, by the Director of National Intelligence and the Director of the Office of Management and Budget that such increase is necessary for national security.

“(f) DEFINITIONS.—In this section:

“(1) The term ‘major system’ has the meaning given that term in section 506A(e).

“(2) The term ‘Milestone A’ means a decision to enter into concept refinement and technology maturity demonstration pursuant to guidance issued by the Director of National Intelligence.

“(3) The term ‘Milestone B’ means a decision to enter into system development, integration, and demonstration pursuant to

guidance prescribed by the Director of National Intelligence.”.

(b) **APPLICABILITY DATE.**—The first Future Year Intelligence Plan or Long-term Budget Projection required to be submitted under subsection (a) or (b) of section 506G of the National Security Act of 1947, as added by subsection (a), shall be submitted with the budget for fiscal year 2011 submitted by the President under section 1105 of title 31, United States Code.

(c) **TABLE OF CONTENTS AMENDMENT.**—The table of contents in the first section of that Act, as amended by sections 305, 321, 322, 323, and 324 of this Act, is further amended by inserting after the items relating to section 506F, as added by section 324(b), the following new item:

“Sec. 506G. Future budget projections.”.

SEC. 326. NATIONAL INTELLIGENCE PROGRAM FUNDED ACQUISITIONS.

Subsection (n) of section 102A of the National Security Act of 1947 (50 U.S.C. 403-1) is amended by adding at the end the following:

“(4)(A) In addition to the authority referred to in paragraph (1), the Director of National Intelligence may authorize the head of an element of the intelligence community to exercise an acquisition authority referred to in section 3 or 8(a) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403c and 403j(a)) for an acquisition by such element that is more than 50 percent funded by the National Intelligence Program.

“(B) The head of an element of the intelligence community may not exercise an authority referred to in subparagraph (A) until—

“(i) the head of such element (without delegation) submits to the Director of National Intelligence a written request that includes—

“(I) a description of such authority requested to be exercised;

“(II) an explanation of the need for such authority, including an explanation of the reasons that other authorities are insufficient; and

“(III) a certification that the mission of such element would be—

“(aa) impaired if such authority is not exercised; or

“(bb) significantly and measurably enhanced if such authority is exercised; and

“(ii) the Director of National Intelligence or the Principal Deputy Director of National Intelligence or a Deputy Director of National Intelligence designated by the Director or the Principal Director issues a written authorization that includes—

“(I) a description of the authority referred to in subparagraph (A) that is authorized to be exercised; and

“(II) a justification to support the exercise of such authority.

“(C) A request and authorization to exercise an authority referred to in subparagraph (A) may be made with respect to individual acquisitions or with respect to a specific class of acquisitions described in the request and authorization referred to in subparagraph (B).

“(D)(i) A request from a head of an element of the intelligence community located within one of the departments described in clause (ii) to exercise an authority referred to in subparagraph (A) shall be transmitted to the Director of National Intelligence in accordance with any procedures established by the head of such department.

“(ii) The departments described in this clause are the Department of Defense, the Department of Energy, the Department of Homeland Security, the Department of Justice, the Department of State, and the Department of the Treasury.

“(E)(i) The head of an element of the intelligence community may not be authorized to

utilize an authority referred to in subparagraph (A) for a class of acquisitions for a period of more than 3 years, except that the Director of National Intelligence may authorize the use of such an authority for not more than 6 years.

“(ii) Each such authorization may be extended for successive 3- or 6-year periods, in accordance with requirements of subparagraph (B).

“(F) The Director of National Intelligence shall submit—

“(i) to the congressional intelligence committees a notification of an authorization to exercise an authority referred to in subparagraph (A) or an extension of such authorization that includes the written authorization referred to in subparagraph (B)(ii); and

“(ii) to the Director of the Office of Management and Budget a notification of an authorization to exercise an authority referred to in subparagraph (A) for an acquisition or class of acquisitions that will exceed \$50,000,000 annually.

“(G) Requests and authorizations to exercise an authority referred to in subparagraph (A) shall remain available within the Office of the Director of National Intelligence for a period of at least 6 years following the date of such request or authorization.

“(H) Nothing in this paragraph may be construed to alter or otherwise limit the authority of the Central Intelligence Agency to independently exercise an authority under section 3 or 8(a) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403c and 403j(a)).”.

Subtitle D—Congressional Oversight, Plans, and Reports

SEC. 331. GENERAL CONGRESSIONAL OVERSIGHT.

Section 501(a) of the National Security Act of 1947 (50 U.S.C. 413(a)) is amended by inserting at the end the following:

“(3) There shall be no exception to the requirements in this title to inform the congressional intelligence committees of all intelligence activities and covert actions.”.

SEC. 332. IMPROVEMENT OF NOTIFICATION OF CONGRESS REGARDING INTELLIGENCE ACTIVITIES OF THE UNITED STATES.

(a) **NOTICE ON INFORMATION NOT DISCLOSED.**—

(1) **IN GENERAL.**—Section 502 of the National Security Act of 1947 (50 U.S.C. 413a) is amended—

(A) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(B) by inserting after subsection (a) the following:

“(b) **NOTICE ON INFORMATION NOT DISCLOSED.**—(1) If the Director of National Intelligence or the head of a department, agency, or other entity of the United States Government does not provide information required by subsection (a) in full or to all the members of the congressional intelligence committees and requests that such information not be so provided, the Director shall, in a timely fashion, notify such committees of the determination not to provide such information in full or to all members of such committees. Such notice shall—

“(A) be submitted in writing in a classified form;

“(B) include—

“(i) a statement of the reasons for such determination; and

“(ii) a description that provides the main features of the intelligence activities covered by such determination; and

“(C) contain no restriction on access to such notice by all members of the committee.

“(2) Nothing in this subsection shall be construed as authorizing less than full and

current disclosure to all the members of the congressional intelligence committees of any information necessary to keep all such members fully and currently informed on all intelligence activities described in subsection (a).”.

(2) **CONFORMING AMENDMENT.**—Subsection (d) of such section, as redesignated by paragraph (1)(A) of this subsection, is amended by striking “subsection (b)” and inserting “subsections (b) and (c)”.

(b) **REPORTS AND NOTICE ON COVERT ACTIONS.**—

(1) **FORM AND CONTENT OF CERTAIN REPORTS.**—Subsection (b) of section 503 of such Act (50 U.S.C. 413b) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by inserting “(1)” after “(b)”;

(C) by adding at the end the following:

“(2) Any information relating to a covert action that is submitted to the congressional intelligence committees for the purposes of paragraph (1) shall be in writing and shall contain the following:

“(A) A concise statement of any facts pertinent to such covert action.

“(B) An explanation of the significance of such covert action.”.

(2) **NOTICE ON INFORMATION NOT DISCLOSED.**—Subsection (c) of such section is amended by adding at the end the following:

“(5) If the Director of National Intelligence or the head of a department, agency, or other entity of the United States Government does not provide information required by subsection (b) in full or to all the members of the congressional intelligence committees, and requests that such information not be so provided, the Director shall, in a timely fashion, notify such committees of the determination not to provide such information in full or to all members of such committees. Such notice shall—

“(A) be submitted in writing in a classified form;

“(B) include—

“(i) a statement of the reasons for such determination; and

“(ii) a description that provides the main features of the covert action covered by such determination; and

“(C) contain no restriction on access to such notice by all members of the committee.”.

(3) **MODIFICATION OF NATURE OF CHANGE OF COVERT ACTION TRIGGERING NOTICE REQUIREMENTS.**—Subsection (d) of such section is amended by striking “significant” the first place that term appears.

SEC. 333. REQUIREMENT TO PROVIDE LEGAL AUTHORITY FOR INTELLIGENCE ACTIVITIES.

(a) **GENERAL INTELLIGENCE ACTIVITIES.**—Section 501(a) of the National Security Act of 1947 (50 U.S.C.413(a)), as amended by section 331, is further amended by adding at the end the following:

“(4) In carrying out paragraph (1), the President shall provide to the congressional intelligence committees the legal authority under which the intelligence activity is or was conducted.”.

(b) **ACTIONS OTHER THAN COVERT ACTIONS.**—Section 502(a)(2) of the National Security Act of 1947 (50 U.S.C. 413a(a)(2)) is amended by striking “activities,” and inserting “activities (including the legal authority under which an intelligence activity is or was conducted).”.

(c) **COVERT ACTIONS.**—Paragraph (1)(B) of section 503(b) of the National Security Act of 1947 (50 U.S.C. 413b(b)), as redesignated by section 332 (b)(1), is amended by inserting “(including the legal authority under which a covert action is or was conducted)” after “concerning covert actions”.

SEC. 334. ADDITIONAL LIMITATION ON AVAILABILITY OF FUNDS FOR INTELLIGENCE AND INTELLIGENCE-RELATED ACTIVITIES.

Section 504 of the National Security Act of 1947 (50 U.S.C. 414) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by inserting “the congressional intelligence committees have been fully and currently informed of such activity and if” after “only if”;

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively; and

(3) by inserting after subsection (a) the following:

“(b) In any case in which notice to the congressional intelligence committees of an intelligence or intelligence-related activity is covered by section 502(b), or in which notice to the congressional intelligence committees on a covert action is covered by section 503(c)(5), the congressional intelligence committees shall be treated as being fully and currently informed on such activity or covert action, as the case may be, for purposes of subsection (a) if the requirements of such section 502(b) or 503(c)(5), as applicable, have been met.”.

SEC. 335. AUDITS OF INTELLIGENCE COMMUNITY BY GOVERNMENT ACCOUNTABILITY OFFICE.

(a) IN GENERAL.—Chapter 35 of title 31, United States Code, is amended by inserting after section 3523 the following:

“§ 3523A. Audits of intelligence community by Government Accountability Office

“(a) In this section, the term ‘intelligence community’ has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

“(b) Congress finds that—

“(1) the authority of the Comptroller General to perform audits and evaluations of financial transactions, programs, and activities of elements of the intelligence community under sections 712, 717, 3523, and 3524, and to obtain access to records for purposes of such audits and evaluations under section 716, is reaffirmed for matters referred to in paragraph (2); and

“(2) such audits and evaluations may be requested by a congressional committee of jurisdiction (such as the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives), and may include matters relating to the management and administration of elements of the intelligence community in areas such as strategic planning, financial management, information technology, human capital, knowledge management, and information sharing.

“(c)(1) The Comptroller General may conduct an audit or evaluation involving intelligence sources and methods or covert actions only upon request of the Select Committee on Intelligence of the Senate or the Permanent Select Committee on Intelligence of the House of Representatives.

“(2)(A) Whenever the Comptroller General conducts an audit or evaluation under paragraph (1), the Comptroller General shall provide the results of such audit or evaluation only to the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, the Director of National Intelligence, and the head of the relevant element of the intelligence community.

“(B) The Comptroller General may only provide information obtained in the course of an audit or evaluation under paragraph (1) to the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, the Director of National Intelligence, and the head of the relevant element of the intelligence community.

“(3)(A) Notwithstanding any other provision of law, the Comptroller General may inspect records of any element of the intelligence community relating to intelligence sources and methods, or covert actions in order to conduct audits and evaluations under paragraph (1).

“(B) If, in the conduct of an audit or evaluation under paragraph (1), an agency record is not made available to the Comptroller General in accordance with section 716, the Comptroller General shall consult with the original requestor before filing a report under subsection (b)(1) of such section.

“(4)(A) The Comptroller General shall maintain the same level of confidentiality for a record made available for conducting an audit under paragraph (1) as is required of the head of the element of the intelligence community from which it is obtained. Officers and employees of the Government Accountability Office are subject to the same statutory penalties for unauthorized disclosure or use as officers or employees of the intelligence community element that provided the Comptroller General or officers and employees of the Government Accountability Office with access to such records.

“(B) All workpapers of the Comptroller General and all records and property of any element of the intelligence community that the Comptroller General uses during an audit or evaluation under paragraph (1) shall remain in facilities provided by that element of the intelligence community. Elements of the intelligence community shall give the Comptroller General suitable and secure offices and furniture, telephones, and access to copying facilities, for purposes of audits and evaluations under paragraph (1).

“(C) After consultation with the Select Committee on Intelligence of the Senate and with the Permanent Select Committee on Intelligence of the House of Representatives, the Comptroller General shall establish procedures to protect from unauthorized disclosure all classified and other sensitive information furnished to the Comptroller General or any representative of the Comptroller General for conducting an audit or evaluation under paragraph (1).

“(D) Before initiating an audit or evaluation under paragraph (1), the Comptroller General shall provide the Director of National Intelligence and the head of the relevant element with the name of each officer and employee of the Government Accountability Office who has obtained appropriate security clearance and to whom, upon proper identification, records, and information of the element of the intelligence community shall be made available in conducting the audit or evaluation.

“(d) Elements of the intelligence community shall cooperate fully with the Comptroller General and provide timely responses to Comptroller General requests for documentation and information made pursuant to this section.

“(e) With the exception of the types of audits and evaluations specified in subsection (c)(1), nothing in this section or any other provision of law shall be construed as restricting or limiting the authority of the Comptroller General to audit, evaluate, or obtain access to the records of elements of the intelligence community absent specific statutory language restricting or limiting such audits, evaluations, or access to records.”.

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections for chapter 35 of title 31, United States Code, is amended by inserting after the item relating to section 3523 the following:

“3523A. Audits of intelligence community by Government Accountability Office.”.

SEC. 336. REPORT ON COMPLIANCE WITH LAWS, INTERNATIONAL OBLIGATIONS, AND EXECUTIVE ORDERS ON THE DETENTION AND INTERROGATION ACTIVITIES OF THE INTELLIGENCE COMMUNITY.

(a) REPORT REQUIRED.—Not later than December 1, 2009, the Director shall submit to the congressional intelligence committees a comprehensive report on all measures taken by the Office of the Director of National Intelligence and by each element, if any, of the intelligence community with relevant responsibilities to comply with the provisions of applicable law, international obligations, and executive orders relating to the detention or interrogation activities, if any, of any element of the intelligence community, including the Detainee Treatment Act of 2005 (title X of division A of Public Law 109-148; 119 Stat. 2739), related provisions of the Military Commissions Act of 2006 (Public Law 109-366; 120 Stat. 2600), common Article 3, the Convention Against Torture, Executive Order 13491 (74 Fed. Reg. 4893; relating to ensuring lawful interrogations), and Executive Order 13493 (74 Fed. Reg. 4901; relating to detention policy options).

(b) DEFINITIONS.—In this Act:

(1) COMMON ARTICLE 3.—The term “common Article 3” means Article 3 of each of the Geneva Conventions.

(2) CONVENTION AGAINST TORTURE.—The term “Convention Against Torture” means the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York on December 10, 1984.

(3) DIRECTOR.—The term “Director” means the Director of National Intelligence.

(4) GENEVA CONVENTIONS.—The term “Geneva Conventions” means the following:

(A) The Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva August 12, 1949 (6 UST 3114).

(B) The Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217).

(C) The Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316).

(D) The Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516).

(c) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A description of the detention or interrogation methods, if any, that have been determined to comply with applicable law, international obligations, and Executive orders, and, with respect to each such method—

(A) an identification of the official making such determination; and

(B) a statement of the basis for such determination.

(2) A description of any recommendations of a task force submitted pursuant to—

(A) section 5(g) of Executive Order 13491 (74 Fed. Reg. 4893; relating to ensuring lawful interrogations); or

(B) section 1(g) of Executive Order 13493 (74 Fed. Reg. 4901; relating to detention policy options).

(3) A description of any actions taken pursuant to Executive Order 13491 or the recommendations of a task force issued pursuant to section 5(g) of Executive Order 13491 or section 1(g) of Executive Order 13493 relating to detention or interrogation activities, if any, of any element of the intelligence community.

(4) A description of any actions that have been taken to implement section 1004 of the Detainee Treatment Act of 2005 (119 Stat. 2740; 42 U.S.C. 2000dd-1), and, with respect to each such action—

(A) an identification of the official taking such action; and

(B) a statement of the basis for such action.

(5) Any other matters that the Director considers necessary to fully and currently inform the congressional intelligence committees about the implementation of applicable law, international obligations, and Executive orders relating to the detention or interrogation activities, if any, of any element of the intelligence community, including the Detainee Treatment Act of 2005 (title X of division A of Public Law 109-148; 119 Stat. 2739), related provisions of the Military Commissions Act of 2006 (Public Law 109-366; 120 Stat. 2600), common Article 3, the Convention Against Torture, Executive Order 13491, and Executive Order 13493.

(6) An appendix containing—

(A) all guidelines for the application of applicable law, international obligations, or Executive orders to the detention or interrogation activities, if any, of any element of the intelligence community; and

(B) the legal justifications of the Department of Justice about the meaning or application of applicable law, international obligations, or Executive orders, with respect to the detention or interrogation activities, if any, of any element of the intelligence community.

(d) FORM.—The report required by subsection (a) shall be submitted in unclassified form, but may include a classified annex.

(e) SUBMISSION TO THE CONGRESSIONAL ARMED SERVICES COMMITTEES.—To the extent that the report required by subsection (a) addresses an element of the intelligence community within the Department of Defense, the Director shall submit that portion of the report, and any associated material that is necessary to make that portion understandable, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

(f) SUBMISSION TO THE CONGRESSIONAL JUDICIARY COMMITTEES.—To the extent that the report required by subsection (a) addresses an element of the intelligence community within the Department of Justice, the Director shall submit that portion of the report, and any associated material that is necessary to make that portion understandable, to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

SEC. 337. REPORTS ON NATIONAL SECURITY THREAT POSED BY GUANTANAMO BAY DETAINEES.

In addition to the reports required by section 319 of the Supplemental Appropriations Act of 2009 (Public Law 111-32) and on the schedule required for such reports, the Director of National Intelligence shall submit to the congressional intelligence committees a report outlining the Director's assessment of the suitability for release or transfer for detainees previously released or transferred, or to be released or transferred, from the Naval Detention Facility at Guantanamo Bay, Cuba to the United States or any other country. Each such report shall include—

(1) a description of any objection to the release or recommendation against the release of such an individual made by any element of the intelligence community that determined the potential threat posed by a particular individual warranted the individual's continued detention;

(2) a detailed description of the intelligence information that led to such an objection or determination;

(3) if an element of the intelligence community previously recommended against the release of such an individual and later retracted that recommendation, a detailed ex-

planation of the reasoning for the retraction; and

(4) an assessment of lessons learned from previous releases and transfers of individuals for whom the intelligence community objected or recommended against release.

SEC. 338. REPORT ON RETIREMENT BENEFITS FOR FORMER EMPLOYEES OF AIR AMERICA.

(a) REQUIREMENT FOR REPORT.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to Congress a report on the advisability of providing Federal retirement benefits to United States citizens for the service of such citizens prior to 1977 as employees of Air America or an associated company during a period when Air America or the associated company was owned or controlled by the United States Government and operated or managed by the Central Intelligence Agency.

(b) DEFINITIONS.—In this section:

(1) AIR AMERICA.—The term “Air America” means Air America, Incorporated.

(2) ASSOCIATED COMPANY.—The term “associated company” means any entity associated with, predecessor to, or subsidiary to Air America, including Air Asia Company Limited, CAT Incorporated, Civil Air Transport Company Limited, and the Pacific Division of Southern Air Transport during the period when such an entity was owned and controlled by the United States Government.

(c) REPORT ELEMENTS.—The report required by subsection (a) shall include the following:

(1) The history of Air America and the associated companies prior to 1977, including a description of—

(A) the relationship between Air America and the associated companies and the Central Intelligence Agency or other elements of the United States Government;

(B) the workforce of Air America and the associated companies;

(C) the missions performed by Air America, the associated companies, and their employees for the United States; and

(D) the casualties suffered by employees of Air America and the associated companies in the course of their employment.

