

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR  
2009

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MAY 21, 2008.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed  
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Mr. REYES, from the Permanent Select Committee on Intelligence,  
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 5959]

[Including cost estimate of the Congressional Budget Office]

The Permanent Select Committee on Intelligence, to whom was referred the bill (H.R. 5959) to authorize appropriations for fiscal year 2009 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, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

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

(a) **SHORT TITLE.**—This Act may be cited as the “Intelligence Authorization Act for Fiscal Year 2009”.

(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. Limitation on the use of covert action funds.  
Sec. 106. Prohibition on use of funds to implement “5 and out” program of the Federal Bureau of Investigation.

**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**

- Sec. 301. Increase in employee compensation and benefits authorized by law.  
Sec. 302. Enhanced flexibility in nonreimbursable details to elements of the intelligence community.  
Sec. 303. Multi-level security clearances.  
Sec. 304. Delegation of authority for travel on common carriers for intelligence collection personnel.  
Sec. 305. Annual personnel level assessments for the intelligence community.  
Sec. 306. Comprehensive report on intelligence community contractors.  
Sec. 307. Report on proposed pay for performance intelligence community personnel management system.  
Sec. 308. Report on plans to increase diversity within the intelligence community.  
Sec. 309. Report on security clearance determinations.

**Subtitle B—Other Matters**

- Sec. 311. Restriction on conduct of intelligence activities.  
Sec. 312. Clarification of definition of intelligence community under the National Security Act of 1947.  
Sec. 313. Modification of availability of funds for different intelligence activities.  
Sec. 314. Protection of certain national security information.  
Sec. 315. Extension of authority to delete information about receipt and disposition of foreign gifts and decorations.  
Sec. 316. Report on compliance with the Detainee Treatment Act of 2005 and related provisions of the Military Commissions Act of 2006.  
Sec. 317. Incorporation of reporting requirements.  
Sec. 318. Repeal of certain reporting requirements.  
Sec. 319. Enhancement of critical skills training program.  
Sec. 320. Comprehensive national cybersecurity initiative advisory panel.

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

**Subtitle A—Office of the Director of National Intelligence**

- Sec. 401. Clarification of limitation on colocation of the Office of the Director of National Intelligence.  
Sec. 402. Membership of the Director of National Intelligence on the Transportation Security Oversight Board.  
Sec. 403. Additional duties of the Director of Science and Technology.  
Sec. 404. Leadership and location of certain offices and officials.  
Sec. 405. Plan to implement recommendations of the data center energy efficiency reports.  
Sec. 406. Semiannual reports on nuclear programs of Iran, Syria, and North Korea.  
Sec. 407. Title of Chief Information Officer of the Intelligence Community.  
Sec. 408. Inspector General of the Intelligence Community.  
Sec. 409. Annual report on foreign language proficiency in the intelligence community.  
Sec. 410. Repeal of certain authorities relating to the Office of the National Counterintelligence Executive.  
Sec. 411. National intelligence estimate on weapons of mass destruction in Syria.  
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- Sec. 414. Security clearance reciprocity.  
 Sec. 415. Report on international traffic in arms regulations.  
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 Sec. 417. Study on revoking pensions of persons who commit unauthorized disclosures of classified information.

Subtitle B—Central Intelligence Agency

- Sec. 421. Review of covert action programs by Inspector General of the Central Intelligence Agency.  
 Sec. 422. Inapplicability to Director of the Central Intelligence Agency of requirement for annual report on progress in auditable financial statements.  
 Sec. 423. Technical amendments relating to titles of certain Central Intelligence Agency positions.  
 Sec. 424. Clarifying amendments relating to section 105 of the Intelligence Authorization Act for Fiscal Year 2004.  
 Sec. 425. Prohibition on the use of private contractors for interrogations involving persons in the custody or control of the Central Intelligence Agency.

Subtitle C—Defense Intelligence Components

- Sec. 431. Integration of the Counterintelligence Field Activity into the Defense Intelligence Agency.

Subtitle D—Other Elements

- Sec. 441. Clarification of inclusion of Coast Guard and Drug Enforcement Administration as elements of the intelligence community.  
 Sec. 442. Report on transformation of the intelligence capabilities of the Federal Bureau of Investigation.

TITLE V—OTHER MATTERS

Subtitle A—General Intelligence Matters

- Sec. 501. Extension of National Commission for the Review of the Research and Development Programs of the United States Intelligence Community.  
 Sec. 502. Amendments to the National Security Act of 1947.  
 Sec. 503. Report on financial intelligence on terrorist assets.  
 Sec. 504. Notice of intelligence regarding North Korea and China.  
 Sec. 505. Sense of Congress regarding use of intelligence resources.

Subtitle B—Technical Amendments

- Sec. 511. Technical amendment to the Central Intelligence Agency Act of 1949.  
 Sec. 512. Amendments relating to the multiyear National Intelligence Program.  
 Sec. 513. Technical clarification of certain references to Joint Military Intelligence Program and Tactical Intelligence and Related Activities.  
 Sec. 514. Technical amendments to the National Security Act of 1947.  
 Sec. 515. Technical amendments to the Intelligence Reform and Terrorism Prevention Act of 2004.  
 Sec. 516. Technical amendments to the Executive Schedule.  
 Sec. 517. Technical amendments relating to the National Geospatial-Intelligence Agency.

**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 2009 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 ceilings as of September 30, 2009, 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 H.R. 5959 of the One Hundred Tenth 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.

(c) EARMARKS.—

(1) IN GENERAL.—Nothing in the classified Schedule of Authorizations, the joint explanatory statement to accompany the conference report on the bill H.R. 5959 of the One Hundred Tenth Congress, or the classified annex to this Act, shall be construed to authorize or require the expenditure of funds for an earmarked purpose.

(2) EARMARKED PURPOSE DEFINED.—In this subsection, the term “earmarked purpose” means a provision or report language included primarily at the request of a Member, Delegate, Resident Commissioner of the House of Representatives or a Senator providing, authorizing, or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality, or Congressional district, other than through a statutory or administrative formula-driven or competitive award process.

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

(a) AUTHORITY FOR INCREASES.—With the approval of the Director of the Office of Management and Budget, the Director of National Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 2009 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 3 percent of the number of civilian personnel authorized under such Schedule for such element.

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

**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 2009 the sum of \$648,842,000. 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, 2010.

(b) AUTHORIZED PERSONNEL LEVELS.—The elements within the Intelligence Community Management Account of the Director of National Intelligence are authorized 772 full-time or full-time equivalent personnel as of September 30, 2009. 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 2009 such additional amounts as are specified in the classified Schedule of Authorizations referred to in section 102(a). Such ad-

ditional amounts for advanced research and development shall remain available until September 30, 2010.

(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, 2009, there are authorized such additional 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. LIMITATION ON THE USE OF COVERT ACTION FUNDS.**

(a) **IN GENERAL.**—Not more than 25 percent of the funds authorized to be appropriated by this Act for the National Intelligence Program for covert actions may be obligated or expended until the date on which each member of the congressional intelligence committees has been fully and currently briefed on all authorizations for covert actions in effect on April 24, 2008.

(b) **COVERT ACTION DEFINED.**—In this section, the term “covert action” has the meaning given the term in section 503(g) of the National Security Act of 1947 (50 U.S.C. 413b(e)).

**SEC. 106. PROHIBITION ON USE OF FUNDS TO IMPLEMENT “5 AND OUT” PROGRAM OF THE FEDERAL BUREAU OF INVESTIGATION.**

None of the funds authorized to be appropriated in this Act may be used to implement the program of the Federal Bureau of Investigation requiring the mandatory reassignment of a supervisor of the Bureau after such supervisor serves in a management position for 5 years (commonly known as the “5 and out” program).

## **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 2009 the sum of \$279,200,000.

**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 NONREIMBURSABLE 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, in any fiscal year after fiscal year 2008 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 Community Management Account from another element of the United States Government on a reimbursable or nonreimbursable basis, as jointly agreed to by the Director of National Intelligence and the head of the detailing element (or the designees of such officials), for a period not to exceed 2 years.

**SEC. 303. MULTI-LEVEL SECURITY CLEARANCES.**

(a) **IN GENERAL.**—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 subsection:

“(s) **MULTI-LEVEL SECURITY CLEARANCES.**—The Director of National Intelligence shall be responsible for ensuring that the elements of the intelligence community adopt a multi-level security clearance approach in order to enable the intelligence community to make more effective and efficient use of persons proficient in foreign languages or with cultural, linguistic, or other subject matter expertise that is critical to national security.”

(b) **IMPLEMENTATION.**—The Director of National Intelligence shall issue guidelines to the intelligence community on the implementation of subsection (s) of section 102A of the National Security Act of 1947, as added by subsection (a), not later than 90 days after the date of the enactment of this Act.

**SEC. 304. DELEGATION OF AUTHORITY FOR TRAVEL ON COMMON CARRIERS FOR INTELLIGENCE COLLECTION PERSONNEL.**

(a) **DELEGATION OF AUTHORITY.**—Section 116(b) of the National Security Act of 1947 (50 U.S.C. 404k(b)) is amended—

(1) by inserting “(1)” before “The Director”;

(2) in paragraph (1), as designated by paragraph (1) of this subsection, by striking “may only delegate” and all that follows and inserting “may delegate the authority in subsection (a) to the head of any other element of the intelligence community.”; and

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

“(2) The head of an element of the intelligence community to whom the authority in subsection (a) is delegated pursuant to paragraph (1) may further delegate such authority to such senior officials of such element as are specified in guidelines prescribed by the Director of National Intelligence for purposes of this paragraph.”

(b) **SUBMISSION OF GUIDELINES TO CONGRESS.**—Not later than 6 months after the date of the enactment of this Act, the Director of National Intelligence shall prescribe and submit to the congressional intelligence committees the guidelines referred to in paragraph (2) of section 116(b) of the National Security Act of 1947, as added by subsection (a).

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

(a) **IN GENERAL.**—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:

“**ANNUAL PERSONNEL LEVEL ASSESSMENT FOR THE INTELLIGENCE COMMUNITY**

“**SEC. 506B. (a) REQUIREMENT TO PROVIDE.**—The Director of National Intelligence shall, 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, at a minimum, 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 personnel positions requested for the upcoming fiscal year.

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

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

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

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

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

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

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

“(12) A list of all contractors that have been the subject of an investigation completed by the Inspector General of any element of the intelligence commu-



nity during the preceding fiscal year, or are or have been the subject of an investigation 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 contractor 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) CLERICAL AMENDMENT.—The table of contents in the first section of that Act is amended by inserting after the item relating to section 506A the following new item:

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

**SEC. 306. COMPREHENSIVE REPORT ON INTELLIGENCE COMMUNITY CONTRACTORS.**

(a) REQUIREMENT FOR REPORT.—Not later than November 1, 2008, the Director of National Intelligence shall submit to the congressional intelligence committees a report describing the use of personal services contracts across the intelligence community, the impact of such contractors on the intelligence community workforce, plans for conversion of contractor employment into government employment, and the accountability mechanisms that govern the performance of such contractors.

(b) CONTENT.—

(1) IN GENERAL.—The report submitted under subsection (a) shall include—

(A) a description of any relevant regulations or guidance issued by the Director of National Intelligence or the head of an element of the intelligence community relating to minimum standards required regarding the hiring, training, security clearance, and assignment of contract personnel and how those standards may differ from those for government employees performing substantially similar functions;

(B) an identification of contracts where the contractor is performing a substantially similar functions to a government employee;

(C) an assessment of costs incurred or savings achieved by awarding contracts for the performance of such functions referred to in subparagraph (B) instead of using full-time employees of the elements of the intelligence community to perform such functions;

(D) an assessment of the appropriateness of using contractors to perform the activities described in paragraph (2);

(E) an estimate of the number of contracts, and the number of personnel working under such contracts, related to the performance of activities described in paragraph (2);

(F) a comparison of the compensation of contract employees and government employees performing substantially similar functions;

(G) an analysis of the attrition of government personnel for contractor positions that provide substantially similar functions;

(H) a description of positions that will be converted from contractor employment to government employment;

(I) an analysis of the oversight and accountability mechanisms applicable to personal services contracts awarded for intelligence activities by each element of the intelligence community during fiscal years 2006 and 2007;

(J) an analysis of procedures in use in the intelligence community for conducting oversight of contractors to ensure identification and prosecution of criminal violations, financial waste, fraud, or other abuses committed by contractors or contract personnel; and

(K) an identification of best practices for oversight and accountability mechanisms applicable to personal services contracts.

(2) ACTIVITIES.—Activities described in this paragraph are the following:

(A) Intelligence collection.

(B) Intelligence analysis.

(C) Covert actions, including rendition, detention, and interrogation activities.

**SEC. 307. REPORT ON PROPOSED PAY FOR PERFORMANCE INTELLIGENCE COMMUNITY PERSONNEL MANAGEMENT SYSTEM.**

(a) PROHIBITION ON PAY FOR PERFORMANCE UNTIL REPORT.—The Director of National Intelligence and the head of an element of the intelligence community may not implement a plan that provides compensation to personnel of that element of the intelligence community based on performance until the date that is 45 days after the date on which the Director of National Intelligence submits a report for that element under subsection (b).

(b) **REPORT.**—The Director of National Intelligence shall submit to Congress a report on performance-based compensation for each element of the intelligence community, including, with respect to each such element—

(1) a description of a proposed employee advisory group to advise management on the implementation and management of a pay for performance system in that element, including the scope of responsibility of the group and the plan for the element for ensuring diversity in the selection of members of the advisory group;

(2) a certification that all managers who will participate in setting performance standards and pay pool administration have been trained on the implementing guidance of the system and the criteria upon which the certification is granted; and

(3) a description of an external appeals mechanism for employees who wish to appeal pay decisions to someone outside the management chain of the element employing such employee.

**SEC. 308. REPORT ON PLANS TO INCREASE DIVERSITY WITHIN THE INTELLIGENCE COMMUNITY.**

(a) **REQUIREMENT FOR REPORT.**—Not later than November 1, 2008, the Director of National Intelligence, in coordination with the heads of the elements of the intelligence community, shall submit to the congressional intelligence committees a report on the plans of each element to increase diversity within the intelligence community.

(b) **CONTENT.**—The report required by subsection (a) shall include specific implementation plans to increase diversity within each element of the intelligence community, including—

(1) specific implementation plans for each such element designed to achieve the goals articulated in the strategic plan of the Director of National Intelligence on equal employment opportunity and diversity;

(2) specific plans and initiatives for each such element to increase recruiting and hiring of diverse candidates;

(3) specific plans and initiatives for each such element to improve retention of diverse Federal employees at the junior, midgrade, senior, and management levels;

(4) a description of specific diversity awareness training and education programs for senior officials and managers of each such element; and

(5) a description of performance metrics to measure the success of carrying out the plans, initiatives, and programs described in paragraphs (1) through (4).

**SEC. 309. REPORT ON SECURITY CLEARANCE DETERMINATIONS.**

(a) **IN GENERAL.**—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.) is amended by adding at the end the following new section:

“REPORT ON SECURITY CLEARANCE DETERMINATIONS

“SEC. 508. Not later than February 1 of each year, the Director of the Office of Management and Budget shall submit to Congress a report on security clearance determinations completed or ongoing during the preceding fiscal year that have taken longer than one year to complete. Such report shall include—

“(1) the number of security clearance determinations for positions as employees of the Federal Government that required more than one year to complete;

“(2) the number of security clearance determinations for contractors that required more than one year to complete;

“(3) the agencies that investigated and adjudicated such determinations; and

“(4) the cause of significant delays in such determinations.”.

(b) **CONFORMING AMENDMENT.**—The table of contents in the first section of the National Security Act of 1947 (50 U.S.C. 401 et seq.) is further amended by inserting after the item relating to section 507 the following new item:

“Sec. 508. Report on security clearance determinations.”.

## Subtitle B—Other Matters

**SEC. 311. 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.

**SEC. 312. CLARIFICATION OF DEFINITION OF INTELLIGENCE COMMUNITY UNDER THE NATIONAL SECURITY ACT OF 1947.**

Subparagraph (L) of section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)) is amended by striking “other” the second place it appears.

**SEC. 313. 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. 314. 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. 315. 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 ‘intelligence community’ has the meaning given the term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).”.

**SEC. 316. REPORT ON COMPLIANCE WITH THE DETAINEE TREATMENT ACT OF 2005 AND RELATED PROVISIONS OF THE MILITARY COMMISSIONS ACT OF 2006.**

(a) REPORT REQUIRED.—Not later than November 1, 2008, the Director of National Intelligence 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 the Detainee Treatment Act of 2005 (title X of division A of Public Law 109–148; 119 Stat. 2739) and related provisions of the Military Commissions Act of 2006 (Public Law 109–366; 120 Stat. 2600).

(b) 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 section 1003 of the Detainee Treatment Act of 2005 (119 Stat. 2739; 42 U.S.C. 2000dd) and section 6 of the Military Commissions Act of 2006 (120 Stat. 2632; 18 U.S.C. 2441 note) (including the amendments made by such section 6), 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 the detention or interrogation methods, if any, the use of which has been discontinued pursuant to the Detainee Treatment Act of 2005 or the Military Commission Act of 2006, and, with respect to each such method—

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

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

(3) 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.
- (4) Any other matters that the Director considers necessary to fully and currently inform the congressional intelligence committees about the implementation of the Detainee Treatment Act of 2005 and related provisions of the Military Commissions Act of 2006.
- (5) An appendix containing—
- (A) all guidelines for the application of the Detainee Treatment Act of 2005 and related provisions of the Military Commissions Act of 2006 to the detention or interrogation activities, if any, of any element of the intelligence community; and
- (B) all legal justifications of the Department of Justice, including any office thereof, about the meaning or application of the Detainee Treatment Act of 2005 or related provisions of the Military Commissions Act of 2006 with respect to the detention or interrogation activities, if any, of any element of the intelligence community.
- (c) FORM.—The report required by subsection (a) shall be submitted in classified form.
- (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, that portion of the report, and any associated material that is necessary to make that portion understandable, shall also be submitted by the Director of National Intelligence to the congressional armed services committees.
- (e) CONGRESSIONAL ARMED SERVICES COMMITTEE DEFINED.—In this section, the term “congressional armed services committees” means—
- (1) the Committee on Armed Services of the Senate; and
  - (2) the Committee on Armed Services of the House of Representatives.

**SEC. 317. INCORPORATION OF REPORTING REQUIREMENTS.**

Each requirement to submit a report to the congressional intelligence committees that is included in the classified annex to this Act is hereby incorporated into this Act and is hereby made a requirement in law.

**SEC. 318. REPEAL OF CERTAIN REPORTING REQUIREMENTS.**

(a) ANNUAL CERTIFICATION ON COUNTERINTELLIGENCE 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).

(b) 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.

(c) 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.

(d) CONFORMING AMENDMENTS.—Section 507(a)(2) of the National Security Act of 1947 (50 U.S.C. 415b(a)(2)) is amended by striking subparagraph (D).

**SEC. 319. ENHANCEMENT OF CRITICAL SKILLS TRAINING PROGRAM.**

(a) NATIONAL SECURITY AGENCY.—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”.

(b) OTHER ELEMENTS OF THE INTELLIGENCE COMMUNITY.—

- (1) IN GENERAL.—The National Security Act of 1947 is amended by inserting after section 1021 (50 U.S.C. 441m) the following new section:

“INTELLIGENCE COMMUNITY ACQUISITION OF CRITICAL SKILLS

“SEC. 1022. (a) IN GENERAL.—The head of an appropriate department may assign civilian employees of an element of the intelligence community that is a component of such appropriate department as students at accredited professional, technical, and other institutions of higher learning for training at the undergraduate level in skills critical to effective performance of the mission of such element of the intelligence community.

“(b) PAYMENT OF EXPENSES.—The head of an appropriate department may pay, directly or by reimbursement to employees, expenses incident to assignments under subsection (a), in any fiscal year only to the extent that appropriated funds are available for such purpose.

“(c) ELIGIBILITY.—

“(1) IN GENERAL.—To be eligible for assignment under subsection (a), an employee of an element of the intelligence community must agree in writing—

“(A) to continue in the service of such element for the period of the assignment and to complete the educational course of training for which the employee is assigned;

“(B) to continue in the service of such element following completion of the assignment for a period of one-and-a-half years for each year of the assignment or part thereof;

“(C) to reimburse the United States for the total cost of education (excluding the employee’s pay and allowances) provided under this section to the employee if, prior to the employee’s completing the educational course of training for which the employee is assigned, the assignment or the employee’s employment with such element is terminated either by such element due to misconduct by the employee or by the employee voluntarily; and

“(D) to reimburse the United States if, after completing the educational course of training for which the employee is assigned, the employee’s employment with such element is terminated either by such element due to misconduct by the employee or by the employee voluntarily, prior to the employee’s completion of the service obligation period described in subparagraph (B), in an amount that bears the same ratio to the total cost of the education (excluding the employee’s pay and allowances) provided to the employee as the unserved portion of the service obligation period described in subparagraph (B) bears to the total period of the service obligation described in subparagraph (B).

“(2) DEBT OWING THE UNITED STATES.—Subject to paragraph (3), the obligation to reimburse the United States under an agreement described in paragraph (1), including interest due on such obligation, is for all purposes a debt owing the United States.

“(3) REIMBURSEMENT.—

“(A) BANKRUPTCY.—A discharge in bankruptcy under title 11, United States Code, shall not release a person from an obligation to reimburse the United States required under an agreement described in paragraph (1) if the final decree of the discharge in bankruptcy is issued within five years after the last day of the combined period of service obligation described in subparagraphs (A) and (B) of paragraph (1).

“(B) RELEASE.—The head of an appropriate department may release a person, in whole or in part, from the obligation to reimburse the United States under an agreement described in paragraph (1) when, in the discretion of such head of an appropriate department, such head of an appropriate department determines that equity or the interests of the United States so require.

“(C) MONTHLY PAYMENTS.—The head of an appropriate department shall permit an employee assigned under this section who, prior to commencing a second academic year of such assignment, voluntarily terminates the assignment or the employee’s employment with the element of the intelligence community that is a component of such appropriate department, to satisfy the employee’s obligation under an agreement described in paragraph (1) to reimburse the United States by reimbursement according to a schedule of monthly payments which results in completion of reimbursement by a date five years after the date of termination of the assignment or employment or earlier at the option of the employee.

“(d) RECRUITMENT.—Efforts by an element of the intelligence community to recruit individuals at educational institutions for participation in the undergraduate training program established by this section shall be made openly and according to the common practices of universities and employers recruiting at such institutions.

“(e) INAPPLICATION OF PROVISIONS ON TRAINING.—Chapter 41 of title 5 and subsections (a) and (b) of section 3324 of title 31, United States Code, shall not apply with respect to this section.

“(f) REGULATIONS.—A head of the appropriate department assigning employees in accordance with this section may issue such regulations as such head of the appropriate department considers necessary to carry out this section.

“(g) RULES OF CONSTRUCTION.—

“(1) COMPONENT.—For purposes of this section—

“(A) the Office of the Director of National Intelligence shall be considered a component of such Office; and

“(B) the Central Intelligence Agency shall be considered a component of such Agency.

- “(2) REQUIRED EDUCATION PROGRAMS.—Nothing in this section shall be construed to modify, affect, or supercede any provision of law requiring or otherwise authorizing or providing for a training program described in this section.
- “(h) APPROPRIATE DEPARTMENT DEFINED.—In this section, the term ‘appropriate department’ means—
- “(1) with respect to the Office of the Director of National Intelligence, the Office of the Director of National Intelligence;
- “(2) with respect to the Central Intelligence Agency, Central Intelligence Agency; and
- “(3) with respect to an element of the intelligence community other than the Office of the Director of National Intelligence and the Central Intelligence Agency, the department of the Federal Government of which such element of the intelligence community is a component.”.
- (2) CONFORMING AMENDMENT.—The table of contents in the first section of the National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by inserting after the item relating to section 1021 the following new item:

“Sec. 1022. Intelligence community acquisition of critical skills.”.

**SEC. 320. COMPREHENSIVE NATIONAL CYBERSECURITY INITIATIVE ADVISORY PANEL.**

Not later than February 1, 2009, the President shall submit to Congress a report on options for creating an advisory panel comprised of representatives of Congress, the Executive Branch, and the private sector to make policy and procedural recommendations for—

- (1) information security for the Federal Government;
- (2) critical infrastructure;
- (3) the authorities, roles, responsibilities of the intelligence community, Department of Homeland Security, and Department of Defense for purposes of supporting the Comprehensive National Cybersecurity Initiative as described in National Security Policy Directive 54/Homeland Security Policy Directive 23 entitled “Cybersecurity Policy” signed by the President on January 8, 2008; and
- (4) other matters related to paragraphs (1) through (3) as the President considers appropriate.

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

### **Subtitle A—Office of the Director of National Intelligence**

**SEC. 401. CLARIFICATION OF LIMITATION ON COLOCATION OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.**

Section 103(e) of the National Security Act of 1947 (50 U.S.C. 403–3(e)) is amended—

- (1) by striking “WITH” and inserting “OF HEADQUARTERS WITH HEADQUARTERS OF”;
- (2) by inserting “the headquarters of” before “the Office”; and
- (3) by striking “any other element” and inserting “the headquarters of any other element”.

**SEC. 402. 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.”.

**SEC. 403. ADDITIONAL DUTIES OF THE DIRECTOR OF SCIENCE AND TECHNOLOGY.**

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;

“(6) submit to the congressional intelligence committees an annual report on the science and technology strategy of the Director that shows resources mapped to the goals of the intelligence community; and”;

- (2) in subsection (d)(3)—
- (A) in subparagraph (A)—
- (i) by inserting “and prioritize” after “coordinate”; and
- (ii) by striking “, and” and inserting “,;”;
- (B) by redesignating subparagraph (B) as subparagraph (C); and
- (C) by inserting after subparagraph (A) the following new subparagraph:
- “(B) identify basic, advanced, and applied research programs to be executed by elements of the intelligence community; and”.

**SEC. 404. 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. 4040–1(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 (13); 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.”.

**SEC. 405. PLAN TO IMPLEMENT RECOMMENDATIONS OF THE DATA CENTER ENERGY EFFICIENCY REPORTS.**

(a) PLAN.—The Director of National Intelligence shall develop a plan to implement the recommendations of the report submitted to Congress under section 1 of the Act entitled “An Act to study and promote the use of energy efficient computer servers in the United States” (Public Law 109–431; 120 Stat. 2920) across the intelligence community.

(b) REPORT.—

(1) IN GENERAL.—Not later than November 1, 2008, the Director of National Intelligence shall submit to the congressional intelligence committees a report containing the plan developed under subsection (a).

(2) FORM.—The report under paragraph (1) shall be submitted in unclassified form, but may contain a classified annex.

**SEC. 406. SEMIANNUAL REPORTS ON NUCLEAR PROGRAMS OF IRAN, SYRIA, AND NORTH KOREA.**

(a) REPORTS.—

(1) IN GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by title III, is further amended by adding at the end the following new section:

“SEMIANNUAL REPORTS ON THE NUCLEAR PROGRAMS OF IRAN, SYRIA, AND NORTH KOREA

“SEC. 509. (a) REQUIREMENT FOR REPORTS.—Not less frequently than every 180 days, the Director of National Intelligence shall submit to the congressional intelligence committees a report on the intentions and capabilities of the Islamic Republic of Iran, the Syrian Arab Republic, and the Democratic People’s Republic of Korea, with regard to the nuclear programs of each such country.

“(b) CONTENT.—Each report submitted under subsection (a) shall include, with respect to the Islamic Republic of Iran, the Syrian Arab Republic, and the Democratic People’s Republic of Korea—

“(1) an assessment of nuclear weapons programs of each such country;

“(2) an evaluation, consistent with existing reporting standards and practices, of the sources upon which the intelligence used to prepare the assessment described in paragraph (1) is based, including the number of such sources and an assessment of the reliability of each such source;

“(3) a summary of any intelligence related to any such program gathered or developed since the previous report was submitted under subsection (a), includ-

ing intelligence collected from both open and clandestine sources for each such country; and

“(4) a discussion of any dissents, caveats, gaps in knowledge, or other information that would reduce confidence in the assessment described in paragraph (1).

“(c) NATIONAL INTELLIGENCE ESTIMATE.—The Director of National Intelligence may submit a National Intelligence Estimate on the intentions and capabilities of the Islamic Republic of Iran, the Syrian Arab Republic, or the Democratic People’s Republic of Korea in lieu of a report required by subsection (a) for that country.

“(d) FORM.—Each report submitted under subsection (a) may be submitted in classified form.”

(2) APPLICABILITY DATE.—The first report required to be submitted under section 509 of the National Security Act of 1947, as added by paragraph (1), shall be submitted not later than 30 days after the date of the enactment of this Act.

(b) CONFORMING AMENDMENT.—The table of contents in the first section of the National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by inserting after the item relating to section 508 the following new item:

“Sec. 509. Semiannual reports on the nuclear programs of Iran, Syria, and North Korea.”

**SEC. 407. TITLE 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), by inserting “of the Intelligence Community” after “Chief Information Officer”;

(2) in subsection (b), by inserting “of the Intelligence Community” after “Chief Information Officer”;

(3) in subsection (c), by inserting “of the Intelligence Community” after “Chief Information Officer”; and

(4) in subsection (d), by inserting “of the Intelligence Community” after “Chief Information Officer”.

