

my support for extending the tax cuts, I do not agree with the tactics being used to advance this goal. The repeated attempts to suspend rule XXII in order to make a motion to commit a bill back to committee are becoming part of an ongoing dilatory effort in the Senate. These tactics are not a serious attempt to come up with a legislative solution but are designed only to score political points and slow the progress of the underlying bill. The American taxpayers deserve more. I believe that instead of looking to score points both parties should work together on a serious effort to extend these expiring tax provisions, not waste time with procedural distractions.

#### INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2010

Mrs. FEINSTEIN. Madam President, I ask unanimous consent the Senate proceed to immediate consideration of Calendar No. 467, S. 3611.

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

The legislative clerk read as follows:

A bill (S. 3611) to authorize appropriations for fiscal year 2010 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, I ask unanimous consent the amendment at the desk be considered and agreed to, and the bill, as amended, be read a third time.

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

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR S. 3611, THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2010, AS REPORTED BY THE SENATE SELECT COMMITTEE ON INTELLIGENCE ON JULY 19, 2010

	By fiscal year, in millions of dollars—												
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2010–2015	2010–2020
Statutory Pay-As-You-Go Impact <sup>a</sup>	0	0	0	0	0	0	0	0	0	0	0	0	0

<sup>a</sup> The legislation would authorize appropriations for fiscal year 2010 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System.

The bill (S. 3611), as amended, was passed, as follows:

S. 3611

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

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

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

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

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

#### TITLE I—BUDGET AND PERSONNEL AUTHORIZATIONS

Sec. 101. Authorization of appropriations.

Sec. 102. Classified Schedule of Authorizations.

Sec. 103. Personnel ceiling adjustments.

Sec. 104. Intelligence Community Management Account.

The amendment (No. 4588) was agreed to, as follows:

(Purpose: To strike provisions enacted by the Supplemental Appropriations Act, 2010 and to improve the bill)

On page 12, strike lines 3 through 9 and insert the following:

#### SEC. 106. BUDGETARY PROVISIONS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

Beginning on page 88, strike line 20 and all that follows through page 89, lines 16 and insert the following:

(1) CONGRESSIONAL ARMED SERVICES COMMITTEES.—To the extent that the report required by subsection (a) addresses an element of the intelligence community within the Department of Defense, the Director of National Intelligence, in consultation with the Secretary of Defense, shall submit that portion of the report, and any associated material that is necessary to make that portion understandable, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives. The Director of National Intelligence may authorize redactions of the report and any associated materials submitted pursuant to this paragraph, if such redactions are consistent with the protection of sensitive intelligence sources and methods.

(2) CONGRESSIONAL JUDICIARY COMMITTEES.—To the extent that the report required by subsection (a) addresses an element of the intelligence community within the Department of Justice, the Director of National Intelligence, in consultation with the Attorney General, shall submit that portion of the report, and any associated material that is necessary to make that portion understandable, to the Committee on the Ju-

diciary of the Senate and the Committee on the Judiciary of the House of Representatives. The Director of National Intelligence may authorize redactions of the report and any associated materials submitted pursuant to this paragraph, if such redactions are consistent with the protection of sensitive intelligence sources and methods.

Beginning on page 89, strike line 17 and all that follows through page 91, line 6.

Beginning on page 91, strike line 10 and all that follows through page 92, line 15.

On page 214, line 16, strike “committees” and insert “committees, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives”.

The bill (S. 3611), as amended, was ordered to be engrossed for a third reading and was read the third time.

Mrs. FEINSTEIN. I now ask the paygo letter from the Budget Committee be read, that upon its reading the bill, as amended, be passed, and the motion to reconsider be laid upon the table, with any statements relating thereto printed in the RECORD.

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

The legislative clerk read as follows:

Mr. CONRAD. This is the Statement of Budgetary Effects of PAYGO Legislation for S. 3611.

Total Budgetary Effects of S. 3611 for the 5-year Statutory PAYGO Scorecard: \$0.

Total Budgetary Effects of S. 3611 for the 10-year Statutory PAYGO Scorecard: \$0.

Also submitted for the RECORD as part of this statement is a table prepared by the Congressional Budget Office, which provides additional information on the budgetary effects of this Act.

The table is as follows:

Sec. 105. Restriction on conduct of intelligence activities.

Sec. 106. Budgetary provisions.

#### 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. Pay authority for critical positions.

Sec. 304. Award of rank to members of the Senior National Intelligence Service.

Sec. 305. Annual personnel level assessments for the intelligence community.

Sec. 306. Temporary personnel authorizations for critical language training.

Sec. 307. Conflict of interest regulations for intelligence community employees.

##### Subtitle B—Education Programs

Sec. 311. Permanent authorization for the Pat Roberts Intelligence Scholars Program.

Sec. 312. Modifications to the Louis Stokes Educational Scholarship Program.

Sec. 313. Intelligence officer training program.

Sec. 314. Pilot program for intensive language instruction in African languages.

##### Subtitle C—Acquisition Matters

Sec. 321. Vulnerability assessments of major systems.

Sec. 322. Intelligence community business system transformation.

Sec. 323. Reports on the acquisition of major systems.

Sec. 324. Critical cost growth in major systems.

Sec. 325. Future budget projections.

Sec. 326. National Intelligence Program funded acquisitions.

Subtitle D—Congressional Oversight, Plans, and Reports

Sec. 331. Notification procedures.

Sec. 332. Certification of compliance with oversight requirements.

Sec. 333. Report on detention and interrogation activities.

Sec. 334. Summary of intelligence relating to terrorist recidivism of detainees held at United States Naval Station, Guantanamo Bay, Cuba.

Sec. 335. Report and strategic plan on biological weapons.

Sec. 336. Cybersecurity oversight.

Sec. 337. Report on foreign language proficiency in the intelligence community.

Sec. 338. Report on plans to increase diversity within the intelligence community.

Sec. 339. Report on intelligence community contractors.

Sec. 340. Study on electronic waste destruction practices of the intelligence community.

Sec. 341. Review of records relating to potential health risks among Desert Storm veterans.

Sec. 342. Review of Federal Bureau of Investigation exercise of enforcement jurisdiction in foreign nations.

Sec. 343. Public release of information on procedures used in narcotics airbridge denial program in Peru.

Sec. 344. Report on threat from dirty bombs.

Sec. 345. Report on creation of space intelligence office.

Sec. 346. Report on attempt to detonate explosive device on Northwest Airlines flight 253.

Sec. 347. Repeal or modification of certain reporting requirements.

Sec. 348. Incorporation of reporting requirements.

Sec. 349. Conforming amendments for report submission dates.

Subtitle E—Other Matters

Sec. 361. Extension of authority to delete information about receipt and disposition of foreign gifts and decorations.

Sec. 362. Modification of availability of funds for different intelligence activities.