(2) A description of—

(A) the retirement benefits contracted for, or promised to, the employees of Air America and the associated companies prior to 1977;

(B) the contributions made by such employees for such benefits;

(C) the retirement benefits actually paid to such employees;

(D) the entitlement of such employees to the payment of future retirement benefits; and

(E) the likelihood that former employees of such companies will receive any future retirement benefits.

(3) An assessment of the difference between—

(A) the retirement benefits that former employees of Air America and the associated companies have received or will receive by virtue of their employment with Air America and the associated companies; and

(B) the retirement benefits that such employees would have received or be eligible to receive if such employment was deemed to be employment by the United States Government and their service during such employment was credited as Federal service for the purpose of Federal retirement benefits.

(4)(A) Any recommendations regarding the advisability of legislative action to treat such employment as Federal service for the purpose of Federal retirement benefits in light of the relationship between Air America and the associated companies and the United States Government and the services

and sacrifices of such employees to and for the United States.

(B) If legislative action is considered advisable under subparagraph (A), a proposal for such action and an assessment of its costs.

(5) The opinions of the Director of the Central Intelligence Agency, if any, on the matters covered by the report that the Director of the Central Intelligence Agency considers appropriate.

(d) ASSISTANCE OF COMPTROLLER GENERAL.—The Comptroller General of the United States shall, upon the request of the Director of National Intelligence and in a manner consistent with the protection of classified information, assist the Director in the preparation of the report required by subsection (a).

(e) FORM.—The report required by subsection (a) shall be submitted in unclassified form, but may include a classified annex.

SEC. 339. REPORT AND STRATEGIC PLAN ON BIOLOGICAL WEAPONS.

(a) REQUIREMENT FOR REPORT.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the congressional intelligence committees a report on—

(1) the intelligence collection efforts of the United States dedicated to assessing the threat from biological weapons from state, non-state, or rogue actors, either foreign or domestic; and

(2) efforts to protect the United States biodefense knowledge and infrastructure.

(b) CONTENT.—The report required by subsection (a) shall include—

(1) an accurate assessment of the intelligence collection efforts of the United States dedicated to detecting the development or use of biological weapons by state, non-state, or rogue actors, either foreign or domestic;

(2) detailed information on fiscal, human, technical, open source, and other intelligence collection resources of the United States dedicated for use against biological weapons;

(3) an assessment of any problems that may reduce the overall effectiveness of United States intelligence collection and analysis to identify and protect biological weapons targets, including—

(A) intelligence collection gaps or inefficiencies;

(B) inadequate information sharing practices; or

(C) inadequate cooperation among agencies or departments of the United States;

(4) a strategic plan prepared by the Director of National Intelligence, in coordination with the Attorney General, the Secretary of Defense, and the Secretary of Homeland Security, that provides for actions for the appropriate elements of the intelligence community to close important intelligence gaps related to biological weapons;

(5) a description of appropriate goals, schedules, milestones, or metrics to measure the long-term effectiveness of actions implemented to carry out the plan described in paragraph (4); and

(6) any long-term resource and human capital issues related to the collection of intelligence regarding biological weapons, including any recommendations to address shortfalls of experienced and qualified staff possessing relevant scientific, language, and technical skills.

(c) IMPLEMENTATION OF STRATEGIC PLAN.—Not later than 30 days after the date that the Director of National Intelligence submits the report required by subsection (a), the Director shall begin implementation of the strategic plan referred to in subsection (b)(4).

SEC. 340. CYBERSECURITY OVERSIGHT.

(a) DEFINITIONS.—In this section:

(1) **CYBERSECURITY PROGRAM.**—The term “cybersecurity program” means a class or collection of similar cybersecurity operations of an agency or department of the United States that involves personally identifiable data that is—

(A) screened by a cybersecurity system outside of the agency or department of the United States that was the intended recipient;

(B) transferred, for the purpose of cybersecurity, outside the agency or department of the United States that was the intended recipient; or

(C) transferred, for the purpose of cybersecurity, to an element of the intelligence community.

(2) **NATIONAL CYBER INVESTIGATIVE JOINT TASK FORCE.**—The term “National Cyber Investigative Joint Task Force” means the multi-agency cyber investigation coordination organization overseen by the Director of the Federal Bureau of Investigation known as the Nation Cyber Investigative Joint Task Force that coordinates, integrates, and provides pertinent information related to cybersecurity investigations.

(3) **CRITICAL INFRASTRUCTURE.**—The term “critical infrastructure” has the meaning given that term in section 1016 of the USA PATRIOT Act (42 U.S.C. 5195c).

(b) **NOTIFICATION OF CYBERSECURITY PROGRAMS.**—

(1) **REQUIREMENT FOR NOTIFICATION.**—

(A) **EXISTING PROGRAMS.**—Not later than 30 days after the date of the enactment of this Act, the President shall submit to Congress a notification for each cybersecurity program in operation on such date that includes the documentation referred to in subparagraphs (A) through (E) of paragraph (2).

(B) **NEW PROGRAMS.**—Not later than 30 days after the date of the commencement of operations of a new cybersecurity program, the President shall submit to Congress a notification of such commencement that includes the documentation referred to in subparagraphs (A) through (E) of paragraph (2).

(2) **DOCUMENTATION.**—A notification required by paragraph (1) for a cybersecurity program shall include—

(A) the legal justification for the cybersecurity program;

(B) the certification, if any, made pursuant to section 2511(2)(a)(ii)(B) of title 18, United States Code, or other statutory certification of legality for the cybersecurity program;

(C) the concept for the operation of the cybersecurity program that is approved by the head of the appropriate agency or department;

(D) the assessment, if any, of the privacy impact of the cybersecurity program prepared by the privacy or civil liberties protection officer or comparable officer of such agency or department; and

(E) the plan, if any, for independent audit or review of the cybersecurity program to be carried out by the head of the relevant department or agency of the United States, in conjunction with the appropriate inspector general.

(c) **PROGRAM REPORTS.**—

(1) **REQUIREMENT FOR REPORTS.**—The head of a department or agency of the United States with responsibility for a cybersecurity program for which a notification was submitted under subsection (b), in conjunction with the inspector general for that department or agency, shall submit to Congress and the President, in accordance with the schedule set out in paragraph (2), a report on such cybersecurity program that includes—

(A) the results of any audit or review of the cybersecurity program carried out under the plan referred to in subsection (b)(2)(E), if any; and

(B) an assessment of whether the implementation of the cybersecurity program—

(i) is in compliance with—

(I) the legal justification referred to in subsection (b)(2)(A); and

(II) the assessment referred to in subsection (b)(2)(D), if any;

(ii) is adequately described by the concept of operation referred to in subsection (b)(2)(C), if any; and

(iii) includes an adequate independent audit or review system and whether improvements to such independent audit or review system are necessary.

(2) **SCHEDULE FOR SUBMISSION OF REPORTS.**—The reports required by paragraph (1) shall be submitted to Congress and the President according to the following schedule:

(A) An initial report shall be submitted not later than 6 months after the date of the enactment of this Act.

(B) A second report shall be submitted not later than 1 year after the date of the enactment of this Act.

(C) Additional reports shall be submitted periodically thereafter, as necessary, as determined by the head of the relevant department or agency of the United States in conjunction with the inspector general of that department or agency.

(3) **COOPERATION AND COORDINATION.**—

(A) **COOPERATION.**—The head of each department or agency of the United States and inspector general required to submit a report under paragraph (1) shall work in conjunction, to the extent practicable, with any other such head or inspector general required to submit such a report.

(B) **COORDINATION.**—The heads of each department or agency of the United States and inspectors general required to submit reports under paragraph (1) shall designate one such head and one such inspector general to coordinate the conduct of such reports.

(d) **INFORMATION SHARING REPORT.**—Not later than 1 year after the date of the enactment of this Act, the Inspector General of the Department of Homeland Security and the Inspector General of the Intelligence Community shall, jointly, submit to Congress and the President a report on the status of the sharing of cyber threat information, including—

(1) a description of how cyber threat intelligence information, including classified information, is shared among the agencies and departments of the United States and with persons responsible for critical infrastructure;

(2) a description of the mechanisms by which classified cyber threat information is distributed;

(3) an assessment of the effectiveness of such information sharing and distribution; and

(4) any other matters identified by such Inspectors General that would help to fully inform Congress or the President regarding the effectiveness and legality of cybersecurity programs.

(e) **PERSONNEL DETAILS.**—

(1) **AUTHORITY TO DETAIL.**—Notwithstanding any other provision of law, the head of an element of the intelligence community that is funded through the National Intelligence Program may detail an officer or employee of such element to the National Cyber Investigative Joint Task Force or to the Department of Homeland Security to assist the Task Force or the Department with cybersecurity, as jointly agreed by the head of such element and the Task Force or the Department.

(2) **BASIS FOR DETAIL.**—A personnel detail made under paragraph (1) may be made—

(A) for a period of not more than 3 years; and

(B) on a reimbursable or nonreimbursable basis.

(f) **SUNSET.**—The requirements and authorities of this section shall terminate on December 31, 2012.

SEC. 341. REPEAL OR MODIFICATION OF CERTAIN REPORTING REQUIREMENTS.

(a) **ANNUAL REPORT ON INTELLIGENCE.**—

(1) **REPEAL.**—Section 109 of the National Security Act of 1947 (50 U.S.C. 404d) is repealed.

(2) **TABLE OF CONTENTS AMENDMENT.**—The table of contents in the first section of the National Security Act of 1947 is amended by striking the item relating to section 109.

(b) **ANNUAL AND SPECIAL REPORTS ON INTELLIGENCE SHARING WITH THE UNITED NATIONS.**—Section 112 of the National Security Act of 1947 (50 U.S.C. 404g) is amended—

(1) by striking subsection (b); and

(2) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.

(c) **ANNUAL REPORT ON PROGRESS IN AUDITABLE FINANCIAL STATEMENTS.**—

(1) **REPEAL.**—Section 114A of the National Security Act of 1947 (50 U.S.C. 404i-1) is repealed.

(2) **TABLE OF CONTENTS AMENDMENT.**—The table of contents in the first section of the National Security Act of 1947 is amended by striking the item relating to section 114A.

(d) **ELIMINATION OF REPORTING REQUIREMENT ON FINANCIAL INTELLIGENCE ON TERRORIST ASSETS.**—

(1) **IN GENERAL.**—Section 118 of the National Security Act of 1947 (50 U.S.C. 404m) is amended—

(A) in the section heading, by striking “SEMIANNUAL REPORT ON” and inserting “EMERGENCY NOTIFICATION REGARDING”;

(B) by striking subsection (a);

(C) by redesignating subsection (b) as subsection (a);

(D) by striking subsection (c); and

(E) by redesignating subsection (d) as subsection (b).

(2) **TABLE OF CONTENTS AMENDMENT.**—The table of contents in the first section of the National Security Act of 1947 is amended by striking the item related to section 118 and inserting the following:

“Sec. 118. Emergency notification regarding financial intelligence on terrorist assets.”.

(e) **ANNUAL CERTIFICATION ON COUNTER-INTELLIGENCE INITIATIVES.**—Section 1102(b) of the National Security Act of 1947 (50 U.S.C. 442a(b)) is amended—

(1) by striking “(1)”; and

(2) by striking paragraph (2).

(f) **REPORT AND CERTIFICATION UNDER TERRORIST IDENTIFICATION CLASSIFICATION SYSTEM.**—Section 343 of the Intelligence Authorization Act for Fiscal Year 2003 (50 U.S.C. 404n-2) is amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e), (f), (g), and (h) as subsections (d), (e), (f), and (g), respectively.

(g) **ANNUAL REPORT ON COUNTERDRUG INTELLIGENCE MATTERS.**—Section 826 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107-306; 116 Stat. 2429; 21 U.S.C. 873 note) is repealed.

(h) **BIENNIAL REPORT ON FOREIGN INDUSTRIAL ESPIONAGE.**—Subsection (b) of section 809 of the Intelligence Authorization Act for Fiscal Year 1995 (50 U.S.C. App. 2170b) is amended—

(1) in the heading, by striking “ANNUAL UPDATE” and inserting “BIENNIAL REPORT”;

(2) by striking paragraphs (1) and (2) and inserting the following:

“(1) **REQUIREMENT TO SUBMIT.**—Not later than February 1, 2010 and once every two years thereafter, the President shall submit

to the congressional intelligence committees and congressional leadership a report updating the information referred to in subsection (a) (1) (D) not later than February 1, 2010 and every two years thereafter.”; and

(3) by redesignating paragraph (3) as paragraph (2).

(i) CONFORMING AMENDMENTS.—Section 507(a) of the National Security Act of 1947 (50 U.S.C. 415b(a)) is amended—

(1) in paragraph (1)—

(A) by striking subparagraphs (A) and (B); and

(B) by redesignating subparagraphs (C) through (N) as subparagraphs (A) through (L), respectively; and

(2) in paragraph (2), by striking subparagraph (D).

Subtitle E—Other Matters

SEC. 351. EXTENSION OF AUTHORITY TO DELETE INFORMATION ABOUT RECEIPT AND DISPOSITION OF FOREIGN GIFTS AND DECORATIONS.

Paragraph (4) of section 7342(f) of title 5, United States Code, is amended to read as follows:

“(4)(A) In transmitting such listings for an element of the intelligence community, the head of such element may delete the information described in subparagraph (A) or (C) of paragraph (2) or in subparagraph (A) or (C) of paragraph (3) if the head of such element certifies in writing to the Secretary of State that the publication of such information could adversely affect United States intelligence sources or methods.

“(B) Any information not provided to the Secretary of State pursuant to the authority in subparagraph (A) shall be transmitted to the Director of National Intelligence who shall keep a record of such information.

“(C) In this paragraph, the term ‘element of the intelligence community’ means an element of the intelligence community listed in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).”.

SEC. 352. MODIFICATION OF AVAILABILITY OF FUNDS FOR DIFFERENT INTELLIGENCE ACTIVITIES.

Subparagraph (B) of section 504(a)(3) of the National Security Act of 1947 (50 U.S.C. 414(a)(3)) is amended to read as follows:

“(B) the use of such funds for such activity supports an emergent need, improves program effectiveness, or increases efficiency; and”.

SEC. 353. LIMITATION ON REPROGRAMMING AND TRANSFERS OF FUNDS.

(a) IN GENERAL.—Paragraph (3) of section 504 of the National Security Act of 1947 (50 U.S.C. 414) is amended—

(1) in subparagraph (B), as amended by section 353, by striking “and” at the end;

(2) in subparagraph (C), by adding “and” at the end; and

(3) by adding at the end the following new subparagraph:

“(D) the making available of such funds for such activity complies with the requirements in subsection (d);”.

(b) PROCEDURES.—Such section 504 is further amended—

(1) by redesignating subsections (c), (d), (e), and (f), as redesignated by section 334(2), as subsections (d), (e), (f), and (g), respectively; and

(2) by inserting after subsection (b) the following new subsection (c):

“(c)(1) Except as provided in paragraph (2), if following a notice of intent to make funds available for a different activity under subsection (a)(3)(C) one of the congressional intelligence committees submits to the element of the intelligence community that will carry out such activity a request for additional information on such activity, such

funds may not be made available for such activity under subsection (a)(3) until such date, up to 90 days after the date of such request, as specified by such congressional intelligence committee.

“(2) The President may waive the requirements of paragraph (1) and make funds available for an element of the intelligence community to carry out a different activity under subsection (a)(3) if the President submits to the congressional intelligence committees a certification providing that—

“(A) the use of such funds for such activity is necessary to fulfill an urgent operational requirement, excluding a cost overrun on the acquisition of a major system, of an element of the intelligence community; and

“(B) such waiver is necessary so that an element of the intelligence community may carry out such activity prior to the date that funds would be made available under paragraph (1).”.

(c) DEFINITIONS.—Subsection (g) of such section 504, as redesignated by subsection (b)(1) of this section, is amended—

(1) by redesignating paragraph (3) as paragraph (4);

(2) by redesignating paragraphs (1) and (2) as paragraphs (1) and (2), respectively;

(3) by striking “and” at the end of paragraph (1), as redesignated by paragraph (2) of this subsection; and

(4) by inserting after paragraph (2), as redesignated by paragraph (2) of this subsection, the following:

“(3) the term ‘major system’ has the meaning given that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403); and”.

SEC. 354. PROTECTION OF CERTAIN NATIONAL SECURITY INFORMATION.

(a) INCREASE IN PENALTIES FOR DISCLOSURE OF UNDERCOVER INTELLIGENCE OFFICERS AND AGENTS.—

(1) DISCLOSURE OF AGENT AFTER ACCESS TO INFORMATION IDENTIFYING AGENT.—Subsection (a) of section 601 of the National Security Act of 1947 (50 U.S.C. 421) is amended by striking “ten years” and inserting “15 years”.

(2) DISCLOSURE OF AGENT AFTER ACCESS TO CLASSIFIED INFORMATION.—Subsection (b) of such section is amended by striking “five years” and inserting “10 years”.

(b) MODIFICATIONS TO ANNUAL REPORT ON PROTECTION OF INTELLIGENCE IDENTITIES.—The first sentence of section 603(a) of the National Security Act of 1947 (50 U.S.C. 423(a)) is amended by inserting “including an assessment of the need for any modification of this title for the purpose of improving legal protections for covert agents,” after “measures to protect the identities of covert agents.”.

SEC. 355. NATIONAL INTELLIGENCE PROGRAM BUDGET REQUEST.

(a) FINDING.—Congress finds that the Report of the National Commission on Terrorist Attacks Upon the United States (the “9/11 Commission”) recommended that “the overall amounts of money being appropriated for national intelligence and to its component agencies should no longer be kept secret” and that “Congress should pass a separate appropriations act for intelligence, defending the broad allocation of how these tens of billions of dollars have been assigned among the varieties of intelligence work.”.

(b) NATIONAL INTELLIGENCE PROGRAM BUDGET REQUEST.—Section 601 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (50 U.S.C. 415c) is amended by striking subsection (b) and inserting the following:

“(b) BUDGET REQUEST.—On the date that the President submits to Congress the budget for a fiscal year required under section

1105 of title 31, United States Code, the President shall disclose to the public the aggregate amount of appropriations requested for that fiscal year for the National Intelligence Program.”.

SEC. 356. IMPROVING THE REVIEW AUTHORITY OF THE PUBLIC INTEREST DECLASSIFICATION BOARD.

Paragraph (5) of section 703(b) of the Public Interest Declassification Act of 2000 (50 U.S.C. 435 note) is amended—

(1) by striking “jurisdiction,” and inserting “jurisdiction or by a member of the committee of jurisdiction.”; and

(2) by inserting “, evaluate the proper classification of certain records,” after “certain records”.

SEC. 357. AUTHORITY TO DESIGNATE UNDERCOVER OPERATIONS TO COLLECT FOREIGN INTELLIGENCE OR COUNTERINTELLIGENCE.

Paragraph (1) of section 102(b) of the Department of Justice and Related Agencies Appropriations Act, 1993 (Public Law 102-395; 28 U.S.C. 533 note) is amended in the flush text following subparagraph (D) by striking “(or, if designated by the Director, the Assistant Director, Intelligence Division) and the Attorney General (or, if designated by the Attorney General, the Assistant Attorney General for National Security)” and inserting “(or a designee of the Director who is in a position not lower than Deputy Assistant Director in the National Security Branch or a similar successor position) and the Attorney General (or a designee of the Attorney General who is in the National Security Division in a position not lower than Deputy Assistant Attorney General or a similar successor position)”.