**SEC. 408. 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 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 to—

“(1) create an objective and effective office, appropriately accountable to Congress, to initiate and conduct independently investigations, inspections, and audits on matters within the responsibility and authority of the Director of National Intelligence;

“(2) recommend policies designed—

“(A) to promote economy, efficiency, and effectiveness in the administration and implementation of matters within the responsibility and authority of the Director of National Intelligence; and

“(B) to prevent and detect fraud and abuse in such matters;

“(3) provide a means for keeping the Director of National Intelligence fully and currently informed about—

“(A) problems and deficiencies relating to matters 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, ensure that the congressional intelligence committees are kept similarly informed of—

“(A) significant problems and deficiencies relating to matters 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 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) solely on the basis of integrity, compliance with the 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 auditing.

“(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 immediately communicate in writing to the congressional intelligence committees the reasons for the removal of any individual from the position of Inspector General.

“(d) DUTIES AND RESPONSIBILITIES.—Subject to subsections (g) and (h), 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, and audits relating to matters within the responsibility and authority of the Director of National Intelligence to ensure they are conducted efficiently and in accordance with applicable law and regulations;

“(2) to keep the Director of National Intelligence fully and currently informed concerning violations of law and regulations, violations of civil liberties and privacy, fraud and other serious problems, abuses, and deficiencies that may occur in matters within the responsibility and authority of the Director, and to report the progress made in implementing 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 standards.

“(e) 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, or audit 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 report 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 report.

“(4) The Inspector General may submit to the congressional intelligence committees any comments on a report of which the Inspector General has notice under paragraph (3) that the Inspector General considers appropriate.

“(f) 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 have access to any employee, or any employee of a contractor, of any element of the intelligence community whose testimony is needed for the performance of the duties of the Inspector General.

“(B) 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 operations with respect to which the Inspector General has responsibilities under this section.

“(C) 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 (B).

“(D) Failure on the part of any employee, or any employee of a contractor, of any element of the intelligence community to cooperate with the Inspector General shall be grounds for appropriate administrative actions by the Director or, on the recommendation of the Director, other appropriate officials of the intelligence community, including loss of employment or the termination of an existing contractual relationship.

“(3) The Inspector General is authorized to receive and investigate complaints or information from any person concerning the existence of an activity 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 Federal Government—

“(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 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 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 other 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.

“(g) COORDINATION AMONG INSPECTORS GENERAL OF INTELLIGENCE COMMUNITY.—

(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, or audit 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, or audit.

“(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 subparagraph (C). 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 the Forum, the Inspectors General shall submit the question to the Director of National Intelligence and the head of the agency or department for resolution.

“(C) 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. The Inspector General of the Intelligence Community shall serve as the chair of the Forum. 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 a contractor, records, audits, reviews, documents, recommendations, or other materials that may involve or be of assistance to more than 1 of its members.

“(2) The Inspector General conducting an investigation, inspection, or audit covered by paragraph (1) shall submit the results of such investigation, inspection, or audit to any other Inspector General, including the Inspector General of the Intelligence Community, with jurisdiction to conduct such investigation, inspection, or audit who did not conduct such investigation, inspection, or audit.

“(h) STAFF AND OTHER SUPPORT.—(1) The Inspector General of the Intelligence Community shall be provided 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 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)(A) Subject to the concurrence of the Director, 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, conduct, as authorized by this section, an investigation, inspection, or audit 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.

“(i) 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 semi-annual 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, or audit conducted during the period covered by such report, including a summary of the progress of each particular investigation, inspection, or audit since the preceding report of the Inspector General under this paragraph.

“(ii) A description of significant problems, abuses, and deficiencies relating to the administration and implementation of programs and operations of the intelligence community, 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 or disciplinary 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 whether or not corrective or disciplinary action has been completed on each significant recommendation described in previous semi-annual reports, and, in a case where corrective action has been completed, a description of such corrective action.

“(v) A certification 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 (f)(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 matters within the responsibility and authority of the Director of National Intelligence, and to detect and eliminate fraud and abuse in such matters.

“(C) Not later than the 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 matters 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) In the event that—

“(A) the Inspector General is unable to resolve any differences with the Director affecting the execution of the duties or responsibilities of the Inspector General;

“(B) an investigation, inspection, or audit 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;

“(C) 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 subparagraph (B);

“(D) 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 subparagraph (B); or

“(E) the Inspector General, after exhausting all possible alternatives, is unable to obtain significant documentary information in the course of an investigation, inspection, or audit,

the Inspector General shall immediately notify and submit a report on such matter 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, or audit 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 a contractor 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 intelligence committees in accordance with appropriate security practices.

“(iii) A member or employee of 1 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 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).

“(6) In accordance with section 535 of title 28, United States Code, the Inspector General shall 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.

“(j) 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.

“(k) CONSTRUCTION OF DUTIES REGARDING ELEMENTS OF INTELLIGENCE COMMUNITY.—Except as resolved pursuant to subsection (g), 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 effect the duties and responsibilities of any other Inspector General, whether statutory or administrative, having duties and responsibilities relating to such element.”

(2) CLERICAL 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) REPEAL OF SUPERSEDED AUTHORITY TO ESTABLISH POSITION.—Section 8K of the Inspector General Act of 1978 (5 U.S.C. App.) is repealed.

(c) EXECUTIVE SCHEDULE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by adding at the end the following new item:

“Inspector General of the Intelligence Community.”

**SEC. 409. ANNUAL REPORT ON FOREIGN LANGUAGE PROFICIENCY IN THE INTELLIGENCE COMMUNITY.**

(a) REPORT.—

(1) IN GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by section 406 of this Act, is further amended by adding at the end the following new section:

“REPORT ON FOREIGN LANGUAGE PROFICIENCY IN THE INTELLIGENCE COMMUNITY

“SEC. 510. Not later than February 1 of each year, the Director of National Intelligence shall submit to the congressional intelligence committees a report on the proficiency in foreign languages and, if appropriate, in foreign dialects of each element of the intelligence community, including—

“(1) the number of positions authorized for such element that require foreign language proficiency and the level of proficiency required;

“(2) an estimate of the number of such positions that each element will require during the 5-year period beginning on the date of the submission of the report;

“(3) the number of positions authorized for such element that require foreign language proficiency that are filled by—

“(A) military personnel; and

“(B) civilian personnel;

“(4) the number of applicants for positions in such element in the previous fiscal year that indicated foreign language proficiency, including the foreign language indicated and the proficiency level;

“(5) the number of persons hired by such element with foreign language proficiency, including the foreign language and proficiency level;

“(6) the number of personnel of such element currently attending foreign language training, including the provider of such training;

“(7) a description of such element’s efforts to recruit, hire, train, and retain personnel that are proficient in a foreign language;

“(8) an assessment of methods and models for basic, advanced, and intensive foreign language training;

“(9) for each foreign language and, where appropriate, dialect of a foreign language—

“(A) the number of positions of such element that require proficiency in the foreign language or dialect;

“(B) the number of personnel of such element that are serving in a position that requires proficiency in the foreign language or dialect to perform the primary duty of the position;

“(C) the number of personnel of such element that are serving in a position that does not require proficiency in the foreign language or dialect to perform the primary duty of the position;

“(D) the number of personnel of such element rated at each level of proficiency of the Interagency Language Roundtable;

“(E) whether the number of personnel at each level of proficiency of the Interagency Language Roundtable meets the requirements of such element;

“(F) the number of personnel serving or hired to serve as linguists for such element that are not qualified as linguists under the standards of the Interagency Language Roundtable;

“(G) the number of personnel hired to serve as linguists for such element during the preceding calendar year;

“(H) the number of personnel serving as linguists that discontinued serving such element during the preceding calendar year;

“(I) the percentage of work requiring linguistic skills that is fulfilled by an ally of the United States; and

“(J) the percentage of work requiring linguistic skills that is fulfilled by contractors;

“(10) an assessment of the foreign language capacity and capabilities of the intelligence community as a whole; and

“(11) recommendations for eliminating required reports relating to foreign language proficiency that the Director of National Intelligence considers outdated or no longer relevant.”.

(2) REPORT DATE.—Section 507(a)(1) of such Act (50 U.S.C. 415b(a)(1)) is amended—

(A) by redesignating subparagraph (N) as subparagraph (J); and

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

“(K) The annual report on foreign language proficiency in the intelligence community required by section 510.”.

(b) CONFORMING AMENDMENT.—The table of contents in the first section of such Act is further amended by inserting after the item relating to section 509 the following new item:

“Sec. 510. Report on foreign language proficiency in the intelligence community.”.

**SEC. 410. 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); and
- (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)”; and
- (2) in subsection (e), as so redesignated—
  - (A) in paragraph (1), by striking “subsection (e)(1)” and inserting “subsection (d)(1)”; and
  - (B) in paragraph (2), by striking “subsection (e)(2)” and inserting “subsection (d)(2)”.

**SEC. 411. NATIONAL INTELLIGENCE ESTIMATE ON WEAPONS OF MASS DESTRUCTION IN SYRIA.**

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to Congress a National Intelligence Estimate on the history, status, and projected development of any weapons of mass destruction development program undertaken by the Government of Syria, or by any person on behalf of the Government of Syria.

(b) FORM.—The National Intelligence Estimate required under subsection (a) may be submitted in classified form.

**SEC. 412. REPORT ON INTELLIGENCE RESOURCES DEDICATED TO IRAQ AND AFGHANISTAN.**

Not later than 120 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 intelligence collection resources dedicated to Iraq and Afghanistan during fiscal years 2007 and 2008. Such report shall include detailed information on fiscal, human, technical, and other intelligence collection resources.

**SEC. 413. OMBUDSMAN FOR INTELLIGENCE COMMUNITY SECURITY CLEARANCES.**

(a) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by inserting after section 103H, as added by section 409 of this Act, the following new section:

“OMBUDSMAN FOR INTELLIGENCE COMMUNITY SECURITY CLEARANCES

“SEC. 103I. (a) APPOINTMENT.—The Director of National Intelligence shall appoint an ombudsman for intelligence community security clearances.

“(b) PROVISION OF INFORMATION.—The head of an element of the intelligence community shall provide a person applying for a security clearance through or in coordination with such element with contact information for the ombudsman appointed under subsection (a).

“(c) REPORT.—Not later than November 1 of each year, the ombudsman appointed under subsection (a) shall submit to the congressional intelligence committees a report containing—

- “(1) the number of persons applying for a security clearance who have contacted the ombudsman during the preceding 12 months; and
- “(2) a summary of the concerns, complaints, and questions received by the ombudsman from persons applying for security clearances.”.

(b) APPOINTMENT DATE.—The Director of National Intelligence shall appoint an ombudsman for intelligence community security clearances under section 103I(a) of the National Security Act of 1947, as added by subsection (a), not later than 60 days after the date of the enactment of this Act.

(c) CONFORMING AMENDMENT.—The table of contents in the first section of the National Security Act of 1947 is further amended by inserting after the item relating to section 103H the following new item:

“Sec. 103I. Ombudsman for intelligence community security clearances.”.

**SEC. 414. SECURITY CLEARANCE RECIPROCITY.**

(a) **AUDIT.**—The Inspector General of the Intelligence Community shall conduct an audit of the reciprocity of security clearances in the intelligence community.

(b) **REPORT.**—Not later than 60 days after the date of the enactment of this Act, the Inspector General of the Intelligence Community shall submit to the congressional intelligence committees a report containing the results of the audit conducted under subsection (a). Such report shall include an assessment of the time required to obtain a reciprocal security clearance for—

- (1) an employee of an element of the intelligence community detailed to another element of the intelligence community;
- (2) an employee of an element of the intelligence community seeking permanent employment with another element of the intelligence community and;
- (3) a contractor seeking permanent employment with an element of the intelligence community.

**SEC. 415. REPORT ON INTERNATIONAL TRAFFIC IN ARMS REGULATIONS.**

(a) **REPORT.**—Not later than February 1, 2009, the Director of National Intelligence shall submit to the congressional intelligence committees a report assessing—

- (1) the threat to national security presented by the efforts of foreign countries to acquire, through espionage, diversion, or other means, sensitive equipment and technology, and the degree to which United States export controls (including the International Traffic in Arms Regulations) are adequate to defeat such efforts; and
- (2) the extent to which United States export controls are well matched to the scope of the foreign threat such controls are designed to defeat and whether other means could more successfully defeat such threats.

(b) **FORM.**—The report under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

(c) **INTERNATIONAL TRAFFIC IN ARMS REGULATIONS DEFINED.**—The term “International Traffic in Arms Regulations” means those regulations contained in parts 120 through 130 of title 22, Code of Federal Regulations (or successor regulations).

**SEC. 416. REPORT ON NUCLEAR TRAFFICKING.**

(a) **REPORT.**—Not later than February 1, 2009, the Director of National Intelligence shall submit to the congressional intelligence committees, the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives, and the Committee on Armed Services and the Committee on Foreign Relations of the Senate a report on the illicit trade of nuclear and radiological material and equipment.

(b) **CONTENTS.**—The report submitted under subsection (a) shall include, for a period of time including at least the preceding three years—

- (1) details of all known or suspected cases of the illicit sale, transfer, brokering, or transport of nuclear or radiological material or equipment useful for the production of nuclear or radiological material or nuclear explosive devices;
- (2) an assessment of the countries that represent the greatest risk of nuclear trafficking activities; and
- (3) a discussion of any dissents, caveats, gaps in knowledge, or other information that would reduce confidence in the assessment referred to in paragraph (2).

(c) **FORM.**—The report under subsection (a) may be submitted in classified form, but shall include an unclassified summary.

**SEC. 417. STUDY ON REVOKING PENSIONS OF PERSONS WHO COMMIT UNAUTHORIZED DISCLOSURES OF CLASSIFIED INFORMATION.**

(a) **STUDY.**—The Director of National Intelligence shall conduct a study on the feasibility of revoking the pensions of personnel in the intelligence community who commit unauthorized disclosures of classified information, including whether revoking such pensions is feasible under existing law or under the administrative authority of the Director of National Intelligence or any other head of an element of the intelligence community.

(b) **REPORT.**—Not later than 90 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the congressional intelligence committees a report containing the results of the study conducted under subsection (a).



## Subtitle B—Central Intelligence Agency

### SEC. 421. REVIEW OF COVERT ACTION PROGRAMS BY INSPECTOR GENERAL OF THE CENTRAL INTELLIGENCE AGENCY.

(a) IN GENERAL.—Section 503 of the National Security Act of 1947 (50 U.S.C. 413b) is amended by—

(1) redesignating subsection (e) as subsection (g) and transferring such subsection to the end; and

(2) by inserting after subsection (d) the following new subsection:

“(e) INSPECTOR GENERAL AUDITS OF COVERT ACTIONS.—

“(1) IN GENERAL.—Subject to paragraph (2), the Inspector General of the Central Intelligence Agency shall conduct an audit of each covert action at least every 3 years. Such audits shall be conducted subject to the provisions of paragraphs (3) and (4) of subsection (b) of section 17 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q).

“(2) TERMINATED, SUSPENDED PROGRAMS.—The Inspector General of the Central Intelligence Agency is not required to conduct an audit under paragraph (1) of a covert action that has been terminated or suspended if such covert action was terminated or suspended prior to the last audit of such covert action conducted by the Inspector General and has not been restarted after the date on which such audit was completed.

“(3) REPORT.—Not later than 60 days after the completion of an audit conducted pursuant to paragraph (1), the Inspector General of the Central Intelligence Agency shall submit to the congressional intelligence committees a report containing the results of such audit.”

(b) CONFORMING AMENDMENTS.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.) is amended—

(1) in section 501(f) (50 U.S.C. 413(f)), by striking “503(e)” and inserting “503(g)”;

(2) in section 502(a)(1) (50 U.S.C. 413b(a)(1)), by striking “503(e)” and inserting “503(g)”;

(3) in section 504(c) (50 U.S.C. 414(c)), by striking “503(e)” and inserting “503(g)”.

### SEC. 422. INAPPLICABILITY TO DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY OF REQUIREMENT FOR ANNUAL REPORT ON PROGRESS IN AUDITABLE FINANCIAL STATEMENTS.

Section 114A of the National Security Act of 1947 (50 U.S.C. 404i–1) is amended by striking “the Director of the Central Intelligence Agency,”.

### SEC. 423. TECHNICAL AMENDMENTS RELATING TO TITLES OF CERTAIN CENTRAL INTELLIGENCE AGENCY POSITIONS.

Section 17(d)(3)(B)(ii) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(d)(3)(B)(ii)) is amended—

(1) in subclause (I), by striking “Executive Director” and inserting “Associate Deputy Director”;

(2) in subclause (II), by striking “Deputy Director for Operations” and inserting “Director of the National Clandestine Service”;

(3) in subclause (III), by striking “Deputy Director for Intelligence” and inserting “Director of Intelligence”;

(4) in subclause (IV), by striking “Deputy Director for Administration” and inserting “Director of Support”;

(5) in subclause (V), by striking “Deputy Director for Science and Technology” and inserting “Director of Science and Technology”.

### SEC. 424. CLARIFYING AMENDMENTS RELATING 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; 51 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. 425. PROHIBITION ON THE USE OF PRIVATE CONTRACTORS FOR INTERROGATIONS INVOLVING PERSONS IN THE CUSTODY OR CONTROL OF THE CENTRAL INTELLIGENCE AGENCY.

(a) PROHIBITION.—Notwithstanding any other provision of law, the Director of the Central Intelligence Agency shall not expend or obligate funds for payment to any contractor to conduct the interrogation of a detainee or prisoner in custody or under the effective control of the Central Intelligence Agency.

## (b) EXCEPTION.—

(1) IN GENERAL.—The Director of the Central Intelligence Agency may request, and the Director of National Intelligence may grant, a written waiver of the requirement under subsection (a) if the Director of the Central Intelligence Agency determines that—

(A) no employee of the Federal Government is—

- (i) capable of performing such interrogation; and
- (ii) available to perform such interrogation; and

(B) such interrogation is in the national interest of the United States and requires the use of a contractor.

(2) CLARIFICATION OF APPLICABILITY OF CERTAIN LAWS.—Any contractor conducting an interrogation pursuant to a waiver under paragraph (1) shall be subject to all laws on the conduct of interrogations that would apply if an employee of the Federal Government were conducting the interrogation.

## Subtitle C—Defense Intelligence Components

### SEC. 431. INTEGRATION OF THE COUNTERINTELLIGENCE FIELD ACTIVITY INTO THE DEFENSE INTELLIGENCE AGENCY.

(a) REPORT.—Not later than November 1, 2008, the Under Secretary of Defense for Intelligence shall submit to the congressional intelligence and armed services committees a report outlining the process by which the Counterintelligence Field Activity is to be integrated into the Defense Intelligence Agency. Such report shall include—

(1) a description of the nature of any law enforcement authorities to be delegated to the Defense Intelligence Agency;

(2) the authority under which the delegation of authority referred to in paragraph (1) would occur; and

(3) the guidelines for the implementation of such law enforcement authorities.

(b) CONGRESSIONAL INTELLIGENCE AND ARMED SERVICES COMMITTEES.—In this section, the term “congressional intelligence and armed services committees” means—

(1) the Permanent Select Committee on Intelligence of the House of Representatives;

(2) the Select Committee on Intelligence of the Senate; and

(3) the Committees on Armed Services of the House of Representatives and the Senate.

## Subtitle D—Other Elements

### SEC. 441. CLARIFICATION OF INCLUSION OF COAST GUARD AND DRUG ENFORCEMENT ADMINISTRATION AS 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. REPORT ON TRANSFORMATION OF THE INTELLIGENCE CAPABILITIES OF THE FEDERAL BUREAU OF INVESTIGATION.

Not later than 120 days after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the congressional intelligence committees a report describing the Director’s long term vision for transforming the intelligence capabilities of the Bureau and the progress of the internal reforms of the Bureau intended to achieve that vision. Such report shall include—

(1) the direction, strategy, and goals for transforming the intelligence capabilities of the Bureau;

(2) a description of what the fully functional intelligence and national security functions of the Bureau should entail;

(3) a candid assessment of the effect of internal reforms at the Bureau and whether such reforms have moved the Bureau towards achieving the goals of the Director for the intelligence and national security functions of the Bureau; and

(4) an assessment of how well the Bureau performs tasks that are critical to the effective functioning of the Bureau as an intelligence agency, including—

- (A) identifying new intelligence targets within the scope of the national security functions of the Bureau, outside the parameters of an existing case file or ongoing investigation;
- (B) collecting intelligence domestically, including collection through human and technical sources;
- (C) recruiting human sources;
- (D) training Special Agents to spot, assess, recruit, and handle human sources;
- (E) working collaboratively with other Federal departments and agencies to jointly collect intelligence on domestic counterterrorism and counterintelligence targets;
- (F) producing a common intelligence picture of domestic threats to the national security of the United States;
- (G) producing high quality and timely intelligence analysis;
- (H) integrating intelligence analysts into its intelligence collection operations; and
- (I) sharing intelligence information with intelligence community partners.

## TITLE V—OTHER MATTERS

### Subtitle A—General Intelligence Matters

#### SEC. 501. EXTENSION OF NATIONAL COMMISSION FOR THE REVIEW OF THE RESEARCH AND DEVELOPMENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY.

(a) EXTENSION.—

(1) IN GENERAL.—Subsection (a) of section 1007 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2442) is amended by striking “September 1, 2004” and inserting “December 31, 2009”.

(2) EFFECTIVE DATE.—Subject to paragraph (3), the amendment made by paragraph (1) shall take effect as if included in the enactment of such section 1007.

(3) COMMISSION MEMBERSHIP.—

(A) IN GENERAL.—The membership of the National Commission for the Review of the Research and Development Programs of the United States Intelligence Community established under subsection (a) of section 1002 of such Act (Public Law 107–306; 116 Stat. 2438) (referred to in this section as the “Commission”) shall be considered vacant and new members shall be appointed in accordance with such section 1002, as amended by subparagraph (B).

(B) TECHNICAL AMENDMENT.—Paragraph (1) of section 1002(b) of such Act is amended by striking “The Deputy Director of Central Intelligence for Community Management.” and inserting “The Principal Deputy Director of National Intelligence.”.

(4) CLARIFICATION OF DUTIES.—Section 1002(i) of such Act is amended in the matter preceding paragraph (1) by striking “including—” and inserting “including advanced research and development programs and activities. Such review shall include—”.

(b) FUNDING.—

(1) IN GENERAL.—Of the amounts authorized to be appropriated by this Act for the Intelligence Community Management Account, the Director of National Intelligence shall make \$2,000,000 available to the Commission to carry out title X of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2437).

(2) AVAILABILITY.—Amounts made available to the Commission pursuant to paragraph (1) shall remain available until expended.

#### SEC. 502. AMENDMENTS TO THE NATIONAL SECURITY ACT OF 1947.

(a) GENERAL CONGRESSIONAL OVERSIGHT.—Section 501(a) of the National Security Act of 1947 (50 U.S.C. 413(a)) is amended by adding at the end the following new paragraph:

“(3) In carrying out paragraph (1), the President shall provide to the congressional intelligence committees all information necessary to assess the lawfulness, effectiveness, cost, benefit, intelligence gain, budgetary authority, and risk of an intelligence activity, including—

“(A) the legal authority under which the intelligence activity is being or was conducted;

“(B) any legal issues upon which guidance was sought in carrying out or planning the intelligence activity, including dissenting legal views;

“(C) any specific operational concerns arising from the intelligence activity, including the risk of disclosing intelligence sources or methods;

“(D) the likelihood that the intelligence activity will exceed the planned or authorized expenditure of funds or other resources; and

“(E) the likelihood that the intelligence activity will fail.”.

(b) REPORTING ON ACTIVITIES OTHER THAN COVERT ACTIONS.—Section 502 of such Act (50 U.S.C. 413a) is amended by adding at the end the following new subsection:

“(d) DISTRIBUTION OF INFORMATION.—

“(1) REQUEST.—Information or material provided in accordance with subsection (a) shall be made available to each member of the congressional intelligence committees, unless the President requests that access to the information or material be limited after determining that limiting such access is essential to meet extraordinary circumstances affecting vital interests of the United States. A request under this paragraph and the extraordinary circumstances referred to in this paragraph shall be detailed in writing to the Chair and ranking minority member of the congressional intelligence committees.

“(2) DISTRIBUTION.—If the President submits a request under paragraph (1), the Chair and ranking minority member of each congressional intelligence committee may jointly determine whether and how to limit access to the information or material within such committee. If the Chair and ranking minority member of such committee are unable to agree on whether or how to limit such access, access to the information or material will be limited. Any information or material to which access is limited shall subsequently be made available to each member of the congressional intelligence committees at the earliest possible time and shall include a detailed statement of the reasons for not providing prior access.”.

(c) APPROVAL OF COVERT ACTIONS.—Section 503(d) of the National Security Act of 1947 (50 U.S.C. 413b(d)) is amended—

(1) by striking “(d) The President” and inserting “(d)(1) The President”; and

(2) by adding at the end the following new paragraph:

“(2) For purposes of this subsection, an activity shall constitute a ‘significant undertaking’ if the activity—

“(A) involves the potential for loss of life;

“(B) requires an expansion of existing authorities, including authorities relating to research, development, or operations;

“(C) results in the expenditure of significant funds or other resources;

“(D) requires notification under section 504;

“(E) gives rise to a significant risk of disclosing intelligence sources or methods; or

“(F) could cause serious damage to the diplomatic relations of the United States if such activity were disclosed without authorization.”.

**SEC. 503. REPORT ON FINANCIAL INTELLIGENCE ON TERRORIST ASSETS.**

(a) ANNUAL REPORTS.—Section 118 of the National Security Act of 1947 (50 U.S.C. 404m) is amended—

(1) in the heading, by striking “SEMIANNUAL” and inserting “ANNUAL”; and

(2) in subsection (a)—

(A) in the heading, by striking “SEMIANNUAL” and inserting “ANNUAL”;

(B) in the matter preceding paragraph (1)—

(i) by striking “semiannual basis” and inserting “annual basis”; and

(ii) by striking “preceding six-month period” and inserting “preceding year”;

(C) by striking paragraph (2); and

(D) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

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

(1) in subsection (a)(1), by adding at the end the following new subparagraph:

“(L) The annual report on financial intelligence on terrorist assets required by section 118.”; and

(2) in subsection (b), by striking paragraph (6).

**SEC. 504. NOTICE OF INTELLIGENCE REGARDING NORTH KOREA AND CHINA.**

Section 501 of the National Security Act of 1947 (50 U.S.C. 413) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

“(f) A notification to the congressional intelligence committees regarding intelligence information relating to North Korea or China after all or part of the infor-

mation has been communicated to the governments of North Korea or China, respectively, shall not be construed to fulfill the duty under this title to keep the congressional intelligence committees fully and currently informed of the intelligence activities of the United States.”.

**SEC. 505. SENSE OF CONGRESS REGARDING USE OF INTELLIGENCE RESOURCES.**

It is the sense of Congress that the resources authorized under this Act should not be diverted from human intelligence collection and other intelligence programs designed to combat al Qaeda in order to study global climate change.

## **Subtitle B—Technical Amendments**

**SEC. 511. TECHNICAL AMENDMENT TO THE CENTRAL INTELLIGENCE AGENCY ACT OF 1949.**

Section 5(a)(1) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f(a)(1)) is amended 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)”.

**SEC. 512. 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”; and
- (2) by striking “foreign” each place it appears.

(b) RESPONSIBILITY OF DIRECTOR OF NATIONAL INTELLIGENCE.—That section 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”.

(c) CONFORMING AMENDMENT.—The heading of that section is amended to read as follows:

“SEC. 1403. MULTIYEAR NATIONAL INTELLIGENCE PROGRAM.”.

**SEC. 513. TECHNICAL CLARIFICATION OF CERTAIN REFERENCES TO JOINT MILITARY INTELLIGENCE PROGRAM AND TACTICAL INTELLIGENCE AND RELATED ACTIVITIES.**

Section 102A of the National Security Act of 1947 (50 U.S.C. 403–1) is amended—

- (1) 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”; and
- (2) in subsection (d)(1)(B), by striking “Joint Military Intelligence Program” and inserting “Military Intelligence Program or any successor program or programs”.

**SEC. 514. TECHNICAL AMENDMENTS TO THE NATIONAL SECURITY ACT OF 1947.**

The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended as follows:

- (1) In section 102A (50 U.S.C. 403–1)—
  - (A) in subsection (d)—
    - (i) in paragraph (3), by striking “subparagraph (A)” in the matter preceding subparagraph (A) and inserting “paragraph (1)(A)”;
    - (ii) in paragraph (5)(A), by striking “or personnel” in the matter preceding clause (i); and
    - (iii) in paragraph (5)(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)”;
  - (B) in subsection (1)(2)(B), by striking “section” and inserting “paragraph”;
- and
- (C) in subsection (n), by inserting “AND OTHER” after “ACQUISITION”.
- (2) In section 119(c)(2)(B) (50 U.S.C. 404o(c)(2)(B)), by striking “subsection (h)” and inserting “subsection (i)”.
- (3) In section 705(e)(2)(D)(i) (50 U.S.C. 432c(e)(2)(D)(i)), by striking “responsible” and inserting “responsive”.

**SEC. 515. TECHNICAL AMENDMENTS TO THE INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.**

(a) AMENDMENTS TO 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 as follows:

(1) In section 1016(e)(10)(B) (6 U.S.C. 485(e)(10)(B)), by striking “Attorney General” the second place it appears and inserting “Department of Justice”.