Sec. 363. Protection of certain national security information.

Sec. 364. National Intelligence Program budget.

Sec. 365. Improving the review authority of the Public Interest Declassification Board.

Sec. 366. Authority to designate undercover operations to collect foreign intelligence or counterintelligence.

Sec. 367. Security clearances: reports; reciprocity.

Sec. 368. Correcting long-standing material weaknesses.

Sec. 369. Intelligence community financial improvement and audit readiness.

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

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

Sec. 401. Accountability reviews by the Director of National Intelligence.

Sec. 402. Authorities for intelligence information sharing.

Sec. 403. Location of the Office of the Director of National Intelligence.

Sec. 404. Title and appointment of Chief Information Officer of the Intelligence Community.

Sec. 405. Inspector General of the Intelligence Community.

Sec. 406. Chief Financial Officer of the Intelligence Community.

Sec. 407. Leadership and location of certain offices and officials.

Sec. 408. Protection of certain files of the Office of the Director of National Intelligence.

Sec. 409. Counterintelligence initiatives for the intelligence community.

Sec. 410. Inapplicability of Federal Advisory Committee Act to advisory committees of the Office of the Director of National Intelligence.

Sec. 411. Membership of the Director of National Intelligence on the Transportation Security Oversight Board.

Sec. 412. Repeal of certain authorities relating to the Office of the National Counterintelligence Executive.

Sec. 413. Misuse of the Office of the Director of National Intelligence name, initials, or seal.

Sec. 414. Plan to implement recommendations of the data center energy efficiency reports.

Sec. 415. Director of National Intelligence support for reviews of International Traffic in Arms Regulations and Export Administration Regulations.

##### Subtitle B—Central Intelligence Agency

Sec. 421. Additional functions and authorities for protective personnel of the Central Intelligence Agency.

Sec. 422. Appeals from decisions involving contracts of the Central Intelligence Agency.

Sec. 423. Deputy Director of the Central Intelligence Agency.

Sec. 424. Authority to authorize travel on a common carrier.

Sec. 425. Inspector General for the Central Intelligence Agency.

Sec. 426. Budget of the Inspector General for the Central Intelligence Agency.

Sec. 427. Public availability of unclassified versions of certain intelligence products.

##### Subtitle C—Defense Intelligence Components

Sec. 431. Inspector general matters.

Sec. 432. Clarification of national security missions of National Geospatial-Intelligence Agency for analysis and dissemination of certain intelligence information.

Sec. 433. Director of Compliance of the National Security Agency.

##### Subtitle D—Other Elements

Sec. 441. Codification of additional elements of the intelligence community.

Sec. 442. Authorization of appropriations for Coast Guard National Tactical Integration Office.

Sec. 443. Retention and relocation bonuses for the Federal Bureau of Investigation.

Sec. 444. Extension of the authority of the Federal Bureau of Investigation to waive mandatory retirement provisions.

Sec. 445. Report and assessments on transformation of the intelligence capabilities of the Federal Bureau of Investigation.

#### TITLE V—REORGANIZATION OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE

Sec. 501. Reorganization of the Diplomatic Telecommunications Service Program Office.

#### TITLE VI—FOREIGN INTELLIGENCE AND INFORMATION COMMISSION ACT

Sec. 601. Short title.

Sec. 602. Definitions.

Sec. 603. Establishment and functions of the Commission.

Sec. 604. Members and staff of the Commission.

Sec. 605. Powers and duties of the Commission.

Sec. 606. Report of the Commission.

Sec. 607. Termination.

Sec. 608. Nonapplicability of Federal Advisory Committee Act.

Sec. 609. Authorization of appropriations.

#### TITLE VII—OTHER MATTERS

Sec. 701. Extension of National Commission for the Review of the Research and Development Programs of the United States Intelligence Community.

Sec. 702. Classification review of executive branch materials in the possession of the congressional intelligence committees.

#### TITLE VIII—TECHNICAL AMENDMENTS

Sec. 801. Technical amendments to the Foreign Intelligence Surveillance Act of 1978.

Sec. 802. Technical amendments to the Central Intelligence Agency Act of 1949.

Sec. 803. Technical amendments to title 10, United States Code.

Sec. 804. Technical amendments to the National Security Act of 1947.

Sec. 805. Technical amendments relating to the multiyear National Intelligence Program.

Sec. 806. Technical amendments to the Intelligence Reform and Terrorism Prevention Act of 2004.

Sec. 807. Technical amendments to the Executive Schedule.

Sec. 808. Technical amendments to section 105 of the Intelligence Authorization Act for Fiscal Year 2004.

Sec. 809. Technical amendments to section 602 of the Intelligence Authorization Act for Fiscal Year 1995.

Sec. 810. Technical amendments to section 403 of the Intelligence Authorization Act, Fiscal Year 1992.

#### SEC. 2. DEFINITIONS.

In this Act:

(1) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term “congressional intelligence committees” means—

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

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

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

#### TITLE I—BUDGET AND PERSONNEL AUTHORIZATIONS

##### SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2010 for the conduct of

the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Office of the Director of National Intelligence.

(2) The Central Intelligence Agency.

(3) The Department of Defense.

(4) The Defense Intelligence Agency.

(5) The National Security Agency.

(6) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(7) The Coast Guard.

(8) The Department of State.

(9) The Department of the Treasury.

(10) The Department of Energy.

(11) The Department of Justice.

(12) The Federal Bureau of Investigation.

(13) The Drug Enforcement Administration.

(14) The National Reconnaissance Office.

(15) The National Geospatial-Intelligence Agency.

(16) The Department of Homeland Security.

#### SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL LEVELS.—The amounts authorized to be appropriated under section 101 and, subject to section 103, the authorized personnel levels (expressed as full-time equivalent positions) as of September 30, 2010, for the conduct of the intelligence activities of the elements listed in paragraphs (1) through (16) of section 101, are those specified in the classified Schedule of Authorizations prepared to accompany the bill S. 3611 of the One Hundred Eleventh Congress.

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

#### SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR INCREASES.—The Director of National Intelligence may authorize the employment of civilian personnel in excess of the number of full-time equivalent positions for fiscal year 2010 authorized by the classified Schedule of Authorizations referred to in section 102(a) if the Director of National Intelligence determines that such action is necessary for 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 section for such element.

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

(1) IN GENERAL.—In addition to the authority in subsection (a) and subject to paragraph (2), if the head of an element of the intelligence community makes a determination that activities currently being performed by contract personnel should be performed by employees of such element, the Director of National Intelligence, in order to reduce a comparable number of contract personnel, may authorize for that purpose employment of additional full-time equivalent personnel in such element equal to the number of full-time equivalent contract personnel performing such activities.

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

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

(1) in a student program, trainee program, or similar program;

(2) in a reserve corps or as a reemployed annuitant; or

(3) in details, joint duty, or long-term, full-time training.