SEC. 358. CORRECTING LONG-STANDING MATERIAL WEAKNESSES.

(a) DEFINITIONS.—In this section:

(1) COVERED ELEMENT OF THE INTELLIGENCE COMMUNITY.—The term “covered element of the intelligence community” means—

(A) the Central Intelligence Agency;

(B) the Defense Intelligence Agency;

(C) the National Geospatial-Intelligence Agency;

(D) the National Reconnaissance Office; or

(E) the National Security Agency.

(2) INDEPENDENT AUDITOR.—The term “independent auditor” means an individual who—

(A)(i) is a Federal, State, or local government auditor who meets the independence standards included in generally accepted government auditing standards; or

(ii) is a public accountant who meets such independence standards; and

(B) is designated as an auditor by the Director of National Intelligence or the head of a covered element of the intelligence community, as appropriate.

(3) LONG-STANDING, CORRECTABLE MATERIAL WEAKNESS.—The term “long-standing, correctable material weakness” means a material weakness—

(A) that was first reported in the annual financial report of a covered element of the intelligence community for a fiscal year prior to fiscal year 2007; and

(B) the correction of which is not substantially dependent on a business system that will not be implemented prior to the end of fiscal year 2010.

(4) MATERIAL WEAKNESS.—The term “material weakness” has the meaning given that term under the Office of Management and Budget Circular A-123, entitled “Management’s Responsibility for Internal Control,” revised December 21, 2004.

(5) COVERED PROGRAM.—The term “covered program” means—

(A) the Central Intelligence Agency Program;

(B) the Consolidated Cryptologic Program;

(C) the General Defense Intelligence Program;

(D) the National Geospatial-Intelligence Program; or

(E) the National Reconnaissance Program.

(6) SENIOR INTELLIGENCE MANAGEMENT OFFICIAL.—The term “senior intelligence management official” means an official within a covered element of the intelligence community who holds a position—

(A)(i) for which the level of the duties and responsibilities and the rate of pay are comparable to that of a position—

(I) above grade 15 of the General Schedule (as described in section 5332 of title 5, United States Code); or

(II) at or above level IV of the Executive Level (as described in section 5315 of title 5, United States Code); or

(i) as the head of a covered element of the intelligence community; and

(B) which is compensated for employment with funds appropriated pursuant to an authorization of appropriations in this Act.

(b) IDENTIFICATION OF SENIOR INTELLIGENCE MANAGEMENT OFFICIALS.—

(1) REQUIREMENT TO IDENTIFY.—Not later than 30 days after the date of the enactment of this Act, the head of a covered element of the intelligence community shall identify each senior intelligence management official of such element who is responsible for correcting a long-standing, correctable material weakness.

(2) HEAD OF A COVERED ELEMENT OF THE INTELLIGENCE COMMUNITY.—The head of a covered element of the intelligence community may designate himself or herself as the senior intelligence management official responsible for correcting a long-standing, correctable material weakness.

(3) REQUIREMENT TO UPDATE DESIGNATION.—In the event a senior intelligence management official identified under paragraph (1) is determined by the head of the appropriate covered element of the intelligence community to no longer be responsible for correcting a long-standing, correctable material weakness, the head of such element shall identify the successor to such official not later than 10 days after the date of such determination.

(c) NOTIFICATION.—Not later than 10 days after the date that the head of a covered element of the intelligence community has identified a senior intelligence management official pursuant to subsection (b)(1), the head of such element shall provide written notification of such identification to the Director of National Intelligence and to such senior intelligence management official.

(d) INDEPENDENT REVIEW.—

(1) NOTIFICATION OF CORRECTION OF DEFICIENCY.—A senior intelligence management official who has received a notification under subsection (c) regarding a long-standing, correctable material weakness shall notify the head of the appropriate covered element of the intelligence community, not later than 5 days after the date that such official determines that the specified material weakness is corrected.

(2) REQUIREMENT FOR INDEPENDENT REVIEW.—

(A) IN GENERAL.—Not later than 10 days after the date a notification is provided under paragraph (1), the head of the appropriate covered element of the intelligence community shall appoint an independent auditor to conduct an independent review to determine whether the specified long-standing, correctable material weakness has been corrected.

(B) REVIEW ALREADY IN PROCESS.—If an independent review is already being conducted by an independent auditor, the head of the covered element of the intelligence community may approve the continuation of such review to comply with subparagraph (A).

(C) CONDUCT OF REVIEW.—A review conducted under subparagraph (A) or (B) shall be conducted as expeditiously as possible and in accordance with generally accepted accounting principles.

(3) NOTIFICATION OF RESULTS OF REVIEW.—Not later than 5 days after the date that a review required by paragraph (2) is completed, the independent auditor shall submit to the head of the covered element of the intelligence community, the Director of National Intelligence, and the senior intelligence management official involved a notification of the results of such review.

(e) CONGRESSIONAL OVERSIGHT.—The head of a covered element of the intelligence community shall notify the congressional intelligence committees not later than 30 days after the date of—

(1) that a senior intelligence management official is identified under subsection (b)(1) and notified under subsection (c); or

(2) the correction of a long-standing, correctable material weakness, as verified by an independent review under subsection (d)(2).

TITLE IV—MATTERS RELATING TO ELEMENTS OF THE INTELLIGENCE COMMUNITY

Subtitle A—Office of the Director of National Intelligence

SEC. 401. ACCOUNTABILITY REVIEWS BY THE DIRECTOR OF NATIONAL INTELLIGENCE.

(a) RESPONSIBILITY OF THE DIRECTOR OF NATIONAL INTELLIGENCE.—Subsection (b) of section 102 of the National Security Act of 1947 (50 U.S.C. 403) is amended—

(1) in paragraph (2), by striking “and” at the end;

(2) in paragraph (3)—
(A) by striking “2004.” and inserting “2004 (Public Law 108–458; 50 U.S.C. 403 note),”; and
(B) by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(4) conduct accountability reviews of elements of the intelligence community and the personnel of such elements, if appropriate.”.

(b) TASKING AND OTHER AUTHORITIES.—Subsection (f) of section 102A of the National Security Act of 1947 (50 U.S.C. 403–1) is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

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

“(7)(A) The Director of National Intelligence shall, if the Director determines it is necessary, or may, if requested by a congressional intelligence committee, conduct an accountability review of an element of the intelligence community or the personnel of such element in relation to a failure or deficiency within the intelligence community.

“(B) The Director of National Intelligence, in consultation with the Attorney General, shall establish guidelines and procedures for conducting an accountability review under subparagraph (A).

“(C)(i) The Director of National Intelligence shall provide the findings of an accountability review conducted under subparagraph (A) and the Director’s recommendations for corrective or punitive action, if any, to the head of the applicable element of the intelligence community. Such recommendations may include a recommendation for dismissal of personnel.

“(ii) If the head of such element does not implement a recommendation made by the Director under clause (i), the head of such element shall submit to the congressional intelligence committees a notice of the determination not to implement the recommendation, including the reasons for the determination.

“(D) The requirements of this paragraph shall not limit any authority of the Director of National Intelligence under subsection (m) or with respect to supervision of the Central Intelligence Agency.”.

SEC. 402. AUTHORITIES FOR INTELLIGENCE INFORMATION SHARING.

(a) AUTHORITIES FOR INTERAGENCY FUNDING.—Section 102A(g)(1) of the National Security Act of 1947 (50 U.S.C. 403–1(g)(1)) is amended—

(1) in subparagraph (E), by striking “and” at the end;

(2) in subparagraph (F), by striking the period and inserting a semicolon; and

(3) by adding at the end the following new subparagraphs:

“(G) in carrying out this subsection, without regard to any other provision of law (other than this Act and the National Security Intelligence Reform Act of 2004 (title I of Public Law 108–458; 118 Stat. 3643)), expend funds and make funds available to other departments or agencies of the United States for, and direct the development and fielding of, systems of common concern related to the collection, processing, analysis, exploitation, and dissemination of intelligence information; and

“(H) for purposes of addressing critical gaps in intelligence information sharing or access capabilities, have the authority to transfer funds appropriated for a program within the National Intelligence Program to a program funded by appropriations not within the National Intelligence Program, consistent with paragraphs (3) through (7) of subsection (d).”.

(b) AUTHORITIES OF HEADS OF OTHER DEPARTMENTS AND AGENCIES.—Notwithstanding any other provision of law, the head of any department or agency of the United States is authorized to receive and utilize funds made available to the department or agency by the Director of National Intelligence pursuant to section 102A(g)(1) of the National Security Act of 1947 (50 U.S.C. 403–1(g)(1)), as amended by subsection (a), and receive and utilize any system referred to in such section that is made available to the department or agency.

(c) REPORTS.—

(1) REQUIREMENT FOR REPORTS.—Not later than February 1 of each of the fiscal years 2011 through 2014, the Director of National Intelligence shall submit to the congressional intelligence committees a report detailing the distribution of funds and systems during the preceding fiscal year pursuant to subparagraph (G) or (H) of section 102A(g)(1) of the National Security Act of 1947 (50 U.S.C. 403–1(g)(1)), as added by subsection (a).

(2) CONTENT.—Each such report shall include—

(A) a listing of the agencies or departments to which such funds or systems were distributed;

(B) a description of the purpose for which such funds or systems were distributed; and

(C) a description of the expenditure of such funds, and the development, fielding, and use of such systems by the receiving agency or department.

SEC. 403. AUTHORITIES FOR INTERAGENCY FUNDING.

(a) IN GENERAL.—Section 102A of the National Security Act of 1947 (50 U.S.C. 403–1), as amended by sections 303, 304, and 312, is further amended by adding at the end the following new subsection:

“(x) AUTHORITIES FOR INTERAGENCY FUNDING.—(1) Notwithstanding section 1346 of title 31, United States Code, or any other provision of law prohibiting the interagency financing of activities described in subparagraph (A) or (B), upon the request of the Director of National Intelligence, any element of the intelligence community may use appropriated funds to support or participate in the interagency activities of the following:

“(A) National intelligence centers established by the Director under section 119B.

“(B) Boards, commissions, councils, committees, and similar groups that are established—

“(i) for a term of not more than 2 years; and

“(ii) by the Director.

“(2) No provision of law enacted after the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2010 shall be construed to limit or supersede the authority in paragraph (1) unless such provision makes specific reference to the authority in that paragraph.”

(b) **REPORTS.**—Not later than February 1 of each fiscal year 2011 through 2014, the Director of National Intelligence shall submit to the congressional intelligence committees a report detailing the exercise of any authority pursuant to subsection (x) of section 102A of the National Security Act of 1947 (50 U.S.C. 403-1), as added by subsection (a), during the preceding fiscal year.

SEC. 404. LOCATION OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

Subsection (e) of section 103 of the National Security Act of 1947 (50 U.S.C. 403-3) is amended to read as follows:

“(e) **LOCATION OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.**—The headquarters of the Office of the Director of National Intelligence may be located in the Washington metropolitan region, as that term is defined in section 8301 of title 40, United States Code.”

SEC. 405. ADDITIONAL DUTIES OF THE DIRECTOR OF SCIENCE AND TECHNOLOGY.

(a) **IN GENERAL.**—Section 103E of the National Security Act of 1947 (50 U.S.C. 403-3e) is amended—

(1) in subsection (c)—

(A) by redesignating paragraph (5) as paragraph (7);

(B) in paragraph (4), by striking “and” at the end; and

(C) by inserting after paragraph (4) the following:

“(5) assist the Director in establishing goals for basic, applied, and advanced research to meet the technology needs of the intelligence community and to be executed by elements of the intelligence community by—

“(A) systematically identifying, assessing, and prioritizing the most significant intelligence challenges that require technical solutions; and

“(B) examining options to enhance the responsiveness of research programs;

“(6) submit to Congress an annual report on the science and technology strategy of the Director; and”;

(2) in paragraph (3) of subsection (d)—

(A) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively;

(B) in subparagraph (B), as so redesignated, by inserting “and prioritize” after “coordinate”; and

(C) by inserting before subparagraph (B), as so redesignated, the following new subparagraph:

“(A) identify basic, advanced, and applied research programs to be executed by elements of the intelligence community;”

(b) **SENSE OF CONGRESS ON SUPERVISION OF THE DIRECTOR OF SCIENCE AND TECHNOLOGY.**—It is the sense of Congress that the Director of Science and Technology of the Office of the Director of National Intelligence should report only to a member of such Office who is appointed by the President, by and with the consent of the Senate.

SEC. 406. TITLE AND APPOINTMENT OF CHIEF INFORMATION OFFICER OF THE INTELLIGENCE COMMUNITY.

Section 103G of the National Security Act of 1947 (50 U.S.C. 403-3g) is amended—

(1) in subsection (a)—

(A) by inserting “of the Intelligence Community” after “Chief Information Officer”; and

(B) by striking “President,” and all that follows and inserting “President.”;

(2) by striking subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively;

(3) in subsection (b) (as so redesignated), by inserting “of the Intelligence Community” after “Chief Information Officer”; and

(4) in subsection (c) (as so redesignated), by inserting “of the Intelligence Community” after “Chief Information Officer” the first place it appears.

SEC. 407. INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY.

(a) **ESTABLISHMENT.**—

(1) **IN GENERAL.**—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by inserting after section 103G the following new section:

“INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY

“SEC. 103H. (a) **OFFICE OF INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY.**—There is within the Office of the Director of National Intelligence an Office of the Inspector General of the Intelligence Community.

“(b) **PURPOSE.**—The purpose of the Office of the Inspector General of the Intelligence Community is—

“(1) to create an objective and effective office, appropriately accountable to Congress, to initiate and conduct independently investigations, inspections, audits, and reviews on programs and activities within the responsibility and authority of the Director of National Intelligence;

“(2) to provide leadership and coordination and recommend policies for activities designed—

“(A) to promote economy, efficiency, and effectiveness in the administration and implementation of such programs and activities; and

“(B) to prevent and detect fraud and abuse in such programs and activities;

“(3) to provide a means for keeping the Director of National Intelligence fully and currently informed about—

“(A) problems and deficiencies relating to the administration of programs and activities within the responsibility and authority of the Director of National Intelligence; and

“(B) the necessity for, and the progress of, corrective actions; and

“(4) in the manner prescribed by this section, to ensure that the congressional intelligence committees are kept similarly informed of—

“(A) significant problems and deficiencies relating to programs and activities within the responsibility and authority of the Director of National Intelligence; and

“(B) the necessity for, and the progress of, corrective actions.

“(c) **INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY.**—(1) There is an Inspector General of the Intelligence Community, who shall be the head of the Office of the Inspector General of the Intelligence Community, who shall be appointed by the President, by and with the advice and consent of the Senate.

“(2) The nomination of an individual for appointment as Inspector General shall be made—

“(A) without regard to political affiliation;

“(B) on the basis of integrity, compliance with security standards of the intelligence

community, and prior experience in the field of intelligence or national security; and

“(C) on the basis of demonstrated ability in accounting, financial analysis, law, management analysis, public administration, or investigations.

“(3) The Inspector General shall report directly to and be under the general supervision of the Director of National Intelligence.

“(4) The Inspector General may be removed from office only by the President. The President shall communicate in writing to the congressional intelligence committees the reasons for the removal not later than 30 days prior to the effective date of such removal.

“(d) **ASSISTANT INSPECTORS GENERAL.**—Subject to applicable law and the policies of the Director of National Intelligence, the Inspector General shall—

“(1) appoint an Assistant Inspector General for Audit who shall have the responsibility for supervising the performance of auditing activities relating to programs and activities within the responsibility and authority of the Director;

“(2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and activities; and

“(3) appoint other Assistant Inspectors General that, in the judgment of the Inspector General, are necessary to carry out the duties of the Inspector General.

“(e) **DUTIES AND RESPONSIBILITIES.**—It shall be the duty and responsibility of the Inspector General of the Intelligence Community—

“(1) to provide policy direction for, and to plan, conduct, supervise, and coordinate independently, the investigations, inspections, audits, and reviews relating to programs and activities within the responsibility and authority of the Director of National Intelligence;

“(2) to keep the Director of National Intelligence fully and currently informed concerning violations of law and regulations, fraud and other serious problems, abuses, and deficiencies relating to the programs and activities within the responsibility and authority of the Director, to recommend corrective action concerning such problems, and to report on the progress made in implementing such corrective action;

“(3) to take due regard for the protection of intelligence sources and methods in the preparation of all reports issued by the Inspector General, and, to the extent consistent with the purpose and objective of such reports, take such measures as may be appropriate to minimize the disclosure of intelligence sources and methods described in such reports; and

“(4) in the execution of the duties and responsibilities under this section, to comply with generally accepted government auditing.

“(f) **LIMITATIONS ON ACTIVITIES.**—(1) The Director of National Intelligence may prohibit the Inspector General of the Intelligence Community from initiating, carrying out, or completing any investigation, inspection, audit, or review if the Director determines that such prohibition is necessary to protect vital national security interests of the United States.

“(2) If the Director exercises the authority under paragraph (1), the Director shall submit an appropriately classified statement of the reasons for the exercise of such authority within 7 days to the congressional intelligence committees.

“(3) The Director shall advise the Inspector General at the time a statement under paragraph (2) is submitted, and, to the extent

consistent with the protection of intelligence sources and methods, provide the Inspector General with a copy of such statement.

“(4) The Inspector General may submit to the congressional intelligence committees any comments on the statement of which the Inspector General has notice under paragraph (3) that the Inspector General considers appropriate.

“(g) AUTHORITIES.—(1) The Inspector General of the Intelligence Community shall have direct and prompt access to the Director of National Intelligence when necessary for any purpose pertaining to the performance of the duties of the Inspector General.

“(2)(A) The Inspector General shall, subject to the limitations in subsection (f), make such investigations and reports relating to the administration of the programs and activities within the authorities and responsibilities of the Director as are, in the judgment of the Inspector General, necessary or desirable.

“(B) The Inspector General shall have access to any employee, or any employee of contract personnel, of any element of the intelligence community needed for the performance of the duties of the Inspector General.

“(C) The Inspector General shall have direct access to all records, reports, audits, reviews, documents, papers, recommendations, or other material which relate to the programs and activities with respect to which the Inspector General has responsibilities under this section.

“(D) The level of classification or compartmentation of information shall not, in and of itself, provide a sufficient rationale for denying the Inspector General access to any materials under subparagraph (C).

“(E) The Director, or on the recommendation of the Director, another appropriate official of the intelligence community, shall take appropriate administrative actions against an employee, or an employee of contract personnel, of an element of the intelligence community that fails to cooperate with the Inspector General. Such administrative action may include loss of employment or the termination of an existing contractual relationship.

“(3) The Inspector General is authorized to receive and investigate, pursuant to subsection (h), complaints or information from any person concerning the existence of an activity within the authorities and responsibilities of the Director of National Intelligence constituting a violation of laws, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety. Once such complaint or information has been received from an employee of the intelligence community—

“(A) the Inspector General shall not disclose the identity of the employee without the consent of the employee, unless the Inspector General determines that such disclosure is unavoidable during the course of the investigation or the disclosure is made to an official of the Department of Justice responsible for determining whether a prosecution should be undertaken; and

“(B) no action constituting a reprisal, or threat of reprisal, for making such complaint or disclosing such information to the Inspector General may be taken by any employee in a position to take such actions, unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

“(4) The Inspector General shall have authority to administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of

the duties of the Inspector General, which oath, affirmation, or affidavit when administered or taken by or before an employee of the Office of the Inspector General of the Intelligence Community designated by the Inspector General shall have the same force and effect as if administered or taken by, or before, an officer having a seal.