(2) In section 1071(e), by striking “(1)”.

(3) In section 1072(b), in the subsection heading by inserting “AGENCY” after “INTELLIGENCE”.

(b) OTHER AMENDMENTS TO 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 as follows:

(1) In section 2001 (28 U.S.C. 532 note)—

(A) in subsection (c)(1), by inserting “of” before “an institutional culture”;

(B) in subsection (e)(2), 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”.

(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. 516. 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. 517. TECHNICAL AMENDMENTS RELATING TO THE NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY.**

(a) TITLE 5.—Title 5, United States Code, is amended by striking “National Imagery and Mapping Agency” each place it appears and inserting “National Geospatial-Intelligence Agency”.

(b) TITLE 44.—Title 44, United States Code, is amended—

(1) in section 1336—

(A) in the heading, by striking “**National Imagery and Mapping Agency**” and inserting “**National Geospatial-Intelligence Agency**”; and

(B) by striking “National Imagery and Mapping Agency” each place it appears and inserting “National Geospatial-Intelligence Agency”; and

(2) in the table of sections at the beginning of chapter 13, by striking the item relating to section 1336 and inserting the following new item:

“1336. National Geospatial-Intelligence Agency: special publications.”

(c) SECTION 201 OF THE HOMELAND SECURITY ACT OF 2002.—Section 201(f)(2)(E) of the Homeland Security Act of 2002 (6 U.S.C. 121) is amended by striking “National Imagery and Mapping Agency” and inserting “National Geospatial-Intelligence Agency”.

**PURPOSE**

The purpose of H.R. 5959 is to authorize the intelligence and intelligence-related activities of the United States Government for fiscal year 2009 in order to enhance the national security of the United States, to support and assist the armed forces of the United States, and to facilitate and oversee the execution of the foreign

policy of the United States. The bill also clarifies certain intelligence community authorities and makes technical corrections to existing statutes.

#### CLASSIFIED ANNEX AND COMMITTEE INTENT

The classified annex to this report includes the classified Schedule of Authorizations and its associated explanatory language. The Committee views the classified annex as an integral part of this legislation. The classified annex contains a thorough discussion of the issues considered by the Committee underlying the funding authorizations found in the classified Schedule of Authorizations. The Committee intends that all intelligence programs discussed in the classified annex to this report be conducted in accordance with the guidance and limitations set forth as associated language therein. The classified Schedule of Authorizations is incorporated directly into this legislation by virtue of Section 102 of the bill. The classified annex is available for review by all Members of the House of Representatives, subject to the requirements of clause 13 of rule XXIII of the Rules of the House of Representatives, and rule 14 of the Rules of Procedure for the House Permanent Select Committee on Intelligence. In addition, Section 317 of the bill incorporates reporting requirements of the Classified Annex and any Joint Explanatory Statement into the Act.

#### SCOPE OF COMMITTEE REVIEW

The bill authorizes U.S. intelligence and intelligence-related activities under the jurisdiction of the Committee, including the National Intelligence Program (NIP), the Military Intelligence Program (MIP), and the Information System Security Program (ISSP). The NIP consists of all activities of the Office of the Director of National Intelligence and the Central Intelligence Agency, as well as intelligence and intelligence-related activities conducted by: (1) the Department of Defense; (2) the Defense Intelligence Agency; (3) the National Security Agency; (4) the Departments of the Army, Navy, and Air Force; (5) the Coast Guard; (6) the Department of State; (7) the Department of the Treasury; (8) the Department of Energy; (9) the Department of Justice; (10) the Federal Bureau of Investigation; (11) the Drug Enforcement Administration; (12) the National Reconnaissance Office; (13) the National Geospatial-Intelligence Agency; and (14) the Department of Homeland Security. The Committee has legislative, authorizing, and oversight jurisdiction of these programs.

#### COMMITTEE STATEMENT AND VIEWS

##### A. OVERVIEW

In an era of asymmetric threats, intelligence continues to be one of the nation's most fundamental national security tools. A well-resourced, well-managed, and well-trained Intelligence Community is the nation's first line of defense against terrorists, proliferators of weapons of mass destruction, and other global actors who would do America harm.

The Committee strongly supports the brave women and men of America's intelligence agencies and appreciates the personal sac-

rifices, overseas deployments, and enormous risks they and their families undertake to preserve our freedom.

Most of the nation's intelligence successes, of which there are many, cannot be discussed in an unclassified report. So, too, some of the biggest intelligence gaps cannot be written about publicly. The Committee has conducted dozens of classified hearings, briefings, and site visits to understand the threats, assess our capabilities, and realign resources to match the threats properly.

The Committee's principal concern continues to be that al-Qaeda is stronger today than at any time since September 11, 2001. Osama bin Laden and Ayman al-Zawahiri remain at large, likely in the Federally Administered Tribal Areas in Pakistan. Al-Qaeda is not the only terrorist group to grow in strength over the past seven years. Hezbollah and Hamas have become more capable and more determined. Dangerous states, including Syria, continue to pursue nuclear capabilities. There is the possibility that one of these states could transfer fissile material to a terrorist group. The Committee is convinced that this must remain our foremost worry.

#### B. THE COMMITTEE REVIEW

The Committee completed its review of the President's fiscal year 2009 budget request, carrying out its annual responsibility to prepare an authorization based on close examination of the U.S. Government's intelligence programs and proposed expenditures.

Over the past two months, the Committee conducted 14 full committee-level budget hearings and briefings on numerous topics, including the following:

- National Intelligence Program
- Military Intelligence Program
- Advanced Research and Development
- Overhead Architecture
- Human Intelligence
- Covert Action
- Human Capital
- Cybersecurity

In addition to these events, committee members and staff have taken numerous budget-related briefings covering all intelligence programs within the National Intelligence Program, the Military Intelligence Program, and the Information System Security Program.

As always, the Committee's legislative and budgetary actions are based on more than these budget-specific hearings and briefings. The actions taken in this bill are the result of the Committee's ongoing, rigorous oversight of the U.S. Intelligence Community throughout the year. This oversight activity includes scores of committee and subcommittee hearings and briefings; site visits and fact-finding trips; reviews of congressionally-directed reports; and studies of intelligence capabilities, strategies, plans, and challenges.

#### C. THE LEGISLATION

The bill and accompanying classified Schedule of Authorizations includes the Committee's recommended authorizations for the Intelligence Community for fiscal year 2009. This includes an authorization for the intelligence portion of the fiscal year 2009 bridge



supplemental request to fund counterterrorism operations as well as operations in Iraq and Afghanistan. At the time of consideration of H.R. 5959, the Committee had not received the Administration's full emergency supplemental funding request for fiscal year 2009. The Committee will consider that proposal at a later time.

H.R. 5959 improves U.S. intelligence capabilities in several important respects.

First, the bill invests in people, our most important resource. It adds funding to enhance human intelligence (HUMINT) collection and provides much-needed funds for other enduring and emerging global security issues, such as challenges faced in Asia, Africa, and Latin America.

The bill continues the Committee's longstanding commitment to improving language capabilities in the Intelligence Community, adding both funding and reporting requirements in order to improve oversight of this perennial problem area.

The bill mandates implementation of security clearance reform to allow first and second generation Americans, many of whom may have critical language skills, to serve in the Intelligence Community with proper clearances. In many instances, the cumbersome security clearance process has delayed the entry of highly-skilled applicants, or dissuaded them from even seeking employment in the Intelligence Community. The Committee has addressed a number of these concerns to encourage the Community to hire the most qualified people.

Second, the bill enhances congressional oversight by ensuring that the Committee receives the information it needs to conduct its inherent oversight function. The Committee has borne witness to repeated failures by the Administration to comply with the National Security Act of 1947, which mandates that the Committee be "fully and currently informed" of all intelligence activities. These failures prompted the Committee to adopt two provisions to enhance reporting on intelligence activities to the full membership of the congressional intelligence committees. One provision would limit the use of covert action funds until the full membership of the intelligence committees are briefed on all covert actions in effect as of April 24, 2008. Another provision would restrict the Administration's attempts to limit information to only the Chairman and Ranking Member, and clarifies the information that must be reported to the full Committee.

Third, the bill authorizes much of the request for the foundational activities of the Comprehensive National Cybersecurity Initiative (CNCI), while expressing the Committee's concern about potential policy, implementation, and governance issues. To that end, the bill also includes a legislative provision requesting a presidential report on creating a senior advisory panel composed of representatives from the executive branch, the legislative branch, and the private sector for the purposes of providing a vehicle to address issues of concern. The Committee has performed an extensive review of the proposed CNCI, which included holding three hearings and numerous briefings and roundtables.

Fourth, the Committee is also concerned that Congress does not have a full understanding of the magnitude of human and fiscal intelligence resources that have been devoted to Iraq, the expenditure of which often comes at the expense of fighting the war on ter-

ror. H.R. 5959 requires a detailed report to the Committee on this topic.

Fifth, the bill addresses a number of long-term technical challenges in the Intelligence Community. It does so by adding significant resources in both the National Intelligence Program and the Military Intelligence Program to modernize signals intelligence (SIGINT) capabilities and integrate them into a global SIGINT Enterprise.

Finally, despite the size of the budget request, the Administration did not include funds adequate to keep the U.S. Intelligence Community competitive in advanced technologies. Research and development funding is the nation's investment in retaining state of the art technologies. The bill adds funds to four agencies specifically for that purpose; and the Committee urges the executive branch to sustain, if not increase, this level of funding in future year requests.

The Committee adopted a number of amendments to H.R. 5959 offered by majority and minority members. The Committee is pleased that this bill passed with bipartisan support.

#### D. AREAS OF SPECIAL INTEREST

##### *Comprehensive national cybersecurity initiative*

The single largest request and the most important initiative of the President's fiscal year 2009 budget request was the CNCI. Since the announcement of the CNCI and the issuance of the National Security Presidential Directive 54/Homeland Security Presidential Directive 23 in January 2008, the Committee has focused much time and effort on understanding the CNCI and its components.

At present, it would be fair to characterize the Committee's response to the CNCI as one of conditional support. The Committee finds a cybersecurity initiative worthwhile in principle, but the details of the CNCI remain vague and, thus, open to question. Until some of the governance, implementation, and policy issues are identified, debated, and resolved, the Committee believes that the funding request is excessive. Our conclusions are summarized in the following five points:

- A comprehensive, national initiative is long overdue. The threat has continued to grow in scale and sophistication, and our countermeasures have stagnated;
- The Administration's near-term approach of securing federal government systems appears reasonable, although the Committee remains concerned about program management and systems engineering capabilities;
- There is consensus that an effective cybersecurity initiative should be based on a "defense in depth" approach that synchronizes the activities of different elements of the government. However, the various components of the CNCI do not seem very well-connected, nor is it clear there are adequate governance mechanisms to achieve the necessary coordination;
- The Committee understands the prudence of delaying debate on major policy issues until the next Administration, given the limited time remaining in the current one. Nevertheless, the Administration has addressed some important issues,

and we must consider how best to deal with those issues in order to achieve progress; and

- For the CNCI to work as described in the Presidential Directive, it will require a partnership with industry unlike any model that currently exists. The excessive classification of the CNCI, however, militates against the collaboration necessary to achieve that partnership.

The Committee also notes that the federal government is not presently organized or equipped to negotiate the myriad issues and challenges presented by the implementation of the CNCI, especially those that cross organizational and jurisdictional boundaries. As the CNCI develops, it will be imperative that the government also take into account the interests and concerns of private citizens, the U.S. information technology industry, and other elements of the private sector. Indeed, the success of the CNCI will depend on the ability to develop and implement a well-defined, comprehensive model for public sector and private sector cooperation.

Many of the details of the CNCI are still evolving, and an endeavor of this magnitude will need to be undertaken over the course of many years. The Committee believes a mechanism should be created to review the Intelligence Community's progress toward refining and implementing the CNCI, as well as make policy recommendations to the executive and legislative branches in the areas of governance, privacy and civil liberties, and regulatory issues. As a result, the Committee has included a legislative provision requiring a report from the President on options for creating a high-level advisory body.

#### *Overreliance on supplemental funding*

The Committee wishes to express once again its unequivocal disapproval of the recurring practice of funding intelligence activities through emergency supplemental requests rather than within the parameters of the standard budgeting process. The supplemental funding process ensures significantly less scrutiny of funding requests, both within the executive branch and in Congress, and invites waste. It prevents authorizing committees from performing their functions of oversight and evaluation, often resulting in investment in ill-advised and unvetted programs. Many of these programs have out-year funding "tails" that, in an era of declining budgets, will necessitate funding within base appropriations once supplemental requests cease.

The practice of budgeting by supplemental is particularly egregious in the arena of intelligence activities, which by statute are supposed to receive a higher level of scrutiny than other federal funding. The Committee hopes that one of the first orders of business for the new Administration is to stop this fiscally irresponsible practice and to work with Congress to find funding solutions that do not bring the Department of Defense and the Intelligence Community to a stand-still.

#### *Human intelligence capability throughout the world*

The maintenance of a robust HUMINT capability on a global basis is as much a mission priority as countering terrorism and supporting activity in the war theater. As world events continue to demonstrate, some of the greatest threats to the strategic interests

of the United States emanate from sovereign nations, not from terrorist organizations or other non-state actors. The need for the National HUMINT Manager and other senior leadership in the Intelligence Community to devote sufficient personnel and financial resources to fulfill the global HUMINT mission has been a significant priority of Congress for many years.

The Committee remains concerned that identified, meritorious HUMINT initiatives are not being funded or adequately supported by the Administration. Accordingly, this bill provides additional, targeted HUMINT funding to enhance the nation's capability to ascertain the plans and intentions of those seeking to undermine the interests and security of the United States.

*Issues regarding Committee notification of Syria's nuclear program*

In April 2008, the Director of National Intelligence (DNI) briefed the Committee on the construction of a covert nuclear facility in Syria and its subsequent destruction in September 2007.

Over the course of the preceding eight months, the Chairman and Ranking Minority Member had requested that the President brief the full membership of the Committee about these developments, which significantly impact U.S. foreign policy toward the Middle East and North Korea.

Just hours before a highly-orchestrated public roll-out of the previously classified intelligence, the President finally sent briefers to the Committee. The delay was inexcusable and violated the National Security Act of 1947, which requires that the executive branch keep Congress "fully and currently informed" of all intelligence activities. Congress should be briefed on the threats to the United States in a timely manner, not simply when it is politically expedient.

The world is more dangerous today than at any time since 9/11. There are serious challenges to U.S. national and international security that require the Administration and Congress to work together. The Administration's clear disdain for the legitimate oversight role of Congress makes it difficult for Congress to do its part in meeting these challenges and keeping America secure.

*Amendments to the National Security Act of 1947*

The National Security Act of 1947 is the principal legislative source for the executive's requirement to keep the congressional intelligence committees informed of the nation's intelligence activities. As the Committee has noted, this obligation is absolutely critical to sound congressional oversight, which in turn is central to a well-functioning and effective Intelligence Community.

In recent years, the Administration has, on several occasions, ignored the plain language of the Act. In one case, the Administration refused, for an extended period of time, to brief the full Committee membership on the President's warrantless surveillance program, notwithstanding that it was not a covert action program. In another case, the Administration ignored months of requests for a briefing on Syria's nuclear program, despite the fact that the Administration was preparing to brief reporters on the same issue and had already briefed foreign nations on the issue.

This is unacceptable. For this reason, the Committee has included several amendments to the reporting requirements of the

Act. These amendments are intended to clarify that the obligation to report to the committees is not negotiable. It is not an obligation that the President can ignore at his discretion. It is not an obligation that can be evaded by claiming that briefing the congressional intelligence committees will require other committees to be briefed. It is not an obligation that can be evaded by broad assertions of executive power.

*Diversity in the intelligence community*

The Committee is committed to increasing diversity in the Intelligence Community and notes with approval that the DNI identified treating “diversity as a strategic mission imperative” in his 100-day and 500-day plans. In particular, the DNI has stated that one of his goals is to improve the recruiting, hiring, and retention of first and second generation Americans. Indeed, across the community, minority hiring is at a five-year high. Despite this progress, the Intelligence Community overall is still substantially behind the civilian labor force and the federal workforce in minority and female representation. This gap is even more apparent in core mission areas and management positions, especially at the highest levels.

The Committee believes that the DNI’s stated commitment should show measurable results. Unfortunately, several indicators within the Office of the Director of National Intelligence (ODNI) show a lack of attention and commitment to diversity. For example, the ODNI is below average in the Intelligence Community for minority representation, and is significantly below average in the Intelligence Community in its hiring of minorities. In particular, the DNI’s Office of Equal Employment Opportunity and Diversity has suffered significant budget cuts over the past three years, despite taking on new mandates. The DNI’s commitment to diversity can be most clearly shown in the composition of his own office. The Committee hopes that the ODNI will show an improvement in minority representation in the future, and urges the DNI to hold his office to the same standards that he expects from the rest of the Intelligence Community.

*Committee investigation into the destruction of interrogation videotapes by the Central Intelligence Agency*

On December 10, 2007, the Committee announced an investigation into the making, retention, and destruction of interrogation videotapes by the Central Intelligence Agency (CIA). That investigation, initiated as part of the Committee’s oversight of the CIA, is intended to ascertain the facts regarding the destruction of the videotapes and failure to notify the Committee regarding the destruction.

The Committee’s investigation is ongoing and has made substantial progress. The Committee has received hundreds of pages of documents in response to its document requests. The Committee has also held two hearings to take sworn testimony and has conducted several staff-level interviews.

While the sensitive nature of the investigation prevents extensive public discussion of the investigation, the Committee believes that it is critical to its oversight work. The Committee looks for-

ward to completion of its investigation and plans to issue a report documenting its findings.

*Creation of a National Applications Office in the Department of Homeland Security*

Last year, the Department of Homeland Security (DHS) announced the creation of the National Applications Office (NAO) under the Office of Intelligence and Analysis to facilitate access by non-traditional users to national technical means-derived intelligence. This new office currently has the authority to process imagery, measurement and signatures, and electronic intelligence requests for civil applications and homeland security purposes.

The Committee notes the apparent care with which the DHS is approaching the establishment of the NAO. Pursuant to congressional mandate, the Committee has received several documents outlining the legal authorities under which NAO will operate. The Committee, however, remains concerned with the planned use of national technical means for law enforcement purposes, as opposed to homeland security purposes. Such use is unprecedented and raises significant constitutional issues. Therefore, the Committee looks forward to reviewing the results of the statutorily-mandated Government Accountability Office review of the Secretary's certification that NAO activities comply with all existing laws, including all applicable privacy and civil liberties standards.

The NAO charter also requires an interagency legal working group to resolve any privacy, civil liberties, and policy issues surrounding the use of national technical means for the purposes of law enforcement. The Committee expects to be kept apprised of the group's work on these issues and on the development of legal parameters and guidance on the functioning of the law enforcement domain within the NAO.

*Major systems acquisitions*

The Committee notes with concern the continued cost overruns and schedule delays affecting the acquisition of many major intelligence community systems. At the same time, the Committee acknowledges the effort entailed in preparing the DNI's 2007 Annual Report to Congress on Intelligence Community Program Management Plans, which compares the performance of all National Intelligence Program acquisition programs against a DNI-established baseline. The Committee is also pleased that one goal of the DNI's 500 Day Plan is to build acquisition excellence within the Intelligence Community. With Intelligence Community Directive 105 and Intelligence Community Program Guidance 105.1, the DNI is requiring practices that will increase the likelihood of successful acquisitions. Finally, the Committee applauds the DNI's recommended greater use of experienced systems engineers during the acquisition process.

The Committee encourages the DNI to issue a formal policy establishing a procedure by which the Intelligence Community would be empowered to withhold incentives from companies with poor contract performance. Such a policy would forcefully demonstrate the expectations for contractor performance. Despite coverage of this topic in the Federal Acquisition Regulation, practices are not standard across the Intelligence Community, even within direc-

torates of individual agencies. The Committee believes that standardization of policy would restore meaning to the use of award incentives and benefit the entire Intelligence Community.

The Committee notes that the continuing consolidation of industry is impacting the government's ability to contract with independent companies when conducting major systems acquisitions. Specifically, the Committee is concerned about cases in which a single parent company has a contract for engineering technical assistance in support of a source selection and also intends to compete for the system development contract. The Committee urges the Deputy DNI for Acquisition to consider whether established firewalls are sufficient to prevent any potential conflict of interest in such cases.

#### *Acquisition program performance notification*

The Committee is concerned that delays in informing Congress that major acquisition programs for the Intelligence Community are over cost, behind schedule, or failing to adhere to milestones serves to undermine good oversight. In many cases, the Committee has learned of a program failure only after millions of dollars have been wasted.

To remedy this problem, the Committee urges the DNI to develop, in consultation with the Committee, a standard for program notification to keep the Committee fully informed of program issues. The Nunn-McCurdy Amendment to the Department of Defense Authorization Act for Fiscal Year 1982 provides an example of such a standard. The guidance should, for example, ensure congressional notification at the end of each quarter of total acquisition costs per unit for each major intelligence program. It should also require notification if an agency head has reason to believe a program will exceed the authorized funding by a specific percentage.

#### *Advanced research and development*

Advanced Research and Development (R&D) is critical to the ability of the Intelligence Community to accomplish its missions. Intelligence officers must remain several steps ahead of their targets and adversaries. Technical innovation is often the key to accomplishing this goal. The Committee believes that the Intelligence Community's investment in R&D is insufficient to enable the elements of the Intelligence Community to keep up with both current and future challenges. The elements of the Intelligence Community must be encouraged and allowed to invest more resources in Advanced R&D.

The fiscal year 2009 budget presents an example of the R&D challenge. As often happens in the Intelligence Community, the research budgets were held steady, or cut, to fund the higher, near-term priorities of Intelligence Community. The Committee feels that these decisions were short-sighted. For this reason, the Committee has increased funding for Advanced R&D above the Administration's request. In the future, the Committee encourages the DNI to ensure the allocation of necessary funding and personnel resources to enhance the Intelligence Community's R&D efforts.

The DNI must also provide adequate resources for the newly-created Intelligence Advanced Research Projects Activity (IARPA).

IARPA was created to address long-term research challenges from the perspective of the greater Intelligence Community, rather than from an individual agency's more operationally-focused vantage point. While the Committee had initial concerns about IARPA's creation and the impact it would have on the research programs of the individual elements of the Intelligence Community, the Committee is pleased that the ODNI has taken the first required steps for success. IARPA will benefit greatly from the selection of a Director and the stability of a dedicated location for its activities. The Committee looks forward to observing how the ODNI nurtures this organization as it develops new and innovative long-term research programs.

*Future course for overhead architecture*

The Committee remains concerned that neither the DNI nor the Under Secretary of Defense for Intelligence [USD(I)] is showing an appropriate sense of urgency in charting a viable future course for the overhead constellation. The classified annex to the bill contains guidance to the Intelligence Community to focus on lower-risk and presumably less-expensive solutions to current architectural problems. The Committee urges the Intelligence Community to pursue evolutionary upgrades to existing designs as a way to reduce near-term risk, while at the same time exhorting the DNI to make more progress in defining the next-generation designs. The Committee does not prescribe specific technical solutions, but it does seek to ensure that all available technologies and existing capabilities are being given full and careful consideration before the executive branch embarks on formal acquisitions. The Committee also seeks to ensure that any acquisition undertaken is part of a clear path towards a future capability or architecture.

While there is no clear consensus on the specifics of the way ahead, there is widespread agreement that the DNI and USD(I) have yet to deliver an architecture sufficiently compelling to win the support of Congress. The Committee urges the DNI and the USD(I) to develop a cohesive and comprehensive strategy prior to the submission of the fiscal year 2010 budget request.

*Integration of the Counterintelligence Field Activity into the Defense Intelligence Agency*

The Committee has recently learned that the Secretary of Defense approved the dissolution of the Counterintelligence Field Activity (CIFA) and the integration of its functional elements into the Defense Intelligence Agency (DIA). As part of this integration, the USD(I) is seeking to amend DIA's charter in order to, among other things, designate DIA as a law enforcement activity.

The Committee is concerned about DIA's suitability to engage in law enforcement activities that are designed to investigate non-DIA personnel. DIA's stated mission is to collect, analyze, and manage foreign military intelligence for war fighters. The Agency has no experience with managing, overseeing, and leading criminal investigations of non-DIA personnel, even investigations that have a counterintelligence nexus.

The Committee will continue to follow this issue closely, including through reports required elsewhere in this Act.



*FBI's use of national security letters*

The Committee has been, and remains, extremely concerned by the reports from the Department of Justice Inspector General (DOJ/IG), which found that the Federal Bureau of Investigation (FBI) abused its statutory authority with respect to National Security Letters (NSLs) from 2003 through 2006.

An NSL is a demand letter used by the FBI to obtain, usually from businesses, the records and data related to telephone and electronic communications, financial transactions, and credit reports. Unlike search warrants, they require no probable cause and involve no judicial oversight unless challenged, which is difficult to do, as 97 percent of NSLs impose non-disclosure and confidentiality restraints on the recipients.

In a March 2007 report examining FBI activities from 2003 through 2005 and a March 2008 report examining activities in 2006, the DOJ/IG detailed a complete breakdown in FBI oversight and internal controls over these intrusive investigative tools, including:

- inaccurate reporting to Congress of the number of NSLs issued;
- poor training on Attorney General guidelines on the balance of privacy interests and legitimate investigative requirements;
- the use of more than 700 “exigent letters” that circumvented the requirements of the NSL statute;
- an absence of FBI guidelines, reliable record-keeping, or effective management controls regarding the use of NSLs; and
- significant problems with the FBI’s process for identifying and reporting to the President’s Intelligence Oversight Board known statutory violations and policy with regard to its use of NSLs, as required by law.

These abuses are made more worrisome because of the enormous growth in the FBI’s requests to use NSLs, including those which seek information related to U.S. persons.

Committee members and staff have been provided information about a series of corrective measures that the FBI has put in place since the release of the March 2007 report. The Committee agrees with the DOJ/IG that the FBI has made significant progress toward rectifying its many failures; and the Committee commends the Bureau’s senior leaders for their personal involvement in these improvements. Among the changes are (1) new comprehensive guidance on the proper use of NSLs, accompanied by detailed training for agents nationwide; (2) the establishment of a new Office of Integrity and Compliance; and (3) the establishment of an NSL-tracking database to ensure proper authorizations are received and accurate reports are provided to Congress.

In spite of these measures, the Committee is concerned that no one has been held accountable for the myriad failures of leadership, oversight, training, or quality control, particularly regarding the egregious issuance of “exigent letters” that demanded information by inaccurately promising that an NSL or grand jury subpoena would be forthcoming.

Furthermore, the Committee agrees with the DOJ/IG’s conclusion that it is too early to see if these corrective measures will mitigate the full range of problems and abuses. In particular, the Com-

mittee notes the DOJ/IG's finding that mechanisms established by the FBI still inadequately guarantee appropriate privacy safeguards or minimize the FBI's retention of NSL-derived information. The Committee urges the FBI to ensure that a proper balance is reached between protecting the privacy and civil liberties of U.S. persons and the FBI's genuine investigative needs. The Committee intends to remain fully engaged in future NSL-related developments and attentive to any accountability reviews conducted by the Department of Justice.

*Global climate change*

The Committee continues to acknowledge the critical impact of climate change on our national security and the inherent intelligence challenges of developing analytically-sound indicators with which to gauge the rates and types of global change and the likely impact on migrations, ethnic and international tensions, and the capacities and intentions of nations.

Several reports in 2007 and 2008 projected the security implications of various rates of climate change, and some also called for more robust intelligence capacities to address these scenarios. For example, a report by eleven retired U.S. generals and admirals, published by the Center for Naval Analysis in April 2007, found that "projected climate change poses a serious threat to America's national security" and recommended that "the national security consequences of climate change should be fully integrated into national security and national defense strategies."

In the near term, the prospect of a catastrophic climate-related national security crisis may seem remote. However, the Committee recalls a time when people thought that the prospect of a catastrophic terrorist attack on U.S. soil was remote.

To better ensure that the nation is well-positioned to deal with such a crisis, the Committee has authorized additional funds for the purpose of enhancing the Intelligence Community's collaboration efforts with the scientific community to address these challenges and to build relationships with international and national sources of expertise. The Committee urges the executive branch to use these resources as a catalyst for innovative, forward-looking efforts to build the capacity of the Intelligence Community to provide warning and strategic analysis in the context of global climate change.

The Committee is pleased that the National Intelligence Council (NIC) is addressing the security implications of climate change through a National Intelligence Assessment (NIA). The Committee is optimistic that publication of the NIA and its associated research will encourage intelligence analysts and managers to take climate change-related factors into account in their ongoing assessment of many intelligence issues.

COMMITTEE CONSIDERATION AND ROLLCALL VOTES

On May 8, 2008, the Committee met in open and closed session and ordered the bill H.R. 5959 favorably reported, as amended.

## OPEN SESSION

In open session, the Committee considered the text of the bill H.R. 5959.

Chairman Reyes offered an amendment in the nature of a substitute to H.R. 5959. The contents of the amendment in the nature of a substitute, as amended, are described in the Section-by-Section analysis and the Explanation of Amendment. The Committee considered the following amendments to the amendment in the nature of a substitute:

Mr. Hoekstra offered an amendment to limit the use of funds authorized by the bill for purposes of prohibiting or discouraging the use of certain words or phrases within the Intelligence Community or the Federal Government. It was not agreed to by a record vote of 9 ayes to 12 noes:

Voting aye: Mr. Hoekstra, Mr. Everett, Mr. Gallegly, Ms. Wilson, Mr. Thornberry, Mr. McHugh, Mr. Tiahrt, Mr. Rogers, Mr. Issa.