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

#### SEC. 104. INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Intelligence Community Management Account of the Director of National Intelligence for fiscal year 2010 the sum of \$710,612,000. Within such amount, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for advanced research and development shall remain available until September 30, 2011.

(b) AUTHORIZED PERSONNEL LEVELS.—The elements within the Intelligence Community Management Account of the Director of National Intelligence are authorized 822 full-time equivalent personnel as of September 30, 2010. Personnel serving in such elements may be permanent employees of the Office of the Director of National Intelligence or personnel detailed from other elements of the United States Government.

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

(d) CLASSIFIED AUTHORIZATIONS.—

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

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

#### SEC. 105. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity that is not otherwise authorized by the Constitution or the laws of the United States.

#### SEC. 106. BUDGETARY PROVISIONS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled "Budgetary Effects of PAYGO Legislation" for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that

such statement has been submitted prior to the vote on passage.

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

##### SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

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

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

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

#### TITLE III—GENERAL INTELLIGENCE COMMUNITY MATTERS

##### Subtitle A—Personnel Matters

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

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

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

(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 113 the following new section:

##### "DETAIL OF OTHER PERSONNEL

"SEC. 113A. Except as provided in section 904(g)(2) of the Counterintelligence Enhancement Act of 2002 (50 U.S.C. 402c(g)(2)) and section 113 of this Act, and notwithstanding any other provision of law, an officer or employee of the United States or member of the Armed Forces may be detailed to the staff of an element of the intelligence community funded through the National Intelligence Program from another element of the intelligence community or from another element of the United States Government on a reimbursable or nonreimbursable basis, as jointly agreed to by the head of the receiving element and the head of the detailing element, for a period not to exceed 2 years."

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of such Act is amended by inserting after the item relating to section 113 the following new item:

"Sec. 113A. Detail of other personnel."

##### SEC. 303. PAY AUTHORITY FOR CRITICAL POSITIONS.

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

the provisions of this subsection and any conditions established by the Director of National Intelligence when granting such authority.

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

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

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

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

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

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

“(6)(A) The Director of National Intelligence shall notify the congressional intelligence committees not later than 30 days after the date on which the Director grants authority to the head of a department or agency under this subsection.

“(B) The head of a department or agency to which the Director of National Intelligence grants authority under this subsection shall notify the congressional intelligence committees and the Director of the exercise of such authority not later than 30 days after the date on which such head exercises such authority.”

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

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

“(t) AWARD OF RANK TO MEMBERS OF THE SENIOR NATIONAL INTELLIGENCE SERVICE.—(1) The President, based on the recommendation of the Director of National Intelligence, may award a rank to a member of the Senior National Intelligence Service or other intelligence community senior civilian officer not already covered by such a rank award program in the same manner in which a career appointee of an agency may be awarded a rank under section 4507 of title 5, United States Code.

“(2) The President may establish procedures to award a rank under paragraph (1) to a member of the Senior National Intelligence Service or a senior civilian officer of the intelligence community whose identity as such a member or officer is classified information (as defined in section 606(1)).”

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

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

“ANNUAL PERSONNEL LEVEL ASSESSMENTS FOR THE INTELLIGENCE COMMUNITY

“SEC. 506B. (a) REQUIREMENT TO PROVIDE.—The Director of National Intelligence shall, in consultation with the head of each ele-

ment of the intelligence community, prepare an annual personnel level assessment for such element that assesses the personnel levels for 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 at the time that the President submits to Congress the budget for a fiscal year pursuant to section 1105 of title 31, United States Code.

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

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

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

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

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

“(5) The numerical and percentage increase or decrease of the number referred to in paragraph (4) as compared to the number of full-time equivalent positions of the current fiscal year.

“(6) The numerical and percentage increase or decrease of the number referred to in paragraph (4) as compared to the number of full-time equivalent positions during the prior 5 fiscal years.

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

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

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

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

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

“(12) 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 core contract personnel levels;

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

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

(b) APPLICABILITY DATE.—The first assessment required to be submitted under section 506B(b) of the National Security Act of 1947, as added by subsection (a), shall be submitted to the congressional intelligence committees at the time that the President submits to Congress the budget for fiscal year 2012 pursuant to section 1105 of title 31, United States Code.

(c) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section such Act, as amended by section 302 of this Act, is further amended by inserting after the item relating to section 506A the following new item:

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

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

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

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

(2) inserting after paragraph (2) the following new paragraph:

“(3)(A) In addition to the number of full-time equivalent positions authorized for the Office of the Director of National Intelligence for a fiscal year, there is authorized for such Office for each fiscal year an additional 100 full-time equivalent positions that may be used only for the purposes described in subparagraph (B).

“(B) Except as provided in subparagraph (C), the Director of National Intelligence may use a full-time equivalent position authorized under subparagraph (A) only for the purpose of providing a temporary transfer of personnel made in accordance with paragraph (2) to an element of the intelligence community to enable such element to increase the total number of personnel authorized for such element, on a temporary basis—

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

“(ii) to accept a permanent employee of another element of the intelligence community to provide language-capable services.

“(C) Paragraph (2)(B) shall not apply with respect to a transfer of personnel made under subparagraph (B).

“(D) The Director of National Intelligence shall submit to the congressional intelligence committees an annual report on the use of authorities under this paragraph. Each such report shall include a description of—

“(i) the number of transfers of personnel made by the Director pursuant to subparagraph (B), disaggregated by each element of the intelligence community;

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

“(iii) the cost to carry out subparagraph (B).”

#### **SEC. 307. CONFLICT OF INTEREST REGULATIONS FOR INTELLIGENCE COMMUNITY EMPLOYEES.**

Section 102A of the National Security Act of 1947 (50 U.S.C. 403-1), as amended by section 304 of this Act, is further amended by adding at the end the following new subsection:

“(u) CONFLICT OF INTEREST REGULATIONS.—(1) The Director of National Intelligence, in consultation with the Director of the Office of Government Ethics, shall issue regulations prohibiting an officer or employee of an element of the intelligence community from engaging in outside employment if such employment creates a conflict of interest or appearance thereof.

“(2) The Director of National Intelligence shall annually submit to the congressional intelligence committees a report describing all outside employment for officers and employees of elements of the intelligence community that was authorized by the head of an element of the intelligence community during the preceding calendar year. Such report shall be submitted each year on the date provided in section 507.”

#### **Subtitle B—Education Programs**

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

(a) PERMANENT AUTHORIZATION.—Subtitle C of title X of the National Security Act of

1947 (50 U.S.C. 441m et seq.) is amended by adding at the end the following new section:

**“PROGRAM ON RECRUITMENT AND TRAINING**

“SEC. 1022. (a) PROGRAM.—(1) The Director of National Intelligence shall carry out a program to ensure that selected students or former students are provided funds to continue academic training, or are reimbursed for academic training previously obtained, in areas of specialization that the Director, in consultation with the other heads of the elements of the intelligence community, identifies as areas in which the current capabilities of the intelligence community are deficient or in which future capabilities of the intelligence community are likely to be deficient.