“(5)(A) Except as provided in subparagraph (B), the Inspector General is authorized to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data in any medium (including electronically stored information, as well as any tangible thing) and documentary evidence necessary in the performance of the duties and responsibilities of the Inspector General.

“(B) In the case of departments, agencies, and other elements of the United States Government, the Inspector General shall obtain information, documents, reports, answers, records, accounts, papers, and other data and evidence for the purpose specified in subparagraph (A) using procedures other than by subpoenas.

“(C) The Inspector General may not issue a subpoena for, or on behalf of, any component of the Office of the Director of National Intelligence or any element of the intelligence community, including the Office of the Director of National Intelligence.

“(D) In the case of contumacy or refusal to obey a subpoena issued under this paragraph, the subpoena shall be enforceable by order of any appropriate district court of the United States.

“(6) The Inspector General may obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade 15 of the General Schedule (as described in section 5332 of title 5, United States Code).

“(7) The Inspector General may, to the extent and in such amounts as may be provided in appropriations, enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this section.

“(h) COORDINATION AMONG INSPECTORS GENERAL.—(1)(A) In the event of a matter within the jurisdiction of the Inspector General of the Intelligence Community that may be subject to an investigation, inspection, audit, or review by both the Inspector General of the Intelligence Community and an inspector general, whether statutory or administrative, with oversight responsibility for an element or elements of the intelligence community, the Inspector General of the Intelligence Community and such other inspector or inspectors general shall expeditiously resolve the question of which inspector general shall conduct such investigation, inspection, audit, or review to avoid unnecessary duplication of the activities of the Offices of the Inspectors General.

“(B) In attempting to resolve a question under subparagraph (A), the inspectors general concerned may request the assistance of the Intelligence Community Inspectors General Forum established under paragraph (2). In the event of a dispute between an inspector general within an agency or department of the United States Government and the Inspector General of the Intelligence Community that has not been resolved with the assistance of such Forum, the inspectors general shall submit the question to the Director of National Intelligence and the head of the affected agency or department for resolution.

“(2)(A) There is established the Intelligence Community Inspectors General Forum, which shall consist of all statutory

or administrative inspectors general with oversight responsibility for an element or elements of the intelligence community.

“(B) The Inspector General of the Intelligence Community shall serve as the Chair of the Forum established under subparagraph (A). The Forum shall have no administrative authority over any inspector general, but shall serve as a mechanism for informing its members of the work of individual members of the Forum that may be of common interest and discussing questions about jurisdiction or access to employees, employees of contract personnel, records, audits, reviews, documents, recommendations, or other materials that may involve or be of assistance to more than 1 of its members.

“(3) The Inspector General conducting an investigation, inspection, audit, or review covered by paragraph (1) shall submit the results of such investigation, inspection, audit, or review to any other Inspector General, including the Inspector General of the Intelligence Community, with jurisdiction to conduct such investigation, inspection, audit, or review who did not conduct such investigation, inspection, audit, or review.

“(i) COUNSEL TO THE INSPECTOR GENERAL.—The Inspector General of the Intelligence Community shall—

“(1) appoint a Counsel to the Inspector General who shall report to the Inspector General; or

“(2) obtain the services of a counsel appointed by and directly reporting to another Inspector General or the Council of the Inspectors General on Integrity and Efficiency on a reimbursable basis.

“(j) STAFF AND OTHER SUPPORT.—(1) The Director of National Intelligence shall provide the Inspector General of the Intelligence Community with appropriate and adequate office space at central and field office locations, together with such equipment, office supplies, maintenance services, and communications facilities and services as may be necessary for the operation of such offices.

“(2)(A) Subject to applicable law and the policies of the Director of National Intelligence, the Inspector General shall select, appoint, and employ such officers and employees as may be necessary to carry out the functions, powers, and duties of the Inspector General. The Inspector General shall ensure that any officer or employee so selected, appointed, or employed has security clearances appropriate for the assigned duties of such officer or employee.

“(B) In making selections under subparagraph (A), the Inspector General shall ensure that such officers and employees have the requisite training and experience to enable the Inspector General to carry out the duties of the Inspector General effectively.

“(C) In meeting the requirements of this paragraph, the Inspector General shall create within the Office of the Inspector General of the Intelligence Community a career cadre of sufficient size to provide appropriate continuity and objectivity needed for the effective performance of the duties of the Inspector General.

“(3) Consistent with budgetary and personnel resources allocated by the Director of National Intelligence, the Inspector General has final approval of—

“(A) the selection of internal and external candidates for employment with the Office of the Inspector General; and

“(B) all other personnel decisions concerning personnel permanently assigned to the Office of Inspector General, including selection and appointment to the Senior Intelligence Service, but excluding all security based determinations that are not within the authority of a head of a component of the Office of the Director of National Intelligence.

“(4)(A) Subject to the concurrence of the Director of National Intelligence, the Inspector General may request such information or assistance as may be necessary for carrying out the duties and responsibilities of the Inspector General from any department, agency, or other element of the United States Government.

“(B) Upon request of the Inspector General for information or assistance under subparagraph (A), the head of the department, agency, or element concerned shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the department, agency, or element, furnish to the Inspector General, or to an authorized designee, such information or assistance.

“(C) The Inspector General of the Intelligence Community may, upon reasonable notice to the head of any element of the intelligence community and in coordination with that element’s inspector general pursuant to subsection (h), conduct, as authorized by this section, an investigation, inspection, audit, or review of such element and may enter into any place occupied by such element for purposes of the performance of the duties of the Inspector General.

“(k) REPORTS.—(1)(A) The Inspector General of the Intelligence Community shall, not later than January 31 and July 31 of each year, prepare and submit to the Director of National Intelligence a classified, and, as appropriate, unclassified semiannual report summarizing the activities of the Office of the Inspector General of the Intelligence Community during the immediately preceding 6-month period ending December 31 (of the preceding year) and June 30, respectively. The Inspector General of the Intelligence Community shall provide any portion of the report involving a component of a department of the United States Government to the head of that department simultaneously with submission of the report to the Director of National Intelligence.

“(B) Each report under this paragraph shall include, at a minimum, the following:

“(i) A list of the title or subject of each investigation, inspection, audit, or review conducted during the period covered by such report.

“(ii) A description of significant problems, abuses, and deficiencies relating to the administration of programs and activities of the intelligence community within the responsibility and authority of the Director of National Intelligence, and in the relationships between elements of the intelligence community, identified by the Inspector General during the period covered by such report.

“(iii) A description of the recommendations for corrective action made by the Inspector General during the period covered by such report with respect to significant problems, abuses, or deficiencies identified in clause (ii).

“(iv) A statement of whether or not corrective action has been completed on each significant recommendation described in previous semiannual reports, and, in a case where corrective action has been completed, a description of such corrective action.

“(v) A certification of whether or not the Inspector General has had full and direct access to all information relevant to the performance of the functions of the Inspector General.

“(vi) A description of the exercise of the subpoena authority under subsection (g)(5) by the Inspector General during the period covered by such report.

“(vii) Such recommendations as the Inspector General considers appropriate for legislation to promote economy, efficiency, and effectiveness in the administration and

implementation of programs and activities within the responsibility and authority of the Director of National Intelligence, and to detect and eliminate fraud and abuse in such programs and activities.

“(C) Not later than 30 days after the date of receipt of a report under subparagraph (A), the Director shall transmit the report to the congressional intelligence committees together with any comments the Director considers appropriate. The Director shall transmit to the committees of the Senate and of the House of Representatives with jurisdiction over a department of the United States Government any portion of the report involving a component of such department simultaneously with submission of the report to the congressional intelligence committees.

“(2)(A) The Inspector General shall report immediately to the Director whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to programs and activities within the responsibility and authority of the Director of National Intelligence.

“(B) The Director shall transmit to the congressional intelligence committees each report under subparagraph (A) within 7 calendar days of receipt of such report, together with such comments as the Director considers appropriate. The Director shall transmit to the committees of the Senate and of the House of Representatives with jurisdiction over a department of the United States Government any portion of each report under subparagraph (A) that involves a problem, abuse, or deficiency related to a component of such department simultaneously with transmission of the report to the congressional intelligence committees.

“(3)(A) In the event that—

“(i) the Inspector General is unable to resolve any differences with the Director affecting the execution of the duties or responsibilities of the Inspector General;

“(ii) an investigation, inspection, audit, or review carried out by the Inspector General focuses on any current or former intelligence community official who—

“(I) holds or held a position in an element of the intelligence community that is subject to appointment by the President, whether or not by and with the advice and consent of the Senate, including such a position held on an acting basis;

“(II) holds or held a position in an element of the intelligence community, including a position held on an acting basis, that is appointed by the Director of National Intelligence; or

“(III) holds or held a position as head of an element of the intelligence community or a position covered by subsection (b) or (c) of section 106;

“(iii) a matter requires a report by the Inspector General to the Department of Justice on possible criminal conduct by a current or former official described in clause (ii);

“(iv) the Inspector General receives notice from the Department of Justice declining or approving prosecution of possible criminal conduct of any current or former official described in clause (ii); or

“(v) the Inspector General, after exhausting all possible alternatives, is unable to obtain significant documentary information in the course of an investigation, inspection, audit, or review.

the Inspector General shall immediately notify, and submit a report to, the congressional intelligence committees on such matter.

“(B) The Inspector General shall submit to the committees of the Senate and of the House of Representatives with jurisdiction over a department of the United States Gov-

ernment any portion of each report under subparagraph (A) that involves an investigation, inspection, audit, or review carried out by the Inspector General focused on any current or former official of a component of such department simultaneously with submission of the report to the congressional intelligence committees.

“(4) Pursuant to title V, the Director shall submit to the congressional intelligence committees any report or findings and recommendations of an investigation, inspection, audit, or review conducted by the office which has been requested by the Chairman or Vice Chairman or Ranking Minority Member of either committee.

“(5)(A) An employee of an element of the intelligence community, an employee assigned or detailed to an element of the intelligence community, or an employee of contract personnel to the intelligence community who intends to report to Congress a complaint or information with respect to an urgent concern may report such complaint or information to the Inspector General.

“(B) Not later than the end of the 14-calendar-day period beginning on the date of receipt from an employee of a complaint or information under subparagraph (A), the Inspector General shall determine whether the complaint or information appears credible. Upon making such a determination, the Inspector General shall transmit to the Director a notice of that determination, together with the complaint or information.

“(C) Upon receipt of a transmittal from the Inspector General under subparagraph (B), the Director shall, within 7 calendar days of such receipt, forward such transmittal to the congressional intelligence committees, together with any comments the Director considers appropriate.

“(D)(i) If the Inspector General does not find credible under subparagraph (B) a complaint or information submitted under subparagraph (A), or does not transmit the complaint or information to the Director in accurate form under subparagraph (B), the employee (subject to clause (ii)) may submit the complaint or information to Congress by contacting either or both of the congressional intelligence committees directly.

“(ii) An employee may contact the intelligence committees directly as described in clause (i) only if the employee—

“(I) before making such a contact, furnishes to the Director, through the Inspector General, a statement of the employee’s complaint or information and notice of the employee’s intent to contact the congressional intelligence committees directly; and

“(II) obtains and follows from the Director, through the Inspector General, direction on how to contact the congressional intelligence committees in accordance with appropriate security practices.

“(iii) A member or employee of one of the congressional intelligence committees who receives a complaint or information under clause (i) does so in that member or employee’s official capacity as a member or employee of such committee.

“(E) The Inspector General shall notify an employee who reports a complaint or information to the Inspector General under this paragraph of each action taken under this paragraph with respect to the complaint or information. Such notice shall be provided not later than 3 days after any such action is taken.

“(F) An action taken by the Director or the Inspector General under this paragraph shall not be subject to judicial review.

“(G) In this paragraph, the term ‘urgent concern’ means any of the following:

“(i) A serious or flagrant problem, abuse, violation of law or Executive order, or deficiency relating to the funding, administration, or operation of an intelligence activity

within the responsibility and authority of the Director of National Intelligence involving classified information, but does not include differences of opinions concerning public policy matters.

“(ii) A false statement to Congress, or a willful withholding from Congress, on an issue of material fact relating to the funding, administration, or operation of an intelligence activity.

“(iii) An action, including a personnel action described in section 2302(a)(2)(A) of title 5, United States Code, constituting reprisal or threat of reprisal prohibited under subsection (f)(3)(B) of this section in response to an employee’s reporting an urgent concern in accordance with this paragraph.

“(H) In support of this paragraph, Congress makes the findings set forth in paragraphs (1) through (6) of section 701(b) of the Intelligence Community Whistleblower Protection Act of 1998 (title VII of Public Law 105-272; 5 U.S.C. App. 8H note).

“(I) Nothing in this section shall be construed to limit the protections afforded to an employee under the Intelligence Community Whistleblower Protection Act of 1998 (title VII of Public Law 105-272, 5 U.S.C. App. 8H note).

“(6) In accordance with section 535 of title 28, United States Code, the Inspector General shall expeditiously report to the Attorney General any information, allegation, or complaint received by the Inspector General relating to violations of Federal criminal law that involves a program or operation of an element of the intelligence community, or in the relationships between the elements of the intelligence community, consistent with such guidelines as may be issued by the Attorney General pursuant to subsection (b)(2) of such section. A copy of each such report shall be furnished to the Director.

“(1) CONSTRUCTION OF DUTIES REGARDING ELEMENTS OF INTELLIGENCE COMMUNITY.—Except as resolved pursuant to subsection (h), the performance by the Inspector General of the Intelligence Community of any duty, responsibility, or function regarding an element of the intelligence community shall not be construed to modify or affect the duties and responsibilities of any other Inspector General, whether statutory or administrative, having duties and responsibilities relating to such element.

“(m) SEPARATE BUDGET ACCOUNT.—The Director of National Intelligence shall, in accordance with procedures to be issued by the Director in consultation with the congressional intelligence committees, include in the National Intelligence Program budget a separate account for the Office of Inspector General of the Intelligence Community.

“(n) BUDGET.—(1) For each fiscal year, the Inspector General of the Intelligence Community shall transmit a budget estimate and request to the Director of National Intelligence that specifies for such fiscal year—

“(A) the aggregate amount requested for the operations of the Inspector General;

“(B) the amount requested for all training requirements of the Inspector General, including a certification from the Inspector General that the amount requested is sufficient to fund all training requirements for the Office of the Inspector General; and

“(C) the amount requested to support the Council of the Inspectors General on Integrity and Efficiency, including a justification of such amount.

“(2) In transmitting a proposed budget to the President for a fiscal year, the Director of National Intelligence shall include for such fiscal year—

“(A) the aggregate amount requested for the Inspector General of the Intelligence Community;

“(B) the amount requested by the Inspector General for training;

“(C) the amounts requested to support of the Council of the Inspectors General on Integrity and Efficiency; and

“(D) the comments of the Inspector General, if any, with respect to the proposal.

“(3) The Director of National Intelligence shall submit to the congressional intelligence committees, the Committee on Appropriations of the Senate, and the Committee on Appropriations of the House of Representatives for each fiscal year—

“(A) a separate statement of the budget estimate transmitted pursuant to paragraph (1);

“(B) the amount requested by the Director for the Inspector General pursuant to paragraph (2);

“(C) the amount requested by the Director for training for personnel of the Office of the Inspector General;

“(D) the amount requested by the Director for support for the Council of the Inspectors General on Integrity and Efficiency; and

“(E) the comments of the Inspector General, if any, on the amount requested pursuant to paragraph (2), including whether such amount would substantially inhibit the Inspector General from performing the duties of the Office of the Inspector General.”.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947 is amended by inserting after the item relating to section 103G the following new item:

“Sec. 103H. Inspector General of the Intelligence Community.”.

(b) PAY OF INSPECTOR GENERAL.—Subparagraph (A) of section 4(a)(3) of the Inspector General Reform Act of 2008 (Public Law 110-409; 5 U.S.C. App. note) is amended by inserting “the Inspector General of the Intelligence Community,” after “basic pay of”.

(c) CONSTRUCTION.—Nothing in the amendment made by subsection (a)(1) shall be construed to alter the duties and responsibilities of the General Counsel of the Office of the Director of National Intelligence. The Counsel to the Inspector General of the Intelligence Community appointed pursuant to section 103H(i) of the National Security Act of 1947 (50 U.S.C. 402 et seq.), as added by subsection (a)(1), shall perform the functions as such Inspector General may prescribe.

(d) REPEAL OF SUPERSEDED AUTHORITY TO ESTABLISH POSITION.—

(1) IN GENERAL.—Section 8K of the Inspector General Act of 1978 (5 U.S.C. App.) shall be repealed on the date that the President nominates the first individual to serve as Inspector General for the Intelligence Community pursuant to section 103H of the National Security Act of 1947, as added by subsection (a).

(2) TRANSITION.—Notwithstanding the repeal of section 8K of the Inspector General Act of 1978 (5 U.S.C. App.) pursuant to paragraph (1), the individual serving as Inspector General pursuant to such section 8K may continue such service until an individual is appointed as the Inspector General of the Intelligence Community, by and with the advice and consent of the Senate, pursuant to such section 103H and assumes the duties of that position.

SEC. 408. CHIEF FINANCIAL OFFICER OF THE INTELLIGENCE COMMUNITY.

(a) ESTABLISHMENT.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.), as amended by section 407 of this Act, is further amended by inserting after section 103H, as added by section 407(a)(1), the following new section:

“CHIEF FINANCIAL OFFICER OF THE INTELLIGENCE COMMUNITY

“SEC. 103I. (a) CHIEF FINANCIAL OFFICER OF THE INTELLIGENCE COMMUNITY.—To assist the Director of National Intelligence in carrying

out the responsibilities of the Director under this Act and other applicable provisions of law, there shall be within the Office of the Director of National Intelligence a Chief Financial Officer of the Intelligence Community who shall be appointed by the Director.

“(b) DUTIES AND RESPONSIBILITIES.—Subject to the direction of the Director of National Intelligence, the Chief Financial Officer of the Intelligence Community shall—

“(1) serve as the principal advisor to the Director of National Intelligence and the Principal Deputy Director of National Intelligence on the management and allocation of intelligence community budgetary resources;

“(2) establish and oversee a comprehensive and integrated strategic process for resource management within the intelligence community;

“(3) ensure that the strategic plan of the Director of National Intelligence—

“(A) is based on budgetary constraints as specified in the Future Year Intelligence Plans and Long-term Budget Projections required by this Act; and

“(B) contains specific goals and objectives to support a performance-based budget;

“(4) ensure that—

“(A) current and future major system acquisitions have validated national requirements for meeting the strategic plan of the Director; and

“(B) such requirements are prioritized based on budgetary constraints, as specified in the Future Year Intelligence Plans and the Long-term Intelligence Projections required by this Act;

“(5) prior to the obligation or expenditure of funds for the acquisition of any major system pursuant to a Milestone A or Milestone B decision, determine that such acquisition complies with the requirements of paragraph (4);

“(6) ensure that the architectures of the Director are based on budgetary constraints as specified in the Future Year Intelligence Plans and the Long-term Budget Projections required by this Act;

“(7) coordinate or approve representations made to Congress by the intelligence community regarding National Intelligence Program budgetary resources;

“(8) preside, or assist in presiding, over any mission requirements, acquisition, or architectural board formed within or by the Office of the Director of National Intelligence; and

“(9) perform such other duties as may be prescribed by the Director of National Intelligence or specified by law.

“(c) OTHER LAW.—The Chief Financial Officer of the Intelligence Community shall serve as the Chief Financial Officer of the intelligence community and, to the extent applicable, shall have the duties, responsibilities, and authorities specified in the Chief Financial Officers Act of 1990 (Public Law 101-576; 104 Stat. 2823) and the amendments made by that Act.