Voting no: Mr. Reyes, Mr. Boswell, Mr. Cramer, Ms. Eshoo, Mr. Holt, Mr. Ruppertsberger, Mr. Tierney, Mr. Thompson, Ms. Schakowsky, Mr. Langevin, Mr. Murphy, Mr. Schiff.

Mr. Hoekstra offered an amendment to require the DNI to produce a new National Intelligence Estimate (NIE) on the Iranian nuclear program, to include a reassessment of past intelligence relating to the program. Mr. Hoekstra's amendment failed on voice vote.

Ms. Schakowsky offered an amendment to prohibit the use of private contractors for interrogation of persons in the custody or control of the Federal Government. Mr. Rogers offered a second degree amendment to Ms. Schakowsky's amendment, authorizing the DNI to issue waivers to the prohibition. Ms. Schakowsky withdrew her amendment.

Mr. Holt offered an amendment to require the video recording of interrogations of persons in the custody of or under the effective control of the Central Intelligence Agency. Mr. Holt withdrew his amendment.

Mr. Hoekstra requested unanimous consent to offer three amendments en bloc: (1) an amendment to require the Director of the Federal Bureau of Investigation to complete a report on transformation of the Agency; (2) an amendment to require the Director of National Intelligence to complete a feasibility study on revoking the pensions of persons who commit unauthorized disclosures of classified information; and (3) an amendment stating that it is the sense of Congress that resources authorized by the bill should not be diverted from human intelligence collection or other intelligence programs designed to combat al-Qaeda in order to study global climate change.

Each amendment en bloc was agreed to by voice vote.

The Committee then recessed for House floor votes and reconvened in open session for business two hours later.

## OPEN SESSION

Ms. Schakowsky offered an amendment to prohibit the use of private contractors for interrogations involving persons in the custody or control of the CIA unless a written waiver is granted by the DNI. It was agreed to by voice vote.

Mr. Hoekstra offered an amendment to eliminate all earmarks from H.R. 5959 and to strike the provision authorizing the transfer of \$39 million to the Department of Justice for the operation of the National Drug Intelligence Center. The amendment was agreed to by a record vote of 17 ayes to 4 noes:

Voting aye: Mr. Reyes, Mr. Boswell, Ms. Eshoo, Mr. Ruppertsberger, Mr. Tierney, Mr. Thompson, Ms. Schakowsky, Mr. Langevin, Mr. Murphy, Mr. Schiff, Mr. Hoekstra, Mr. Everett, Mr. Gallegly, Mr. Thornberry, Mr. McHugh, Mr. Rogers, Mr. Issa.

Voting no: Mr. Cramer, Mr. Holt, Ms. Wilson, Mr. Tiahrt.

Mr. Hoekstra offered an amendment to eliminate the provision establishing an independent Inspector General of the Intelligence Community within the Office of the Director of National Intelligence. The amendment was not agreed to by voice vote.

Ms. Schakowsky offered an amendment to limit interrogation techniques to those proscribed by the United States Army Field Manual on Human Intelligence Collector Operations. Discussion of the amendment was deferred because national security would be endangered if the matters to be considered were disclosed. Later, the amendment was not agreed to by a record vote of 9 ayes to 12 noes.

Voting aye: Mr. Boswell, Ms. Eshoo, Mr. Holt, Mr. Tierney, Mr. Thompson, Ms. Schakowsky, Mr. Langevin, Mr. Murphy, Mr. Schiff.

Voting no: Mr. Reyes, Mr. Cramer, Mr. Ruppertsberger, Mr. Hoekstra, Mr. Everett, Mr. Gallegly, Ms. Wilson, Mr. Thornberry, Mr. McHugh, Mr. Tiahrt, Mr. Rogers, Mr. Issa.

Ms. Wilson of New Mexico offered an amendment to amend the Foreign Intelligence Surveillance Act. The amendment was not agreed to by a record vote of 10 ayes to 11 noes.

Voting aye: Mr. Boswell, Mr. Hoekstra, Mr. Everett, Mr. Gallegly, Ms. Wilson, Mr. Thornberry, Mr. McHugh, Mr. Tiahrt, Mr. Rogers, Mr. Issa.

Voting no: Mr. Reyes, Mr. Cramer, Ms. Eshoo, Mr. Holt, Mr. Ruppertsberger, Mr. Tierney, Mr. Thompson, Ms. Schakowsky, Mr. Langevin, Mr. Murphy, Mr. Schiff.

Mr. Rogers of Michigan offered an amendment to prohibit the use of funds authorized in the bill for purposes of implementing the FBI's mandatory reassignment of a supervisor after serving in a management position for 5 years. The amendment was agreed to by a record vote of 21 ayes to 0 noes.

Voting aye: Mr. Reyes, Mr. Boswell, Mr. Cramer, Ms. Eshoo, Mr. Holt, Mr. Ruppertsberger, Mr. Tierney, Mr. Thompson, Ms. Schakowsky, Mr. Langevin, Mr. Murphy, Mr. Schiff, Mr. Hoekstra, Mr. Everett, Mr. Gallegly, Ms. Wilson, Mr. Thornberry, Mr. McHugh, Mr. Tiahrt, Mr. Rogers, Mr. Issa.

Voting no: None.

Mr. McHugh offered an amendment to the National Security Act of 1947 to clarify that reporting regarding North Korea and China must be provided to the Committee before being provided to those nations. The amendment was agreed to by a record vote of 17 ayes and 4 noes.

Voting aye: Mr. Reyes, Mr. Boswell, Mr. Cramer, Mr. Thompson, Ms. Schakowsky, Mr. Langevin, Mr. Murphy, Mr. Schiff, Mr. Hoek-

stra, Mr. Everett, Mr. Gallegly, Ms. Wilson, Mr. Thornberry, Mr. McHugh, Mr. Tiahrt, Mr. Rogers, Mr. Issa.

Voting no: Ms. Eshoo, Mr. Holt, Mr. Ruppertsberger, Mr. Tierney.

Ms. Schakowsky offered an amendment to establish rules for rendition by elements of the Intelligence Community in order to prevent harsh treatment by third nations, and to encourage timely legal proceedings against the rendered party.

CLOSED SESSION

Mr. Everett moved to close the meeting because national security would be endangered if the matters to be considered were disclosed. The motion was agreed to by a record vote of 19 ayes to 0 noes:

Voting aye: Mr. Reyes, Mr. Boswell, Mr. Cramer, Ms. Eshoo, Mr. Holt, Mr. Ruppertsberger, Mr. Tierney, Mr. Thompson, Ms. Schakowsky, Mr. Langevin, Mr. Murphy, Mr. Everett, Mr. Gallegly, Ms. Wilson, Mr. Thornberry, Mr. McHugh, Mr. Tiahrt, Mr. Rogers, Mr. Issa.

Voting no: None.

OPEN SESSION

After debate, the Committee returned to open session. The Schakowsky amendment was not agreed to by a record vote of 10 ayes to 11 noes:

Voting aye: Mr. Boswell, Ms. Eshoo, Mr. Holt, Mr. Ruppertsberger, Mr. Tierney, Mr. Thompson, Ms. Schakowsky, Mr. Langevin, Mr. Murphy, Mr. Schiff.

Voting no: Mr. Reyes, Mr. Cramer, Mr. Hoekstra, Mr. Everett, Mr. Gallegly, Ms. Wilson, Mr. Thornberry, Mr. McHugh, Mr. Tiahrt, Mr. Rogers, Mr. Issa.

By voice vote, the Committee then adopted the Chairman's amendment in the nature of a substitute, as amended.

CLOSED SESSION

Mr. Hoekstra moved to close the meeting because national security would be endangered if the matters to be considered were disclosed. The motion was agreed to by a record vote of 21 ayes to 0 noes:

Voting aye: Mr. Reyes, Mr. Boswell, Mr. Cramer, Ms. Eshoo, Mr. Holt, Mr. Ruppertsberger, Mr. Tierney, Mr. Thompson, Ms. Schakowsky, Mr. Langevin, Mr. Murphy, Mr. Schiff, Mr. Hoekstra, Mr. Everett, Mr. Gallegly, Ms. Wilson, Mr. Thornberry, Mr. McHugh, Mr. Tiahrt, Mr. Rogers, Mr. Issa.

Voting no: None.

Ms. Wilson offered an amendment to modify the classified annex to accompany the classified Schedule of Authorizations.

Mr. Rogers of Michigan offered an amendment to reduce the number of positions and funding for the Community Management Account.

OPEN SESSION

After debate, the Committee returned to open session. The Wilson amendment was not agreed to by a record vote of 9 ayes to 12 noes:

Voting aye: Mr. Hoekstra, Mr. Everett, Mr. Gallegly, Ms. Wilson, Mr. Thornberry, Mr. McHugh, Mr. Tiahrt, Mr. Rogers, Mr. Issa.

Voting no: Mr. Reyes, Mr. Boswell, Mr. Cramer, Ms. Eshoo, Mr. Holt, Mr. Ruppertsberger, Mr. Tierney, Mr. Thompson, Ms. Schakowsky, Mr. Langevin, Mr. Murphy, Mr. Schiff.

The Rogers amendment was agreed to by a voice vote.

By voice vote, the Committee adopted the Schedule of Authorizations, as amended.

By voice vote, the Committee adopted a motion by the Chairman to favorably report the bill to the House, as amended, including by reference the classified schedule of authorizations.

## SECTION-BY-SECTION ANALYSIS AND EXPLANATION OF THE AMENDMENT

### TITLE I—INTELLIGENCE ACTIVITIES

#### *Section 101. Authorization of appropriations*

Section 101 of the Committee report authorizes appropriations for fiscal year 2009 for the intelligence and intelligence-related activities of a list of United States Government departments, agencies, and other elements.

#### *Section 102. Classified schedule of authorizations*

Section 102 provides that the details of the amounts authorized to be appropriated under Section 101 for intelligence and intelligence-related activities for fiscal year 2009, and (subject to Section 103) the personnel ceilings authorized for fiscal year 2009, are contained in the classified Schedule of Authorizations. The Schedule of Authorizations will be made available to the committees on appropriations of the Senate and House of Representatives, and to the President.

Section 102 also contains language indicating that no earmarks are authorized in this Act.

#### *Section 103. Personnel ceiling adjustments*

Section 103 provides procedures to enhance the flexibility of the DNI to manage the personnel levels of the Intelligence Community.

This section allows the DNI, with the approval of the Director of the Office of Management and Budget (OMB), to authorize employment of civilian personnel in excess of the number authorized under Section 102 by an amount not to exceed three percent of the total limit applicable to each element of the Intelligence Community. The DNI must determine that the action is necessary to the performance of important intelligence functions and must notify the congressional intelligence committees prior to the increase.

It also requires the DNI to notify the congressional intelligence committees of the exercise of authority under this section.

#### *Section 104. Intelligence Community Management Account*

Section 104 authorizes the sum of \$648,842,000 in fiscal year 2009 for the Intelligence Community Management Account of the DNI. The Intelligence Community Management Account is part of the Community Management Account. The section authorizes 772 full-time, or full-time equivalent, personnel for the Intelligence Community Management Account, who may be either permanent

employees or individuals detailed from other elements of the United States Government. Section 104 also authorizes additional funds and personnel in the classified Schedule of Authorizations for the Community Management Account.

Under Section 104, the DNI may use the authorities in Section 103 to adjust personnel levels in elements within the Intelligence Community Management Account, subject to the limitations in that section.

*Section 105. Limitation on the use of covert action funds*

Section 105 limits the obligation or expenditure of covert action funds to no more than 25 percent until such time as each member of the congressional intelligence committees has been briefed on all authorizations for covert actions in effect on April 24, 2008.

*Section 106. Prohibition on use of funds to implement “Five and Out” program of the Federal Bureau of Investigation*

Section 106 bars the use of funds authorized under the Act to implement a program (commonly referred to as the “Five and Out” program) requiring the mandatory reassignment of a supervisor of the FBI after such supervisor serves in a management position for five years.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND  
DISABILITY SYSTEM

*Section 201. Authorization of appropriations*

Section 201 authorizes appropriations of \$279,200,000 for the Central Intelligence Agency Retirement and Disability Fund.

*Section 202. Technical modification to mandatory retirement provision of the Central Intelligence Agency Retirement Act*

Section 202 updates the Central Intelligence Agency Retirement Act to reflect the use of pay levels within the Senior Intelligence Service program, rather than pay grades, by the CIA.

TITLE III—GENERAL INTELLIGENCE COMMUNITY MATTERS  
SUBTITLE A—PERSONNEL MATTERS

*Section 301. Increase in employee compensation and benefits authorized by law*

Section 301 provides that funds authorized to be appropriated 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 compensation or benefits authorized by law.

*Section 302. Enhanced flexibility in non-reimbursable details to elements of the Intelligence Community*

Section 302 expands from one year to two years the maximum length of time that United States Government personnel may be detailed to the ODNI on a reimbursable or non-reimbursable basis, in which case, the employee continues to be paid by the home agency. To utilize this authority, the joint agreement of the DNI and head of the detailing element is required. The DNI had requested

authority to expand the permitted duration of details from one year to three years. The Committee believes that two years strikes an appropriate balance between the needs of the DNI and the needs of the elements of the Intelligence Community.

*Section 303. Multi-level security clearances*

Section 303 amends section 102A of the National Security Act of 1947 (50 U.S.C. 403–1), which sets forth the responsibilities and authorities of the DNI, to require the DNI to ensure that the elements of the Intelligence Community adopt a multi-level approach to security clearances. This approach will help ensure that the security clearance system is flexible enough to allow the elements of the Intelligence Community to leverage the skills and expertise of persons with cultural, linguistic or other subject matter expertise critical to national security.

Section 303 also requires the DNI to establish guidelines implementing the requirements of this section.

*Section 304. Delegation of authority for travel on common carriers for intelligence collection personnel*

Section 116 of the National Security Act of 1947 (50 U.S.C. 404k(b)) allows the DNI to authorize travel on any common carrier when it is consistent with Intelligence Community mission requirements or, more specifically, is required for cover purposes, operational needs, or other exceptional circumstances. Currently, the DNI may only delegate this authority to the Principal Deputy DNI or, with respect to CIA employees, to the Director of the CIA.

Section 304 provides that the DNI may delegate the authority in section 116(b) of the National Security Act of 1947 to the head of any element. This expansion is consistent with the view that the DNI should be able to delegate authority throughout the Intelligence Community when such delegation serves the overall interests of the Intelligence Community.

Section 304 also provides that the head of an element of the Intelligence Community, to which travel authority has been delegated, is empowered to assign such authority to senior officials within the element, as specified in guidelines issued by the DNI. This allows for administrative flexibility consistent with the guidance of the DNI for the entire Intelligence Community. To facilitate oversight, the DNI shall submit the guidelines to the congressional intelligence committees.

*Section 305. Annual personnel level assessments for the Intelligence Community.*

Section 305 requires the DNI, in consultation with the head of the element of the Intelligence Community concerned, to prepare an annual assessment of the personnel and contractor levels for each element of the Intelligence Community for the subsequent fiscal year. Section 305 is a new mechanism to allow both the executive branch and Congress to oversee personnel growth in the Intelligence Community.

The assessment required by Section 305 seeks information about budgeted personnel and contractor costs and levels, a comparison of this information to current fiscal year data and data from the previous five fiscal years, and a justification for the requested per-



sonnel and contractor levels. The assessment also requires the DNI to state that, based on current and projected funding, the element will have sufficient internal infrastructure and training resources to support the requested personnel and contractor levels, and sufficient funding to support the administrative and operational activities of the requested personnel levels.

Section 305 also requires that the assessment contain information about intelligence collectors and analysts employed or contracted by each element of the Intelligence Community and contractors who are the subjects of any Inspector General investigations. The assessment must be submitted to congressional intelligence committees concurrent with the submission of the President's budget request.

The Committee believes that the personnel level assessment required by Section 305 will provide information necessary for the executive branch and Congress to understand the consequences of modifying the Intelligence Community's personnel levels. Section 305, therefore, recognizes that personnel growth must be better planned in the future to accomplish the goals of strengthening intelligence collection, analysis, and dissemination. In addition, the Administration must adequately fund its personnel growth plan and structure its resources to ensure that personnel growth does not compromise the implementation and execution of other programs.

With regard to historical contractor levels to be included in the annual assessments, the DNI has expressed concern that there was no comprehensive effort, prior to the ODNI's contractor inventory initiated in June 2006, to capture information on the number and costs of contractors throughout the Intelligence Community. In light of the concerns outlined by the DNI, the Committee understands that information about contractor levels prior to June 2006 may need to be reported as a best estimate.

The Committee is also concerned about the Intelligence Community's increasing reliance on contractors to meet mission requirements. The Intelligence Community employs a significant number of "core" contractors who provide direct support to intelligence mission areas and are generally indistinguishable from the U.S. Government personnel whose mission they support. Given the cost disparity between employing a civilian federal government employee, estimated at an average of \$126,500 annually in fiscal year 2006, and a core contractor, estimated at an average of over \$250,000 annually in fiscal year 2006, the Committee believes that the Intelligence Community should strive to reduce its dependence on contractors. The personnel assessment required in Section 305 should assist the DNI and the congressional intelligence committees in determining the appropriate balance of contractors and permanent government employees.

*Section 306. Comprehensive report on intelligence community contractors.*

Section 306 requires the DNI to provide a one-time report by November 1, 2008, describing the personnel services activities performed by contractors across the Intelligence Community, the impact of contractors on the Intelligence Community, and the accountability mechanisms governing contractors.

The reporting requirements of this section are designed to address three primary concerns. First, leaders in the Intelligence Community do not have sufficient factual documentation regarding the size and use of its large contractor workforce. Second, the Intelligence Community lacks a clear definition of the functions that may be appropriately performed by contractors and, as a result, whether contractors and government employees are duplicating similar functions. Third, the Intelligence Community does not have procedures for overseeing contractors and ensuring the recognition of criminal violations or the prevention and redress of financial waste, fraud, or other abuses by contractors. The report is intended to aid both the Intelligence Community and the congressional intelligence committees in conducting oversight and devising appropriate policy solutions.

*Section 307. Report on proposed pay-for-performance Intelligence Community personnel management system.*

Section 307 prohibits the implementation of pay-for-performance compensation reform within an element of the Intelligence Community until 45 days after the DNI submits to the Congress a report for each element of the Intelligence Community, that describes, for each element, a proposed employee advisory group, a plan for ensuring diversity in that employee advisory group, a certification that all managers involved in a pay-for-performance system have been sufficiently trained on the implementing guidance for that system, and a description of a mechanism for employees to appeal pay decisions to someone outside the management chain of each element.

The Committee remains concerned that the DNI is moving forward with a major overhaul of compensation reform without seeking sufficient employee input. The employees in the Intelligence Community should be able to make recommendations and advise senior managers on the creation and implementation of such a program. Such advisory groups should also represent racial, ethnic, and gender diversity. In addition, the transition to this new system will require greater attention and effort on the part of managers in the intelligence community. Managers should be trained on the new system so that they know what will be expected of them, and how to implement the system fairly. Finally, because this new system leaves much more to the discretion of managers in setting performance expectations and rating their employees than ever before, the system is potentially vulnerable to arbitrariness, discrimination or abuse. The Committee seeks to ensure employees are adequately protected from such inappropriate actions and have adequate mechanisms to contest or appeal adverse decisions.

*Section 308. Report on plan to increase diversity within the Intelligence Community*

Section 308 requires the DNI, in coordination with the heads of the elements of the Intelligence Community, to submit to the congressional intelligence committees a report on the plans of each element of the Intelligence Community, including the ODNI, to increase diversity within that element. The report shall include the specific implementation plans to increase diversity.

To ensure that the report is submitted in a timely fashion, Section 308 requires the DNI to submit the report by no later than November 1, 2008.

*Section 309. Report on security clearance determinations*

Section 309 requires the Director of the OMB to submit to Congress a report on those security clearance determinations that have taken longer than one year to complete, including the agencies requesting such determinations and reasons for the delay. The Committee welcomes improvements that have been made in improving the timeliness of security clearance processing, but is concerned that the processing of some security clearances, particularly for industry, continue to take far too long. The report will contribute needed data for ongoing management by the executive branch as well as for congressional oversight.

SUBTITLE B—OTHER MATTERS

*Section 311. Restriction on conduct of intelligence activities*

Section 311 provides that the authorization of appropriations by the Act shall not be deemed to constitute authority for the conduct of any intelligence activity that is not otherwise authorized by the Constitution and the laws of the United States.

*Section 312. Clarification of definition of Intelligence Community under the National Security Act of 1947*

Section 312 amends Section 3(4)(L) of the National Security Act of 1947 (50 U.S.C. 401a(4)(L)) to permit the designation as “element of the Intelligence Community” of elements of departments and agencies of the United States Government whether or not those departments and agencies are listed in Section 3(4).

*Section 313. Modification of availability of funds for different intelligence activities*

Section 313 conforms the text of Section 504(a)(3)(B) of the National Security Act of 1947 (50 U.S.C. 414(a)(3)(B) (governing the funding of intelligence activities)) with the text of Section 102A(d)(5)(A)(ii) of that Act (50 U.S.C. 403–1(d)(5)(A)(ii)), as amended by Section 1011(a) of the Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 108–458 (Dec. 17, 2004) (“IRTPA”) (governing the transfer and reprogramming by the DNI of certain intelligence funding).

This amendment to the National Security Act replaces the “unforeseen requirements” standard in Section 504(a)(3)(B) with a more flexible standard to govern reprogramming and transfers of funds authorized for a different intelligence or intelligence-related activity. Under the new standard, reprogramming or transfer authority may be sought if, in addition to the other requirements of Section 504(a)(3), the new use of funds “supports an emergent need, improves program effectiveness, or increases efficiency.” This modification brings the standard for reprogramming and transfers of intelligence funding into conformity with the standards applicable to reprogramming and transfers under Section 102A of the National Security Act of 1947. The modification preserves congressional oversight of proposed reprogramming and transfers while en-

hancing the Intelligence Community's ability to carry out missions and functions vital to national security.

*Section 314. Protection of certain national security information*

Section 314 amends Section 601 of the National Security Act of 1947 (50 U.S.C. 421) to increase the criminal penalties for an individual with authorized access to classified information who intentionally discloses any information identifying a covert agent, if that individual knows the United States is taking affirmative measures to conceal the covert agent's intelligence relationship to the United States.

Currently, the maximum sentence for disclosure by someone who has had "authorized access to classified information that identifies a covert agent" is ten years. This provision increases that maximum sentence to 15 years. Currently, the maximum sentence for disclosure by someone who "as a result of having authorized access to classified information, learns the identity of a covert agent and intentionally discloses any information identifying such covert agent" is five years. This provision increases that maximum sentence to ten years.

Section 314 amends Section 603(a) of the National Security Act of 1947 (50 U.S.C. 423(a)) to provide that the annual report from the President on the protection of identities of certain United States undercover intelligence officers, agents, informants, and sources, also include an assessment of the need for any modification for the purpose of improving legal protections for covert agents.

*Section 315. Extension of authority to delete information about receipt and disposition of foreign gifts and decorations*

Current law (5 U.S.C. 7342) requires certain federal employees, spouses, dependents, and others, to file reports with their employing agency regarding receipt of gifts or decorations from foreign governments. Following compilation of these reports, the employing agency is required to file annually with the Secretary of State detailed information about the receipt of foreign gifts and decorations by its employees, including the source of the gift. The Secretary of State is required to publish a comprehensive list of such agency reports in the Federal Register.

With respect to intelligence activities, the public disclosure of gifts or decorations for personnel and certain contractors in the Intelligence Community has the potential to compromise intelligence sources or confirm intelligence relationships with foreign governments and, consequently, undermine national security. Recognizing this concern, the Director of Central Intelligence (DCI) was granted a limited exemption from reporting certain information about such foreign gifts or decorations where the publication of the information could adversely affect United States intelligence sources. Section 1079 of the IRTPA extended a similar exemption to the DNI and applied the existing exemption to the Director of the CIA.

Section 315 provides to the heads of each element of the Intelligence Community the same limited exemption from the specified public reporting requirements currently authorized for the DNI and Director of the CIA. The national security concerns that prompt those exemptions apply equally to other elements of the Intelligence Community. Section 315 mandates that information not

provided to the Secretary of State be provided to the DNI to ensure continued independent oversight of the receipt of foreign gifts or decorations by personnel of the elements of the Intelligence Community.

Gifts received in the course of ordinary contact between senior officials of elements of the Intelligence Community and their foreign counterparts should not be excluded under the provisions of Section 315 unless there is a serious concern that such contacts and gifts would adversely affect United States intelligence sources or methods.

*Section 316. Report on compliance with the Detainee Treatment Act of 2005 and related provisions of the Military Commissions Act of 2006*

Section 316 requires the DNI to submit a classified, comprehensive report to the congressional intelligence committees on all measures taken by the ODNI, and by any other element of the Intelligence Community with relevant responsibilities, on compliance with the detention and interrogation provisions of the Detainee Treatment Act of 2005 and of the Military Commissions Act of 2006. The report is to be submitted no later than 45 days after enactment of this Act.

The Detainee Treatment Act provides that no individual in the custody or under the physical control of the United States, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment. Congress reaffirmed this mandate in Section 6 of the Military Commissions Act, adding an implementation mechanism that requires the President to take action to ensure compliance, including through administrative rules and procedures. Section 6 provides not only that grave breaches of Common Article 3 of the Geneva Conventions are war crimes under Title 18 of the United States Code, but also that the President has authority for the United States to promulgate higher standards and administrative regulations for violations of U.S. treaty obligations. It requires the President to issue those interpretations by Executive Order published in the Federal Register.

The report required by Section 316 must include a description of the detention or interrogation methods that have been determined to comply with the prohibitions of the Detainee Treatment Act and the Military Commissions Act or have been discontinued pursuant to them.

The Detainee Treatment Act also provides for the protection against civil or criminal liability for United States Government personnel who engaged in officially authorized interrogations that were determined to be lawful at the time. Section 316 requires the DNI to report on actions taken to implement that provision.

The report shall also include an appendix containing all guidelines on the application of the Detainee Treatment Act and the Military Commissions Act to the detention or interrogation activities, if any, of all elements of the Intelligence Community engaging in such activities. The appendix shall also include the legal justifications of any office of the Department of Justice about the meaning of the Acts, with respect to detention or interrogation activities, if any, of any element of the Intelligence Community.

To the extent that the report required by Section 316 addresses an element of the Intelligence Community within the DOD, that portion of the report, and associated material that is necessary to make that portion understandable, shall also be submitted by the DNI to the congressional armed services committees.

*Section 317. Incorporation of reporting requirements*

Section 317 incorporates into the Act, by reference, each requirement contained in the classified annex of this Act to submit a report to the congressional intelligence committees.

Because the classified information in the annex cannot be included in the text of the bill, incorporating the reporting provisions of the classified annex is the only available mechanism to give these reporting requirements the force of law. The Committee, therefore, chooses to include Section 317 to reflect the importance of the reporting requirements in the classified annex.

*Section 318. Repeal of certain reporting requirements*

Section 318 eliminates certain reporting requirements that were considered particularly burdensome to the Intelligence Community in cases where the usefulness of the report, or section thereof, has diminished either because of changing events or because the information contained in those reports is duplicative of information already obtained through other avenues.

*Section 319. Enhancement of critical skills training program*

Section 319 allows the head of any element of the Intelligence Community to establish an undergraduate training program for civilian employees. This is an authority similar to that granted to the Secretary of Defense under section 16 of the National Security Act of 1959 (50 U.S.C. 402 note) for civilian employees of the National Security Agency (NSA).

*Section 320. Comprehensive national cybersecurity initiative advisory panel*

Section 320 requires the President to submit a report to Congress outlining options for the creation of an advisory panel to make policy recommendations on the development of the CNCI. The report is to be submitted to Congress not later than February 1, 2009.

TITLE IV—MATTERS RELATING TO ELEMENTS OF THE INTELLIGENCE  
COMMUNITY

SUBTITLE A—OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

*Section 401. Clarification of limitation on co-location of the Office of the Director of National Intelligence*

Section 103(e) of the National Security Act of 1947 (50 U.S.C. 403–3(e)), as added by the IRTPA, provides that commencing on October 1, 2008, the ODNI may not be co-located with any other element of the Intelligence Community. Section 401 clarifies that this ban applies only to the co-location of the headquarters of the ODNI with the headquarters of any other element of the Intelligence Community. Accordingly, the ODNI may be co-located with non-headquarters units of elements of the Intelligence Community.

*Section 402. Membership of the Director of National Intelligence on the Transportation Security Oversight Board*

Section 402 substitutes the DNI as a member of the Transportation Security Oversight Board established under section 115(b)(1) of Title 49, United States Code, in place of the Director of the CIA or the Director's designee. The Transportation Security Oversight Board is responsible for, among other things, coordinating intelligence, security, and law enforcement activities relating to transportation and facilitating the sharing of intelligence, security, and law enforcement information relating to transportation among federal agencies.