“(2) A student or former student selected for participation in the program shall commit to employment with an element of the intelligence community, following completion of appropriate academic training, under such terms and conditions as the Director considers appropriate.

“(3) The program shall be known as the Pat Roberts Intelligence Scholars Program.

“(b) ELEMENTS.—In carrying out the program under subsection (a), the Director shall—

“(1) establish such requirements relating to the academic training of participants as the Director considers appropriate to ensure that participants are prepared for employment as intelligence professionals; and

“(2) periodically review the areas of specialization of the elements of the intelligence community to determine the areas in which such elements are, or are likely to be, deficient in capabilities.

“(c) USE OF FUNDS.—Funds made available for the program under subsection (a) shall be used—

“(1) to provide a monthly stipend for each month that a student is pursuing a course of study;

“(2) to pay the full tuition of a student or former student for the completion of such course of study;

“(3) to pay for books and materials that the student or former student requires or required to complete such course of study;

“(4) to pay the expenses of the student or former student for travel requested by an element of the intelligence community in relation to such program; or

“(5) for such other purposes the Director considers reasonably appropriate to carry out such program.”.

**(b) CONFORMING AMENDMENTS.—**

(1) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of such Act, as amended by section 305 of this Act, is further amended—

(A) by transferring the item relating to section 1002 so such item immediately follows the item relating to section 1001; and

(B) by inserting after the item relating to section 1021 the following new item:

“Sec. 1022. Program on recruitment and training.”.

**(2) REPEAL OF PILOT PROGRAM.—**

(A) AUTHORITY.—Section 318 of the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108-177; 50 U.S.C. 441g note) is repealed.

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

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

(a) EXPANSION OF THE LOUIS STOKES EDUCATIONAL SCHOLARSHIP PROGRAM TO GRADUATE STUDENTS.—Section 16 of the National

Security Agency Act of 1959 (50 U.S.C. 402 note) is amended—

(1) in subsection (a)—

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

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

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

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

(4) by adding at the end the following new subsection:

“(h) The undergraduate and graduate training program established under this section shall be known as the Louis Stokes Educational Scholarship Program.”.

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

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

(2) CONFORMING AMENDMENTS.—Section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note), as amended by subsection (a), is further amended—

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

(B) in subsection (d)—

(i) in paragraph (1)—

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

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

(III) in subparagraph (C)—

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

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

(IV) in subparagraph (D)—

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

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

(ii) in paragraph (3)(C)—

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

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

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

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

“(ii) by the program participant voluntarily; or

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

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

(e) AUTHORITY OF ELEMENTS OF THE INTELLIGENCE COMMUNITY TO ESTABLISH A STOKES EDUCATIONAL SCHOLARSHIP PROGRAM.—

(1) AUTHORITY.—Subtitle C of title X of the National Security Act of 1947 (50 U.S.C. 441m et seq.), as amended by section 311 of this Act, is further amended by adding at the end the following new section:

**“EDUCATIONAL SCHOLARSHIP PROGRAM**

“SEC. 1023. The head of a department or agency containing an element of the intelligence community may establish an undergraduate or graduate training program with respect to civilian employees and prospective civilian employees of such element similar in purpose, conditions, content, and administration to the program that the Secretary of Defense is authorized to establish under section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note).”.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947, as amended by section 311 of this Act, is further amended by inserting after the item relating to section 1022, as added by such section 311, the following new item:

“Sec. 1023. Educational scholarship program.”.

**SEC. 313. INTELLIGENCE OFFICER TRAINING PROGRAM.**

(a) PROGRAM.—Subtitle C of title X of the National Security Act of 1947 (50 U.S.C. 441m et seq.), as amended by section 312(e) of this Act, is further amended by adding at the end the following new section:

**“INTELLIGENCE OFFICER TRAINING PROGRAM**

“SEC. 1024. (a) PROGRAMS.—(1) The Director of National Intelligence may carry out grant programs in accordance with subsection (b) to enhance the recruitment and retention of an ethnically and culturally diverse intelligence community workforce with capabilities critical to the national security interests of the United States.

“(2) In carrying out paragraph (1), the Director shall identify the skills necessary to meet current or emergent needs of the intelligence community and the educational disciplines that will provide individuals with such skills.

“(b) INSTITUTIONAL GRANT PROGRAM.—(1) The Director may provide grants to institutions of higher education to support the establishment or continued development of programs of study in educational disciplines identified under subsection (a)(2).

“(2) A grant provided under paragraph (1) may, with respect to the educational disciplines identified under subsection (a)(2), be used for the following purposes:

“(A) Curriculum or program development.

“(B) Faculty development.

“(C) Laboratory equipment or improvements.

“(D) Faculty research.

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

“(d) REPORTS.—An institution of higher education that receives a grant under this section shall submit to the Director regular reports regarding the use of such grant, including—

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

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

“(3) any other information that the Director may require.

“(e) REGULATIONS.—The Director shall prescribe such regulations as may be necessary to carry out this section.

“(f) DEFINITIONS.—In this section:

“(1) The term ‘Director’ means the Director of National Intelligence.

“(2) The term ‘institution of higher education’ has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).”

(b) REPEAL OF DUPLICATIVE PROVISIONS.—

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

(A) Subsections (b) through (g) of section 319 of the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108-177; 50 U.S.C. 403 note).

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

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

(2) EXISTING AGREEMENTS.—Notwithstanding the repeals made by paragraph (1), nothing in this subsection shall be construed to amend, modify, or abrogate any agreement, contract, or employment relationship that was in effect in relation to the provisions repealed under paragraph (1) on the day prior to the date of the enactment of this Act.

(3) TECHNICAL AMENDMENT.—Section 319 of the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108-177; 50 U.S.C. 403 note) is amended by striking “(a) FINDINGS.—”

(c) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947, as amended by section 312 of this Act, is further amended by striking the item relating to section 1003 and inserting the following new item:

“Sec. 1024. Intelligence officer training program.”

#### SEC. 314. PILOT PROGRAM FOR INTENSIVE LANGUAGE INSTRUCTION IN AFRICAN LANGUAGES.

(a) ESTABLISHMENT.—The Director of National Intelligence, in consultation with the National Security Education Board established under section 803(a) of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1903(a)), may establish a pilot program for intensive language instruction in African languages.

(b) PROGRAM.—A pilot program established under subsection (a) shall provide scholarships for programs that provide intensive language instruction—

(1) in any of the five highest priority African languages for which scholarships are not offered under the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1901 et seq.), as determined by the Director of National Intelligence; and

(2) both in the United States and in a country in which the language is the native language of a significant portion of the population, as determined by the Director of National Intelligence.