“(d) PROHIBITION ON SIMULTANEOUS SERVICE AS OTHER CHIEF FINANCIAL OFFICER.—An individual serving in the position of Chief Financial Officer of the Intelligence Community may not, while so serving, serve as the chief financial officer of any other department or agency, or component thereof, of the United States Government.

“(e) DEFINITIONS.—In this section:

“(1) The term ‘major system’ has the meaning given that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

“(2) The term ‘Milestone A’ means a decision to enter into concept refinement and technology maturity demonstration pursuant to guidance issued by the Director of National Intelligence.

“(3) The term ‘Milestone B’ means a decision to enter into system development, integration, and demonstration pursuant to guidance prescribed by the Director of National Intelligence.”

(b) CLERICAL AMENDMENT.—The table of contents in the first section of the National Security Act of 1947, as amended by section 406, is further amended by inserting after the item relating to section 103H, as added by section 407(a)(2) the following new item:

“Sec. 103I. Chief Financial Officer of the Intelligence Community.”

SEC. 409. LEADERSHIP AND LOCATION OF CERTAIN OFFICES AND OFFICIALS.

(a) NATIONAL COUNTER PROLIFERATION CENTER.—Section 119A(a) of the National Security Act of 1947 (50 U.S.C. 404o-1(a)) is amended—

(1) by striking “(a) ESTABLISHMENT.—Not later than 18 months after the date of the enactment of the National Security Intelligence Reform Act of 2004, the” and inserting the following:

“(a) IN GENERAL.—

“(1) ESTABLISHMENT.—The”; and

(2) by adding at the end the following new paragraphs:

“(2) DIRECTOR.—The head of the National Counter Proliferation Center shall be the Director of the National Counter Proliferation Center, who shall be appointed by the Director of National Intelligence.

“(3) LOCATION.—The National Counter Proliferation Center shall be located within the Office of the Director of National Intelligence.”

(b) OFFICERS.—Section 103(c) of that Act (50 U.S.C. 403-3(c)) is amended—

(1) by redesignating paragraph (9) as paragraph (14); and

(2) by inserting after paragraph (8) the following new paragraphs:

“(9) The Chief Information Officer of the Intelligence Community.

“(10) The Inspector General of the Intelligence Community.

“(11) The Director of the National Counterterrorism Center.

“(12) The Director of the National Counter Proliferation Center.

“(13) The Chief Financial Officer of the Intelligence Community”.

SEC. 410. NATIONAL SPACE INTELLIGENCE OFFICE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

“NATIONAL SPACE INTELLIGENCE OFFICE

“SEC. 119C. (a) ESTABLISHMENT.—There is established within the Office of the Director of National Intelligence a National Space Intelligence Office.

“(b) DIRECTOR OF NATIONAL SPACE INTELLIGENCE OFFICE.—The National Intelligence Officer for Science and Technology, or a successor position designated by the Director of National Intelligence, shall act as the Director of the National Space Intelligence Office.

“(c) MISSIONS.—The National Space Intelligence Office shall have the following missions:

“(1) To coordinate and provide policy direction for the management of space-related intelligence assets.

“(2) To prioritize collection activities consistent with the National Intelligence Collection Priorities framework, or a successor framework or other document designated by the Director of National Intelligence.

“(3) To provide policy direction for programs designed to ensure a sufficient cadre of government and nongovernment personnel in fields relating to space intelligence, including programs to support education, re-

cruitment, hiring, training, and retention of qualified personnel.

“(4) To evaluate independent analytic assessments of threats to classified United States space intelligence systems throughout all phases of the development, acquisition, and operation of such systems.

“(d) ACCESS TO INFORMATION.—The Director of National Intelligence shall ensure that the National Space Intelligence Office has access to all national intelligence information (as appropriate), and such other information (as appropriate and practical), necessary for the Office to carry out the missions of the Office under subsection (c).

“(e) SEPARATE BUDGET ACCOUNT.—The Director of National Intelligence shall include in the National Intelligence Program budget a separate line item for the National Space Intelligence Office.”

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947 is amended by inserting after the item relating to section 119B the following new item:

“Sec. 119C. National Space Intelligence Office.”

(b) REPORT ON ORGANIZATION OF OFFICE.—

(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Director of the National Space Intelligence Office shall submit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives a report on the organizational structure of the National Space Intelligence Office established by section 119C of the National Security Act of 1947 (as added by subsection (a)).

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) The proposed organizational structure of the National Space Intelligence Office.

(B) An identification of key participants in the Office.

(C) A strategic plan for the Office during the 5-year period beginning on the date of the report.

SEC. 411. PROTECTION OF CERTAIN FILES OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

(a) IN GENERAL.—Title VII of the National Security Act of 1947 (50 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

“PROTECTION OF CERTAIN FILES OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

“SEC. 706. (a) INAPPLICABILITY OF FOIA TO EXEMPTED OPERATIONAL FILES PROVIDED TO ODNI.—(1) Subject to paragraph (2), the provisions of section 552 of title 5, United States Code, that require search, review, publication, or disclosure of a record shall not apply to a record provided to the Office by an element of the intelligence community from the exempted operational files of such element.

“(2) Paragraph (1) shall not apply with respect to a record of the Office that—

“(A) contains information derived or disseminated from an exempted operational file, unless such record is created by the Office for the sole purpose of organizing such exempted operational file for use by the Office;

“(B) is disseminated by the Office to a person other than an officer, employee, or contractor of the Office; or

“(C) is no longer designated as an exempted operational file in accordance with this title.

“(b) EFFECT OF PROVIDING FILES TO ODNI.—Notwithstanding any other provision of this title, an exempted operational file that is provided to the Office by an element of the intelligence community shall not be subject to the provisions of section 552 of

title 5, United States Code, that require search, review, publication, or disclosure of a record solely because such element provides such exempted operational file to the Office.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘exempted operational file’ means a file of an element of the intelligence community that, in accordance with this title, is exempted from the provisions of section 552 of title 5, United States Code, that require search, review, publication, or disclosure of such file.

“(2) Except as otherwise specifically provided, the term ‘Office’ means the Office of the Director of National Intelligence.

“(d) SEARCH AND REVIEW FOR CERTAIN PURPOSES.—Notwithstanding subsection (a) or (b), exempted operational files shall continue to be subject to search and review for information concerning any of the following:

“(1) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5, United States Code.

“(2) Any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code.

“(3) The specific subject matter of an investigation for any impropriety or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity by any of the following:

“(A) The Select Committee on Intelligence of the Senate.

“(B) The Permanent Select Committee on Intelligence of the House of Representatives.

“(C) The Intelligence Oversight Board.

“(D) The Department of Justice.

“(E) The Office.

“(F) The Office of the Inspector General of the Intelligence Community.

“(e) DECENNIAL REVIEW OF EXEMPTED OPERATIONAL FILES.—(1) Not less than once every 10 years, the Director of National Intelligence shall review the operational files exempted under subsection (a) to determine whether such files, or any portion of such files, may be removed from the category of exempted files.

“(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

“(3) A complainant that alleges that the Director of National Intelligence has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court’s review shall be limited to determining the following:

“(A) Whether the Director has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2010 or before the expiration of the 10-year period beginning on the date of the most recent review.

“(B) Whether the Director of National Intelligence, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.

“(f) SUPERSEDITION OF OTHER LAWS.—The provisions of this section may not be superseded except by a provision of law that is enacted after the date of the enactment of this section and that specifically cites and repeals or modifies such provisions.

“(g) ALLEGATION; IMPROPER WITHHOLDING OF RECORDS; JUDICIAL REVIEW.—(1) Except as

provided in paragraph (2), whenever any person who has requested agency records under section 552 of title 5, United States Code, alleges that the Office has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code.

“(2) Judicial review shall not be available in the manner provided for under paragraph (1) as follows:

“(A) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by the Office, such information shall be examined *ex parte*, in camera by the court.

“(B) The court shall determine, to the fullest extent practicable, the issues of fact based on sworn written submissions of the parties.

“(C)(i) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, the Office shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted files likely to contain responsive records are records provided to the Office by an element of the intelligence community from the exempted operational files of such element.

“(ii) The court may not order the Office to review the content of any exempted file or files in order to make the demonstration required under clause (i), unless the complainant disputes the Office’s showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

“(D) In proceedings under subparagraph (C), a party may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36.

“(E) If the court finds under this subsection that the Office has improperly withheld requested records because of failure to comply with any provision of this section, the court shall order the Office to search and review the appropriate exempted file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code, and such order shall be the exclusive remedy for failure to comply with this section.

“(F) If at any time following the filing of a complaint pursuant to this paragraph the Office agrees to search the appropriate exempted file or files for the requested records, the court shall dismiss the claim based upon such complaint.”.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947 is amended by inserting after the item relating to section 705 the following new item:

“Sec. 706. Protection of certain files of the Office of the Director of National Intelligence.”.

SEC. 412. COUNTERINTELLIGENCE INITIATIVES FOR THE INTELLIGENCE COMMUNITY.

Section 1102 of the National Security Act of 1947 (50 U.S.C. 442a) is amended—

- (1) in subsection (a)—
 - (A) by striking paragraph (2); and
 - (B) by striking “(1) In” and inserting “In”; and
- (2) in subsection (c)—
 - (A) by striking paragraph (2); and
 - (B) by striking “(1) The” and inserting “The”.

SEC. 413. APPLICABILITY OF THE PRIVACY ACT TO THE DIRECTOR OF NATIONAL INTELLIGENCE AND THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

Subsection (j) of section 552a of title 5, United States Code, is amended—

- (1) in paragraph (1), by striking “or”;
- (2) by redesignating paragraph (2) as paragraph (3); and
- (3) by inserting after paragraph (1) the following new paragraph:

“(2) maintained by the Office of the Director of National Intelligence; or”.

SEC. 414. INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT TO ADVISORY COMMITTEES OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

(a) IN GENERAL.—Section 4(b) of the Federal Advisory Committee Act (5 U.S.C. App.) is amended—

- (1) in paragraph (1), by striking “or”;
- (2) in paragraph (2), by striking the period and inserting “; or”; and
- (3) by adding at the end the following new paragraph:

“(3) the Office of the Director of National Intelligence.”.

(b) ANNUAL REPORT.—The Director of National Intelligence and the Director of the Central Intelligence Agency shall each submit to the congressional intelligence committees an annual report on advisory committees created by each such Director. Each report shall include—

- (1) a description of each such advisory committee, including the subject matter of the committee; and
- (2) a list of members of each such advisory committee.

SEC. 415. MEMBERSHIP OF THE DIRECTOR OF NATIONAL INTELLIGENCE ON THE TRANSPORTATION SECURITY OVERSIGHT BOARD.

Subparagraph (F) of section 115(b)(1) of title 49, United States Code, is amended to read as follows:

“(F) The Director of National Intelligence, or the Director’s designee.”.

SEC. 416. REPEAL OF CERTAIN AUTHORITIES RELATING TO THE OFFICE OF THE NATIONAL COUNTERINTELLIGENCE EXECUTIVE.

(a) REPEAL OF CERTAIN AUTHORITIES.—Section 904 of the Counterintelligence Enhancement Act of 2002 (title IX of Public Law 107-306; 50 U.S.C. 402c) is amended—

- (1) by striking subsections (d), (h), (i), and (j);
- (2) by redesignating subsections (e), (f), (g), (k), (l), and (m) as subsections (d), (e), (f), (g), (h), and (i), respectively; and
- (3) in subsection (f), as redesignated by paragraph (2), by striking paragraphs (3) and (4).

(b) CONFORMING AMENDMENTS.—Such section 904 is further amended—

- (1) in subsection (d), as redesignated by subsection (a)(2) of this section, by striking “subsection (f)” each place it appears in paragraphs (1) and (2) and inserting “subsection (e)”;
- (2) in subsection (e), as so redesignated—
 - (A) in paragraph (1), by striking “subsection (e)(1)” and inserting “subsection (d)(1)”;
 - (B) in paragraph (2), by striking “subsection (e)(2)” and inserting “subsection (d)(2)”.

SEC. 417. MISUSE OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE NAME, INITIALS, OR SEAL.

(a) PROHIBITED ACTS.—No person may, except with the written permission of the Director of National Intelligence, or a designee of the Director, knowingly use the words “Office of the Director of National Intelligence”, the initials “ODNI”, the seal of the

Office of the Director of National Intelligence, or any colorable imitation of such words, initials, or seal in connection with any merchandise, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Director of National Intelligence.

(b) INJUNCTION.—Whenever it appears to the Attorney General that any person is engaged or is about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.

Subtitle B—Central Intelligence Agency

SEC. 421. ADDITIONAL FUNCTIONS AND AUTHORITIES FOR PROTECTIVE PERSONNEL OF THE CENTRAL INTELLIGENCE AGENCY.

Section 5(a)(4) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403(a)(4)) is amended—

- (1) by striking “and the protection” and inserting “the protection”;
- (2) by inserting before the semicolon the following: “, and the protection of the Director of National Intelligence and such personnel of the Office of the Director of National Intelligence as the Director of National Intelligence may designate”.

SEC. 422. APPEALS FROM DECISIONS INVOLVING CONTRACTS OF THE CENTRAL INTELLIGENCE AGENCY.

Section 8(d) of the Contract Disputes Act of 1978 (41 U.S.C. 607(d)) is amended by adding at the end the following new sentence: “Notwithstanding any other provision of this section and any other provision of law, an appeal from a decision of a contracting officer of the Central Intelligence Agency relative to a contract made by that agency may be filed with whichever of the Armed Services Board of Contract Appeals or the Civilian Board of Contract Appeals is specified in the contract as the Board to which such an appeal may be made; and the Board so specified shall have jurisdiction to decide that appeal.”.

SEC. 423. DEPUTY DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY.

(a) ESTABLISHMENT AND DUTIES OF THE POSITION OF DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE AGENCY.—

(1) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by adding after section 104A the following:

“SEC. 104B. DEPUTY DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY.

“(a) DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE AGENCY.—There is a Deputy Director of the Central Intelligence Agency who shall be appointed by the President, by and with the consent of the Senate.

“(b) DUTIES OF DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE AGENCY.—The Deputy Director of the Central Intelligence Agency shall—

- (1) assist the Director of the Central Intelligence Agency in carrying out the duties and responsibilities of the Director of the Central Intelligence Agency; and
- (2) act for, and exercise the powers of, the Director of the Central Intelligence Agency during the absence or disability of the Director of the Central Intelligence Agency, or

during a vacancy in the position of Director of the Central Intelligence Agency.”.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947 is amended by inserting after the item relating to section 104A the following:

“Sec. 104B. Deputy Director of the Central Intelligence Agency.”.

(b) EXECUTIVE SCHEDULE III.—Section 5314 of Title 5, United States Code, is amended by striking the item relating to the Deputy Directors of the Central Intelligence Agency (2) and inserting the following: “Deputy Director of the Central Intelligence Agency.”.

(c) EFFECTIVE DATE AND APPLICABILITY.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply upon the earlier of—

(1) the date of the appointment by the President of an individual to serve as Deputy Director of the Central Intelligence Agency, except that the individual administratively performing the duties of the Deputy Director of the Central Intelligence Agency as of the date of the enactment of this Act may continue to perform such duties until the individual appointed to the position of Deputy Director of the Central Intelligence Agency, by and with the advice and consent of the Senate, assumes the duties of such position; or

(2) the date of the cessation of the performance of the duties of Deputy Director of the Central Intelligence Agency by the individual administratively performing such duties as of the date of the enactment of this Act.

SEC. 424. AUTHORITY TO AUTHORIZE TRAVEL ON A COMMON CARRIER.

Subsection (b) of section 116 of the National Security Act of 1947 (50 U.S.C. 404k) is amended by striking the period at the end and inserting “, who may delegate such authority to other appropriate officials of the Central Intelligence Agency.”.

SEC. 425. INSPECTOR GENERAL FOR THE CENTRAL INTELLIGENCE AGENCY.

(a) APPOINTMENT AND QUALIFICATIONS OF THE INSPECTOR GENERAL.—Paragraph (1) of section 17(b) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(b)) is amended by striking the second and third sentence and inserting “This appointment shall be made without regard to political affiliation and shall be on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigation. Such appointment shall also be made on the basis of compliance with the security standards of the Agency and prior experience in the field of foreign intelligence.”.

(b) REMOVAL OF THE INSPECTOR GENERAL.—Paragraph (6) of section 17(b) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(b)) is amended—

(1) by striking “immediately”; and

(2) by striking the period at the end and inserting “not later than 30 days prior to the effective date of such removal.”.

(c) APPLICATION OF SEMIANNUAL REPORTING REQUIREMENTS WITH RESPECT TO REVIEW REPORTS.—Paragraph (1) of section 17(d) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(d)) is amended in the matter preceding subparagraph (A) by inserting “review,” after “investigation.”.

(d) PROTECTION AGAINST REPRISALS.—Subparagraph (B) of section 17(e)(3) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(e)(3)) is amended by inserting “or providing such information” after “making such complaint”.

(e) INSPECTOR GENERAL SUBPOENA POWER.—Subparagraph (A) of section 17(e)(5) of the

Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(e)(5)) is amended by inserting “in any medium (including electronically stored information or any tangible thing)” after “other data”.

(f) OTHER ADMINISTRATIVE AUTHORITIES.—

(1) IN GENERAL.—Subsection (e) of section 17 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q) is amended—

(A) by redesignating paragraph (8) as subparagraph (9);

(B) in paragraph (9), as so redesignated—

(i) by striking “Subject to the concurrence of the Director, the” and inserting “The”; and

(ii) by adding at the end “Consistent with budgetary and personnel resources allocated by the Director, the Inspector General has final approval of—

“(A) the selection of internal and external candidates for employment with the Office of Inspector General; and

“(B) all other personnel decisions concerning personnel permanently assigned to the Office of Inspector General, including selection and appointment to the Senior Intelligence Service, but excluding all security based determinations that are not within the authority of a head of other Central Intelligence Agency offices.”; and

(C) by inserting after paragraph (7) the following:

“(8) The Inspector General shall—

“(A) appoint a Counsel to the Inspector General who shall report to the Inspector General; or

“(B) obtain the services of a counsel appointed by and directly reporting to another Inspector General or the Council of the Inspectors General on Integrity and Efficiency on a reimbursable basis.”.

(2) CONSTRUCTION.—Nothing in the amendment made by paragraph (1)(C) shall be construed to alter the duties and responsibilities of the General Counsel of the Central Intelligence Agency. The Counsel to the Inspector General of the Central Intelligence Agency appointed pursuant to section 17(e)(8) of the Central Intelligence Agency Act of 1949, as added by such paragraph, shall perform the functions as such Inspector General may prescribe.

SEC. 426. BUDGET OF THE INSPECTOR GENERAL FOR THE CENTRAL INTELLIGENCE AGENCY.

Subsection (f) of section 17 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q) is amended—

(1) by inserting “(1)” before “Beginning”; and

(2) by adding at the end the following:

“(2) For each fiscal year, the Inspector General shall transmit a budget estimate and request through the Director to the Director of National Intelligence that specifies for such fiscal year—

“(A) the aggregate amount requested for the operations of the Inspector General;

“(B) the amount requested for all training requirements of the Inspector General, including a certification from the Inspector General that the amount requested is sufficient to fund all training requirements for the Office; and

“(C) the amount requested to support the Council of the Inspectors General on Integrity and Efficiency, including a justification of such amount.