*Section 403. Additional duties of the Director of Science and Technology*

Section 403 clarifies the responsibilities and duties of the Director of Science and Technology within the ODNI and the DNI's Science and Technology Committee to ensure that, across the Intelligence Community, there is uniformity in the definitions of basic, applied, and advanced research goals and improved prioritization and coordination of science and technology. This section further requires the DNI to submit to Congress an annual report outlining the strategy for the development and use of technology in the Intelligence Community, demonstrating how applied resources map to the outlined goals.

*Section 404. Leadership and location of certain offices and officials*

Section 404 confirms in statute that certain officers in the Intelligence Community are established within the ODNI. These are (1) the Chief Information Officer of the Intelligence Community (as renamed by Section 407); (2) the Inspector General of the Intelligence Community (as created by Section 408); (3) the Director of the National Counterterrorism Center (NCTC); and (4) the Director of the National Counter Proliferation Center (NCPC). Section 404 also expressly provides that the DNI shall appoint the Director of the NCPC. Section 119A of the National Security Act of 1947 (50 U.S.C. 4040-1) previously provided that the President could establish the NCPC. In doing so, the President delegated to the DNI the authority to name the Director. Section 404 codifies that delegation.

*Section 405. Plan to implement recommendations of the data center energy efficiency reports*

Section 405 requires the DNI to develop a plan to implement the recommendations of the Environmental Protection Agency ("EPA") report on data center energy efficiency submitted to Congress under Section 1 of P.L. 109-431. A brief report submitted by the DNI in February 2008 failed to address the recommendations of the EPA report and did not constitute an actual plan. This requirement is intended to encourage the Intelligence Community to develop a plan to reduce consumption of resources such as power and water by community data centers.

*Section 406. Semiannual reports on the nuclear programs of Iran, Syria, and North Korea*

Section 406 provides that not less than once during the remainder of this fiscal year and semiannually thereafter, the DNI shall submit to the congressional intelligence committees individual classified reports on the nuclear intentions and capabilities of Iran, Syria, and North Korea. An NIE may count as one such report for each country. The Committee encourages the DNI to make these reports available to other congressional committees with oversight jurisdiction to the extent consistent with the protection of sources and methods.

*Section 407. Title of Chief Information Officer of the Intelligence Community*

Section 407 expressly designates the position of Chief Information Officer of the ODNI as Chief Information Officer of the Intelligence Community. The modification to the title is consistent with the position's overall responsibilities as outlined in section 103G of the National Security Act of 1947 (50 U.S.C. 403-3g).

*Section 408. Inspector General of the Intelligence Community*

Section 1078 of the IRTPA authorized the DNI to establish an Office of Inspector General if the DNI determined that an Inspector General would be beneficial to improving the operations and effectiveness of the ODNI. It further provided that the DNI could grant to the Inspector General any of the duties, responsibilities, and authorities set forth in the Inspector General Act of 1978. The DNI has appointed an Intelligence Community Inspector General (IC/IG) and has granted certain authorities pursuant to DNI Instruction No. 2005-10 (Sept. 7, 2005).

A strong IC/IG is vital to achieving the goal, set forth in the IRTPA, of improving the operations and effectiveness of the Intelligence Community. It is also vital to achieving the broader goal of identifying problems and deficiencies wherever they may be found in the Intelligence Community with respect to matters within the responsibility and authority of the DNI, especially the manner in which elements of the Intelligence Community interact with each other in providing access to information and undertaking joint or cooperative activities. This section establishes an IC/IG in order to provide to the DNI and, through reports, to Congress, the benefits of an Inspector General with full statutory authorities and the requisite independence.

The IC/IG will keep both the DNI and the congressional intelligence committees fully and currently informed about problems and deficiencies in programs and operations in the Intelligence Community and the need for corrective actions. The IC/IG will be appointed by the President, with the advice and consent of the Senate, and will report directly to the DNI. To bolster the IC/IG's independence within the Intelligence Community, the IC/IG may be removed only by the President, who must communicate the reasons for the removal to the congressional intelligence committees.

The DNI may prohibit the IC/IG from conducting an investigation, inspection, or audit if the DNI determines that it is necessary to protect vital national security interests. If the DNI exercises the authority to prohibit an investigation, the DNI must provide the



reasons to the congressional intelligence committees within seven days. The IC/IG may provide a response to the committees, including views on the denied investigation.

The IC/IG will have direct and prompt access to the DNI and any employee of the Intelligence Community or employee of a contractor whose testimony is needed. The IC/IG will also have direct and prompt access to all records that relate to programs and activities for which the IC/IG has oversight responsibility. Failure to cooperate will be grounds for appropriate administrative action.

The IC/IG will have subpoena authority. However, information within the possession of the United States Government must be obtained through other procedures. Subject to the DNI's concurrence, the IC/IG may request information from any department, agency, or element of the U.S. Government. Such information must be provided to the IC/IG insofar as practicable and not in violation of law or regulation.

The IC/IG must submit semiannual reports to the DNI that include a description of significant problems relating to the programs and operations of the Intelligence Community and to the relationships between the elements of the Intelligence Community. The reports must include a description of IC/IG recommendations and a statement as to whether corrective action has been completed. The IC/IG shall provide any portion of the report involving a component of a department of the U.S. Government to the head of that department simultaneously with submission of the report to the DNI. Within 30 days of receipt, the DNI must submit each semiannual report to Congress as transmitted by the IC/IG.

The IC/IG must report immediately to the DNI particularly serious or flagrant violations of law. Within seven days, the DNI must transmit those reports to the congressional intelligence committees together with any comments. In the event the IC/IG is unable to resolve differences with the DNI, the IC/IG is authorized to report a serious or flagrant violation of law directly to the congressional intelligence committees. Reports to the congressional intelligence committees are also required with respect to investigations concerning high-ranking officials in the Intelligence Community.

Employees of the Intelligence Community or employees of contractors who intend to report to Congress an "urgent concern," such as a violation of law or Executive Order, a false statement to Congress, or a willful withholding from Congress, may report such complaints and supporting information to the IC/IG. Following a review by the IC/IG to determine the credibility of the complaint or information, the IC/IG must transmit such complaint and information to the DNI. On receiving the complaints or information from the IC/IG together with the IC/IG's credibility determination, the DNI must transmit the complaint or information to the congressional intelligence committees. If the IC/IG does not find a complaint or information to be credible, the reporting individual may submit the matter directly to the congressional intelligence committees by following appropriate security practices outlined by the DNI. Reprisals or threats of reprisal against reporting individuals constitute reportable "urgent concerns."

In providing this channel for whistleblower communications to Congress, Section 408 does not disturb, and the Committee intends to retain, the authoritative guidance for analogous provisions of the

Intelligence Community Whistleblower Act of 1998, Pub. L. No. 105–272 (October 20, 1998) as set forth in the findings in paragraphs (1) through (6) of section 701(b) of that Act, the Senate committee report for the legislation, S. Rep. No. 105–185, at 25–27, and particularly the conference report, H.R. Rep. 105–780, at 33–34, which emphasized that a disclosure to the Inspector General “is not the exclusive process by which an intelligence community employee may make a report to Congress.”

For matters within the jurisdiction of both the IC/IG and an Inspector General for another intelligence community element, the Inspectors General (IGs) shall resolve, expeditiously, who will undertake an investigation, inspection, or audit. In resolving that question, under an extensive subsection entitled “Coordination Among Inspectors General of Intelligence Community,” the IGs may request the assistance of the Intelligence Community Inspectors General Forum, a presently existing informal body whose existence is codified by this section. In the event that the IGs are still unable to resolve the question, they shall submit it for resolution to the DNI and the head of the department in which an Inspector General with jurisdiction concurrent to that of the IC/IG is located. This basic limitation addresses the concern raised by the DNI about the preservation of the authority of heads of departments and agencies over their respective departments.

Within Congress, mutuality of oversight is assured by the requirement that Inspector General reports concerning intelligence committee elements within departments are shared with committees that have jurisdiction over those departments.

*Section 409. Annual report on foreign language proficiency in the Intelligence Community*

Section 409 provides for an annual report by the DNI on the proficiency of each element of the Intelligence Community in foreign languages and, if appropriate, in foreign dialects. The section also requires the DNI to report on foreign language training. The Intelligence Community has an increasing need for fluency in difficult-to-master languages and for expertise in foreign cultures. The information required by the report will allow the congressional intelligence committees to better assess the Intelligence Community’s ability to manage language resources.

*Section 410. Repeal of certain authorities relating to the office of the National Counterintelligence Executive*

Section 410 amends the authorities and structures of the National Counterintelligence Executive (NCIX) to eliminate certain independent administrative authorities that had been vested in the NCIX when that official was appointed by and reported to the President. Those authorities are unnecessary now that the NCIX is appointed by and under the authority of the DNI.

*Section 411. National Intelligence Estimate on weapons of mass destruction in Syria*

Section 411 provides that the DNI shall submit to Congress an NIE on the history, status, and projected development of any weapons of mass destruction program undertaken by Syria. This requirement is intended to encourage the Intelligence Community to

focus attention on Syria's efforts to develop nuclear weapons and other weapons of mass destruction. Section 411 also provides that the NIE be submitted within 180 days after the enactment of this Act and that it may be submitted in classified form.

*Section 412. Annual report on intelligence resources dedicated to Iraq and Afghanistan*

Section 412 requires the DNI to submit to the congressional intelligence committees an annual report on the intelligence resources dedicated to Iraq and Afghanistan during the preceding year.

*Section 413. Ombudsman for intelligence community security clearances*

Section 413 requires the DNI to appoint an ombudsman for security clearances in the Intelligence Community. The Committee has learned that persons experiencing delays in their security clearances typically do not know where to turn for information or help. The lack of communication is especially frustrating for applicants who may seek other employment in the absence of notice about the process. A security clearance ombudsman will ensure that cases such as these will receive timely attention, and serve as a clearinghouse for customer concerns in the security clearance process.

The provision requires the heads of each element of the Intelligence Community to provide contact information for the ombudsman to those applying for security clearances, and requires the ombudsman to make an annual report to the congressional intelligence committees addressing the concerns, complaints, and questions received over the preceding 12 months. Nothing in the Section 413 prevents the ombudsman from having other duties.

*Section 414. Security clearance reciprocity*

Section 414 requires the IC/IG to conduct an audit of the reciprocity of security clearances in the Intelligence Community and to report to the congressional intelligence committees on the results of that audit. The Committee is concerned that lack of full reciprocity among agencies is an indicator of concern within the Intelligence Community about the quality of security clearances. The delay resulting from "re-clearing" previously-cleared personnel is disruptive to the operations of the Intelligence Community, costly to contractors, and a source of great frustration for the individuals and organizations involved. In creating a joint, collaborative, efficient Intelligence Community, people must be able to transition efficiently between agencies and from industry to government.

*Section 415. Report on international traffic in arms regulations*

Section 415 requires the DNI to report to the congressional intelligence committees assessing the threat to national security presented by the efforts of foreign countries to acquire sensitive equipment and technology and the sufficiency of U.S. export controls in preventing such acquisitions.

*Section 416. Report on nuclear trafficking*

Section 416 requires the DNI to report to certain congressional committees on the illicit trade of nuclear and radiological material

and equipment. The report must include details of all cases of illicit sale, transfer, brokering or transport of nuclear material or nuclear explosive devices, an assessment of the countries that pose the greatest risk of nuclear trafficking, and a discussion of any dissonants, caveats, gaps, or other information that would reduce confidence in the assessment of the countries that pose the greatest risk of nuclear trafficking.

*Section 417. Study on revoking pensions of persons who commit unauthorized disclosures of classified information*

Section 417 requires the DNI to conduct a study on the feasibility of revoking the pensions of personnel in the Intelligence Community who commit unauthorized disclosures of classified information and to report the results of that study to the congressional intelligence committees.

SUBTITLE B—CENTRAL INTELLIGENCE AGENCY

*Section 421. Review of covert action programs by Inspector General of the Central Intelligence Agency*

Title V of the National Security Act of 1947, entitled “Accountability for Intelligence Activities,” sets forth the Act’s basic requirements on executive branch obligations to keep the congressional intelligence committees fully informed about intelligence activities. Section 503 of the National Security Act of 1947 (50 U.S.C. 413b) is specifically devoted to presidential findings and congressional notification on covert actions. Section 421 of this bill augments the oversight of covert actions by requiring that the CIA Inspector General (CIA/IG) conduct an audit of each covert action at least once every three years and submit to the congressional intelligence committees a report containing the audit results within 60 days of completing the audit. To a considerable extent, this requirement confirms in statute existing practice and assures its regularity.

The DNI has expressed concern that this audit requirement, and several other provisions on intelligence community reports, raises concerns with respect to the President’s authority to control access to national security information. To allay any such concern regarding the covert action audit requirement, the Committee has drafted Section 421 to state that the requirement is subject to the long-standing provisions of section 17(b)(3) and (4) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(b)(3) and (4)) that empower the Director of the CIA to prohibit the CIA/IG from initiating, carrying out, or completing an audit if the Director determines that the prohibition is necessary to protect vital national security interests of the United States, provided that the Director report the reasons to the congressional intelligence committees.

*Section 422. Inapplicability to the Director of the Central Intelligence Agency of requirement for annual report on progress in auditable financial statements*

Section 422 relieves the Director of the CIA from the requirement in section 114A of the National Security Act of 1947 (50 U.S.C. 404i–1) to submit to the congressional intelligence committees an annual report describing the activities being taken to ensure that financial statements of the CIA can be audited in accord-

ance with applicable law and the requirements of OMB. Although the Committee remains concerned that CIA does not expect to be auditable until 2011, two years later than previously projected, the report required by Section 114A is unnecessary as CIA is now submitting audited financial statements. The requirements of Section 114A continue to apply to the Directors of NSA, DIA, and NGA.

*Section 423. Technical amendments relating to titles of certain CIA positions*

Section 423 replaces out-of-date titles for CIA positions with the current titles of the successors of those positions in a provision in section 17 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q) that establishes the obligation of the CIA/IG to notify the congressional intelligence committees about investigations, inspections, or audits concerning high-ranking CIA officials.

*Section 424. Clarifying amendments relating to Section 105 of the Intelligence Authorization Act for Fiscal Year 2004*

Section 424 changes the reference to the Director of Central Intelligence to the Director of National Intelligence to clarify that the establishment of the Office of Intelligence and Analysis within the Department of the Treasury (section 105 of the Intelligence Authorization Act for Fiscal Year 2004 (Pub. L. No. 108–177 (Dec. 13, 2003))), and its reorganization within the Office of Terrorism and Financial Intelligence (section 222 of the Transportation, Treasury, Independent Agencies, and General Government Appropriations Act, 2005 (Division H, Pub. L. No. 108–447 (Dec. 8, 2004))), do not affect the authorities and responsibilities of the DNI with respect to the Office of Intelligence and Analysis as an element of the Intelligence Community.

*Section 425. Prohibition on the use of private contractors for interrogations involving persons in the custody or control of the Central Intelligence Agency*

Section 425 prohibits the obligation or expenditure of any funds for payment to any contractor to conduct the interrogation of a detainee in the custody of the CIA. The DNI may, however, grant a waiver if the Director of the CIA determines that no employee of the federal government is capable and available to conduct the interrogation, and that the interrogation is in the national interest of the United States. Section 425 also provides that contractors conducting interrogations pursuant to a waiver by the DNI shall be governed by the same laws that would apply if the interrogation were conducted by an employee of the federal government.

SUBTITLE C—DEFENSE INTELLIGENCE COMPONENTS

*Section 431. Integration of the Counterintelligence Field Activity into the Defense Intelligence Agency*

Section 431 requires the USD(I) to submit to the congressional intelligence and defense committees a report describing the nature of any law enforcement authorities to be delegated to the DIA; the legal authority under which the Secretary of Defense is empowered to delegate a law enforcement function to the DIA; and the guide-

lines for the implementation of any law enforcement authorities delegated to the DIA should such a delegation occur.

The Secretary of Defense recently approved the integration of CIFA into the DIA. CIFA is, in part, a law enforcement organization with certain law enforcement authorities. As a result of this impending integration, the DIA is now considering a change to its charter in order to absorb CIFA's law enforcement role. The change would designate the DIA as a law enforcement agency. Unlike CIFA, which is headed by a civilian director, the DIA is directed by a military officer.

The Committee has several concerns regarding the Department of Defense's pursuit of this course of action. First, the DIA's stated mission is to collect, analyze, and manage foreign military intelligence for war fighters; it has no experience with managing, overseeing, and leading criminal investigations, even those investigations that have a counterintelligence nexus. Second, while there are operational efficiencies associated with absorbing CIFA's law enforcement capabilities into the DIA, those operational efficiencies must be balanced properly against the concerns associated with military services conducting law enforcement activities that could implicate civilians. The Committee seeks to ensure that the decision to absorb CIFA's law enforcement authorities into the DIA undergoes a thorough and exhaustive legal review and that, should the DIA's charter be amended to absorb the authorities, the amendments include important boundaries to ensure that civil liberties are adequately protected.

#### SUBTITLE D—OTHER ELEMENTS

##### *Section 441. Clarification of inclusion of the Coast Guard and Drug Enforcement Administration as elements of the Intelligence Community*

Section 441 restores, with respect to the United States Coast Guard, the prior definition of "intelligence community" in the National Security Act of 1947 applicable to that service, See (50 U.S.C. 401a). Section 1073 of the IRTPA modified the definition of "intelligence community," inadvertently limiting the Coast Guard's inclusion in the Intelligence Community to the Office of Intelligence or those portions of the Coast Guard concerned with the analysis of intelligence. Section 441 clarifies that all of the Coast Guard's intelligence elements are included within the definition of the "intelligence community."

Section 441 also codifies the joint decision of the DNI and Attorney General that the Drug Enforcement Administration (DEA) should be within the Intelligence Community.

##### *Section 442. Report on transformation of the intelligence capabilities of the Federal Bureau of Investigation*

Section 442 requires the Director of the FBI to report to the congressional intelligence committees on the Director's long-term vision for transforming the intelligence capabilities of the Bureau and the progress of the internal reforms of the Bureau intended to achieve that vision.

## TITLE V—OTHER MATTERS

## SUBTITLE A—GENERAL INTELLIGENCE MATTERS

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

The National Commission for Review of Research and Development Programs of the United States Intelligence Community was authorized in the Intelligence Authorization Act for Fiscal Year 2003 and lapsed on September 1, 2004. Section 501 renews authority for this Commission by extending the reporting deadline to December 31, 2009, and requiring that new members be appointed to the Commission. This section also authorizes \$2 million for the Commission from the Intelligence Community Management Account.

*Section 502. Amendments to the National Security Act of 1947*

Section 502 amends the National Security Act of 1947 (50 U.S.C. 413) in three ways to clarify the executive branch's obligations to notify Congress of intelligence activities.

First, Section 502 requires that, in meeting the President's statutory obligation to keep the congressional intelligence committees fully and currently informed of all intelligence activities of the United States, the President must provide to the congressional intelligence committees all information necessary to assess the lawfulness, effectiveness, cost, benefit, intelligence gain, budgetary authority, and risk of intelligence activities.

Second, Section 502 clarifies that for all intelligence activities other than covert actions, the DNI's obligation to keep the congressional intelligence committees fully and currently informed is an obligation to keep the entire membership of the congressional intelligence committees informed, rather than a subset of members of the committees. Section 502 allows reporting to less than the full membership of the congressional intelligence committees where the Chair and Ranking Minority Member of a congressional intelligence committee jointly determine to agree to a written request by the President for reporting to less than the full membership of the committees.

Third, Section 502 defines "significant undertaking," as that term is used in 50 U.S.C. 413b(d) to clarify when the President is required to ensure that the congressional intelligence committees are notified with respect to covert action.

*Section 503. Report on financial intelligence on terrorist assets*

Section 503 amends a reporting requirement for the United States Department of the Treasury. Section 503 makes annual a report which had previously been required semiannually and eliminates certain data requirements from that report.

*Section 504. Notice of intelligence regarding North Korea and China*

Section 504 amends the National Security Act of 1947 (50 U.S.C. 413) to clarify that notification to the congressional intelligence committees of intelligence information relating to North Korea or

China after all or part of the information has been communicated to the governments of North Korea or China does not fulfill the National Security Act's requirement to keep the congressional intelligence committees fully and currently informed of the intelligence activities of the United States.

*Section 505. Sense of Congress regarding use of intelligence resources*

Section 505 expresses the sense of Congress that resources under the Act shall not be directed from human intelligence collection and other programs intended to combat al-Qaeda to study global climate change.

SUBTITLE B—TECHNICAL AMENDMENTS

*Section 511. Technical amendments to the Central Intelligence Agency Act of 1949*

Section 511 amends the Central Intelligence Agency Act of 1949 by updating references to the National Security Act of 1947 to reflect amendments made by the IRTPA.

*Section 512. Technical amendments to the multi-year National Intelligence Program*

Section 512 updates the “multiyear national intelligence program” to incorporate organizational and nomenclatural changes made by the IRTPA.

*Section 513. Technical clarifications of certain references to Joint Military Intelligence Program and Tactical Intelligence and Related Activities*

Section 513 makes technical clarifications to the National Security Act of 1947 to reflect the consolidation of the Joint Military Intelligence Program and the Tactical Intelligence and Related Activities program into the Military Intelligence Program. This section preserves the requirement that the DNI participate in the development of the annual budget and be consulted prior to the transfer or reprogramming of funds for the Military Intelligence Program.

*Section 514. Technical amendments to the National Security Act of 1947*

Section 514 makes a number of technical corrections to the National Security Act of 1947 arising from enactment of the IRTPA.

*Section 515. Technical amendments to the Intelligence Reform and Terrorism Prevention Act of 2004*

Section 515 makes a number of technical and conforming amendments to the IRTPA.

*Section 516. Technical amendments to the Executive Schedule*

Section 516 makes technical amendments to the Executive Schedule to correct outdated and incorrect references to “Director of Central Intelligence,” “Deputy Directors of Central Intelligence,” and “General Counsel to the National Intelligence Director.”



*Section 517. Technical amendments relating to the National Geospatial-Intelligence Agency*

Section 517 makes technical amendments to Titles 5 and 44 of the United States Code, and Section 201 of the Homeland Security Act of 2002, by replacing references to “National Imagery and Mapping Agency” with “National Geospatial-Intelligence Agency.”

CORRESPONDENCE WITH OTHER COMMITTEES REGARDING  
PARTICULAR PROVISIONS

COMMITTEE ON FOREIGN AFFAIRS,  
HOUSE OF REPRESENTATIVES,  
*Washington, DC, May 15, 2008.*

Hon. SILVESTRE REYES,  
*Chairman, Permanent Select Committee on Intelligence,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: I am writing to you concerning the bill H.R. 5959, the Intelligence Authorization Act for Fiscal Year 2009. There are certain provisions in the legislation which fall within the Rule X jurisdiction of the Committee on Foreign Affairs.

In the interest of permitting your committee to proceed expeditiously to floor consideration of this important bill, I am willing to waive this committee’s right to sequential referral. I do so with the understanding that, by waiving consideration of the bill, the Committee on Foreign Affairs does not waive any future jurisdictional claim over the subject matters contained in the bill which fall within its Rule X jurisdiction. I request that you urge the Speaker of the House of Representatives to appoint members of this committee to any conference committee which is named to consider such provisions.

Please place this letter into the committee report on H.R. 5959 and into the Congressional Record during consideration of the measure on the House floor. Thank you for the cooperative spirit in which you have worked regarding this matter and others between our respective committees.

Sincerely,

HOWARD L. BERMAN,  
*Chairman.*

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HOUSE OF REPRESENTATIVES,  
PERMANENT SELECT COMMITTEE ON INTELLIGENCE,  
*Washington, DC, May 15, 2008.*

Hon. HOWARD L. BERMAN,  
*Chairman, Committee on Foreign Affairs,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your letter regarding H.R. 5959, the Intelligence Authorization Act for Fiscal Year 2009.

I appreciate your willingness to work cooperatively on this legislation. I recognize that this bill contains amendments to provisions of law related to matters that fall within the Title X jurisdiction of the Committee on Foreign Affairs. In addition, I acknowledge that the Committee on Foreign Affairs will not seek a sequential referral of this legislation and that your decision to forgo a sequen-

tial referral on this bill does not waive any future jurisdictional claim of the subject matters which fall under your committee's Rule X jurisdiction.

Further, I recognize that your committee reserves the right to seek appointment of conferees on the bill for the portions of the bill that are within your jurisdiction, and I agree to support such a request.

I will ensure that this exchange of letters is included in the Committee's report on H.R. 5959 and in the Congressional Record during floor consideration of this measure on the House floor. I look forward to working with you on this legislation and other matters of great importance to this nation.

Sincerely,

SILVESTRE REYES,  
*Chairman.*

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HOUSE COMMITTEE ON ARMED SERVICES,  
HOUSE OF REPRESENTATIVES,  
*Washington, DC, May 8, 2008.*

Hon. SILVESTRE REYES,  
*Chairman, House Permanent Select Committee on Intelligence,  
United States Capitol, Washington, DC.*

DEAR MR. CHAIRMAN: I write to confirm our mutual understanding regarding H.R. 5959, authorizing appropriations for fiscal year 2009 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. This legislation contains subject matter within the jurisdiction of the House Committee on Armed Services.

Our Committee recognizes the importance of H.R. 5959 and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over this legislation, the Committee on Armed Services will waive further consideration of H.R. 5959. I do so with the understanding that by waiving further consideration of the bill, the Committee does not waive any future jurisdictional claims over similar measures. In the event of a conference with the Senate on this bill, the Committee on Armed Services reserves the right to seek the appointment of conferees.

I would appreciate the inclusion of this letter and a copy of the response in your Committee's report on H.R. 5959 and in the Congressional Record during consideration of the measure on the House floor.

Very truly yours,

IKE SKELTON,  
*Chairman.*

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HOUSE OF REPRESENTATIVES,  
 PERMANENT SELECT COMMITTEE ON INTELLIGENCE,  
*Washington, DC, May 15, 2008.*

Hon. IKE SKELTON,  
*Chairman, Committee on Armed Services,  
 House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your letter regarding H.R. 5959, the Intelligence Authorization Act for Fiscal Year 2009.

I appreciate your willingness to work cooperatively on this legislation. I recognize that this bill contains amendments to provisions of law related to matters that fall under the jurisdiction of the Committee on Armed Services. In addition, I acknowledge that the Committee on Armed Services will not seek a sequential referral of this legislation and that your decision to forgo a sequential referral on this bill does not waive, alter, or otherwise affect the jurisdiction of the Committee on Armed Services.

Further, I recognize that your committee reserves the right to seek appointment of conferees on the bill for the portions of the bill that are within your jurisdiction, and I agree to support such a request.

I will ensure that this exchange of letters is included in the Committee's report on H.R. 5959 and in the Congressional Record during floor consideration of H.R. 5959. I look forward to working with you on this legislation and other matters of great importance to this nation.

Sincerely,

SILVESTRE REYES,  
*Chairman.*

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HOUSE OF REPRESENTATIVES,  
 COMMITTEE ON HOMELAND SECURITY,  
*Washington, DC, May 15, 2008.*

Hon. SILVESTRE REYES,  
*Chairman, House Select Committee on Intelligence,  
 The Capitol, Washington, DC.*

DEAR CHAIRMAN REYES: I am writing to you regarding H.R. 5959, the Intelligence Authorization Act for Fiscal Year 2009, a bill to authorize appropriations for fiscal year 2009 for intelligence and intelligence-related activities of the United States Government.

H.R. 5959 contains provisions that fall within the House Rule X jurisdiction of the Committee on Homeland Security. I recognize and appreciate your desire to bring this bill to the full House expeditiously. Accordingly, I will not seek a sequential referral of the bill. However, this decision to waive consideration of H.R. 5959 should not be construed as the Committee on Homeland Security waiving, altering, or diminishing its jurisdiction over this or similar legislation.

Additionally, the Committee on Homeland Security reserves the right to seek the appointment of conferees during any House-Senate conference convened on this legislation or on similar legislation that is within the jurisdiction of the Committee on Homeland Security. I ask for your commitment to support any such request by the Committee on Homeland Security for the appointment of conferees

on H.R. 5959 or similar legislation. Finally, I respectfully ask that you place a copy of your letter and this letter in the Committee Report on H.R. 5959 and in the Congressional Record during floor consideration of H.R. 5959.

Thank you for your timely consideration of my request. I look forward to working with you as we prepare to pass this important national security legislation.

Sincerely,

BENNIE G. THOMPSON,  
*Chairman.*

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HOUSE OF REPRESENTATIVES,  
PERMANENT SELECT COMMITTEE ON INTELLIGENCE,  
*Washington, DC, May 15, 2008.*

Hon. BENNIE G. THOMPSON,  
*Chairman, Committee on Homeland Security,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your letter regarding H.R. 5959, the Intelligence Authorization Act for Fiscal Year 2009.

I appreciate your willingness to work cooperatively on this legislation. I recognize that this bill contains amendments to provisions of law related to matters that fall under the jurisdiction of the Committee on Homeland Security. In addition, I acknowledge that the Committee on Homeland Security will not seek a sequential referral of this legislation and that your decision to forgo a sequential referral on this bill does not waive, alter, or otherwise affect the jurisdiction of the Committee on Homeland Security.

Further, I recognize that your committee reserves the right to seek appointment of conferees on the bill for the portions of the bill that are within your jurisdiction. and I agree to support such a request.

I will ensure that this exchange of letters is included in the Committee's report on H.R. 5959 and in the Congressional Record during floor consideration of H.R. 5959. I look forward to working with you on this legislation and other matters of great importance to this nation.