(c) TERMINATION.—A pilot program established under subsection (a) shall terminate on the date that is five years after the date on which such pilot program is established.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section \$2,000,000.

(2) AVAILABILITY.—Funds authorized to be appropriated under paragraph (1) shall remain available until the termination of the pilot program in accordance with subsection (c).

#### Subtitle C—Acquisition Matters

#### SEC. 321. VULNERABILITY ASSESSMENTS OF MAJOR SYSTEMS.

(a) VULNERABILITY ASSESSMENTS OF MAJOR SYSTEMS.—

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

added by section 305(a), the following new section:

#### “VULNERABILITY ASSESSMENTS OF MAJOR SYSTEMS

“SEC. 506C. (a) INITIAL VULNERABILITY ASSESSMENTS.—(1)(A) Except as provided in subparagraph (B), the Director of National Intelligence shall conduct and submit to the congressional intelligence committees an initial vulnerability assessment for each major system and its significant items of supply—

“(i) except as provided in clause (ii), prior to the completion of Milestone B or an equivalent acquisition decision for the major system; or

“(ii) prior to the date that is 1 year after the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2010 in the case of a major system for which Milestone B or an equivalent acquisition decision—

“(I) was completed prior to such date of enactment; or

“(II) is completed on a date during the 180-day period following such date of enactment.

“(B) The Director may submit to the congressional intelligence committees an initial vulnerability assessment required by clause (i) of subparagraph (A) not later than 180 days after the date such assessment is required to be submitted under such clause if the Director notifies the congressional intelligence committees of the extension of the submission date under this subparagraph and provides a justification for such extension.

“(C) The initial vulnerability assessment of a major system and its significant items of supply shall include use of an analysis-based approach to—

“(i) identify vulnerabilities;

“(ii) define exploitation potential;

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

“(iv) determine overall vulnerability; and

“(v) make recommendations for risk reduction.

“(2) If an initial vulnerability assessment for a major system is not submitted to the congressional intelligence committees as required by paragraph (1), funds appropriated for the acquisition of the major system may not be obligated for a major contract related to the major system. Such prohibition on the obligation of funds for the acquisition of the major system shall cease to apply on the date on which the congressional intelligence committees receive the initial vulnerability assessment.

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

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

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

“(c) MAJOR SYSTEM MANAGEMENT.—The Director of National Intelligence shall give due

consideration to the vulnerability assessments prepared for a given major system when developing and determining the National Intelligence Program budget.

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

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

“(e) DEFINITIONS.—In this section:

“(1) The term ‘item of supply’ has the meaning given that term in section 4(10) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(10)).

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

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

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

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

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947, as amended by section 313 of this Act, is further amended by inserting after the item relating to section 506B, as added by section 305(c) of this Act, the following new item:

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

(b) DEFINITION OF MAJOR SYSTEM.—Paragraph (3) of section 506A(e) of the National Security Act of 1947 (50 U.S.C. 415a-1(e)) is amended by striking “(in current fiscal year dollars)” and inserting “(based on fiscal year 2010 constant dollars)”.

#### SEC. 322. INTELLIGENCE COMMUNITY BUSINESS SYSTEM TRANSFORMATION.

(a) INTELLIGENCE COMMUNITY BUSINESS SYSTEM TRANSFORMATION.—

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

#### “INTELLIGENCE COMMUNITY BUSINESS SYSTEM TRANSFORMATION

“SEC. 506D. (a) LIMITATION ON OBLIGATION OF FUNDS.—(1) Subject to paragraph (3), no funds appropriated to any element of the intelligence community may be obligated for an intelligence community business system transformation that will have a total cost in excess of \$3,000,000 unless—

“(A) the Director of the Office of Business Transformation of the Office of the Director of National Intelligence makes a certification described in paragraph (2) with respect to such intelligence community business system transformation; and

“(B) such certification is approved by the board established under subsection (f).

“(2) The certification described in this paragraph for an intelligence community business system transformation is a certification made by the Director of the Office of

Business Transformation of the Office of the Director of National Intelligence that the intelligence community business system transformation—

“(A) complies with the enterprise architecture under subsection (b) and such other policies and standards that the Director of National Intelligence considers appropriate; or

“(B) is necessary—

“(i) to achieve a critical national security capability or address a critical requirement; or

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

“(3) With respect to a fiscal year after fiscal year 2010, the amount referred to in paragraph (1) in the matter preceding subparagraph (A) shall be equal to the sum of—

“(A) the amount in effect under such paragraph (1) for the preceding fiscal year (determined after application of this paragraph), plus

“(B) such amount multiplied by the annual percentage increase in the consumer price index (all items; U.S. city average) as of September of the previous fiscal year.

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

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

“(A) An information infrastructure that will enable the intelligence community to—

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

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

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

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

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

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

“(d) INTELLIGENCE COMMUNITY BUSINESS SYSTEM INVESTMENT REVIEW.—(1) The Director of the Office of Business Transformation of the Office of the Director of National Intelligence shall establish and implement, not later than September 30, 2010, an investment review process for the intelligence community business systems for which the Director of the Office of Business Transformation is responsible.

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

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

“(B) specifically set forth the responsibilities of the Director of the Office of Business Transformation under such review process.

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

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

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

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

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

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

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

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

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

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

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

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

“(f) INTELLIGENCE COMMUNITY BUSINESS SYSTEM TRANSFORMATION GOVERNANCE BOARD.—(1) The Director of National Intelligence shall establish a board within the intelligence community business system transformation governance structure (in this subsection referred to as the ‘Board’).

“(2) The Board shall—

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

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

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

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

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

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

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

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

“(g) RELATION TO ANNUAL REGISTRATION REQUIREMENTS.—Nothing in this section shall be construed to alter the requirements of section 8083 of the Department of Defense

Appropriations Act, 2005 (Public Law 108-287; 118 Stat. 989), with regard to information technology systems (as defined in subsection (d) of such section).

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

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

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

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

“(2) The Director of National Intelligence and the head of the executive agency referred to in paragraph (1)(B) shall enter into a Memorandum of Understanding to carry out the requirements of this section in a manner that best meets the needs of the intelligence community and the executive agency.

“(j) REPORTS.—Not later than March 31 of each of the years 2011 through 2015, the Director of National Intelligence shall submit to the congressional intelligence committees a report on the compliance of the intelligence community with the requirements of this section. Each such report shall—

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

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

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

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

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

“(k) DEFINITIONS.—In this section:

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

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

“(3) The term ‘intelligence community business system’ means an information system, including a national security system, that is operated by, for, or on behalf of an element of the intelligence community, including a financial system, mixed system, financial data feeder system, and the business infrastructure capabilities shared by the systems of the business enterprise architecture, including people, process, and technology, that build upon the core infrastructure used to support business activities, such as acquisition, financial management, logistics, strategic planning and budgeting, installations and environment, and human resource management.