“(3) In transmitting a proposed budget to the President for a fiscal year, the Director of National Intelligence shall include for such fiscal year—

“(A) the aggregate amount requested for the Inspector General of the Central Intelligence Agency;

“(B) the amount requested for Inspector General for training;

“(C) the amounts requested to support of the Council of the Inspectors General on Integrity and Efficiency; and

“(D) the comments of the Inspector General, if any, with respect to the proposal.

“(4) The Director of National Intelligence shall submit to the Committee on Appropriations and the Select Committee on Intelligence of the Senate and the Committee on Appropriations and the Permanent Select Committee on Intelligence of the House of Representatives for each fiscal year—

“(A) a separate statement of the budget estimate transmitted pursuant to paragraph (2);

“(B) the amount requested by the Director of National Intelligence for the Inspector General pursuant to paragraph (3);

“(C) the amount requested by the Director of National Intelligence for training for personnel of the Office;

“(D) the amount requested by the Director of National Intelligence for support for the Council of the Inspectors General on Integrity and Efficiency; and

“(E) the comments of the Inspector General, if any, on the amount requested pursuant to paragraph (3), including whether such amount would substantially inhibit the Inspector General from performing the duties of the Office.”.

SEC. 427. PUBLIC AVAILABILITY OF UNCLASSIFIED VERSIONS OF CERTAIN INTELLIGENCE PRODUCTS.

The Director of the Central Intelligence Agency shall make publicly available an unclassified version of any memoranda or finished intelligence products assessing the information gained from high-value detainee reporting dated April 3, 2003, July 15, 2004, March 2, 2005, and June 1, 2005.

Subtitle C—Defense Intelligence Components

SEC. 431. INSPECTOR GENERAL MATTERS.

(a) COVERAGE UNDER INSPECTOR GENERAL ACT OF 1978.—Subsection (a)(2) of section 8G of the Inspector General Act of 1978 (5 U.S.C. App. 8G) is amended—

(1) by inserting “the Defense Intelligence Agency,” after “the Corporation for Public Broadcasting.”;

(2) by inserting “the National Geospatial-Intelligence Agency,” after “the National Endowment for the Humanities.”; and

(3) by inserting “the National Reconnaissance Office, the National Security Agency,” after “the National Labor Relations Board.”.

(b) CERTAIN DESIGNATIONS UNDER INSPECTOR GENERAL ACT OF 1978.—Subsection (a) of section 8H of the Inspector General Act of 1978 (5 U.S.C. App. 8H) is amended by adding at the end the following new paragraph:

“(3) The Inspectors General of the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, and the National Security Agency shall be designees of the Inspector General of the Department of Defense for purposes of this section.”.

(c) POWER OF HEADS OF ELEMENTS OVER INVESTIGATIONS.—Subsection (d) of section 8G of such Act (5 U.S.C. App. 8G) is amended—

(1) by inserting “(1)” after “(d)”;

(2) in the second sentence of paragraph (1), as designated by paragraph (1) of this subsection, by striking “The head” and inserting “Except as provided in paragraph (2), the head”; and

(3) by adding at the end the following new paragraph:

“(2)(A) The Secretary of Defense, in consultation with the Director of National Intelligence, may prohibit the Inspector General of an element of the intelligence community specified in subparagraph (D) from initiating, carrying out, or completing any audit or investigation if the Secretary determines that the prohibition is necessary to

protect vital national security interests of the United States.

“(B) If the Secretary exercises the authority under subparagraph (A), the Secretary shall submit to the committees of Congress specified in subparagraph (E) an appropriately classified statement of the reasons for the exercise of the authority not later than 7 days after the exercise of the authority.

“(C) At the same time the Secretary submits under subparagraph (B) a statement on the exercise of the authority in subparagraph (A) to the committees of Congress specified in subparagraph (E), the Secretary shall notify the Inspector General of such element of the submittal of such statement and, to the extent consistent with the protection of intelligence sources and methods, provide the Inspector General with a copy of such statement. The Inspector General may submit to such committees of Congress any comments on a notice or statement received by the Inspector General under this subparagraph that the Inspector General considers appropriate.

“(D) The elements of the intelligence community specified in this subparagraph are as follows:

“(i) The Defense Intelligence Agency.

“(ii) The National Geospatial-Intelligence Agency.

“(iii) The National Reconnaissance Office.

“(iv) The National Security Agency.

“(E) The committees of Congress specified in this subparagraph are—

“(i) the Committee on Armed Services and the Select Committee on Intelligence of the Senate; and

“(ii) the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.”

SEC. 432. CONFIRMATION OF APPOINTMENT OF HEADS OF CERTAIN COMPONENTS OF THE INTELLIGENCE COMMUNITY.

(a) **DIRECTOR OF NATIONAL SECURITY AGENCY.**—The National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by inserting after the first section the following new section:

“SEC. 2. (a) There is a Director of the National Security Agency.

“(b) The Director of the National Security Agency shall be appointed by the President, by and with the advice and consent of the Senate.

“(c) The Director of the National Security Agency shall be the head of the National Security Agency and shall discharge such functions and duties as are provided by this Act or otherwise by law.”

(b) **DIRECTOR OF NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY.**—Section 441(b) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following new paragraph (2):

“(2) The Director of the National Geospatial-Intelligence Agency shall be appointed by the President, by and with the advice and consent of the Senate.”

(c) **DIRECTOR OF NATIONAL RECONNAISSANCE OFFICE.**—The Director of the National Reconnaissance Office shall be appointed by the President, by and with the advice and consent of the Senate.

(d) **POSITIONS OF IMPORTANCE AND RESPONSIBILITY.**—

(1) **DESIGNATION OF POSITIONS.**—The President may designate any of the positions referred to in paragraph (2) as positions of importance and responsibility under section 601 of title 10, United States Code.

(2) **COVERED POSITIONS.**—The positions referred to in this paragraph are as follows:

(A) The Director of the National Security Agency.

(B) The Director of the National Geospatial-Intelligence Agency.

(C) The Director of the National Reconnaissance Office.

(e) **EFFECTIVE DATE AND APPLICABILITY.**—

(1) **IN GENERAL.**—The amendments made by subsections (a) and (b), and subsection (c), shall take effect on the date of the enactment of this Act and shall apply upon the earlier of—

(A) the date of the nomination by the President of an individual to serve in the position concerned, except that the individual serving in such position as of the date of the enactment of this Act may continue to perform such duties after such date of nomination and until the individual appointed to such position, by and with the advice and consent of the Senate, assumes the duties of such position; or

(B) the date of the cessation of the performance of the duties of such position by the individual performing such duties as of the date of the enactment of this Act.

(2) **POSITIONS OF IMPORTANCE AND RESPONSIBILITY.**—Subsection (d) shall take effect on the date of the enactment of this Act.

SEC. 433. CLARIFICATION OF NATIONAL SECURITY MISSIONS OF NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY FOR ANALYSIS AND DISSEMINATION OF CERTAIN INTELLIGENCE INFORMATION.

Section 442(a) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting after paragraph (1) the following new paragraph (2):

“(2)(A) As directed by the Director of National Intelligence, the National Geospatial-Intelligence Agency shall also develop a system to facilitate the analysis, dissemination, and incorporation of likenesses, videos, and presentations produced by ground-based platforms, including handheld or clandestine photography taken by or on behalf of human intelligence collection organizations or available as open-source information, into the National System for Geospatial Intelligence.

“(B) The authority provided by this paragraph does not include authority for the National Geospatial-Intelligence Agency to manage tasking of handheld or clandestine photography taken by or on behalf of human intelligence collection organizations.”; and

(3) in paragraph (3), as so redesignated, by striking “paragraph (1)” and inserting “paragraphs (1) and (2)”.

SEC. 434. DEFENSE INTELLIGENCE AGENCY COUNTERINTELLIGENCE AND EXPENDITURES.

Section 105 of the National Security Act of 1947 (50 U.S.C. 403-5) is amended—

(1) in subsection (b)(5), by inserting “and counterintelligence” after “human intelligence”;

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following:

“(c) **EXPENDITURE OF FUNDS BY THE DEFENSE INTELLIGENCE AGENCY.**—(1) The amounts made available to the Director of the Defense Intelligence Agency for human intelligence and counterintelligence activities may be expended for objects of a confidential, extraordinary, or emergency nature, without regard to the provisions of law or regulation relating to the expenditure of Government funds, if accounted for by a certificate made by Director of the Defense Intelligence Agency. Each such certificate shall be deemed a sufficient voucher for the amount certified.

“(2) Not later than December 1 of each year, the Director of the Defense Intelligence

Agency shall submit to the congressional intelligence committees a report on any expenditures made during the preceding fiscal year pursuant to the authority described in paragraph (1).”

Subtitle D—Other Elements

SEC. 441. CODIFICATION OF ADDITIONAL ELEMENTS OF THE INTELLIGENCE COMMUNITY.

Section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)) is amended—

(1) in subparagraph (H)—

(A) by inserting “the Coast Guard,” after “the Marine Corps.”; and

(B) by inserting “the Drug Enforcement Administration,” after “the Federal Bureau of Investigation.”; and

(2) in subparagraph (K), by striking “, including the Office of Intelligence of the Coast Guard”.

SEC. 442. AUTHORIZATION OF APPROPRIATIONS FOR COAST GUARD NATIONAL TACTICAL INTEGRATION OFFICE.

Title 14, United States Code, is amended—

(1) in paragraph (4) of section 93(a), by striking “function” and inserting “function, including research, development, test, or evaluation related to intelligence systems and capabilities.”; and

(2) in paragraph (4) of section 662, by inserting “intelligence systems and capabilities or” after “related to”.

SEC. 443. RETENTION AND RELOCATION BONUSES FOR THE FEDERAL BUREAU OF INVESTIGATION.

Section 5759 of title 5 of the United States Code, is amended—

(1) in subsection (a)(2), by striking “is transferred to a different geographic area with a higher cost of living” and inserting “is subject to a mobility agreement and is transferred to a position in a different geographical area in which there is a shortage of critical skills”;

(2) in subsection (b)(2), by striking the period at the end and inserting “, including requirements for a bonus recipient’s repayment of a bonus in circumstances determined by the Director of the Federal Bureau of Investigation.”;

(3) in subsection (c), by striking “basic pay.” and inserting “annual rate of basic pay. The bonus may be paid in a lump sum of installments linked to completion of periods of service.”;

(4) in subsection (d), by striking “retention bonus” and inserting “bonus paid under this section”; and

(5) by striking subsection (e).

SEC. 444. EXTENDING THE AUTHORITY OF THE FEDERAL BUREAU OF INVESTIGATION TO WAIVE MANDATORY RETIREMENT PROVISIONS.

(a) **CIVIL SERVICE RETIREMENT SYSTEM.**—Subsection (b) of section 8335 of title 5, United States Code, is amended—

(1) in the paragraph (2) enacted by section 112(a)(2) of the Department of Justice Appropriations Act, 2005 (title I of division B of Public Law 108-447; 118 Stat. 2868) is amended by striking “2009” and inserting “2011”; and

(2) by striking the paragraph (2) enacted by section 2005(a)(2) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3704).

(b) **FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.**—Subsection (b) of section 8425 of title 5, United States Code, is amended—

(1) in the paragraph (2) enacted by section 112(b)(2) of the Department of Justice Appropriations Act, 2005 (title I of division B of Public Law 108-447; 118 Stat. 2868) is amended by striking “2009” and inserting “2011”; and

(2) by striking the paragraph (2) enacted by section 2005(b)(2) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3704).

SEC. 445. REPORT AND ASSESSMENTS ON TRANSFORMATION OF THE INTELLIGENCE CAPABILITIES OF THE FEDERAL BUREAU OF INVESTIGATION.

(a) REPORT.—

(1) **REQUIREMENT.**—Not later than 180 days after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation, in consultation with the Director of National Intelligence, shall submit to the congressional intelligence committees, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives a report describing—

(A) a long-term vision for the intelligence capabilities of the Bureau's National Security Branch;

(B) a strategic plan for the National Security Branch; and

(C) the progress made in advancing the capabilities of the National Security Branch.

(2) **CONTENT.**—The report required by paragraph (1) shall include—

(A) a description of the direction, strategy, and goals for improving the intelligence capabilities of the National Security Branch;

(B) a description of the intelligence and national security capabilities of the National Security Branch that will be fully functional within the 5-year period beginning on the date the report is submitted;

(C) a description—

(i) of the internal reforms that were carried out at the National Security Branch during the 2-year period ending on the date the report is submitted; and

(ii) of the manner in which such reforms have advanced the capabilities of the National Security Branch;

(D) an assessment of the effectiveness of the National Security Branch in performing tasks that are critical to the effective functioning of the National Security Branch as an intelligence agency, including—

(i) human intelligence collection, both within and outside the parameters of an existing case file or ongoing investigation, in a manner that protects civil liberties;

(ii) intelligence analysis, including the ability of the National Security Branch to produce, and provide policy-makers with, information on national security threats to the United States;

(iii) management, including the ability of the National Security Branch to manage and develop human capital and implement an organizational structure that supports the Branch's objectives and strategies;

(iv) integration of the National Security Branch into the intelligence community, including an ability to robustly share intelligence and effectively communicate and operate with appropriate Federal, State, local, and tribal partners;

(v) implementation of an infrastructure that supports the national security and intelligence missions of the National Security Branch, including proper information technology and facilities; and

(vi) reformation of culture of the National Security Branch, including its integration of intelligence analysts and other professional staff into intelligence collection operations and its success in ensuring that intelligence and threat information drive its operations; and

(E) performance metrics and specific annual timetables for advancing the performance of the tasks referred to in clauses (i) through (vi) of subparagraph (D) and a description of the activities being undertaken to ensure that the National Security Branch's performance on such tasks improves.

(b) ANNUAL ASSESSMENTS.—

(1) **REQUIREMENT FOR ASSESSMENTS.**—Not later than 180 days after the date on which

the report required by subsection (a)(1) is submitted, and annually thereafter for each of the following 5 years, the Director of National Intelligence, in consultation with the Director of the Federal Bureau of Investigation, shall submit to the congressional intelligence committees an assessment of the progress of the National Security Branch in performing the tasks referred to in clauses (i) through (vi) of subsection (a)(2)(D) in comparison to its performance of such tasks during previous years.

(2) **CONSIDERATIONS.**—In conducting each assessment required by paragraph (1), the Director of National Intelligence—

(A) shall use the performance metrics and specific annual timetables for accomplishing such tasks referred to in subsection (a)(2)(E); and

(B) may request the assistance of any expert that the Director considers appropriate, including an inspector general of an appropriate agency or department.

TITLE V—REORGANIZATION OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE

SEC. 501. REORGANIZATION OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.

(a) **REORGANIZATION OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.**—

(1) **IN GENERAL.**—Subtitle B of title III of the Intelligence Authorization Act for Fiscal Year 2001 (Public Law 106-567; 22 U.S.C. 7301 et seq.) is amended by striking sections 321, 322, 323, and 324, and inserting the following:

“SEC. 321. DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.

“(a) REORGANIZATION.—The Diplomatic Telecommunications Service (hereinafter in this subtitle referred to as ‘DTS’) shall be reorganized in accordance with this subtitle.

“(b) IN GENERAL.—The DTS encompasses the Diplomatic Telecommunications Service Program Office (hereinafter in this subtitle referred to as ‘DTS-PO’) and the DTS Network. The DTS Network is a worldwide telecommunications network supporting all United States Government agencies and departments operating from diplomatic and consular facilities abroad.

“(c) PURPOSES.—The purpose and duties of DTS-PO is to implement a program for the establishment and maintenance of a DTS Network capable of providing multiple levels of service to meet the wide-ranging needs of all United States Government agencies and departments operating from diplomatic and consular facilities abroad, including national security needs for secure, reliable and robust communications capabilities.

“SEC. 322. ESTABLISHMENT OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE GOVERNANCE BOARD.

“(a) GOVERNANCE BOARD.—

“(1) ESTABLISHMENT.—There is hereby established the Diplomatic Telecommunications Service Governance Board (hereinafter in this subtitle referred to as the ‘Governance Board’) for the purpose of directing and overseeing the activities and performance of the DTS Program Office. The heads of the departments and agencies, designated by the Director of the Office of Management and Budget from among the departments and agencies that use the DTS Network, shall appoint the members of the Governance Board from the personnel of those departments and agencies so designated.

“(2) DESIGNATION OF AN EXECUTIVE AGENT.—The Director of the Office of Management and Budget shall also designate, from among the departments and agencies that use the DTS Network, the department or agency which shall be the DTS-PO Executive Agent.

“(3) REQUIREMENT FOR IMPLEMENTING ARRANGEMENTS.—Subject to the requirements

of this subtitle, the Governance Board shall determine the written implementing arrangements and other relevant and appropriate governance processes and procedures to manage, oversee, resource or otherwise administer DTS-PO. Such implementing arrangements may be classified if appropriate in accordance with criteria established by applicable law or Executive Orders.

“(b) MEMBERSHIP.—

“(1) IN GENERAL.—

“(A) The Governance Board shall include voting members and nonvoting members.

“(B) The voting members shall consist of a Chair, who shall be designated by the Director of the Office of Management and Budget, and four other members from the departments and agencies that use the DTS Network.

“(C) The non-voting members shall be representative of DTS customer organizations and shall act in an advisory capacity.

“(c) CHAIR DUTIES AND AUTHORITIES.—The Governance Board Chair shall preside over all meetings and deliberations of the Governance Board and provide its Secretariat functions. The Governance Board Chair shall propose bylaws governing the operation of the Governance Board.

“(d) QUORUM, DECISIONS, MEETINGS.—A quorum of the Governance Board shall consist of the presence of the Chair and four voting members. The decisions of the Governance Board shall require a three-fifths majority of the voting membership. Meetings will be convened at least four times each year to carry out its functions. The Chair or any voting member may convene a meeting of the Governance Board.

“(e) GOVERNANCE BOARD DUTIES AND AUTHORITIES.—The Governance Board shall have the following duties and authorities with respect to DTS-PO, in addition to any other duties and authorities granted to the Board pursuant to law:

“(1) To approve and monitor DTS-PO's plans, services, priorities, policies, and pricing methodology for bandwidth costs and customer-driven projects.

“(2) To recommend to the DTS-PO Executive Agent the Governance Board's approval, disapproval, or modification of DTS-PO's annual budget requests.

“(3) To review DTS-PO's performance against approved plans, its management activities and internal controls.

“(4) To require from DTS-PO any plans, reports, documents and records the Governance Board considers necessary to perform its oversight responsibilities.

“(5) To conduct and evaluate independent audits of DTS-PO.

“(6) To approve or disapprove the Executive Agent's nomination of the Director of DTS-PO with a three-fifths majority vote of the Governance Board.

“(7) To recommend to the Executive Agent the replacement of the Director of DTS-PO with a three-fifths majority vote of the Governance Board.

“(f) NATIONAL SECURITY INTERESTS.—The Governance Board shall ensure that those enhancements of, and the provision of service for, telecommunication capabilities that involve the national security interests of the United States receive the highest prioritization.

“SEC. 323. FUNDING OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE.

“(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for the operations, maintenance, development, enhancement, modernization, and investment costs of the DTS Network and DTS-PO. Funds appropriated for allocation to DTS-PO shall be made available to DTS-PO for a period of two fiscal years.