Sincerely,

SILVESTRE REYES,  
*Chairman.*

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HOUSE OF REPRESENTATIVES,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC, May 19, 2008.*

Hon. SILVESTRE REYES,  
*Chairman, Permanent Select Committee on Intelligence,  
House of Representatives, Washington, DC.*

DEAR CHAIRMAN REYES: In recognition of the desire to expedite consideration of H.R. 5959, the Intelligence Authorization Act for Fiscal Year 2009, the Committee on the Judiciary agrees to waive formal consideration of the bill as to provisions that fall within the Committee's rule X jurisdiction.

The Committee takes this action with the mutual understanding that by foregoing consideration of H.R. 5959 at this time, the Com-

mittee on the Judiciary does not waive any jurisdiction over subject matter contained in this or similar legislation. The Committee also reserves the right to seek appointment of an appropriate number of conferees to any House-Senate conference involving this legislation, and requests your support if such a request is made.

I would appreciate your including this letter in the committee report on the bill, or in the Congressional Record during consideration of the bill on the House floor.

Thank you for your attention to this matter.

Sincerely,

JOHN CONYERS, Jr.,  
*Chairman.*

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HOUSE OF REPRESENTATIVES,  
PERMANENT SELECT COMMITTEE ON INTELLIGENCE,  
*Washington, DC, May 20, 2008.*

Hon. JOHN CONYERS, Jr.,  
*Chairman, Committee on the Judiciary,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your letter regarding H.R. 5959, the Intelligence Authorization Act tier Fiscal Year 2009.

I appreciate your willingness to work cooperatively on this legislation. I recognize that this bill contains amendments to provisions of law related to matters that fall within the rule X jurisdiction of the Committee on the Judiciary. In addition, I acknowledge that the Committee on the Judiciary will not seek a sequential referral of this legislation and that your decision to forgo a sequential referral on this bill does not waive any future jurisdictional claim of the subject matters which fall under your committee's rule X jurisdiction.

Further, I recognize that your committee reserves the right to seek appointment of conferees on the bill for the portions of the bill that are within your jurisdiction, and I agree to support such a request.

I will ensure that this exchange of letters is included in the Committee's report on H.R. 5959 and in the Congressional Record during floor consideration of this measure on the House floor. I look forward to working with you on this legislation and other matters of great importance to this nation.

Sincerely,

SILVESTRE REYES,  
*Chairman.*

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HOUSE OF REPRESENTATIVES,  
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,  
*Washington, DC, May 13, 2008.*

Hon. SILVESTRE REYES,  
*Chairman, Permanent Select Committee on Intelligence,  
House of Representatives, Washington, DC.*

DEAR CHAIRMAN REYES: I am writing about H.R. 5959, the Intelligence Authorization Act for Fiscal Year 2009, which the Select Committee on Intelligence plans to markup on May 15, 2008.

I appreciate your effort to consult with the Committee on Oversight and Government Reform regarding those provisions of H.R. 5959 that fall within the Oversight Committee's jurisdiction. These provisions include Inspectors General, federal civil service and personnel matters, and the disclosure of certain information regarding the receipt and disposition of foreign gifts and decorations.

In the interest of expediting consideration of H.R. 5959, the Oversight Committee will not request a sequential referral of this bill. I would, however, request your support for the appointment of conferees from the Oversight Committee should H.R. 5959 or a similar Senate bill be considered in conference with the Senate.

This letter should not be construed as a waiver of the Oversight Committee's legislative jurisdiction over subjects addressed in H.R. 5959 that fall within the jurisdiction of the Oversight Committee.

Finally, I request that you include our exchange of letters on this matter in the Intelligence Committee Report on H.R. 5959 and in the Congressional Record during consideration of this legislation on the House floor.

Thank you for your attention to these matters.

Sincerely,

HENRY A. WAXMAN,  
*Chairman.*

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HOUSE OF REPRESENTATIVES,  
PERMANENT SELECT COMMITTEE ON INTELLIGENCE,  
*Washington, DC, May 15, 2008.*

Hon. HENRY A. WAXMAN,  
*Chairman, Committee on Oversight and Government Reform,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your letter regarding H.R. 5959, the Intelligence Authorization Act for Fiscal Year 2009.

I appreciate your willingness to work cooperatively on this legislation. I recognize that this bill contains amendments to provisions of law related to matters that fall within the jurisdiction of the Committee on Oversight and Government Reform. In addition, I acknowledge that the Committee on Oversight and Government Reform will not seek a sequential referral of this legislation and that your decision to forgo a sequential referral on this bill does not waive any future jurisdictional claim over the subjects which fall under your committee's jurisdiction.

Further, I recognize that your committee reserves the right to seek appointment of conferees on the bill for the portions of the bill that are within your jurisdiction, and I agree to support such a request.

I will ensure that this exchange of letters is included in the Committee's report on H.R. 5959 and in the Congressional Record during consideration of this measure on the House floor. I look forward to working with you on this legislation and other matters of great importance to this nation.

Sincerely,

SILVESTRE REYES,  
*Chairman.*

## CORRESPONDENCE WITH CONGRESSIONAL BUDGET OFFICE

HOUSE OF REPRESENTATIVES,  
 PERMANENT SELECT COMMITTEE ON INTELLIGENCE,  
*Washington, DC, May 8, 2008.*

Mr. PETER R. ORSZAG,  
*Director, Congressional Budget Office,  
 Ford House Office Building, Washington, DC.*

DEAR MR. ORSZAG: In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, I am writing to request a cost estimate of H.R. 5959, the Intelligence Authorization Act for Fiscal Year 2009, pursuant to sections 308 and 403 of the Congressional Budget Act of 1974. I have attached a copy of the bill as approved by the House Permanent Select Committee on Intelligence.

I hope to bring this legislation to the House floor as soon as possible, and I would very much appreciate an expedited response to this request. Should you have any questions related to this request, please contact Caryn Wagner, the Committee's Budget Director, at 202-225-7690.

Thank you in advance for your assistance.

Sincerely,

SILVESTRE REYES,  
*Chairman.*

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U.S. CONGRESS,  
 CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, May 19, 2008.*

Hon. SILVESTRE REYES,  
*Chairman, Permanent Select Committee on Intelligence,  
 House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5959, the Intelligence Authorization Act for Fiscal Year 2009.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jason Wheelock.

Sincerely,

PETER R. ORSZAG,  
*Director.*

Enclosure.

*H.R. 5959—Intelligence Authorization Act for Fiscal Year 2009*

Summary: H.R. 5959 would authorize appropriations for fiscal year 2009 for intelligence activities of the U.S. government, for the Intelligence Community Management Account, and for the Central Intelligence Agency Retirement and Disability System (CIARDS).

This estimate addresses only the unclassified portion of the bill. On that limited basis, CBO estimates that implementing certain provisions of the bill would cost \$325 million in 2009 and \$642 million over the 2009–2013 period, assuming appropriation of the authorized funds. Enacting H.R. 5959 would not affect direct spending or revenues.

The bill includes new subpoena authority that would impose intergovernmental and private-sector mandates as defined in the

Unfunded Mandates Reform Act (UMRA), but CBO expects the cost of complying with those mandates would be small and well below the annual thresholds established in that act (\$68 million for inter-governmental mandates and \$136 million for private-sector mandates in 2008, adjusted annually for inflation.)

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 5959 is shown in the following table. The costs of this legislation fall within budget function 050 (national defense).

	By fiscal year, in millions of dollars—				
	2009	2010	2011	2012	2013
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Intelligence Community Management Account:					
Authorization Level .....	649	0	0	0	0
Estimated Outlays .....	325	292	19	6	0

Basis of estimate: Section 104 would authorize the appropriation of \$649 million for the Intelligence Community Management Account, which provides the principal source of funding for the Office of the Director of National Intelligence and provides resources for coordination of programs, budget oversight, and management of the intelligence agencies. CBO estimates that implementing this provision would cost \$325 million in 2009 and \$642 million over the 2009–2013 period, assuming appropriation of the specified amount.

Section 201 would authorize the appropriation of \$279 million to CIARDS to cover retirement costs attributable to military service and various unfunded liabilities. The appropriation to CIARDS is considered mandatory, and the authorization under this bill would be the same as the amount assumed in the CBO baseline. Thus, this estimate does not ascribe any additional cost to that provision.

Intergovernmental and private-sector impact: The bill contains intergovernmental and private-sector mandates as defined in UMRA. Section 408 would establish an Inspector General of the Intelligence Community with subpoena authority. Section 501 would extend the National Commission for the Review of Research and Development Programs of the U.S. Intelligence Community, and the subpoena authority of that commission. Entities in the public and private sectors, if subpoenaed, would be required to provide testimony, documents, or other evidence. CBO expects that the Inspector General and the commission would likely issue subpoenas sparingly, and that the costs to comply with a subpoena would not be significant. Thus, CBO estimates that the total costs of the mandates would be small and well below the annual thresholds established in UMRA (\$68 million for intergovernmental mandates and \$136 million for private-sector mandates in 2008, adjusted annual for inflation).

The remaining unclassified provisions of the bill contain no mandates as defined in UMRA.

Estimate prepared by: Federal costs: Jason Wheelock; Impact on state, local, and tribal governments: Neil Hood; Impact on the private sector: Dan Frisk.

Estimate approved by: Peter H. Fontaine, Assistant Director for Budget Analysis.



CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT**

\* \* \* \* \*

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

\* \* \* \* \*

**Part D—Benefits Accruing to Certain Participants**

\* \* \* \* \*

**SEC. 235. MANDATORY RETIREMENT.**

(a) \* \* \*

(b) MANDATORY RETIREMENT FOR AGE.—

(1) IN GENERAL.—A participant in the system shall be automatically retired from the Agency—

(A) upon reaching age 65, in the case of a participant in the system [receiving compensation under the Senior Intelligence Service pay schedule at the rate] *who is at the Senior Intelligence Service rank of level 4 or above; and*

\* \* \* \* \*

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**NATIONAL SECURITY ACT OF 1947**

SHORT TITLE

That this Act may be cited as the “National Security Act of 1947”.

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Sec. 2. Declaration of policy.

\* \* \* \* \*

TITLE I—COORDINATION FOR NATIONAL SECURITY

Sec. 101. National Security Council.

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*Sec. 103H. Inspector General of the Intelligence Community.*

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\* \* \* \* \*

TITLE V—ACCOUNTABILITY FOR INTELLIGENCE ACTIVITIES

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*Sec. 506B. Annual personnel level assessment for the intelligence community.*

\* \* \* \* \*

- Sec. 508. Report on security clearance determinations.
- Sec. 509. Semiannual reports on the nuclear programs of Iran, Syria, and North Korea.
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TITLE X—EDUCATION IN SUPPORT OF NATIONAL INTELLIGENCE

\* \* \* \* \*

Subtitle C—Additional Education Provisions

\* \* \* \* \*

- Sec. 1022. Intelligence community acquisition of critical skills.

\* \* \* \* \*

DEFINITIONS

SEC. 3. As used in this Act:

(1) \* \* \*

\* \* \* \* \*

(4) The term “intelligence community” includes the following:

(A) \* \* \*

\* \* \* \* \*

(H) The intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, the Federal Bureau of Investigation, the Drug Enforcement Administration, and the Department of Energy.

\* \* \* \* \*

(K) The elements of the Department of Homeland Security concerned with the analysis of intelligence information, including the Office of Intelligence of the Coast Guard.

(L) Such other elements of any [other] department or agency as may be designated by the President, or designated jointly by the Director of National Intelligence and the head of the department or agency concerned, as an element of the intelligence community.

\* \* \* \* \*

TITLE I—COORDINATION FOR NATIONAL SECURITY

\* \* \* \* \*

RESPONSIBILITIES AND AUTHORITIES OF THE DIRECTOR OF NATIONAL INTELLIGENCE

SEC. 102A. (a) \* \* \*

\* \* \* \* \*

(c) BUDGET AUTHORITIES.—(1) \* \* \*

\* \* \* \* \*

(3)(A) The Director of National Intelligence shall participate in the development by the Secretary of Defense of the [annual budgets for the Joint Military Intelligence Program and for Tactical Intelligence and Related Activities] annual budget for the Military Intelligence Program or any successor program or programs.

\* \* \* \* \*

(d) ROLE OF DIRECTOR OF NATIONAL INTELLIGENCE IN TRANSFER AND REPROGRAMMING OF FUNDS.—(1)(A) \* \* \*

(B) The Secretary of Defense shall consult with the Director of National Intelligence before transferring or reprogramming funds made available under the **Joint Military Intelligence Program** *Military Intelligence Program or any successor program or programs.*

\* \* \* \* \*

(3) The Director of National Intelligence may only transfer or reprogram funds referred to in **subparagraph (A)** *paragraph (1)(A)*—

(A) \* \* \*

\* \* \* \* \*

(5)(A) A transfer or reprogramming of funds **or personnel** may be made under this subsection only if—

(i) the funds are being transferred to an activity that is a higher priority intelligence activity;

\* \* \* \* \*

(B) A transfer or reprogramming may be made without regard to a limitation set forth in clause (iv) or (v) of subparagraph (A) if the transfer has the concurrence of the head of the department involved or the Director of the Central Intelligence Agency (in the case of the Central Intelligence Agency). The authority to provide such concurrence may only be delegated by the head of the department **or agency involved** *involved or the Director of the Central Intelligence Agency (in the case of the Central Intelligence Agency)* to the deputy of such officer.

\* \* \* \* \*

(1) ENHANCED PERSONNEL MANAGEMENT.—(1) \* \* \*

(2)(A) \* \* \*

(B) The Director may prescribe regulations to carry out this **section** *paragraph.*

\* \* \* \* \*

(n) ACQUISITION AND OTHER AUTHORITIES.—(1) \* \* \*

\* \* \* \* \*

(s) *MULTI-LEVEL SECURITY CLEARANCES.—The Director of National Intelligence shall be responsible for ensuring that the elements of the intelligence community adopt a multi-level security clearance approach in order to enable the intelligence community to make more effective and efficient use of persons proficient in foreign languages or with cultural, linguistic, or other subject matter expertise that is critical to national security.*

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

SEC. 103. (a) \* \* \*

\* \* \* \* \*

(c) COMPOSITION.—The Office of the Director of National Intelligence is composed of the following:

(1) \* \* \*

\* \* \* \* \*

(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.*

[(9)] (13) Such other offices and officials as may be established by law or the Director may establish or designate in the Office, including national intelligence centers.

\* \* \* \* \*

(e) LIMITATION ON CO-LOCATION [WITH] OF HEADQUARTERS WITH HEADQUARTERS OF OTHER ELEMENTS OF INTELLIGENCE COMMUNITY.—Commencing as of October 1, 2008, *the headquarters of the Office of the Director of National Intelligence may not be co-located with [any other element] the headquarters of any other element of the intelligence community.*

\* \* \* \* \*

DIRECTOR OF SCIENCE AND TECHNOLOGY

SEC. 103E. (a) \* \* \*

\* \* \* \* \*

(c) DUTIES.—The Director of Science and Technology shall—

(1) \* \* \*

\* \* \* \* \*

(4) assist the Director on the science and technology elements of the budget of the Office of the Director of National Intelligence; [and]

(5) *assist the Director in establishing goals for basic, applied, and advanced research to meet the technology needs of the intelligence community;*

(6) *submit to the congressional intelligence committees an annual report on the science and technology strategy of the Director that shows resources mapped to the goals of the intelligence community; and*

[(5)] (7) perform other such duties as may be prescribed by the Director of National Intelligence or specified by law.

(d) DIRECTOR OF NATIONAL INTELLIGENCE SCIENCE AND TECHNOLOGY COMMITTEE.—(1) \* \* \*

\* \* \* \* \*

(3) The Committee shall—

(A) coordinate *and prioritize* advances in research and development related to intelligence[; and];

(B) *identify basic, advanced, and applied research programs to be executed by elements of the intelligence community; and*

[(B)] (C) perform such other functions as the Director of Science and Technology shall prescribe.

\* \* \* \* \*

CHIEF INFORMATION OFFICER

SEC. 103G. (a) CHIEF INFORMATION OFFICER.—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 Information Officer *of the Intelligence Community* who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) CHIEF INFORMATION OFFICER OF INTELLIGENCE COMMUNITY.—The Chief Information Officer *of the Intelligence Community* shall serve as the chief information officer of the intelligence community.

(c) DUTIES AND RESPONSIBILITIES.—Subject to the direction of the Director of National Intelligence, the Chief Information Officer *of the Intelligence Community* shall—

(1) \* \* \*

\* \* \* \* \*

(d) PROHIBITION ON SIMULTANEOUS SERVICE AS OTHER CHIEF INFORMATION OFFICER.—An individual serving in the position of Chief Information Officer *of the Intelligence Community* may not, while so serving, serve as the chief information officer of any other department or agency, or component thereof, of the United States Government.—

#### INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY

SEC. 103H. (a) OFFICE OF INSPECTOR GENERAL OF 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 to—*

(1) *create an objective and effective office, appropriately accountable to Congress, to initiate and conduct independently investigations, inspections, and audits on matters within the responsibility and authority of the Director of National Intelligence;*

(2) *recommend policies designed—*

(A) *to promote economy, efficiency, and effectiveness in the administration and implementation of matters within the responsibility and authority of the Director of National Intelligence; and*

(B) *to prevent and detect fraud and abuse in such matters;*

(3) *provide a means for keeping the Director of National Intelligence fully and currently informed about—*

(A) *problems and deficiencies relating to matters 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, ensure that the congressional intelligence committees are kept similarly informed of—*

(A) *significant problems and deficiencies relating to matters 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 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) *solely on the basis of integrity, compliance with the 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 auditing.*

(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 immediately communicate in writing to the congressional intelligence committees the reasons for the removal of any individual from the position of Inspector General.*

(d) *DUTIES AND RESPONSIBILITIES.*—*Subject to subsections (g) and (h), 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, and audits relating to matters within the responsibility and authority of the Director of National Intelligence to ensure they are conducted efficiently and in accordance with applicable law and regulations;*

(2) *to keep the Director of National Intelligence fully and currently informed concerning violations of law and regulations, violations of civil liberties and privacy, fraud and other serious problems, abuses, and deficiencies that may occur in matters within the responsibility and authority of the Director, and to report the progress made in implementing 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 standards.*

(e) *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, or audit 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 report 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 report.*

(4) *The Inspector General may submit to the congressional intelligence committees any comments on a report of which the Inspector General has notice under paragraph (3) that the Inspector General considers appropriate.*

(f) *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 have access to any employee, or any employee of a contractor, of any element of the intelligence community whose testimony is needed for the performance of the duties of the Inspector General.*

(B) *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 operations with respect to which the Inspector General has responsibilities under this section.*

(C) *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 (B).*

(D) *Failure on the part of any employee, or any employee of a contractor, of any element of the intelligence community to cooperate with the Inspector General shall be grounds for appropriate administrative actions by the Director or, on the recommendation of the Director, other appropriate officials of the intelligence community, including loss of employment or the termination of an existing contractual relationship.*

(3) *The Inspector General is authorized to receive and investigate complaints or information from any person concerning the existence of an activity 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 Federal Government—*

(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 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 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 other 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.*

*(g) COORDINATION AMONG INSPECTORS GENERAL OF INTELLIGENCE COMMUNITY.—(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, or audit 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, or audit.*

*(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 subparagraph (C). 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 the Forum, the Inspectors General shall submit the question to the Director of National Intelligence and the head of the agency or department for resolution.*

*(C) 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. The Inspector General of the Intelligence Community shall serve as the chair of the Forum. 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 a contractor, records, audits, reviews, documents, recommendations, or other materials that may involve or be of assistance to more than 1 of its members.*

*(2) The Inspector General conducting an investigation, inspection, or audit covered by paragraph (1) shall submit the results of such investigation, inspection, or audit to any other Inspector General,*



including the Inspector General of the Intelligence Community, with jurisdiction to conduct such investigation, inspection, or audit who did not conduct such investigation, inspection, or audit.

(h) *STAFF AND OTHER SUPPORT.*—(1) *The Inspector General of the Intelligence Community shall be provided 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 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)(A) *Subject to the concurrence of the Director, 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, conduct, as authorized by this section, an investigation, inspection, or audit 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.*

(i) *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, or audit conducted during the period covered by such report, including a summary of the progress of each particular investigation, inspection, or audit since the preceding report of the Inspector General under this paragraph.*

(ii) *A description of significant problems, abuses, and deficiencies relating to the administration and implementation of programs and operations of the intelligence community, 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 or disciplinary 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 whether or not corrective or disciplinary 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 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 (f)(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 matters within the responsibility and authority of the Director of National Intelligence, and to detect and eliminate fraud and abuse in such matters.*

(C) *Not later than the 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 matters 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 prob-*

lem, abuse, or deficiency related to a component of such department simultaneously with transmission of the report to the congressional intelligence committees.

(3) In the event that—

(A) the Inspector General is unable to resolve any differences with the Director affecting the execution of the duties or responsibilities of the Inspector General;

(B) an investigation, inspection, or audit 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;

(C) 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 subparagraph (B);

(D) 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 subparagraph (B); or

(E) the Inspector General, after exhausting all possible alternatives, is unable to obtain significant documentary information in the course of an investigation, inspection, or audit, the Inspector General shall immediately notify and submit a report on such matter 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, or audit 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 a contractor 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 intel-

ligence 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 intelligence committees in accordance with appropriate security practices.

(iii) A member or employee of 1 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 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).

(6) In accordance with section 535 of title 28, United States Code, the Inspector General shall 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 Attor-

ney General pursuant to subsection (b)(2) of such section. A copy of each such report shall be furnished to the Director.

(j) *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.

(k) *CONSTRUCTION OF DUTIES REGARDING ELEMENTS OF INTELLIGENCE COMMUNITY.*—Except as resolved pursuant to subsection (g), 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 effect the duties and responsibilities of any other Inspector General, whether statutory or administrative, having duties and responsibilities relating to such element.

OMBUDSMAN FOR INTELLIGENCE COMMUNITY SECURITY CLEARANCES

SEC. 103I. (a) *APPOINTMENT.*—The Director of National Intelligence shall appoint an ombudsman for intelligence community security clearances.

(b) *PROVISION OF INFORMATION.*—The head of an element of the intelligence community shall provide a person applying for a security clearance through or in coordination with such element with contact information for the ombudsman appointed under subsection (a).

(c) *REPORT.*—Not later than November 1 of each year, the ombudsman appointed under subsection (a) shall submit to the congressional intelligence committees a report containing—

- (1) the number of persons applying for a security clearance who have contacted the ombudsman during the preceding 12 months; and
- (2) a summary of the concerns, complaints, and questions received by the ombudsman from persons applying for security clearances.

\* \* \* \* \*

ANNUAL REPORT ON IMPROVEMENT OF FINANCIAL STATEMENTS FOR AUDITING PURPOSES

SEC. 114A. Not later each year than the date provided in section 507, the Director of National Intelligence, [the Director of the Central Intelligence Agency,] the Director of the National Security Agency, the Director of the Defense Intelligence Agency, and the Director of the National Imagery and Mapping Agency shall each submit to the congressional intelligence committees a report describing the activities being undertaken by such official to ensure that the financial statements of such agency can be audited in accordance with applicable law and requirements of the Office of Management and Budget.

\* \* \* \* \*

TRAVEL ON ANY COMMON CARRIER FOR CERTAIN INTELLIGENCE  
COLLECTION PERSONNEL

SEC. 116. (a) \* \* \*

(b) AUTHORIZED DELEGATION OF DUTY.—(1) The Director of National Intelligence **may only delegate the authority granted by this section to the Principal Deputy Director of National Intelligence, or with respect to employees of the Central Intelligence Agency, to the Director of the Central Intelligence Agency.** *may delegate the authority in subsection (a) to the head of any other element of the intelligence community.*

(2) *The head of an element of the intelligence community to whom the authority in subsection (a) is delegated pursuant to paragraph (1) may further delegate such authority to such senior officials of such element as are specified in guidelines prescribed by the Director of National Intelligence for purposes of this paragraph.*

\* \* \* \* \*

**【SEMIANNUAL】 ANNUAL REPORT ON FINANCIAL INTELLIGENCE ON  
TERRORIST ASSETS**

SEC. 118. (a) **【SEMIANNUAL】 ANNUAL REPORT.**—On a **【semi-annual basis】 annual basis**, the Secretary of the Treasury (acting through the head of the Office of Intelligence Support) shall submit a report to the appropriate congressional committees that fully informs the committees concerning operations against terrorist financial networks. Each such report shall include with respect to the preceding **【six-month period】 year**—

(1) \* \* \*

**【(2) the total number of applications for asset seizure and designations of individuals or entities suspected of having engaged in financial support of terrorist activities that were granted, modified, or denied;】**

**【(3) (2) the total number of physical searches of offices, residences, or financial records of individuals or entities suspected of having engaged in financial support for terrorist activity; and**

**【(4) (3) whether the financial intelligence information seized in these cases has been shared on a full and timely basis with the all departments, agencies, and other entities of the United States Government involved in intelligence activities participating in the Foreign Terrorist Asset Tracking Center.**

\* \* \* \* \*

**NATIONAL COUNTERTERRORISM CENTER**

SEC. 119. (a) \* \* \*

\* \* \* \* \*

(c) REPORTING.—(1) \* \* \*

(2) The matters described in this paragraph are as follows:

(A) \* \* \*

(B) The activities of the Directorate of Intelligence of the National Counterterrorism Center under [subsection (h)] subsection (i).

\* \* \* \* \*

NATIONAL COUNTER PROLIFERATION CENTER

SEC. 119A. [(a) ESTABLISHMENT.—Not later than 18 months after the date of the enactment of the National Security Intelligence Reform Act of 2004, the]

(a) IN GENERAL.—

(1) ESTABLISHMENT.—The President shall establish a National Counter Proliferation Center, taking into account all appropriate government tools to prevent and halt the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies.

(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.

\* \* \* \* \*

TITLE V—ACCOUNTABILITY FOR INTELLIGENCE ACTIVITIES

GENERAL CONGRESSIONAL OVERSIGHT PROVISIONS

SEC. 501. (a)(1) \* \* \*

\* \* \* \* \*

(3) In carrying out paragraph (1), the President shall provide to the congressional intelligence committees all information necessary to assess the lawfulness, effectiveness, cost, benefit, intelligence gain, budgetary authority, and risk of an intelligence activity, including—

(A) the legal authority under which the intelligence activity is being or was conducted;

(B) any legal issues upon which guidance was sought in carrying out or planning the intelligence activity, including dissenting legal views;

(C) any specific operational concerns arising from the intelligence activity, including the risk of disclosing intelligence sources or methods;

(D) the likelihood that the intelligence activity will exceed the planned or authorized expenditure of funds or other resources; and

(E) the likelihood that the intelligence activity will fail.

\* \* \* \* \*

(f) A notification to the congressional intelligence committees regarding intelligence information relating to North Korea or China after all or part of the information has been communicated to the governments of North Korea or China, respectively, shall not be construed to fulfill the duty under this title to keep the congressional

*intelligence committees fully and currently informed of the intelligence activities of the United States.*

[(f)] (g) As used in this section, the term “intelligence activities” includes covert actions as defined in section [503(e)] 503(g), and includes financial intelligence activities.

REPORTING OF INTELLIGENCE ACTIVITIES OTHER THAN COVERT ACTIONS

SEC. 502. (a) IN GENERAL.—To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters, the Director of National Intelligence and the heads of all departments, agencies, and other entities of the United States Government involved in intelligence activities shall—

(1) keep the congressional intelligence committees fully and currently informed of all intelligence activities, other than a covert action (as defined in section [503(e)] 503(g)), which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government, including any significant anticipated intelligence activity and any significant intelligence failure; and

\* \* \* \* \*

(d) DISTRIBUTION OF INFORMATION.—

(1) REQUEST.—*Information or material provided in accordance with subsection (a) shall be made available to each member of the congressional intelligence committees, unless the President requests that access to the information or material be limited after determining that limiting such access is essential to meet extraordinary circumstances affecting vital interests of the United States. A request under this paragraph and the extraordinary circumstances referred to in this paragraph shall be detailed in writing to the Chair and ranking minority member of the congressional intelligence committees.*

(2) DISTRIBUTION.—*If the President submits a request under paragraph (1), the Chair and ranking minority member of each congressional intelligence committee may jointly determine whether and how to limit access to the information or material within such committee. If the Chair and ranking minority member of such committee are unable to agree on whether or how to limit such access, access to the information or material will be limited. Any information or material to which access is limited shall subsequently be made available to each member of the congressional intelligence communities at the earliest possible time and shall include a detailed statement of the reasons for not providing prior access.*

PRESIDENTIAL APPROVAL AND REPORTING OF COVERT ACTIONS

SEC. 503. (a) \* \* \*

\* \* \* \* \*

[(d)] (d)(1) *The President shall ensure that the congressional intelligence committees, or, if applicable, the Members of Congress specified in subsection (c)(2), are notified of any significant change in a previously approved covert action, or any*



significant undertaking pursuant to a previously approved finding, in the same manner as findings are reported pursuant to subsection (c).

(2) For purposes of this subsection, an activity shall constitute a "significant undertaking" if the activity—

(A) involves the potential for loss of life;

(B) requires an expansion of existing authorities, including authorities relating to research, development, or operations;

(C) results in the expenditure of significant funds or other resources;

(D) requires notification under section 504;

(E) gives rise to a significant risk of disclosing intelligence sources or methods; or

(F) could cause serious damage to the diplomatic relations of the United States if such activity were disclosed without authorization.