“(4) The term ‘intelligence community business system transformation’ means—

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



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

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

“(6) The term ‘Office of Business Transformation of the Office of the Director of National Intelligence’ includes any successor office that assumes the functions of the Office of Business Transformation of the Office of the Director of National Intelligence as carried out by the Office of Business Transformation on the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2010.”.

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

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

(b) IMPLEMENTATION.—

(1) CERTAIN DUTIES.—Not later than 60 days after the date of the enactment of this Act, the Director of National Intelligence shall designate a chair and other members to serve on the board established under subsection (f) of such section 506D of the National Security Act of 1947 (as added by subsection (a)).

(2) ENTERPRISE ARCHITECTURE.—

(A) SCHEDULE FOR DEVELOPMENT.—The Director shall develop the enterprise architecture required by subsection (b) of such section 506D (as so added), including the initial Business Enterprise Architecture for business transformation, not later than September 30, 2010.

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

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

(ii) An identification of the intelligence community business systems in operation or planned as of September 30, 2010, that will not be a part of such enterprise architecture, together with the schedule for the phased termination of the utilization of any such systems.

(iii) An identification of the intelligence community business systems in operation or planned as of September 30, 2010, that will be a part of such enterprise architecture, together with a strategy for modifying such systems to ensure that such systems comply with such enterprise architecture.

(C) SUBMISSION OF ACQUISITION STRATEGY.—Based on the results of an enterprise process management review and the availability of funds, the Director shall submit the acquisition strategy described in subparagraph (B)(i) to the congressional intelligence committees not later than March 31, 2011.

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

(a) REPORTS.—

(1) IN GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by section 322 of this Act, is further amended by inserting after section 506D, as added by section 322(a)(1), the following new section:

##### “REPORTS ON THE ACQUISITION OF MAJOR SYSTEMS

“SEC. 506E. (a) DEFINITIONS.—In this section:

“(1) The term ‘cost estimate’—

“(A) means an assessment and quantification of all costs and risks associated with the acquisition of a major system based upon reasonably available information at the time the Director establishes the 2010 adjusted total acquisition cost for such system pursuant to subsection (h) or restructures such system pursuant to section 506F(c); and

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

“(2) The term ‘critical cost growth threshold’ means a percentage increase in the total acquisition cost for a major system of at least 25 percent over the total acquisition cost for the major system as shown in the current Baseline Estimate for the major system.

“(3)(A) The term ‘current Baseline Estimate’ means the projected total acquisition cost of a major system that is—

“(i) approved by the Director, or a designee of the Director, at Milestone B or an equivalent acquisition decision for the development, procurement, and construction of such system;

“(ii) approved by the Director at the time such system is restructured pursuant to section 506F(c); or

“(iii) the 2010 adjusted total acquisition cost determined pursuant to subsection (h).

“(B) A current Baseline Estimate may be in the form of an independent cost estimate.

“(4) Except as otherwise specifically provided, the term ‘Director’ means the Director of National Intelligence.

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

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

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

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

“(9) The term ‘program manager’ means—

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

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

“(10) The term ‘significant cost growth threshold’ means the percentage increase in the total acquisition cost for a major system of at least 15 percent over the total acquisition cost for such system as shown in the current Baseline Estimate for such system.

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

“(b) MAJOR SYSTEM COST REPORTS.—(1) The program manager for a major system shall, on a quarterly basis, submit to the Director a major system cost report as described in paragraph (2).

“(2) A major system cost report shall include the following information (as of the last day of the quarter for which the report is made):

“(A) The total acquisition cost for the major system.

“(B) Any cost variance or schedule variance in a major contract for the major system since the contract was entered into.

“(C) Any changes from a major system schedule milestones or performances that

are known, expected, or anticipated by the program manager.

“(D) Any significant changes in the total acquisition cost for development and procurement of any software component of the major system, schedule milestones for such software component of the major system, or expected performance of such software component of the major system that are known, expected, or anticipated by the program manager.

“(3) Each major system cost report required by paragraph (1) shall be submitted not more than 30 days after the end of the reporting quarter.

“(c) REPORTS FOR BREACH OF SIGNIFICANT OR CRITICAL COST GROWTH THRESHOLDS.—If the program manager of a major system for which a report has previously been submitted under subsection (b) determines at any time during a quarter that there is reasonable cause to believe that the total acquisition cost for the major system has increased by a percentage equal to or greater than the significant cost growth threshold or critical cost growth threshold and if a report indicating an increase of such percentage or more has not previously been submitted to the Director, then the program manager shall immediately submit to the Director a major system cost report containing the information, determined as of the date of the report, required under subsection (b).

“(d) NOTIFICATION TO CONGRESS OF COST GROWTH.—(1) Whenever a major system cost report is submitted to the Director, the Director shall determine whether the current acquisition cost for the major system has increased by a percentage equal to or greater than the significant cost growth threshold or the critical cost growth threshold.

“(2) If the Director determines that the current total acquisition cost has increased by a percentage equal to or greater than the significant cost growth threshold or critical cost growth threshold, the Director shall submit to Congress a Major System Congressional Report pursuant to subsection (e).

“(e) REQUIREMENT FOR MAJOR SYSTEM CONGRESSIONAL REPORT.—(1) Whenever the Director determines under subsection (d) that the total acquisition cost of a major system has increased by a percentage equal to or greater than the significant cost growth threshold for the major system, a Major System Congressional Report shall be submitted to Congress not later than 45 days after the date on which the Director receives the major system cost report for such major system.

“(2) If the total acquisition cost of a major system (as determined by the Director under subsection (d)) increases by a percentage equal to or greater than the critical cost growth threshold for the program or subprogram, the Director shall take actions consistent with the requirements of section 506F.

“(f) MAJOR SYSTEM CONGRESSIONAL REPORT ELEMENTS.—(1) Except as provided in paragraph (2), each Major System Congressional Report shall include the following:

“(A) The name of the major system.

“(B) The date of the preparation of the report.

“(C) The program phase of the major system as of the date of the preparation of the report.

“(D) The estimate of the total acquisition cost for the major system expressed in constant base-year dollars and in current dollars.

“(E) The current Baseline Estimate for the major system in constant base-year dollars and in current dollars.

“(F) A statement of the reasons for any increase in total acquisition cost for the major system.



“(G) The completion status of the major system—

“(i) expressed as the percentage that the number of years for which funds have been appropriated for the major system is of the number of years for which it is planned that funds will be appropriated for the major system; and

“(ii) expressed as the percentage that the amount of funds that have been appropriated for the major system is of the total amount of funds which it is planned will be appropriated for the major system.