“(b) CUSTOMER FEES.—DTS-PO shall charge customers for only those bandwidth costs attributable to the agency or department and for specific customer-driven projects, as set forth in section 322(e)(1), for which amounts have not been appropriated for allocation to DTS-PO. DTS-PO is authorized to directly receive customer payments and to invoice customers for the fees under this section either in advance of, or upon or after, providing the bandwidth or performing the specific customer-driven projects. Such funds received from DTS customers shall be made available to DTS-PO for a period of two fiscal years.”.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 1 of the Intelligence Authorization Act for Fiscal Year 2001 (Public Law 106-567) is amended by striking the items relating to sections 321, 322, 323, and 324 and inserting the following: “Sec. 321. Diplomatic Telecommunications Service Program Office.
“Sec. 322. Establishment of the Diplomatic Telecommunications Service Governance Board.
“Sec. 323. Funding of the Diplomatic Telecommunication Service.”.

(b) CONFORMING AMENDMENTS.—

(1) REPEAL OF SUSPENSION OF REORGANIZATION.—The Intelligence Authorization Act for Fiscal Year 2002 (Public Law 107-108; 22 U.S.C. 7301 note) is amended by striking section 311.

(2) REPEAL OF REFORM.—The Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted into law by section 1000(a)(7) of Public Law 106-113 and contained in appendix G of that Act; 113 Stat. 1501A-405)) is amended by striking section 305.

(3) REPEAL OF REPORTING REQUIREMENTS.—Section 507(b) of the National Security Act of 1947 (50 U.S.C. 415b(b)) is amended—

- (A) by striking paragraph (3); and
- (B) by redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively.

TITLE VI—FOREIGN INTELLIGENCE AND INFORMATION COMMISSION ACT

SEC. 601. SHORT TITLE.

This title may be cited as the “Foreign Intelligence and Information Commission Act”.

SEC. 602. DEFINITIONS.

In this title:

(1) 2005 NATIONAL INTELLIGENCE STRATEGY.—The term “2005 National Intelligence Strategy” means the National Intelligence Strategy of the United States of America released by the Director of National Intelligence on October 26, 2005.

(2) 2006 ANNUAL REPORT OF THE UNITED STATES INTELLIGENCE COMMUNITY AND 2006 ANNUAL REPORT.—The terms “2006 Annual Report of the United States Intelligence Community” and “2006 Annual Report” mean the 2006 Annual Report of the United States Intelligence Community released by the Director of National Intelligence in February 2007.

(3) COMMISSION.—The term “Commission” means the Foreign Intelligence and Information Commission established in section 604(a).

(4) FOREIGN INTELLIGENCE, INTELLIGENCE.—The terms “foreign intelligence” and “intelligence” have the meaning given those terms in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

(5) INFORMATION.—The term “information” includes information of relevance to the foreign policy of the United States collected and conveyed through diplomatic reporting and other reporting by personnel of the Government of the United States who are not employed by an element of the intelligence community, including public and open-source information.

(6) STRATEGIC PLAN OF THE DEPARTMENT OF STATE.—The term “Strategic Plan of the Department of State” means the Strategic Plan for Fiscal Years 2007–2012 of the Department of State and the United States Agency for International Development revised on May 7, 2007.

SEC. 603. FINDINGS.

Congress makes the following findings:

(1) Accurate, timely, and comprehensive foreign intelligence and information are critical to the national security of United States and the furtherance of the foreign policy goals of the United States.

(2) It is in the national security and foreign policy interest of the United States to ensure the global deployment of personnel of the Government of the United States who are responsible for collecting and reporting foreign intelligence and information, including personnel from the intelligence community, the Department of State, and other agencies and departments of the Government of the United States, and that adequate resources are committed to effect such collection and reporting.

(3) The 2005 National Intelligence Strategy and the 2006 Annual Report of the United States Intelligence Community identified 5 major missions of the intelligence community to support the national security requirements of the United States, the first 2 of which, defeating terrorism and preventing and countering the spread of weapons of mass destruction, are global and transnational in nature.

(4) The third major mission identified by the 2005 National Intelligence Strategy and the 2006 Annual Report, bolstering the growth of democracy and sustaining peaceful democratic states, requires a global commitment of collection, reporting, and analytical capabilities.

(5) The 2005 National Intelligence Strategy and the 2006 Annual Report identify as a major mission the need to “anticipate developments of strategic concern and identify opportunities as well as vulnerabilities for decision makers”.

(6) The 2006 Annual Report provides the following:

(A) “In a world in which developments in distant reaches of the globe can quickly affect American citizens and interests at home and abroad, the Intelligence Community must alert policy makers to problems before they escalate and provide insights into their causes and effects. Analysis must do more than just describe what is happening and why; it must identify a range of opportunities for (and likely consequences of) diplomatic, military, law enforcement, economic, financial, or homeland security action. To support policymakers, the Intelligence Community should develop, sustain, and maintain access to expertise on every region, every transnational security issue, and every threat to the American people.”.

(B) “We still need to re-balance, integrate, and optimize collection capabilities to meet current and future customer and analytic priorities. Collection is . . . what gives the [Intelligence Community] its ‘competitive advantage’ in protecting the United States and its interests.”.

(C) “One challenge to improving the coverage of emerging and strategic issues across the Intelligence Community has been the diversion of resources to current crisis support . . .”.

(D) “Collection against terrorists in places like Iraq and Afghanistan took a substantial share of the [Intelligence Community’s] resources and efforts in FY 2006.”.

(E) “With so many [Intelligence Community] resources dedicated to the War on Terror and WMD programs in closed regimes,

the [Intelligence] Community’s collection efforts still have to devote significant attention to potential or emerging threats of strategic consequence.”.

(7) On January 23, 2007, the Deputy Director of National Intelligence for Collection testified to the Select Committee on Intelligence of the Senate that there is a “need to get the Intelligence Community back to what I grew up calling global reach”, stating that “we don’t have that today”. She further testified that “our challenge is . . . with [Congress] help [to get back] to a place where we can do global reach, and pay attention to places that we are not.”.

(8) On February 14, 2008, the Director of National Intelligence testified to the Select Committee on Intelligence of the Senate that “certainly current crisis support takes a disproportionate share” of intelligence resources over emerging and strategic issues.

(9) In responses to questions posed by the Select Committee on Intelligence of the Senate in advance of the February 5, 2009 hearing on the nomination of Leon Panetta to be Director of the Central Intelligence Agency, Mr. Panetta stated that “I am also concerned that we have not devoted sufficient resources to a broader set of national intelligence challenges – such as Russia, China, the global economic downturn, as well as unstable and weak governments in places such as Africa and Latin America.”.

(10) On February 12, 2009, the Director of National Intelligence testified to the Select Committee on Intelligence of the Senate that “I’d say the most significant gaps are the areas that are not traditional state threats, that we have not figured out the right way to collect information and we have not grown the analysts to do it. . . . We’re not as good with non-state actors.”.

(11) On March 26, 2009, the Director of National Intelligence stated that “We re-evaluate that National Intelligence Priority Framework formally ever six months and informally, as we have. And its quite remarkable, if you – you know those time-lapse pictures where things change? If you showed a time-lapse picture of that National Intelligence Priority Framework, you’d see, sort of, colors shifting over time as things came up, in terms of their threat or in terms of an opportunity that they – so I just, I think it’s a mistake to tie us down to, this is my important priority. There are enduring things we have to spend a lot of time on because you can’t instantly generate intelligence about a country that’s very good at keeping its secrets that you know is going to be a factor for a long time. And we have to work on those – we have to work on those every time. We have to keep an excellent baseline understanding of what’s going on in the world, but then we need to be able to flex.”.

(12) The National Commission on Terrorist Attacks Upon the United States (hereinafter referred to as the “9/11 Commission”) reported that “To find sanctuary, terrorist organizations have fled to some of the least governed, most lawless places in the world. The intelligence community has prepared a world map that highlights possible terrorist havens, using no secret intelligence – just indicating areas that combine rugged terrain, weak governance, room to hide or receive supplies, and low population density with a town or city near enough to allow necessary interaction with the outside world. Large areas scattered around the world meet these criteria.”.

(13) The 9/11 Commission recommended that the “U.S. government must identify and prioritize actual or potential terrorist sanctuaries. For each, it should have a realistic strategy to keep possible terrorists insecure and on the run, using all elements of national power. We should reach out, listen to,

and work with other countries that can help.”

(14) On May 6, 2008, the Acting Director of the National Counterterrorism Center testified to the Select Committee on Intelligence of the Senate that “I wish I had more resources to dedicate to longer-term threats, absolutely,” that “much of the information about the instability that can lead to safe havens or ideological radicalization comes not from covert collection but from open collection, best done by Foreign Service officers,” and that there should be ways to direct resources toward whoever is best positioned to learn about safe-haven conditions.

(15) On November 1, 2005, the Director of National Intelligence Open Source Center was established with functions that “include collection, analysis and research, training, and information technology management to facilitate government-wide access and use” of openly available information.

(16) The Strategic Plan of the Department of State provides as a strategic goal that “Our diplomatic and development activities will reduce the threat or impact of violent conflict by developing early warning . . . capability.”

(17) On January 22, 2009, James Steinberg, a nominee to be Deputy Secretary of State, testified to the Committee on Foreign Relations of the Senate that “if we’re going to be effective in this move towards smart power, then we have to understand how we reprioritize our resources to be able to achieve that. . . . If we only think about the crisis of the moment, then we’re not prepared as new challenges emerge. And we’ve seen this time and time again, that issues that were not immediately on the radar screen don’t get the attention they deserve. . . . So the idea of looking forward and trying to figure out over the long term where our priorities need to be, how do we anticipate some of these challenges, and then judge how we have sort of assigned resources to take care of not only those current needs but also those long-term challenges I think has to be very important and part of a strategic planning strategy. . . . although we have a very strong intelligence community, that there is a tremendous resource of people who’ve lived and worked out in the countries that we’re dealing with and that, for a variety of reasons, the intelligence community is not always the best equipped to do that. They bring their own special skills. But the Foreign Service officers, and also people from outside the government, are enormous sources of information and value. And we need to find better ways, in my judgment, to have more contact with people in the private sector, from the NGOs, from the business community, from universities and the like, as part of our being able to touch and feel what’s going on the ground.”

(18) On January 22, 2009, Jacob Lew, a nominee to be Deputy Secretary of State, testified to the Committee on Foreign Relations of the Senate that “I believe strongly that resources have to follow priorities. The decision of where we need to be and what kinds of skills we need have to fit into a comprehensive strategy. . . . We need to work with our other Cabinet agency partners. There are 20 government agencies that have resources that work in or through our embassies. We don’t need to recreate the wheel; we need to cooperate with each other and make sure that we have enough Foreign Service, civil service and locally engaged staff so that we can effectively coordinate the efforts that the United States puts on the ground. I think that it all begins with the strategic planning process. If we don’t have a clear vision of what we need and what we want, were not going to be able to make

the right resource allocation decisions. And we have to be able to look beyond this week, next week, or even next year. . . . We need to reach not just into the building but all the way into the field and make it clear that we have every intention of bringing the resources of the State Department to bear as we deal with these kinds of problems and challenges abroad, that we have knowledge in our embassies, in our consulates, about a range of issues, not just political issues — economic issues, scientific issues, cultural issues — that give us the broadest understanding of what’s going on in an increasingly global world.”

(19) The Legal Attache offices and sub-offices of the Federal Bureau of Investigation are currently located in 75 cities around the world, providing coverage for more than 200 countries, territories, and islands.

(20) On October 4, 2007, Thomas V. Fuentes, Assistant Director of the Federal Bureau of Investigation for Office of International Operations, testified to the Subcommittee on Border, Maritime, and Global Counterterrorism of the Committee on Homeland Security of the House of Representatives that the “core mission” of the Legal Attache offices “is to establish and maintain liaison with principal law enforcement and security services in designated foreign countries. . . . enabl[ing] the FBI to effectively and expeditiously conduct its responsibilities in combating international terrorism, organized crime, cyber crime, and general criminal matters,” and that while “they do not conduct foreign intelligence gathering,” “typical duties” include . . . “conducting investigations in coordination with the host government; sharing investigative leads and information; briefing Embassy counterparts from other agencies, including law enforcement agencies, as appropriate, and Ambassadors. . . . providing situation reports concerning cultural protocol; [and] assessing political and security climates.”

(21) The July 2008 Preliminary Findings by the Project on National Security Reform, entitled “Enduring Security in an Unpredictable World: The Urgent Need for National Security Reform,” included the following:

(A) The lack of a national security strategy that clearly links ends, ways, and means and assigned roles and responsibilities to each department has encouraged a proliferation of department-level strategies. These department strategies are uncoordinated and do not systematically generate capabilities required for national objectives

(B) The resource allocation process is not driven by any overall national plan or strategy for achieving broad objectives, and the results or effectiveness of the budgeting process cannot be measured against such objectives.

(C) The national security system tends to overemphasize traditional security threats and under emphasize emerging challenges.

SEC. 604. ESTABLISHMENT AND FUNCTIONS OF THE COMMISSION.

(a) ESTABLISHMENT.—There is established in the legislative branch a Foreign Intelligence and Information Commission.

(b) FUNCTIONS.—The Commission shall—

(1) evaluate any current processes or systems for the strategic integration of the intelligence community, including the Open Source Center, and other elements of the United States Government, including the Department of State, with regard to the collection, reporting and analysis of foreign intelligence and information;

(2) provide recommendations to improve or develop such processes or systems to include the development of an inter-agency strategy that identifies—

(A) the collection, reporting, and analysis requirements of the United States Government;

(B) the elements of the United States Government best positioned to meet collection and reporting requirements;

(C) collection and reporting missions for the intelligence community and other elements of the United States Government based on the requirements of the United States Government, comparative institutional advantages, and other relevant factors;

(D) analytical capabilities needed to achieve the requirements of the United States Government; and

(E) inter-agency budget and resource allocations necessary to achieve such collection, reporting, and analytical requirements;

(3) evaluate the extent to which current intelligence collection, reporting, and analysis strategies are aimed at providing global coverage and anticipating future threats, challenges, and crises;

(4) provide recommendations on how to incorporate into the inter-agency strategy the means to anticipate future threats, challenges, and crises, including by identifying and supporting collection, reporting, and analytical capabilities which are global in scope and which are directed at emerging, long-term, and strategic targets;

(5) provide recommendations on strategies for sustaining human and budgetary resources to effect the global collection and reporting missions identified in the inter-agency strategy, including the repositioning of collection and reporting capabilities;

(6) provide recommendations for developing, clarifying, and, if necessary, bolstering current and future collection and reporting roles and capabilities of elements of the United States Government outside the intelligence community deployed overseas;

(7) provide recommendations related to the role of individual country missions in contributing to the inter-agency strategy;

(8) evaluate the extent to which the establishment of new embassies and out-of-embassy posts are able to contribute to expanded global coverage and increased collection and reporting and provide recommendations related to the establishment of new embassies and out-of-embassy posts;

(9) provide recommendations related to the establishment of any new executive branch entity, or the expansion of the authorities of any existing executive branch entity, as needed to improve the strategic integration described in paragraph (1) and develop and oversee the implementation of the inter-agency strategy;

(10) provide recommendations on any legislative changes necessary to establish any new entity or to expand the authorities of any existing entity, as described in paragraph (9);

(11) provide recommendations on processes for developing and presenting to Congress budget requests for each relevant element of the United States Government that reflect the allocations identified in the inter-agency strategy and for congressional oversight of the development and implementation of the strategy; and

(12) provide recommendations on any institutional reforms related to the collection and reporting roles of individual elements of the United States Government outside the intelligence community, as well as any budgetary, legislative, or other changes needed to achieve such reforms.

SEC. 605. MEMBERS AND STAFF OF THE COMMISSION.

(a) MEMBERS OF THE COMMISSION.—

(1) APPOINTMENT.—The Commission shall be composed of 10 members as follows:

(A) Two members appointed by the majority leader of the Senate.

(B) Two members appointed by the minority leader of the Senate.

(C) Two members appointed by the Speaker of the House of Representatives.

(D) Two members appointed by the minority leader of the House of Representatives.

(E) One nonvoting member appointed by the Director of National Intelligence.

(F) One nonvoting member appointed by the Secretary of State.

(2) SELECTION.—

(A) IN GENERAL.—Members of the Commission shall be individuals who—

(i) are private citizens; and

(ii) have—

(I) knowledge and experience in foreign information and intelligence collection, reporting, and analysis, including clandestine collection and classified analysis, diplomatic reporting and analysis, and collection of public and open source information;

(II) knowledge and experience in issues related to the national security and foreign policy of the United States gained by serving as a senior official of the Department of State, a member of the Foreign Service, an employee or officer of an appropriate agency or department of the United States, or an independent organization with expertise in the field of international affairs; or

(III) knowledge and experience with foreign policy decision making.

(B) DIVERSITY OF EXPERIENCE.—The individuals appointed to the Commission should be selected with a view to establishing diversity of experience with regard to various geographic regions, functions, and issues.

(3) TIME OF APPOINTMENT.—The appointments under subsection (a) shall be made not later than 60 days after the date of the enactment of this Act.

(4) TERM OF APPOINTMENT.—Members shall be appointed for the life of the Commission.

(5) VACANCIES.—Any vacancy of the Commission shall not affect the powers of the Commission and shall be filled in the manner in which the original appointment was made.

(6) CHAIR.—The members of the Commission shall designate 1 of the voting members to serve as the chair of the Commission.

(7) QUORUM.—Six members of the Commission shall constitute a quorum for purposes of transacting the business of the Commission.

(8) MEETINGS.—The Commission shall meet at the call of the chair and shall meet regularly, not less than once every 3 months, during the life of the Commission.

(b) STAFF.—

(1) IN GENERAL.—The chair of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and, in consultation with the executive director, appoint and terminate such other additional personnel as may be necessary to enable the Commission to perform its duties. In addition to the executive director and 1 full-time support staff for the executive director, there shall be additional staff with relevant intelligence and foreign policy experience to help support the Commission's work.

(2) SELECTION OF THE EXECUTIVE DIRECTOR.—The executive director shall be selected with the approval of a majority of the members of the Commission.

(3) COMPENSATION.—

(A) EXECUTIVE DIRECTOR.—The executive director shall be compensated at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(B) STAFF.—The chair of the Commission may fix the compensation of other staff of the Commission without regard to the provisions of chapter 51 and subchapter III of

chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for such personnel may not exceed the rate payable for level IV of the Executive Schedule under section 5315 of such title.

(c) EXPERTS AND CONSULTANTS.—This Commission is authorized to procure temporary or intermittent services of experts and consultants as necessary to the extent authorized by section 3109 of title 5, United States Code, at rates not to exceed the maximum annual rate of basic pay payable under section 5376 of such title.

(d) STAFF AND SERVICES OF OTHER AGENCIES OR DEPARTMENT OF THE UNITED STATES.—Upon the request of the Commission, the head of an agency or department of the United States may detail, on a reimbursable or nonreimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out this title. The detail of any such personnel shall be without interruption or loss of civil service or Foreign Service status or privilege.

(e) SECURITY CLEARANCE.—The appropriate agencies or departments of the United States shall cooperate with the Commission in expeditiously providing to the members and staff of the Commission appropriate security clearances to the extent possible pursuant to existing procedures and requirements.

SEC. 606. POWERS AND DUTIES OF THE COMMISSION.

(a) IN GENERAL.—

(1) HEARINGS AND EVIDENCE.—The Commission may, for the purpose of carrying out this title—

(A) hold hearings, sit and act at times and places in the United States and in countries in which the United States has a diplomatic presence, take testimony, and receive evidence as the Commission considers advisable to carry out this title; and

(B) subject to subsection (b)(1), require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission considers necessary.

(b) SUBPOENAS.—

(1) ISSUANCE.—

(A) IN GENERAL.—A subpoena may be issued under this section only—

(i) by the agreement of the chair of the Commission; and

(ii) by the affirmative vote of 5 members of the Commission.