(e) INSPECTOR GENERAL AUDITS OF COVERT ACTIONS.—

(1) IN GENERAL.—Subject to paragraph (2), the Inspector General of the Central Intelligence Agency shall conduct an audit of each covert action at least every 3 years. Such audits shall be conducted subject to the provisions of paragraphs (3) and (4) of subsection (b) of section 17 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q).

(2) TERMINATED, SUSPENDED PROGRAMS.—The Inspector General of the Central Intelligence Agency is not required to conduct an audit under paragraph (1) of a covert action that has been terminated or suspended if such covert action was terminated or suspended prior to the last audit of such covert action conducted by the Inspector General and has not been restarted after the date on which such audit was completed.

(3) REPORT.—Not later than 60 days after the completion of an audit conducted pursuant to paragraph (1), the Inspector General of the Central Intelligence Agency shall submit to the congressional intelligence committees a report containing the results of such audit.

\* \* \* \* \*

[(e)] (g) As used in this title, the term "covert action" means an activity or activities of the United States Government to influence political, economic, or military conditions abroad, where it is intended that the role of the United States Government will not be apparent or acknowledged publicly, but does not include—

(1) \* \* \*

\* \* \* \* \*

FUNDING OF INTELLIGENCE ACTIVITIES

SEC. 504. (a) Appropriated funds available to an intelligence agency may be obligated or expended for an intelligence or intelligence-related activity only if—

(1) \* \* \*

\* \* \* \* \*

(3) in the case of funds specifically authorized by the Congress for a different activity—

(A) \* \* \*

[(B) the need for funds for such activity is based on unforeseen requirements; and]

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

\* \* \* \* \*

(c) No funds appropriated for, or otherwise available to, any department, agency, or entity of the United States Government may be expended, or may be directed to be expended, for any covert action, as defined in section [503(e)] 503(g), unless and until a Presidential finding required by subsection (a) of section 503 has been signed or otherwise issued in accordance with that subsection.

\* \* \* \* \*

ANNUAL PERSONNEL LEVEL ASSESSMENT FOR THE INTELLIGENCE COMMUNITY

SEC. 506B. (a) REQUIREMENT TO PROVIDE.—*The Director of National Intelligence shall, 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, at a minimum, 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 personnel positions requested for the upcoming fiscal year.*
- (5) *The numerical and percentage increase or decrease of such number as compared to the number of personnel positions of the current fiscal year.*
- (6) *The numerical and percentage increase or decrease of such number as compared to the number of personnel positions during the prior 5 fiscal years.*
- (7) *The best estimate of the number and costs of contractors to be funded by the element for the upcoming fiscal year.*
- (8) *The numerical and percentage increase or decrease of such costs of contractors as compared to the best estimate of the costs of contractors of the current fiscal year.*

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

(10) *A written justification for the requested personnel and contractor levels.*

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

(12) *A list of all contractors that have been the subject of an investigation 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 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 contractor 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.*

DATES FOR SUBMITTAL OF VARIOUS ANNUAL AND SEMIANNUAL REPORTS TO THE CONGRESSIONAL INTELLIGENCE COMMITTEES

SEC. 507. (a) ANNUAL REPORTS.—(1) The date for the submittal to the congressional intelligence committees of the following annual reports shall be the date each year provided in subsection (c)(1)(A):

(A) \* \* \*

\* \* \* \* \*

[(N)] *(J) The annual report on hiring and retention of minority employees in the intelligence community required by section 114(c).*

*(K) The annual report on foreign language proficiency in the intelligence community required by section 510.*

*(L) The annual report on financial intelligence on terrorist assets required by section 118.*

(2) The date for the submittal to the congressional intelligence committees of the following annual reports shall be the date each year provided in subsection (c)(1)(B):

(A) \* \* \*

\* \* \* \* \*

[(D) The annual report on counterdrug intelligence matters required by section 826 of the Intelligence Authorization Act for Fiscal Year 2003.]

(b) SEMIANNUAL REPORTS.—The dates for the submittal to the congressional intelligence committees of the following semiannual reports shall be the dates each year provided in subsection (c)(2):

(1) \* \* \*

\* \* \* \* \*

[(6) The semiannual report on financial intelligence on terrorist assets required by section 118.]

\* \* \* \* \*

## REPORT ON SECURITY CLEARANCE DETERMINATIONS

SEC. 508. Not later than February 1 of each year, the Director of the Office of Management and Budget shall submit to Congress a report on security clearance determinations completed or ongoing during the preceding fiscal year that have taken longer than one year to complete. Such report shall include—

- (1) the number of security clearance determinations for positions as employees of the Federal Government that required more than one year to complete;
- (2) the number of security clearance determinations for contractors that required more than one year to complete;
- (3) the agencies that investigated and adjudicated such determinations; and
- (4) the cause of significant delays in such determinations.—

SEMIANNUAL REPORTS ON THE NUCLEAR PROGRAMS OF IRAN, SYRIA,  
AND NORTH KOREA

SEC. 509. (a) REQUIREMENT FOR REPORTS.—Not less frequently than every 180 days, the Director of National Intelligence shall submit to the congressional intelligence committees a report on the intentions and capabilities of the Islamic Republic of Iran, the Syrian Arab Republic, and the Democratic People's Republic of Korea, with regard to the nuclear programs of each such country.

(b) CONTENT.—Each report submitted under subsection (a) shall include, with respect to the Islamic Republic of Iran, the Syrian Arab Republic, and the Democratic People's Republic of Korea—

- (1) an assessment of nuclear weapons programs of each such country;
- (2) an evaluation, consistent with existing reporting standards and practices, of the sources upon which the intelligence used to prepare the assessment described in paragraph (1) is based, including the number of such sources and an assessment of the reliability of each such source;
- (3) a summary of any intelligence related to any such program gathered or developed since the previous report was submitted under subsection (a), including intelligence collected from both open and clandestine sources for each such country; and
- (4) a discussion of any dissents, caveats, gaps in knowledge, or other information that would reduce confidence in the assessment described in paragraph (1).

(c) NATIONAL INTELLIGENCE ESTIMATE.—The Director of National Intelligence may submit a National Intelligence Estimate on the intentions and capabilities of the Islamic Republic of Iran, the Syrian Arab Republic, or the Democratic People's Republic of Korea in lieu of a report required by subsection (a) for that country.

(d) FORM.—Each report submitted under subsection (a) may be submitted in classified form.—

REPORT ON FOREIGN LANGUAGE PROFICIENCY IN THE INTELLIGENCE  
COMMUNITY

SEC. 510. Not later than February 1 of each year, the Director of National Intelligence shall submit to the congressional intelligence committees a report on the proficiency in foreign languages and, if

appropriate, in foreign dialects of each element of the intelligence community, including—

(1) the number of positions authorized for such element that require foreign language proficiency and the level of proficiency required;

(2) an estimate of the number of such positions that each element will require during the 5-year period beginning on the date of the submission of the report;

(3) the number of positions authorized for such element that require foreign language proficiency that are filled by—

(A) military personnel; and

(B) civilian personnel;

(4) the number of applicants for positions in such element in the previous fiscal year that indicated foreign language proficiency, including the foreign language indicated and the proficiency level;

(5) the number of persons hired by such element with foreign language proficiency, including the foreign language and proficiency level;

(6) the number of personnel of such element currently attending foreign language training, including the provider of such training;

(7) a description of such element's efforts to recruit, hire, train, and retain personnel that are proficient in a foreign language;

(8) an assessment of methods and models for basic, advanced, and intensive foreign language training;

(9) for each foreign language and, where appropriate, dialect of a foreign language—

(A) the number of positions of such element that require proficiency in the foreign language or dialect;

(B) the number of personnel of such element that are serving in a position that requires proficiency in the foreign language or dialect to perform the primary duty of the position;

(C) the number of personnel of such element that are serving in a position that does not require proficiency in the foreign language or dialect to perform the primary duty of the position;

(D) the number of personnel of such element rated at each level of proficiency of the Interagency Language Roundtable;

(E) whether the number of personnel at each level of proficiency of the Interagency Language Roundtable meets the requirements of such element;

(F) the number of personnel serving or hired to serve as linguists for such element that are not qualified as linguists under the standards of the Interagency Language Roundtable;

(G) the number of personnel hired to serve as linguists for such element during the preceding calendar year;

(H) the number of personnel serving as linguists that discontinued serving such element during the preceding calendar year;

- (I) the percentage of work requiring linguistic skills that is fulfilled by an ally of the United States; and
- (J) the percentage of work requiring linguistic skills that is fulfilled by contractors;
- (10) an assessment of the foreign language capacity and capabilities of the intelligence community as a whole; and
- (11) recommendations for eliminating required reports relating to foreign-language proficiency that the Director of National Intelligence considers outdated or no longer relevant.—

TITLE VI—PROTECTION OF CERTAIN NATIONAL SECURITY INFORMATION

PROTECTION OF IDENTITIES OF CERTAIN UNITED STATES UNDERCOVER INTELLIGENCE OFFICERS, AGENTS, INFORMANTS, AND SOURCES

SEC. 601. (a) Whoever, having or having had authorized access to classified information that identifies a covert agent, intentionally discloses any information identifying such covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such covert agent and that the United States is taking affirmative measures to conceal such covert agent's intelligence relationship to the United States, shall be fined under title 18, United States Code, or imprisoned not more than [ten years] 15 years, or both.

(b) Whoever, as a result of having authorized access to classified information, learns the identity of a covert agent and intentionally discloses any information identifying such covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such covert agent and that the United States is taking affirmative measures to conceal such covert agent's intelligence relationship to the United States, shall be fined under title 18, United States Code, or imprisoned not more than [five years] 10 years, or both.

\* \* \* \* \*

REPORT

SEC. 603. (a) The President, after receiving information from the Director of National Intelligence, shall submit to the congressional intelligence committees an annual report on measures to protect the identities of covert agents, including an assessment of the need for any modification of this title for the purpose of improving legal protections for covert agents, and on any other matter relevant to the protection of the identities of covert agents. The date for the submittal of the report shall be the date provided in section 507.

\* \* \* \* \*

TITLE VII—PROTECTION OF OPERATIONAL FILES

\* \* \* \* \*

OPERATIONAL FILES OF THE DEFENSE INTELLIGENCE AGENCY

SEC. 705. (a) \* \* \*

\* \* \* \* \*

(e) ALLEGATION; IMPROPER WITHHOLDING OF RECORDS; JUDICIAL REVIEW.—(1) \* \* \*

(2) Judicial review shall not be available in the manner provided under paragraph (1) as follows:

(A) \* \* \*

\* \* \* \* \*

(D)(i) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, the Defense Intelligence Agency 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 operational files likely to contain [responsible] responsive records currently perform the functions set forth in subsection (b).

\* \* \* \* \*

TITLE X—EDUCATION IN SUPPORT OF NATIONAL INTELLIGENCE

\* \* \* \* \*

SUBTITLE C—ADDITIONAL EDUCATION PROVISIONS

\* \* \* \* \*

INTELLIGENCE COMMUNITY ACQUISITION OF CRITICAL SKILLS

SEC. 1022. (a) IN GENERAL.—The head of an appropriate department may assign civilian employees of an element of the intelligence community that is a component of such appropriate department as students at accredited professional, technical, and other institutions of higher learning for training at the undergraduate level in skills critical to effective performance of the mission of such element of the intelligence community.

(b) PAYMENT OF EXPENSES.—The head of an appropriate department may pay, directly or by reimbursement to employees, expenses incident to assignments under subsection (a), in any fiscal year only to the extent that appropriated funds are available for such purpose.

(c) ELIGIBILITY.—

(1) IN GENERAL.—To be eligible for assignment under subsection (a), an employee of an element of the intelligence community must agree in writing—

(A) to continue in the service of such element for the period of the assignment and to complete the educational course of training for which the employee is assigned;

(B) to continue in the service of such element following completion of the assignment for a period of one-and-a-half years for each year of the assignment or part thereof;

(C) to reimburse the United States for the total cost of education (excluding the employee's pay and allowances) provided under this section to the employee if, prior to the employee's completing the educational course of training for which the employee is assigned, the assignment or the employee's employment with such element is terminated either by such element due to misconduct by the employee or by the employee voluntarily; and

(D) to reimburse the United States if, after completing the educational course of training for which the employee is assigned, the employee's employment with such element is terminated either by such element due to misconduct by the employee or by the employee voluntarily, prior to the employee's completion of the service obligation period described in subparagraph (B), in an amount that bears the same ratio to the total cost of the education (excluding the employee's pay and allowances) provided to the employee as the unserved portion of the service obligation period described in subparagraph (B) bears to the total period of the service obligation described in subparagraph (B).

(2) *DEBT OWING THE UNITED STATES.*—Subject to paragraph (3), the obligation to reimburse the United States under an agreement described in paragraph (1), including interest due on such obligation, is for all purposes a debt owing the United States.

(3) *REIMBURSEMENT.*—

(A) *BANKRUPTCY.*—A discharge in bankruptcy under title 11, United States Code, shall not release a person from an obligation to reimburse the United States required under an agreement described in paragraph (1) if the final decree of the discharge in bankruptcy is issued within five years after the last day of the combined period of service obligation described in subparagraphs (A) and (B) of paragraph (1).

(B) *RELEASE.*—The head of an appropriate department may release a person, in whole or in part, from the obligation to reimburse the United States under an agreement described in paragraph (1) when, in the discretion of such head of an appropriate department, such head of an appropriate department determines that equity or the interests of the United States so require.

(C) *MONTHLY PAYMENTS.*—The head of an appropriate department shall permit an employee assigned under this section who, prior to commencing a second academic year of such assignment, voluntarily terminates the assignment or the employee's employment with the element of the intelligence community that is a component of such appropriate department, to satisfy the employee's obligation under an agreement described in paragraph (1) to reimburse the United States by reimbursement according to a schedule of monthly payments which results in completion of reimbursement by a date five years after the date of termination of the assignment or employment or earlier at the option of the employee.

(d) *RECRUITMENT.*—Efforts by an element of the intelligence community to recruit individuals at educational institutions for participation in the undergraduate training program established by this section shall be made openly and according to the common practices of universities and employers recruiting at such institutions.

(e) *INAPPLICATION OF PROVISIONS ON TRAINING.*—Chapter 41 of title 5 and subsections (a) and (b) of section 3324 of title 31, United States Code, shall not apply with respect to this section.



(f) *REGULATIONS.*—A head of the appropriate department assigning employees in accordance with this section may issue such regulations as such head of the appropriate department considers necessary to carry out this section.

(g) *RULES OF CONSTRUCTION.*—

(1) *COMPONENT.*—For purposes of this section—

(A) the Office of the Director of National Intelligence shall be considered a component of such Office; and

(B) the Central Intelligence Agency shall be considered a component of such Agency.

(2) *REQUIRED EDUCATION PROGRAMS.*—Nothing in this section shall be construed to modify, affect, or supercede any provision of law requiring or otherwise authorizing or providing for a training program described in this section.

(h) *APPROPRIATE DEPARTMENT DEFINED.*—In this section, the term “appropriate department” means—

(1) with respect to the Office of the Director of National Intelligence, the Office of the Director of National Intelligence;

(2) with respect to the Central Intelligence Agency, Central Intelligence Agency; and

(3) with respect to an element of the intelligence community other than the Office of the Director of National Intelligence and the Central Intelligence Agency, the department of the Federal Government of which such element of the intelligence community is a component.

**TITLE XI—ADDITIONAL MISCELLANEOUS PROVISIONS**

\* \* \* \* \*

**COUNTERINTELLIGENCE INITIATIVES**

SEC. 1102. (a) \* \* \*

(b) **ANNUAL REVIEW OF DISSEMINATION LISTS.**—**[(1)]** The Director of National Intelligence shall establish and implement a process for all elements of the intelligence community to review, on an annual basis, individuals included on distribution lists for access to classified information. Such process shall ensure that only individuals who have a particularized “need to know” (as determined by the Director) are continued on such distribution lists.

**[(2)]** Not later than October 15 of each year, the Director shall certify to the congressional intelligence committees that the review required under paragraph (1) has been conducted in all elements of the intelligence community during the preceding fiscal year.**]**

\* \* \* \* \*

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**TITLE 5, UNITED STATES CODE**

\* \* \* \* \*

**PART III—EMPLOYEES**

\* \* \* \* \*

SUBPART A—GENERAL PROVISIONS

\* \* \* \* \*

**CHAPTER 23—MERIT SYSTEM PRINCIPLES**

\* \* \* \* \*

**§ 2302. Prohibited personnel practices**

(a)(1) \* \* \*

(2) For the purpose of this section—

(A) \* \* \*

\* \* \* \* \*

(C) “agency” means an Executive agency and the Government Printing Office, but does not include—

(i) \* \* \*

(ii) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the [National Imagery and Mapping Agency] *National Geospatial-Intelligence Agency*, the National Security Agency, and, as determined by the President, any Executive agency or unit thereof the principal function of which is the conduct of foreign intelligence or counterintelligence activities; or

\* \* \* \* \*

SUBPART C—EMPLOYEE PERFORMANCE

\* \* \* \* \*

**CHAPTER 43—PERFORMANCE APPRAISAL**

\* \* \* \* \*

SUBCHAPTER I—GENERAL PROVISIONS

**§ 4301. Definitions**

For the purpose of this subchapter—

(1) “agency” means—

(A) \* \* \*

but does not include—

(i) a Government corporation;

(ii) the Central Intelligence Agency, the Defense Intelligence Agency, the [National Imagery and Mapping Agency] *National Geospatial-Intelligence Agency*, the National Security Agency, or any Executive agency or unit thereof which is designated by the President and the principal function of which is the conduct of foreign intelligence or counterintelligence activities; or

\* \* \* \* \*

**CHAPTER 47—PERSONNEL RESEARCH PROGRAMS AND DEMONSTRATION PROJECTS**

\* \* \* \* \*

**§ 4701. Definitions**

(a) For the purpose of this chapter—

(1) “agency” means an Executive agency and the Government Printing Office, but does not include—

(A) \* \* \*

(B) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the [National Imagery and Mapping Agency] *National Geospatial-Intelligence Agency*, the National Security Agency, and, as determined by the President, any Executive agency or unit thereof which is designated by the President and which has as its principal function the conduct of foreign intelligence or counterintelligence activities; or

\* \* \* \* \*

SUBPART D—PAY AND ALLOWANCES

**CHAPTER 51—CLASSIFICATION**

\* \* \* \* \*

**§ 5102. Definitions; application**

(a) For the purpose of this chapter—

(1) “agency” means—

(A) \* \* \*

\* \* \* \* \*

(F) the government of the District of Columbia; but does not include—

(i) \* \* \*

\* \* \* \* \*

(x) the [National Imagery and Mapping Agency] *National Geospatial-Intelligence Agency*, Department of Defense.

\* \* \* \* \*

**CHAPTER 53—PAY RATES AND SYSTEMS**

\* \* \* \* \*

SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES

\* \* \* \* \*

**§ 5313. Positions at level II**

Level II of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Deputy Secretary of Defense.

\* \* \* \* \*

[Director of Central Intelligence.]  
*Director of the Central Intelligence Agency.*

\* \* \* \* \*

**§ 5314. Positions at level III**

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Solicitor General of the United States.

\* \* \* \* \*

**【Deputy Directors of Central Intelligence (2).】**

*Deputy Director of the Central Intelligence Agency.*

\* \* \* \* \*

**§ 5315. Positions at level IV**

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Deputy Administrator of General Services.

\* \* \* \* \*

**【General Counsel of the Office of the National Intelligence Director.】**

*General Counsel of the Office of the Director of National Intelligence.*

\* \* \* \* \*

*Inspector General of the Intelligence Community.*

\* \* \* \* \*

**SUBCHAPTER IV—PREVAILING RATE SYSTEMS**

\* \* \* \* \*

**§ 5342. Definitions; application**

(a) For the purpose of this subchapter—

(1) “agency” means an Executive agency; but does not include—

(A) \* \* \*

\* \* \* \* \*

(K) the **【National Imagery and Mapping Agency】** *National Geospatial-Intelligence Agency*, Department of Defense;

\* \* \* \* \*

**SUBPART E—ATTENDANCE AND LEAVE**

\* \* \* \* \*

**CHAPTER 63—LEAVE**

\* \* \* \* \*

**SUBCHAPTER III—VOLUNTARY TRANSFERS OF LEAVE**

\* \* \* \* \*

**§ 6339. Additional leave transfer programs**

(a) For the purpose of this section—

(1) the term “excepted agency” means—

(A) \* \* \*

\* \* \* \* \*

(E) the [National Imagery and Mapping Agency] *National Geospatial-Intelligence Agency*; and

\* \* \* \* \*

(2) the term “head of an excepted agency” means—

(A) \* \* \*

\* \* \* \* \*

(E) with respect to the [National Imagery and Mapping Agency] *National Geospatial-Intelligence Agency*, the Director of the [National Imagery and Mapping Agency] *National Geospatial-Intelligence Agency*; and

\* \* \* \* \*

SUBPART F—LABOR-MANAGEMENT AND EMPLOYEE RELATIONS

\* \* \* \* \*

**CHAPTER 73—SUITABILITY, SECURITY, AND CONDUCT**

\* \* \* \* \*

SUBCHAPTER III—POLITICAL ACTIVITIES

\* \* \* \* \*

**§ 7323. Political activity authorized; prohibitions**

(a) \* \* \*

(b)(1) \* \* \*

(2)(A) \* \* \*

(B) The provisions of subparagraph (A) shall apply to—

(i) an employee of—

(I) \* \* \*

\* \* \* \* \*

(XIII) the [National Imagery and Mapping Agency] *National Geospatial-Intelligence Agency*; or

\* \* \* \* \*

SUBCHAPTER IV—FOREIGN GIFTS AND DECORATIONS

\* \* \* \* \*

**§ 7342. Receipt and disposition of foreign gifts and decorations**

(a) \* \* \*

\* \* \* \* \*

(f)(1) \* \* \*

\* \* \* \* \*

[(4)(A) In transmitting such listings for the Central Intelligence Agency, the Director of the Central Intelligence Agency may delete the information described in subparagraphs (A) and (C) of paragraphs (2) and (3) if the Director certifies in writing to the Secretary of State that the publication of such information could adversely affect United States intelligence sources.

[(B) In transmitting such listings for the Office of the Director of National Intelligence, the Director of National Intelligence may delete the information described in subparagraphs (A) and (C) of paragraphs (2) and (3) if the Director certifies in writing to the Secretary of State that the publication of such information could adversely affect United States intelligence sources.]

*(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 “intelligence community” has the meaning given the term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).*

\* \* \* \* \*

**INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR  
2003**

\* \* \* \* \*

**TITLE III—GENERAL PROVISIONS**

\* \* \* \* \*

**Subtitle E—Terrorism**

\* \* \* \* \*

**SEC. 343. TERRORIST IDENTIFICATION CLASSIFICATION SYSTEM.**

(a) \* \* \*

\* \* \* \* \*

[(d) REPORTING AND CERTIFICATION.—(1) The Director shall review on an annual basis the information provided by various departments and agencies for purposes of the list under subsection (a) in order to determine whether or not the information so provided is derived from the widest possible range of intelligence available to such departments and agencies.

[(2) The Director shall, as a result of each review under paragraph (1), certify whether or not the elements of the intelligence community responsible for the collection of intelligence related to

the list have provided information for purposes of the list that is derived from the widest possible range of intelligence available to such department and agencies.】

【(e)】 (d) REPORT ON CRITERIA FOR INFORMATION SHARING.—  
(1) \* \* \*

\* \* \* \* \*  
【(f)】 (e) SYSTEM ADMINISTRATION REQUIREMENTS.—(1) \* \* \*

\* \* \* \* \*  
【(g)】 (f) REPORT ON STATUS OF SYSTEM.—(1) \* \* \*

\* \* \* \* \*  
【(h)】 (g) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—  
In this section, the term “congressional intelligence committees”  
means—

(1) \* \* \*

\* \* \* \* \*

## TITLE VIII—REPORTING REQUIREMENTS

\* \* \* \* \*

### Subtitle C—Recurring Annual Reports

\* \* \* \* \*

#### 【SEC. 826. ANNUAL REPORT ON COUNTERDRUG INTELLIGENCE MAT- TERS.

【(a) ANNUAL REPORT.—The Counterdrug Intelligence Coordinating Group shall submit to the appropriate committees of Congress each year a report on current counterdrug intelligence matters. The report shall include the recommendations of the Counterdrug Intelligence Coordinating Group on the appropriate number of permanent staff, and of detailed personnel, for the staff of the Counterdrug Intelligence Executive Secretariat.

【(b) SUBMITTAL DATE.—The date of the submittal each year of the report required by subsection (a) shall be the date provided in section 507 of the National Security Act of 1947, as added by section 811 of this Act.

【(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term “appropriate committees of Congress” means—

【(1) the Committees on Appropriations of the Senate and House of Representatives; and

【(2) the congressional intelligence committees (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)).】

\* \* \* \* \*

**TITLE X—NATIONAL COMMISSION FOR  
REVIEW OF RESEARCH AND DEVELOPMENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY**

\* \* \* \* \*

**SEC. 1002. NATIONAL COMMISSION FOR THE REVIEW OF THE RESEARCH AND DEVELOPMENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY.**

(a) \* \* \*

(b) COMPOSITION.—The Commission shall be composed of 12 members, as follows:

(1) **【The Deputy Director of Central Intelligence for Community Management.】** *The Principal Deputy Director of National Intelligence.*

\* \* \* \* \*

(i) REVIEW.—The Commission shall review the status of research and development programs and activities within the intelligence community, **【including—】** *including advanced research and development programs and activities. Such review shall include—*

(1) \* \* \*

\* \* \* \* \*

**SEC. 1007. FINAL REPORT; TERMINATION.**

(a) FINAL REPORT.—Not later than **【September 1, 2004】** *December 31, 2009*, the Commission shall submit to the congressional intelligence committees, the Director of Central Intelligence, and the Secretary of Defense a final report as required by section 1002(h)(2).

\* \* \* \* \*

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**NATIONAL SECURITY AGENCY ACT OF 1959**

\* \* \* \* \*

**SEC. 16. (a)** \* \* \*

\* \* \* \* \*

(e)**【(1)** When an employee is assigned under this section to an institution, the Agency shall disclose to the institution to which the employee is assigned that the Agency employs the employee and that the Agency funds the employee's education.

**【(2)** Agency efforts *Agency efforts* to recruit individuals at educational institutions for participation in the undergraduate training program established by this section shall be made openly and according to the common practices of universities and employers recruiting at such institutions.

\* \* \* \* \*



**SECTION 115 OF TITLE 49, UNITED STATES CODE**

**§ 115. Transportation Security Oversight Board**

(a) \* \* \*

(b) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Board shall be composed of 7 members as follows:

(A) \* \* \*

\* \* \* \* \*

[(F) The Director of the Central Intelligence Agency, or the Director's designee.]

(F) *The Director of National Intelligence.*

\* \* \* \* \*

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**INSPECTOR GENERAL ACT OF 1978**

\* \* \* \* \*

【AUTHORITY TO ESTABLISH INSPECTOR GENERAL OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

【SEC. 8K. If the Director of National Intelligence determines that an Office of Inspector General would be beneficial to improving the operations and effectiveness of the Office of the Director of National Intelligence, the Director of National Intelligence is authorized to establish, with any of the duties, responsibilities, and authorities set forth in this Act, an Office of Inspector General.】

\* \* \* \* \*

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**COUNTERINTELLIGENCE ENHANCEMENT ACT OF 2002**

\* \* \* \* \*

**TITLE IX—COUNTERINTELLIGENCE ACTIVITIES**

\* \* \* \* \*

**SEC. 904. OFFICE OF THE NATIONAL COUNTERINTELLIGENCE EXECUTIVE.**

(a) \* \* \*

\* \* \* \* \*

[(d) GENERAL COUNSEL.—(1) There shall be in the Office of the National Counterintelligence Executive a general counsel who shall serve as principal legal advisor to the National Counterintelligence Executive.

[(2) The general counsel shall—

[(A) provide legal advice and counsel to the Executive on matters relating to functions of the Office;

[(B) ensure that the Office complies with all applicable laws, regulations, Executive orders, and guidelines; and

[(C) carry out such other duties as the Executive may specify.]

[(e) (d) FUNCTIONS.—Subject to the direction and control of the National Counterintelligence Executive, the functions of the Office of the National Counterintelligence Executive shall be as follows:

(1) NATIONAL THREAT IDENTIFICATION AND PRIORITIZATION ASSESSMENT.—Subject to [subsection (f)] subsection (e), in consultation with appropriate department and agencies of the United States Government, and private sector entities, to produce on an annual basis a strategic planning assessment of the counterintelligence requirements of the United States to be known as the National Threat Identification and Prioritization Assessment.

(2) NATIONAL COUNTERINTELLIGENCE STRATEGY.—Subject to [subsection (f)] subsection (e), in consultation with appropriate department and agencies of the United States Government, and private sector entities, and based on the most current National Threat Identification and Prioritization Assessment under paragraph (1), to produce on an annual basis a strategy for the counterintelligence programs and activities of the United States Government to be known as the National Counterintelligence Strategy.