“(H) The fiscal year in which the major system was first authorized and in which funds for such system were first appropriated by Congress.

“(I) The current change and the total change, in dollars and expressed as a percentage, in the total acquisition cost for the major system, stated both in constant base-year dollars and in current dollars.

“(J) The quantity of end items to be acquired under the major system and the current change and total change, if any, in that quantity.

“(K) The identities of the officers responsible for management and cost control of the major system.

“(L) The action taken and proposed to be taken to control future cost growth of the major system.

“(M) Any changes made in the performance or schedule milestones of the major system and the extent to which such changes have contributed to the increase in total acquisition cost for the major system.

“(N) The following contract performance assessment information with respect to each major contract under the major system:

“(i) The name of the contractor.

“(ii) The phase that the contract is in at the time of the preparation of the report.

“(iii) The percentage of work under the contract that has been completed.

“(iv) Any current change and the total change, in dollars and expressed as a percentage, in the contract cost.

“(v) The percentage by which the contract is currently ahead of or behind schedule.

“(vi) A narrative providing a summary explanation of the most significant occurrences, including cost and schedule variances under major contracts of the major system, contributing to the changes identified and a discussion of the effect these occurrences will have on the future costs and schedule of the major system.

“(O) In any case in which one or more problems with a software component of the major system significantly contributed to the increase in costs of the major system, the action taken and proposed to be taken to solve such problems.

“(2) A Major System Congressional Report prepared for a major system for which the increase in the total acquisition cost is due to termination or cancellation of the entire major system shall include only—

“(A) the information described in subparagraphs (A) through (F) of paragraph (1); and

“(B) the total percentage change in total acquisition cost for such system.

“(g) PROHIBITION ON OBLIGATION OF FUNDS.—If a determination of an increase by a percentage equal to or greater than the significant cost growth threshold is made by the Director under subsection (d) and a Major System Congressional Report containing the information described in subsection (f) is not submitted to Congress under subsection (e)(1), or if a determination of an increase by a percentage equal to or greater than the critical cost growth threshold is made by the Director under subsection (d) and the Major System Congressional Report containing the information described in subsection (f) and section 506F(b)(3) and the

certification required by section 506F(b)(2) are not submitted to Congress under subsection (e)(2), funds appropriated for construction, research, development, test, evaluation, and procurement may not be obligated for a major contract under the major system. The prohibition on the obligation of funds for a major system shall cease to apply at the end of the 45-day period that begins on the date—

“(1) on which Congress receives the Major System Congressional Report under subsection (e)(1) with respect to that major system, in the case of a determination of an increase by a percentage equal to or greater than the significant cost growth threshold (as determined in subsection (d)); or

“(2) on which Congress receives both the Major System Congressional Report under subsection (e)(2) and the certification of the Director under section 506F(b)(2) with respect to that major system, in the case of an increase by a percentage equal to or greater than the critical cost growth threshold (as determined under subsection (d)).

“(h) TREATMENT OF COST INCREASES PRIOR TO ENACTMENT OF INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2010.—(1) Not later than 180 days after the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2010, the Director—

“(A) shall, for each major system, determine if the total acquisition cost of such major system increased by a percentage equal to or greater than the significant cost growth threshold or the critical cost growth threshold prior to such date of enactment;

“(B) shall establish for each major system for which the total acquisition cost has increased by a percentage equal to or greater than the significant cost growth threshold or the critical cost growth threshold prior to such date of enactment a revised current Baseline Estimate based upon an updated cost estimate;

“(C) may, for a major system not described in subparagraph (B), establish a revised current Baseline Estimate based upon an updated cost estimate; and

“(D) shall submit to Congress a report describing—

“(i) each determination made under subparagraph (A);

“(ii) each revised current Baseline Estimate established for a major system under subparagraph (B); and

“(iii) each revised current Baseline Estimate established for a major system under subparagraph (C), including the percentage increase of the total acquisition cost of such major system that occurred prior to the date of the enactment of such Act.

“(2) The revised current Baseline Estimate established for a major system under subparagraph (B) or (C) of paragraph (1) shall be the 2010 adjusted total acquisition cost for the major system and may include the estimated cost of conducting any vulnerability assessments for such major system required under section 506C.

“(i) REQUIREMENTS TO USE BASE YEAR DOLLARS.—Any determination of a percentage increase under this section shall be stated in terms of constant base year dollars.

“(j) FORM OF REPORT.—Any report required to be submitted under this section may be submitted in a classified form.”.

(2) APPLICABILITY DATE OF QUARTERLY REPORTS.—The first report required to be submitted under subsection (b) of section 506E of the National Security Act of 1947, as added by paragraph (1) of this subsection, shall be submitted with respect to the first fiscal quarter that begins on a date that is not less than 180 days after the date of the enactment of this Act.

(3) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of that

Act, as amended by section 322 of this Act, is further amended by inserting after the item relating to section 506D, as added by section 322(a)(2), the following new item:

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

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

#### SEC. 324. CRITICAL COST GROWTH IN MAJOR SYSTEMS.

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

##### “CRITICAL COST GROWTH IN MAJOR SYSTEMS

“SEC. 506F. (a) REASSESSMENT OF MAJOR SYSTEM.—If the Director of National Intelligence determines under section 506E(d) that the total acquisition cost of a major system has increased by a percentage equal to or greater than the critical cost growth threshold for the major system, the Director shall—

“(1) determine the root cause or causes of the critical cost growth, in accordance with applicable statutory requirements, policies, procedures, and guidance; and

“(2) carry out an assessment of—

“(A) the projected cost of completing the major system if current requirements are not modified;

“(B) the projected cost of completing the major system based on reasonable modification of such requirements;

“(C) the rough order of magnitude of the costs of any reasonable alternative system or capability; and

“(D) the need to reduce funding for other systems due to the growth in cost of the major system.

“(b) PRESUMPTION OF TERMINATION.—(1) After conducting the reassessment required by subsection (a) with respect to a major system, the Director shall terminate the major system unless the Director submits to Congress a Major System Congressional Report containing a certification in accordance with paragraph (2) and the information described in paragraph (3). The Director shall submit such Major System Congressional Report and certification not later than 90 days after the date the Director receives the relevant major system cost report under subsection (b) or (c) of section 506E.

“(2) A certification described by this paragraph with respect to a major system is a written certification that—

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

“(B) there are no alternatives to the major system that will provide acceptable capability to meet the intelligence requirement at less cost;

“(C) the new estimates of the total acquisition cost have been determined by the Director to be reasonable;

“(D) the major system is a higher priority than other systems whose funding must be reduced to accommodate the growth in cost of the major system; and

“(E) the management structure for the major system is adequate to manage and control the total acquisition cost.