(B) SIGNATURE.—Subject to subparagraph (A), subpoenas issued under this section may be issued under the signature of the chair or any member designated by a majority of the Commission and may be served by any person designated by the chair or by a member designated by a majority of the Commission.

(2) ENFORCEMENT.—

(A) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under this section, the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(B) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory au-

thority and procedures as if the United States attorney had received a certification under sections 102, 103, or 104 of the Revised Statutes of the United States (2 U.S.C. 192, 193, and 194).

(c) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any agency or department of the United States such information as the Commission considers necessary to carry out this title. Upon request of the chair of the Commission, the head of such agency or department shall furnish such information to the Commission, subject to applicable law.

(d) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as an agency or department of the United States.

(e) ADMINISTRATIVE SUPPORT.—The Administrator of the General Services Administration shall provide to the Commission on a reimbursable basis (or, in the discretion of the Administrator, on a nonreimbursable basis) such administrative support services as the Commission may request to carry out this title.

(f) ADMINISTRATIVE PROCEDURES.—The Commission may adopt such rules and regulations, relating to administrative procedure, as may be reasonably necessary to enable it to carry out this title.

(g) TRAVEL.—

(1) IN GENERAL.—The members and staff of the Commission may, with the approval of the Commission, conduct such travel as is necessary to carry out this title.

(2) EXPENSES.—Members of the Commission shall serve without pay but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(h) GIFTS.—No member of the Commission may receive a gift or benefit by reason of such member's service on the Commission.

SEC. 607. REPORT OF THE COMMISSION.

(a) IN GENERAL.—

(1) INTERIM REPORT.—Not later than 1 year after the members of the Commission are appointed under section 5(a), the Commission shall submit an interim report to the congressional intelligence committees setting forth the preliminary findings and recommendations of the Commission described in section 604(b).

(2) FINAL REPORT.—Not later than 4 months after the submission of the report required by paragraph (1), the Commission shall submit a final report setting forth the final findings and recommendations of the Commission described in section 604(b) to the following:

(A) The President.

(B) The Director of National Intelligence.

(C) The Secretary of State.

(D) The congressional intelligence committees.

(E) The Committee on Foreign Relations of the Senate.

(F) The Committee on Foreign Affairs of the House of Representatives.

(b) INDIVIDUAL OR DISSENTING VIEWS.—Each member of the Commission may include that member's dissenting views in a report required by paragraph (1) or (2) of subsection (a).

(c) FORM OF REPORT.—The reports required by paragraphs (1) and (2) of subsection (a), including any finding or recommendation of such report, shall be submitted in both an unclassified and a classified form.

SEC. 608. TERMINATION.

The Commission shall terminate 60 days after the submission of the report required by section 607(a)(2).

SEC. 609. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

SEC. 610. FUNDING.

(a) **TRANSFER FROM THE NATIONAL INTELLIGENCE PROGRAM.**—Of the amounts available for the National Intelligence Program for fiscal year 2010, \$4,000,000 shall be available for transfer to the Commission to carry out this title.

(b) **AVAILABILITY.**—The amounts made available to the Commission pursuant to subsection (a) shall remain available until the termination of the Commission.

TITLE VII—TECHNICAL AMENDMENTS**SEC. 701. TECHNICAL AMENDMENTS TO THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.**

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

- (1) in section 101—
 - (A) in subsection (a), by moving paragraph (7) two ems to the right; and
 - (B) by moving subsections (b) through (p) two ems to the right;
- (2) in section 103, by redesignating subsection (i) as subsection (h);
- (3) in section 109(a)—
 - (A) in paragraph (1), by striking “section 112.” and inserting “section 112.”; and
 - (B) in paragraph (2), by striking the second period;
- (4) in section 301(1), by striking “‘United States’” and all that follows through “‘and State’” and inserting “‘United States’, ‘person’, ‘weapon of mass destruction’, and ‘State’”;
- (5) in section 304(b), by striking “subsection (a)(3)” and inserting “subsection (a)(2)”;
- (6) in section 502(a), by striking “a annual” and inserting “an annual”.

SEC. 702. TECHNICAL AMENDMENTS TO THE CENTRAL INTELLIGENCE AGENCY ACT OF 1949.

The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended—

- (1) in paragraph (1) of section 5(a), by striking “authorized under paragraphs (2) and (3) of section 102(a), subsections (c)(7) and (d) of section 103, subsections (a) and (g) of section 104, and section 303 of the National Security Act of 1947 (50 U.S.C. 403(a)(2), (3), 403-3(c)(7), (d), 403-4(a), (g), and 405)” and inserting “authorized under section 104A of the National Security Act of 1947 (50 U.S.C. 403-4a).”; and
- (2) in section 17(d)(3)(B)—
 - (A) in clause (i), by striking “advise” and inserting “advice”; and
 - (B) by amending clause (ii) to read as follows:

“(ii) holds or held the position in the Agency, including such a position held on an acting basis, of—

- “(I) Deputy Director;
- “(II) Associate Deputy Director;
- “(III) Director of the National Clandestine Service;
- “(IV) Director of Intelligence;
- “(V) Director of Support; or
- “(VI) Director of Science and Technology.”.

SEC. 703. TECHNICAL AMENDMENTS TO TITLE 10, UNITED STATES CODE.

Section 528(c) of title 10, United States Code, is amended—

- (1) in the heading, by striking “ASSOCIATE DIRECTOR OF CIA FOR MILITARY AFFAIRS” and inserting “ASSOCIATE DIRECTOR OF MILITARY AFFAIRS, CIA”; and
- (2) by striking “Associate Director of the Central Intelligence Agency for Military Affairs” and inserting “Associate Director of Military Affairs, Central Intelligence Agency, or any successor position”.

SEC. 704. TECHNICAL AMENDMENTS TO THE NATIONAL SECURITY ACT OF 1947.

The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended—

- (1) in section 3(4)(L), by striking “other” the second place it appears;
- (2) in section 102A—
 - (A) in subsection (c)(3)(A), by striking “annual budgets for the Joint Military Intelligence Program and for Tactical Intelligence and Related Activities” and inserting “annual budget for the Military Intelligence Program or any successor program or programs”;
 - (B) in subsection (d)—
 - (i) in paragraph (1)(B), by striking “Joint Military Intelligence Program” and inserting “Military Intelligence Program or any successor program or programs”;
 - (ii) in paragraph (3) in the matter preceding subparagraph (A), by striking “subparagraph (A)” and inserting “paragraph (1)(A)”; and
 - (iii) in paragraph (5)—
 - (I) in subparagraph (A), by striking “or personnel” in the matter preceding clause (i); and
 - (II) in subparagraph (B), by striking “or agency involved” in the second sentence and inserting “involved or the Director of the Central Intelligence Agency (in the case of the Central Intelligence Agency)”;
 - (C) in subsection (1)(2)(B), by striking “section” and inserting “paragraph”; and
 - (D) in subsection (n), by inserting “AND OTHER” after “ACQUISITION”;
- (3) in section 103(b), by striking “, the National Security Act of 1947 (50 U.S.C. 401 et seq.).”;
- (4) in section 104A(g)(1) in the matter preceding subparagraph (A), by striking “Directorate of Operations” and inserting “National Clandestine Service”;
- (5) in section 119(c)(2)(B) (50 U.S.C. 404(c)(2)(B)), by striking “subsection (h)” and inserting “subsection (i)”;
- (6) in section 701(b)(1), by striking “Directorate of Operations” and inserting “National Clandestine Service”;
- (7) in section 705(e)(2)(D)(i) (50 U.S.C. 432(c)(2)(D)(i)), by striking “responsible” and inserting “responsive”; and
- (8) in section 1003(h)(2) in the matter preceding subparagraph (A), by striking “subsection (i)(2)(B)” and inserting “subsection (g)(2)(B)”.

SEC. 705. TECHNICAL AMENDMENTS RELATING TO THE MULTIYEAR NATIONAL INTELLIGENCE PROGRAM.

- (a) **IN GENERAL.**—Subsection (a) of section 1403 of the National Defense Authorization Act for Fiscal Year 1991 (50 U.S.C. 404b) is amended—
 - (1) in the heading, by striking “FOREIGN”;
 - (2) by striking “foreign” each place it appears.
- (b) **RESPONSIBILITY OF DIRECTOR OF NATIONAL INTELLIGENCE.**—Such section 1403, as amended by subsection (a), is further amended—
 - (1) in subsections (a) and (c), by striking “Director of Central Intelligence” and inserting “Director of National Intelligence”; and
 - (2) in subsection (b), by inserting “of National Intelligence” after “Director”.

SEC. 706. TECHNICAL AMENDMENTS RELATING TO THE MULTIYEAR NATIONAL INTELLIGENCE PROGRAM.

(c) **CONFORMING AMENDMENTS.**—

- (1) **IN GENERAL.**—The heading of such section 1403 is amended to read as follows:

“**SEC. 1403. MULTIYEAR NATIONAL INTELLIGENCE PROGRAM.**”

(2) **TABLE OF CONTENTS AMENDMENT.**—The table of contents in section 2 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1485) is amended by striking the item relating to section 1403 and inserting the following:

“(1) in subsection (a), by striking “annual budgets for the Joint Military Intelligence Program and for Tactical Intelligence and Related Activities” and inserting “annual budget for the Military Intelligence Program or any successor program or programs”;

“(2) in subsection (e) of section 1071, by striking “(1)”; and

“(3) in subsection (b) of section 1072, in the subsection heading by inserting “AGENCY” after “INTELLIGENCE”.

(b) **OTHER AMENDMENTS TO THE INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.**—The Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3638) is amended—

(1) in section 2001 (28 U.S.C. 532 note)—

(A) in paragraph (1) of subsection (c)—

(i) by striking “shall,” and inserting “shall”; and

(ii) by inserting “of” before “an institutional culture”;

(B) in paragraph (2) of subsection (e), by striking “the National Intelligence Director in a manner consistent with section 112(e)” and inserting “the Director of National Intelligence in a manner consistent with applicable law”; and

(C) in subsection (f), by striking “shall,” in the matter preceding paragraph (1) and inserting “shall”; and

(2) in section 2006 (28 U.S.C. 509 note)—

(A) in paragraph (2), by striking “the Federal” and inserting “Federal”; and

(B) in paragraph (3), by striking “the specific” and inserting “specific”.

“Sec. 1403. Multiyear National Intelligence Program.”.

SEC. 706. TECHNICAL AMENDMENTS TO THE INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.

(a) **AMENDMENTS TO THE NATIONAL SECURITY INTELLIGENCE REFORM ACT OF 2004.**—The National Security Intelligence Reform Act of 2004 (title I of Public Law 108-458; 118 Stat. 3643) is amended—

(1) in subparagraph (B) of section 1016(e)(10) (6 U.S.C. 485(e)(10)), by striking “Attorney General” the second place it appears and inserting “Department of Justice”;

(2) in subsection (e) of section 1071, by striking “(1)”; and

(3) in subsection (b) of section 1072, in the subsection heading by inserting “AGENCY” after “INTELLIGENCE”.

(b) **OTHER AMENDMENTS TO THE INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.**—The Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3638) is amended—

(1) in section 2001 (28 U.S.C. 532 note)—

(A) in paragraph (1) of subsection (c)—

(i) by striking “shall,” and inserting “shall”; and

(ii) by inserting “of” before “an institutional culture”;

(B) in paragraph (2) of subsection (e), by striking “the National Intelligence Director in a manner consistent with section 112(e)” and inserting “the Director of National Intelligence in a manner consistent with applicable law”; and

(C) in subsection (f), by striking “shall,” in the matter preceding paragraph (1) and inserting “shall”; and

(2) in section 2006 (28 U.S.C. 509 note)—

(A) in paragraph (2), by striking “the Federal” and inserting “Federal”; and

(B) in paragraph (3), by striking “the specific” and inserting “specific”.

SEC. 707. TECHNICAL AMENDMENTS TO THE EXECUTIVE SCHEDULE.

(a) **EXECUTIVE SCHEDULE LEVEL II.**—Section 5313 of title 5, United States Code, is amended by striking the item relating to the Director of Central Intelligence and inserting the following new item:

“Director of the Central Intelligence Agency.”.

(b) **EXECUTIVE SCHEDULE LEVEL III.**—Section 5314 of title 5, United States Code, is amended by striking the item relating to the Deputy Directors of Central Intelligence and inserting the following new item:

“Deputy Director of the Central Intelligence Agency.”.

(c) **EXECUTIVE SCHEDULE LEVEL IV.**—Section 5315 of title 5, United States Code, is amended by striking the item relating to the General Counsel of the Office of the National Intelligence Director and inserting the following new item:

“General Counsel of the Office of the Director of National Intelligence.”.

SEC. 708. TECHNICAL AMENDMENTS TO SECTION 105 OF THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2004.

Section 105(b) of the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108-177; 117 Stat. 2603; 31 U.S.C. 311 note) is amended—

(1) by striking “Director of Central Intelligence” and inserting “Director of National Intelligence”; and

(2) by inserting “or in section 313 of such title,” after “subsection (a).”.

SEC. 709. TECHNICAL AMENDMENTS TO SECTION 602 OF THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1995.

Section 602 of the Intelligence Authorization Act for Fiscal Year 1995 (50 U.S.C. 403-2b) is amended—

(1) in subsection (a), in paragraph (2), by striking “Director of Central Intelligence”

and inserting "Director of National Intelligence"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "Director of Central Intelligence" and inserting "Director of National Intelligence";

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "Director of Central Intelligence" and inserting "Director of National Intelligence"; and

(ii) in subparagraph (B), by striking "Director of Central Intelligence" and inserting "Director of National Intelligence"; and

(C) in paragraph (3), by striking "Director of Central Intelligence" and inserting "Director of the Central Intelligence Agency".

SEC. 710. TECHNICAL AMENDMENTS TO SECTION 403 OF THE INTELLIGENCE AUTHORIZATION ACT, FISCAL YEAR 1992.

(a) **ROLE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.**—Section 403 of the Intelligence Authorization Act, Fiscal Year 1992 (50 U.S.C. 403-2) is amended by striking "The Director of Central Intelligence" and inserting the following:

"(a) **IN GENERAL.**—The Director of National Intelligence".

(b) **DEFINITION OF INTELLIGENCE COMMUNITY.**—Section 403 of the Intelligence Authorization Act, Fiscal Year 1992, as amended by subsection (a), is further amended—

(1) by striking "Intelligence Community" and insert "intelligence community"; and

(2) by striking the second sentence and inserting the following:

"(b) **INTELLIGENCE COMMUNITY DEFINED.**—In this section, the term 'intelligence community' has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))."

**DEFENSE PRODUCTION ACT
REAUTHORIZATION OF 2009**

Mr. CASEY. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of S. 1677, introduced earlier today.

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

The legislative clerk read as follows:

A bill (S. 1677) to reauthorize the Defense Production Act of 1950, and for other purposes.

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

Mr. DODD. Mr. President, I rise at a moment when our Nation is enduring its worst economic crisis since the Great Depression. This crisis began in the financial sector, but it has impacted every sector of our economy. And perhaps one of the hardest-hit has been our manufacturing sector, which was already reeling even before this crisis.

Over the last decade, we have lost an average of 40,000 manufacturing jobs per month. In Connecticut, we lost nearly 16,000 manufacturing jobs in the last year alone more than 8 percent of our manufacturing sector, gone.

These figures represent the loss of American livelihoods, the economic security of thousands of families.

And they represent a clear and present threat to our national security.

We rely on key domestic industries to supply critical goods and services in a timely fashion when our nation faces an emergency. In wartime and in the aftermath of natural disasters, fac-

ories in my state of Connecticut and around the country are relied upon for everything from raw metal to military vehicles and power generators. These products are essential to supporting our war efforts, maintaining critical infrastructure, and protecting our homeland.

Connecticut, although it is 29th in total population, ranks 6th in total employment in the military and aerospace sector. Tens of thousands of residents of my State work in this industry.

When this industrial base is threatened, our military and emergency preparedness suffer.

Six decades ago, President Harry Truman sought to bolster this critical bulwark of security by signing the Defense Production Act, or DPA, into law. The DPA allows the government to tap industrial resources to meet domestic energy supply, address emergency preparedness, protect infrastructure, and help civilian agencies and the military respond to crisis situations.

In the 1950s, the DPA served to address our new national security realities in the wake of the Cold War. In the ensuing decades, beginning with the Korean War, the DPA kept production lines humming, military supply lines fully stocked, and our country prepared in case of emergency.

Congress has reauthorized this Act every few years, but has only sporadically sought to update its provisions to meet changing conditions. And thus, according to independent analyses, Federal agencies' understanding and use of the tools provided by this act have become inconsistent.

Thus, we have proposed bipartisan legislation to make critical reforms to our national defense industrial policy. The Dodd-Shelby bill reflects the contributions of DPA practitioners from a variety of agencies, particularly the Departments of Defense and Homeland Security. And I would like to express my appreciation for the work of two civil servants who worked especially hard to help us develop this legislation: Larry Hall, DPA Director at FEMA, and Mark Buffler, DPA title III Program Manager at DOD.

The bill responds to the analysis of two landmark studies completed last year, as required by my amendments to the 9/11 Commission Recommendations Act and the fiscal year 2008 National Defense Authorization Act, which directed DHS and the GAO to report to Congress on how the DPA is being used.

In its report, DHS conceded that several agencies authorized to use DPA tools don't take advantage of them. And the GAO report echoed those findings, recommending greater coordination and pro-active use of key DPA authorities.

For instance, under title I of the DPA, the President is empowered to require companies to set aside their commercial business obligations and fulfill government contracts first in order to meet national defense needs. However, although a wide range of Departments

and agencies are directed to use this authority, only Defense, Homeland Security, and Energy are doing so. The Pentagon has used it to require companies to set aside other work until production of mine-resistant ambush protected vehicles was complete. FEMA, in coordination with Commerce, has used it to expedite the delivery of power generators and transfer switches needed to restore railroad operations in New Orleans after Katrina. But other agencies that could, and should, be taking advantage of title I, aren't.

Moreover, the GAO found that, unlike DOD, FEMA doesn't even prepare title I contingency plans, which means that it takes longer for DPA provisions to be implemented even after they are enacted.

Therefore, our bill, at the GAO's recommendation, requires that every authorized agency establish a priorities and allocation system similar to that in place at the Pentagon and to coordinate with other agencies in its implementation.

It also sets up a new interagency body that will elevate DPA policy discussions to Cabinet-level posts, so that administrations going forward will be able to reassess the law's provisions and applications, and never lose sight of the importance of coordinating with critical segments of our industry to meet national defense needs. The President will designate a chairperson to lead this committee, which will be composed of Cabinet officials and agency heads authorized to use DPA tools, as well as the chairman of the Council of Economic Advisers. And the President will also appoint a Deputy Assistant Secretary to coordinate high-level dialogue among relevant government agencies.

This elevated discussion will prove particularly essential in the implementation of title III of the DPA, which allows the President to provide financial incentives including direct capital purchases, loans, and loan guarantees—for U.S. firms to expand domestic production of critical industries. These authorities are critically important—and underused.

Title III is used when the U.S. is overly reliant on foreign sources for a critical product, or when there is otherwise insufficient domestic supply of the product. Unlike other Federal assistance, title III is managed by industry experts. And it is designed to assist companies capable of meeting specific requirements: that the firms can't meet government needs on their own, and that the assistance will lead to commercial viability in the long term.

Today, we have strong evidence that defense companies all along the supply chain—particularly in the third and fourth subcontractor tier—are being denied access to credit. Machine tool and parts manufacturers in defense and dual-use industries are having a hard time getting capital—not because demand is down, but because bank lending is down. Government loan and loan