\* \* \* \* \*

[(f) (e) ADDITIONAL REQUIREMENTS REGARDING NATIONAL THREAT IDENTIFICATION AND PRIORITIZATION ASSESSMENT AND NATIONAL COUNTERINTELLIGENCE STRATEGY.—(1) A National Threat Identification and Prioritization Assessment under [subsection (e)(1)] subsection (d)(1), and any modification of such assessment, shall not go into effect until approved by the President.

(2) A National Counterintelligence Strategy under [subsection (e)(2)] subsection (d)(2), and any modification of such strategy, shall not go into effect until approved by the President.

\* \* \* \* \*

[(g) (f) PERSONNEL.—(1) \* \* \*

\* \* \* \* \*

[(3) The employment of personnel by the Office, including the appointment, compensation and benefits, management, and separation of such personnel, shall be governed by the provisions of law on such matters with respect to the personnel of the Central Intelligence Agency, except that, for purposes of the applicability of such provisions of law to personnel of the Office, the National Counterintelligence Executive shall be treated as the head of the Office.

[(4) Positions in the Office shall be excepted service positions for purposes of title 5, United States Code.]

\* \* \* \* \*

[(h) SUPPORT.—(1) The Attorney General, Secretary of Defense, and Director of National Intelligence may each provide the Office of the National Counterintelligence Executive such support as may be necessary to permit the Office to carry out its functions under this section.

[(2) Subject to any terms and conditions specified by the Director of National Intelligence, the Director may provide administrative

and contract support to the Office as if the Office were an element of the Central Intelligence Agency.

[(3) Support provided under this subsection may be provided on a reimbursable or nonreimbursable basis, at the election of the official providing such support.

[(i) AVAILABILITY OF FUNDS FOR REIMBURSEMENT.—The National Counterintelligence Executive may, from amounts available for the Office, transfer to a department or agency detailing personnel under subsection (g), or providing support under subsection (h), on a reimbursable basis amounts appropriate to reimburse such department or agency for the detail of such personnel or the provision of such support, as the case may be.

[(j) CONTRACTS.—(1) Subject to paragraph (2), the National Counterintelligence Executive may enter into any contract, lease, cooperative agreement, or other transaction that the Executive considers appropriate to carry out the functions of the Office of the National Counterintelligence Executive under this section.

[(2) The authority under paragraph (1) to enter into contracts, leases, cooperative agreements, and other transactions shall be subject to any terms, conditions, and limitations applicable to the Central Intelligence Agency under law with respect to similar contracts, leases, cooperative agreements, and other transactions.]

[(k) (g) TREATMENT OF ACTIVITIES UNDER CERTAIN ADMINISTRATIVE LAWS.—The files of the Office shall be treated as operational files of the Central Intelligence Agency for purposes of section 701 of the National Security Act of 1947 (50 U.S.C. 431) to the extent such files meet criteria under subsection (b) of that section for treatment of files as operational files of an element of the Agency.

[(l) (h) OVERSIGHT BY CONGRESS.—The location of the Office of the National Counterintelligence Executive within the Office of the Director of National Intelligence shall not be construed as affecting access by Congress, or any committee of Congress, to—

(1) \* \* \*

\* \* \* \* \*

[(m) (i) CONSTRUCTION.—Nothing in this section shall be construed as affecting the authority of the Director of National Intelligence, the Secretary of Defense, the Secretary of State, the Attorney General, or the Director of the Federal Bureau of Investigation as provided or specified under the National Security Act of 1947 or under other provisions of law.

\* \* \* \* \*

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**CENTRAL INTELLIGENCE AGENCY ACT OF 1949**

\* \* \* \* \*

GENERAL AUTHORITIES

SEC. 5. (a) IN GENERAL.—In the performance of its functions, the Central Intelligence Agency is authorized to—

(1) Transfer to and receive from other Government agencies such sums as may be approved by the Office of Management and Budget, for the performance of any of the functions or activities [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)] *authorized under section 104A of the National Security Act of 1947 (50 U.S.C. 403-4a)*, and any other Government agency is authorized to transfer to or receive from the Agency such sums without regard to any provisions of law limiting or prohibiting transfers between appropriations. Sums transferred to the Agency in accordance with this paragraph may be expended for the purposes and under the authority of this Act without regard to limitations of appropriations from which transferred;

\* \* \* \* \*

**SEC. 17. INSPECTOR GENERAL FOR THE AGENCY.**

(a) \* \* \*

\* \* \* \* \*

(d) SEMIANNUAL REPORTS; IMMEDIATE REPORTS OF SERIOUS OR FLAGRANT PROBLEMS; REPORTS OF FUNCTIONAL PROBLEMS; REPORTS TO CONGRESS ON URGENT CONCERNS.—(1) \* \* \*

\* \* \* \* \*

(3) In the event that—

(A) \* \* \*

(B) an investigation, inspection, or audit carried out by the Inspector General should focus on any current or former Agency official who—

(i) \* \* \*

(ii) holds or held the position in the Agency, including such a position held on an acting basis, of—

(I) [Executive Director] *Associate Deputy Director*;

(II) [Deputy Director for Operations] *Director of the National Clandestine Service*;

(III) [Deputy Director for Intelligence] *Director of Intelligence*;

(IV) [Deputy Director for Administration] *Director of Support*; or

(V) [Deputy Director for Science and Technology] *Director of Science and Technology*;

\* \* \* \* \*

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**INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR  
2004**

\* \* \* \* \*

**TITLE I—INTELLIGENCE ACTIVITIES**

\* \* \* \* \*

**SEC. 105. OFFICE OF INTELLIGENCE AND ANALYSIS OF THE DEPARTMENT OF THE TREASURY.**

(a) \* \* \*

(b) CONSTRUCTION OF AUTHORITY.—Nothing in section 311 of title 31, United States Code (as amended by subsection (a)), or in section 313 of such title, shall be construed to alter the authorities and responsibilities of the [Director of Central Intelligence] *Director of National Intelligence* with respect to the Office of Intelligence and Analysis of the Department of the Treasury as an element of the intelligence community.

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**SECTION 1403 OF THE NATIONAL DEFENSE  
AUTHORIZATION ACT FOR FISCAL YEAR 1991**

**[SEC. 1403. MULTIYEAR NATIONAL FOREIGN INTELLIGENCE PROGRAM]**

**SEC. 1403. MULTIYEAR NATIONAL INTELLIGENCE PROGRAM.**

(a) ANNUAL SUBMISSION OF MULTIYEAR NATIONAL [FOREIGN] INTELLIGENCE PROGRAM.—The Director of [Central Intelligence] *National Intelligence* shall submit to the congressional committees specified in subsection (d) each year a multiyear national [foreign] intelligence program plan reflecting the estimated expenditures and proposed appropriations required to support that program. Any such multiyear national [foreign] intelligence program plan shall cover the fiscal year with respect to which the budget is submitted and at least four succeeding fiscal years.

(b) TIME OF SUBMISSION.—The Director of *National Intelligence* shall submit the report required by subsection (a) each year at or about the same time that the budget is submitted to Congress pursuant to section 1105(a) of title 31, United States Code.

(c) CONSISTENCY WITH BUDGET ESTIMATES.—The Director of [Central Intelligence] *National Intelligence* and the Secretary of Defense shall ensure that the estimates referred to in subsection (a) are consistent with the budget estimates submitted to Congress pursuant to section 1105(a) of title 31, United States Code, for the fiscal year concerned and with the estimated expenditures and proposed appropriations for the multiyear defense program submitted pursuant to section 114a of title 10, United States Code.

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**NATIONAL SECURITY INTELLIGENCE REFORM ACT OF  
2004**

\* \* \* \* \*

**TITLE I—REFORM OF THE  
INTELLIGENCE COMMUNITY**

\* \* \* \* \*

## Subtitle A—Establishment of Director of National Intelligence

\* \* \* \* \*

### SEC. 1016. INFORMATION SHARING.

(a) \* \* \*

\* \* \* \* \*

(e) IMPLEMENTATION PLAN REPORT.—Not later than one year after the date of the enactment of this Act, the President shall, with the assistance of the program manager, submit to Congress a report containing an implementation plan for the ISE. The report shall include the following:

(1) \* \* \*

\* \* \* \* \*

(10) A delineation of the roles of the Federal departments and agencies that will participate in the ISE, including an identification of the agencies that will deliver the infrastructure needed to operate and manage the ISE (as distinct from individual department or agency components that are part of the ISE), with such delineation of roles to be consistent with—

(A) \* \* \*

(B) the authority of the Secretary of Homeland Security and the Attorney General, and the role of the Department of Homeland Security and the [Attorney General] *Department of Justice*, in coordinating with State, local, and tribal officials and the private sector.

\* \* \* \* \*

## Subtitle G—Conforming and Other Amendments

### SEC. 1071. CONFORMING AMENDMENTS RELATING TO ROLES OF DIRECTOR OF NATIONAL INTELLIGENCE AND DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY.

(a) \* \* \*

\* \* \* \* \*

(e) FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.—[(1)] The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by striking “Director of Central Intelligence” each place it appears and inserting “Director of National Intelligence”.

\* \* \* \* \*

### SEC. 1072. OTHER CONFORMING AMENDMENTS.

(a) \* \* \*

(b) CENTRAL INTELLIGENCE AGENCY ACT OF 1949.—Section 6 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403g) is amended by striking “section 103(c)(7) of the National Security Act

of 1947 (50 U.S.C. 403-3(c)(7))” and inserting “section 102A(i) of the National Security Act of 1947”.

\* \* \* \* \*

**INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004**

\* \* \* \* \*

**TITLE II—FEDERAL BUREAU OF INVESTIGATION**

**SEC. 2001. IMPROVEMENT OF INTELLIGENCE CAPABILITIES OF THE FEDERAL BUREAU OF INVESTIGATION.**

(a) \* \* \*

\* \* \* \* \*

(c) NATIONAL INTELLIGENCE WORKFORCE.—(1) In developing and maintaining a national intelligence workforce under subsection (b), the Director of the Federal Bureau of Investigation shall, develop and maintain a specialized and integrated national intelligence workforce consisting of agents, analysts, linguists, and surveillance specialists who are recruited, trained, and rewarded in a manner which ensures the existence within the Federal Bureau of Investigation of an institutional culture with substantial expertise in, and commitment to, the intelligence mission of the Bureau.

\* \* \* \* \*

(e) DISCHARGE OF IMPROVEMENTS.—(1) \* \* \*

(2) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) under the joint guidance of the Attorney General and [the National Intelligence Director in a manner consistent with section 112(e)] *the Director of National Intelligence in a manner consistent with applicable law.*

(f) BUDGET MATTERS.—The Director of the Federal Bureau of Investigation [shall,] *shall* establish a budget structure of the Federal Bureau of Investigation to reflect the four principal missions of the Bureau as follows:

(1) \* \* \*

\* \* \* \* \*

**SEC. 2006. FEDERAL BUREAU OF INVESTIGATION USE OF TRANSLATORS.**

Not later than 30 days after the date of the enactment of this Act, and annually thereafter, the Attorney General of the United States shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report that contains, with respect to each preceding 12-month period—

(1) \* \* \*

(2) any legal or practical impediments to using translators employed by [the Federal] *Federal*, State, or local agencies on a full-time, part-time, or shared basis;

(3) the needs of the Federal Bureau of Investigation for [the specific] *specific* translation services in certain languages, and recommendations for meeting those needs;

\* \* \* \* \*

CHAPTER 13 OF TITLE 44, UNITED STATES CODE

CHAPTER 13—PARTICULAR REPORTS AND DOCUMENTS

Sec.  
1301. Agriculture, Department of: report of Secretary.

\* \* \* \* \*

[1336. National Imagery and Mapping Agency: special publications.]  
1336. *National Geospatial-Intelligence Agency: special publications.*

\* \* \* \* \*

§ 1336. [National Imagery and Mapping Agency] *National Geospatial-Intelligence Agency: special publications*

The Director of the [National Imagery and Mapping Agency] *National Geospatial-Intelligence Agency* may authorize the printing of notices to mariners, light lists, sailing directions, bulletins, and other special publications of the [National Imagery and Mapping Agency] *National Geospatial-Intelligence Agency* in editions the interests of the Government and of the public may require.

\* \* \* \* \*

HOMELAND SECURITY ACT OF 2002

\* \* \* \* \*

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

Subtitle A—Information and Analysis and Infrastructure Protection; Access to Information

SEC. 201. INFORMATION AND ANALYSIS AND INFRASTRUCTURE PROTECTION.

(a) \* \* \*

\* \* \* \* \*

(f) DETAIL OF PERSONNEL.—

(1) \* \* \*

(2) COVERED AGENCIES.—The agencies referred to in this paragraph are as follows:

(A) \* \* \*

\* \* \* \* \*



(E) The **【National Imagery and Mapping Agency】** *National Geospatial-Intelligence Agency.*

\* \* \* \* \*

## MINORITY VIEWS

The annual Intelligence Authorization Act is one of the most important bills that the House passes each year. It provides and allocates resources to critical national security programs that are the front lines of America's defense and foreign policies and, most critically, work to detect, prevent, and disrupt potential terrorist attacks on the American people. The bill also is essential to ensure close and effective congressional oversight of the intelligence community.

Although we have concerns with issues that we believe must continue to be addressed and resolved as the legislative process continues, we are encouraged that this bill avoids many of the contentious items that have recently prevented the enactment of an intelligence authorization bill and that it reflects areas of bipartisan consensus on critical national security issues. We also believe that the bill was significantly improved by seven Republican amendments that were adopted on a bipartisan basis to address important issues facing the intelligence community.

Our views follow with respect to a number of important issues. We are pleased that many of them have been addressed in the bill, and disappointed that others remain unresolved. We look forward to continuing the Committee's efforts to move a bipartisan, consensus bill to enactment.

### FOREIGN INTELLIGENCE SURVEILLANCE ACT MODERNIZATION

This bill is still missing the most significant and most critically needed consensus legislation on intelligence currently pending before Congress—the bipartisan compromise legislation to modernize the Foreign Intelligence Surveillance Act that passed the Senate by a vote of 68–29 and is supported by a majority of the House. With the expiration of the Protect America Act on February 17, 2008, the Intelligence Community lost critical authorities to react with speed and agility to potential terrorist threats around the world. The problem will soon be even further compounded when authority under existing certifications expires.

It is irresponsible for the Democratic leadership of the House to continue to abuse its power to block vital national security legislation that the Senate passed on an overwhelming bipartisan basis, that a majority of the House has indicated that it will support on a bipartisan basis, and that the President has indicated that he will sign. Congresswoman Heather Wilson offered an amendment to include this vitally needed legislation in the bill. The amendment received bipartisan support but was not adopted by a vote of 10–11.

The remarks of two Democratic members of the Committee during the markup recognizing the importance of FISA modernization to our national security and the urgency of completing action only

reinforce the consensus that this issue must be dealt with immediately. We will continue to work with our colleagues on a bipartisan basis to enact the compromise legislation passed by the Senate at the earliest opportunity.

#### EARMARKS

Last year, the House adopted a motion by Ranking Republican Pete Hoekstra to instruct House conferees on the Fiscal Year 2008 Intelligence Authorization to remove all earmarks from the bill by a bipartisan vote of 249–160. Those instructions were nonetheless disregarded by House conferees. This year, the Committee—by a bipartisan vote of 17–4—adopted an amendment by Congressman Hoekstra to remove all earmarks, including an earmark in the bill text for the National Drug Intelligence Center.

As a number of incidents have illustrated in previous years up to last year, our intelligence programs should be based on only one primary consideration—what best ensures that the intelligence community is able to do its job in the interest of the national security of the United States. Our priority should be those programs that the members of this Committee have collectively taken a careful look at, debated, and determined where money should be spent with input from the intelligence community—not member projects which all too often can be directed to parochial interests or wasteful spending rather than the national interest.

The Committee's bipartisan vote to remove earmarks from this year's bill is an unprecedented step that we hope will set an example for this Committee as well as other legislation moving forward.

#### NATIONAL SECURITY ACT AMENDMENTS

It is likely that there is no single current issue on which there is a stronger bipartisan consensus than our shared deep concern that the Administration is not fulfilling its statutory duty to keep each member of the Committee fully and currently informed with respect to certain intelligence matters. In the past year alone, Chairman Reyes and Ranking Member Hoekstra jointly called on the President to brief the Members of the Committee with respect to intelligence regarding the al Kibar facility in Syria, which was subsequently disclosed to the public on the same afternoon that Committee members were finally briefed, several months later. With respect to another matter, the Administration refuses to brief all Members of the Committee even though it has briefed five members of the Committee staff. This follows other incidents in which no member of the Committee was briefed in a timely fashion, if at all, with respect to critical and sensitive matters within the scope of the statutory duty to report. It is clear that reforms are necessary.

Section 502 of the bill makes amendments to certain congressional notification procedures of the National Security Act of 1947. It is the product of bipartisan discussion and agreement between Chairman Reyes and Ranking Member Hoekstra and includes language suggested by both. The provision expressly provides that information briefed to the Committee reporting on activities other than covert actions shall be made available to each member of the Committee, unless the President requests in writing that access to

the information be limited and details extraordinary circumstances justifying the request. In the event of such a request to limit access, the Chairman and Ranking Member of the Committee may jointly determine whether and how to limit access to the material within the Committee. Absent such an agreement, access to the information or material will be limited.

In our view, this provision does two critical things. First, it sets forth a statutory presumption that information briefed to the Committee should be made available to each member of the Committee rather than restricted to the Chairman and Ranking Member. Second, it provides a mechanism to permit exceptions when legitimate extraordinary circumstances arise impacting national security. We believe that this provision reflects a better balance than the current practice. It respects the Constitutional duty of the President to protect national security information by providing a mechanism to request that access to the information be limited. It also respects the Constitutional authority of the House to organize itself and to determine how to share information within the Committee. Ultimately, these interests are balanced and resolved by requiring a clear bipartisan consensus to override any request by the President to limit access to information.

We are concerned that the new enhanced reporting requirements provided for in paragraph (a) of Section 502 of the bill are too prescriptive and burdensome and may not be practically workable. We hope that these provisions can be perfected as the bill moves forward in the legislative process. On the whole, however, this provision is a significant step forward to strengthen congressional oversight of intelligence activities in a manner consistent with the Constitution.

Additionally, the Committee adopted by a bipartisan vote of 17-4 an amendment by Congressman John McHugh clarifying that the statutory duty to “fully and currently” inform the intelligence committees with respect to intelligence information relating to North Korea or China is not fulfilled if a Committee is briefed after the information has been communicated to the governments of those countries. We are extremely disappointed that this clarification is necessary.

It should be emphasized that this amendment is not intended to apply outside the scope of notifications understood to be required under Section 501 of the National Security Act of 1947, and is not intended to preclude communicating information to the Governments of North Korea or China in emergency or exigent circumstances.

#### NATIONAL SECURITY SPACE SYSTEMS

We are disappointed with certain provisions of the classified annex with respect to national security space systems. National security space systems have been and will continue to be a cornerstone of the nation’s intelligence collection capability. However, the current bill lacks a sense of urgency with regard to making decisions on overhead architecture and fails to address critical architectural shortfalls. It does not adequately fund critical national security space systems and is overly prescriptive in certain areas mandating technical solutions without complete analysis. Despite these

shortcomings, however, we believe the bill authorizes a minimally acceptable level of funding for these systems.

#### FEDERAL BUREAU OF INVESTIGATION MATTERS

The Intelligence Community continues to move forward with a number of reform initiatives in the wake of the September 11, 2001 terrorist attacks on the United States. Perhaps none of these initiatives is more important than the transformation of the intelligence elements of the Federal Bureau of Investigation from a culture of law enforcement and prosecution to one directed at detecting and preventing potential terrorist attacks in the United States. While the FBI has a number of initiatives in place underway with respect to its intelligence components, we remain significantly concerned at the Bureau's failure to communicate a high-level strategic vision for its transformation, and that the process simply isn't moving fast enough to implement fundamental change. In addition, the Committee remains concerned—without determining responsibility—with respect to specific instances where the working relationship between the Bureau, other elements of the intelligence community, and state and local governments has been strained. At the same time, however, the Committee's oversight efforts have repeatedly suggested that the FBI is the most appropriate federal agency to lead domestic counterterrorism and counterintelligence matters, and that the Bureau should be given time to make its reforms work before more radical alternatives are considered.

The Committee adopted by voice vote an amendment by Congressman Mike Rogers to require the Director of the FBI to submit a report to the congressional intelligence committees describing his long term, strategic, vision for transforming the intelligence capabilities of the Bureau and the progress of the internal reforms intended to achieve that vision. It is important to stress that this report is intended to be a high-level strategic report in which the Director describes the fundamental principles underlying his view of the transformation, the desired FBI capabilities and doctrinal approach at the end of the transformation, and the way to get there. The Committee has already received numerous reports and briefings detailing specific organizational changes and initiatives, but none have satisfactorily communicated a comprehensive, cohesive strategic vision for the overall transformation.

In addition, the Committee adopted, by a unanimous vote of 21–0, an amendment by Congressman Rogers to prohibit any funds authorized in the bill from being used to implement the mandatory reassignment of a supervisor of the Bureau after five years of service in a management position, commonly known as the “five and out” policy. We believe that this policy has hampered optimum counterterrorism capability, just as similar mandatory reassignment and rotation policies have adversely impacted other elements of the Intelligence Community. A substantial portion of FBI funding is authorized in this bill. We believe this personnel policy is counterproductive and unwise and do not support authorizing funds to further implement it.

## SIZE OF THE OFFICE OF DIRECTOR OF NATIONAL INTELLIGENCE

The Committee shares a bipartisan consensus that the Office of the Director of National Intelligence, just three years old, has already grown in size and scope well beyond the intentions of the Intelligence Reform and Terrorism Prevention Act that created it. By voice vote, the Committee adopted an amendment to the classified Schedule of Authorizations by Congressman Mike Rogers to stop further growth and limit the size of the ODNI. In particular, we are dismayed at efforts by the ODNI to justify further growth by attempting to omit personnel from the National Counterterrorism Center from its personnel count, despite the express statutory provision that the NCTC is part of the ODNI.

The Committee on a bipartisan basis had made clear that it views the ODNI as a coordinator, not a doer of functions. Our effort is about making ODNI an effective coordinator, not another layer of bureaucracy that stifles the speed, agility and creativity necessary in today's intelligence environment. During the Committee's oversight efforts, intelligence community personnel have indicated that they are spending increasing amounts of time responding to taskings and requests from the ODNI bureaucracy with little apparent benefit. Rather than attempt to rationalize further bureaucratic growth, we hope that the ODNI will carefully revisit how to accomplish its core coordinating goals within the authorized personnel strength.

## UNAUTHORIZED DISCLOSURES OF CLASSIFIED INFORMATION

As we have emphasized repeatedly in the past, the problem of unauthorized disclosure remains a grave one. Such disclosures harm national security, place American citizens and intelligence community personnel at increased risk, and inevitably result in substantial consequences to the United States—both tangible and intangible. We are disappointed that the Committee has held no hearings and conducted little to no substantial oversight on this issue during this Congress. In addition, we are concerned that the issue is becoming increasingly politicized, sometimes under the false premise that there are “good leaks” and “bad leaks”. The Committee should take a firm and clear position that *no* unauthorized disclosures of classified information should be tolerated.

Oversight efforts during the previous Congress clearly established that prosecution under current laws relating to unauthorized disclosure has not been an effective deterrent tool. The Committee adopted by voice vote an amendment offered by Congressman Mac Thornberry that requires the DNI to review whether current law or administrative authorities enable the revocation of pensions of intelligence community personnel who commit unauthorized disclosures of classified information. This provision is identical to one included by the House in the Fiscal Year 2007 Intelligence Authorization Act. We hope that it will be enacted and that the DNI will carefully review this matter and other options in an effort to provide a more effective deterrent to unauthorized disclosures of classified information.

## INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY

We have significant concerns with Section 408 of the bill, which would create a new Inspector General of the Intelligence Community. While we do not oppose either enhanced oversight of the Intelligence Community or a capability to review cross-cutting issues within the Intelligence Community, we are concerned that this provision—which is almost a quarter of the entire bill—duplicates efforts of Department and Agency inspectors general, is unnecessarily complex and unwieldy, and threatens to further grow the size and bureaucracy of the Office of the Director of National Intelligence. Committee Republicans offered an amendment to strike this provision, which failed by a voice vote. We hope to work with our colleagues toward a more limited and rational resolution of this issue.

## JIHADISTS

Over the last few months, the National Counterterrorism Center, the State Department, and the Department of Homeland Security issued memos instructing their employees to not use several terms related to Islam and radical Jihadism, including “jihadist,” “jihad,” “Mujahadeen,” “caliphate,” “Islamist,” “Islamofascist,” and “Wahhabi.” These memos also recommend using the term “mainstream Muslims” instead of “moderate Muslims.” This new policy reportedly reflected advice from unnamed American Muslim leaders on avoiding rhetoric that could offend Muslim audiences or bolster the cause of radical Jihadist groups like al Qaeda.

During Committee consideration of the bill, Ranking Member Hoekstra offered an amendment to prohibit the use of any funds authorized by the bill from being used to prohibit or discourage the use of those terms. The amendment should not have been controversial, yet it was defeated by a party-line vote. We do not believe that free speech should be controversial, nor should candid, accurate, and fair discussion of the self-professed nature and goals of enemies who have attacked the United States, sworn to kill more Americans, and regularly seek to violently stifle the slightest criticism of their activities and intentions. It is more than ironic that some who have complained about alleged politicization of the Intelligence Community opposed this amendment, which simply would have ensured free speech and open, objective analysis, and it is unfortunate that they refuse to acknowledge the nature of the threats posed by our enemies.

It is important to emphasize that we do not support any form of religious discrimination, bigotry, or hatred, or U.S. officials making statements that insult Muslims or any other religious or ethnic group. However, this new “speech code” is in line with other efforts by U.S. Muslim leaders sympathetic to radical Jihadist groups like Hamas and Hezbollah to stifle open debate about radical Islam by banning important terms that describe their efforts. For example, since Hizballah, Hamas, and al Qaeda routinely describe their terrorist activities as a “Jihad” against the West, one cannot sensibly discuss their activities without using this word. Similarly, Osama bin Ladin claims his terrorist efforts are intended to recreate a “caliphate,” in an area stretching from Morocco to Indonesia that was

under Muslim rule in medieval times. It is impossible to have an honest discussion of bin Laden's philosophy without using the word caliphate.

We hope that common sense and free speech will prevail with respect to this issue, and will continue to pursue solutions through close and continuing oversight efforts.

#### NATIONAL INTELLIGENCE ESTIMATE ON IRAN

Recent revelations with respect to the al Kibar facility in Syria have suggested the need for close and careful reassessment of previous intelligence and assessments with respect to other nations. Ranking Member Hoekstra offered an amendment to require a revised and updated National Intelligence Estimate with regard to the Iranian nuclear program, which would have specifically required a reassessment of prior estimates in light of the experience with al Kibar, as well as a review of how that incident affects the confidence level of the Director of National Intelligence in current assessments of the Iran nuclear program. The amendment failed by voice vote.

We continue to believe, however, that the November 2007 National Intelligence Estimate on Iran was so poorly drafted and so seriously undermined by subsequent developments and intelligence—especially the Syrian nuclear facility—that it is necessary for the DNI to go back to the drawing board and start over. We will continue to monitor this issue closely and seek the necessary review and reassessment through the oversight process.

#### DIVERSION OF INTELLIGENCE COMMUNITY RESOURCES TO STUDY GLOBAL CLIMATE CHANGE

The Committee adopted by voice vote a Republican amendment making clear the sense of Congress that resources should not be diverted from human intelligence collection and other intelligence programs designed to combat al Qaeda in order to study global climate change. Despite the existence of numerous more appropriate government programs and initiatives to study this issue, pressure to use intelligence resources in inappropriate and nonproductive ways relative to global climate change continues. This provision makes clear that intelligence resources should not be diverted from al Qaeda for this purpose.

#### LIMITATION ON INTERROGATION TECHNIQUES

The Committee defeated—by a bipartisan vote of 9–12—an amendment that would have limited all elements of the intelligence community to the interrogation techniques authorized by the United States Army Field Manual on Human Intelligence Collector Operations. We think it is important to highlight this vote by the Committee. Despite vigorous debate and comment by other Members of Congress and the public at large (often based on inaccurate information or supposition) we want to reiterate our strong view that the congressional intelligence committees continue to be in the best position to review this issue.

The Committee's bipartisan vote emphasizes some critical points. First, the United States does not torture, and the intelligence com-



munity conducts itself in accordance with the law, including the treaty obligations of the United States. The Committee has been briefed on the interrogation techniques currently being used by the Intelligence Community, and has conducted intensive oversight of both the underlying policy and its application. Second, it is critical not to provide al Qaeda or other potential adversaries with an enumeration and explanation of those techniques. To do so would severely undermine the capabilities of the Intelligence Community to collect information, sometimes in critical circumstances, and accordingly the security of the United States.

While we fully recognize the importance of the underlying issues, we believe the better solution for the substantially more limited programs of the intelligence community is continued close and careful oversight, as provided for in the amendment adopted by the Committee on a bipartisan basis to prohibit the use of contractors in interrogations by the intelligence community, and several provisions of the classified annex to the bill.

PETER HOEKSTRA.  
TERRY EVERETT.  
ELTON GALLEGLY.  
MAC THORNBERRY.  
JOHN M. MCHUGH.  
TODD TIAHRT.  
MIKE ROGERS.  
DARRELL ISSA.

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