“(3) A Major System Congressional Report accompanying a written certification under paragraph (2) shall include, in addition to the requirements of section 506E(e), the root cause analysis and assessment carried out

pursuant to subsection (a), the basis for each determination made in accordance with subparagraphs (A) through (E) of paragraph (2), and a description of all funding changes made as a result of the growth in the cost of the major system, including reductions made in funding for other systems to accommodate such cost growth, together with supporting documentation.

“(C) ACTIONS IF MAJOR SYSTEM NOT TERMINATED.—If the Director elects not to terminate a major system pursuant to subsection (b), the Director shall—

“(1) restructure the major system in a manner that addresses the root cause or causes of the critical cost growth, as identified pursuant to subsection (a), and ensures that the system has an appropriate management structure as set forth in the certification submitted pursuant to subsection (b)(2)(E);

“(2) rescind the most recent Milestone approval for the major system;

“(3) require a new Milestone approval for the major system before taking any action to enter a new contract, exercise an option under an existing contract, or otherwise extend the scope of an existing contract under the system, except to the extent determined necessary by the Milestone Decision Authority, on a nondelegable basis, to ensure that the system may be restructured as intended by the Director without unnecessarily wasting resources;

“(4) establish a revised current Baseline Estimate for the major system based upon an updated cost estimate; and

“(5) conduct regular reviews of the major system.

“(d) ACTIONS IF MAJOR SYSTEM TERMINATED.—If a major system is terminated pursuant to subsection (b), the Director shall submit to Congress a written report setting forth—

“(1) an explanation of the reasons for terminating the major system;

“(2) the alternatives considered to address any problems in the major system; and

“(3) the course the Director plans to pursue to meet any intelligence requirements otherwise intended to be met by the major system.

“(e) FORM OF REPORT.—Any report or certification required to be submitted under this section may be submitted in a classified form.

“(f) WAIVER.—(1) The Director may waive the requirements of subsections (d)(2), (e), and (g) of section 506E and subsections (a)(2), (b), (c), and (d) of this section with respect to a major system if the Director determines that at least 90 percent of the amount of the current Baseline Estimate for the major system has been expended.

“(2)(A) If the Director grants a waiver under paragraph (1) with respect to a major system, the Director shall submit to the congressional intelligence committees written notice of the waiver that includes—

“(i) the information described in section 506E(f); and

“(ii) if the current total acquisition cost of the major system has increased by a percentage equal to or greater than the critical cost growth threshold—

“(I) a determination of the root cause or causes of the critical cost growth, as described in subsection (a)(1); and

“(II) a certification that includes the elements described in subparagraphs (A), (B), and (E) of subsection (b)(2).

“(B) The Director shall submit the written notice required by subparagraph (A) not later than 90 days after the date that the Director receives a major system cost report under subsection (b) or (c) of section 506E that indicates that the total acquisition cost for the major system has increased by a per-

centage equal to or greater than the significant cost growth threshold or critical cost growth threshold.

“(g) DEFINITIONS.—In this section, the terms ‘cost estimate’, ‘critical cost growth threshold’, ‘current Baseline Estimate’, ‘major system’, and ‘total acquisition cost’ have the meaning given those terms in section 506E(a).”.

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

“Sec. 506F. Critical cost growth in major systems.”.

#### SEC. 325. FUTURE BUDGET PROJECTIONS.

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

##### “FUTURE BUDGET PROJECTIONS

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

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

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

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

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

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

“(ii) major milestones that have significant resource implications for such major system.

“(b) LONG-TERM BUDGET PROJECTIONS.—(1) The Director of National Intelligence, with the concurrence of the Director of the Office of Management and Budget, shall provide to the congressional intelligence committees a Long-term Budget Projection for each element of the intelligence community funded under the National Intelligence Program acquiring a major system that includes the budget for such element for the 5-year period that begins on the day after the end of the last fiscal year for which year-by-year proposed funding is included in a Future Year Intelligence Plan for such major system in accordance with subsection (a)(2)(A).

“(2) A Long-term Budget Projection submitted under paragraph (1) shall include—

“(A) projections for the appropriate element of the intelligence community for—

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

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

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

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

“(v) any future major system acquisitions for such element; and

“(vi) any additional funding projections that the Director of National Intelligence considers appropriate;

“(B) a budget projection based on effective cost and schedule execution of current or

planned major system acquisitions and application of Office of Management and Budget inflation estimates to future major system acquisitions;

“(C) any additional assumptions and projections that the Director of National Intelligence considers appropriate; and

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

“(c) SUBMISSION TO CONGRESS.—The Director of National Intelligence, with the concurrence of the Director of the Office of Management and Budget, shall submit to the congressional intelligence committees each Future Year Intelligence Plan or Long-term Budget Projection required under subsection (a) or (b) for a fiscal year at the time that the President submits to Congress the budget for such fiscal year pursuant to section 1105 of title 31, United States Code.

“(d) MAJOR SYSTEM AFFORDABILITY REPORT.—(1) The Director of National Intelligence, with the concurrence of the Director of the Office of Management and Budget, shall prepare a report on the acquisition of a major system funded under the National Intelligence Program before the time that the President submits to Congress the budget for the first fiscal year in which appropriated funds are anticipated to be obligated for the development or procurement of such major system.

“(2) The report on such major system shall include an assessment of whether, and to what extent, such acquisition, if developed, procured, and operated, is projected to cause an increase in the most recent Future Year Intelligence Plan and Long-term Budget Projection submitted under section 506G for an element of the intelligence community.

“(3) The Director of National Intelligence shall update the report whenever an independent cost estimate must be updated pursuant to section 506A(a)(4).

“(4) The Director of National Intelligence shall submit each report required by this subsection at the time that the President submits to Congress the budget for a fiscal year pursuant to section 1105 of title 31, United States Code.

“(e) DEFINITIONS.—In this section:

“(1) BUDGET YEAR.—The term ‘budget year’ means the next fiscal year for which the President is required to submit to Congress a budget pursuant to section 1105 of title 31, United States Code.

“(2) INDEPENDENT COST ESTIMATE; MAJOR SYSTEM.—The terms ‘independent cost estimate’ and ‘major system’ have the meaning given those terms in section 506A(e).”.

(b) APPLICABILITY DATE.—The first Future Year Intelligence Plan and Long-term Budget Projection required to be submitted under subsection (a) and (b) of section 506G of the National Security Act of 1947, as added by subsection (a), shall be submitted to the congressional intelligence committees at the time that the President submits to Congress the budget for fiscal year 2012 pursuant to section 1105 of title 31, United States Code.

(c) CONFORMING AMENDMENTS.—

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

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

(2) REPEAL OF DUPLICATIVE PROVISION.—Section 8104 of the Department of Defense Appropriations Act, 2010 (50 U.S.C. 415a-3; Public Law 111-118; 123 Stat. 3451) is repealed.

**SEC. 326. NATIONAL INTELLIGENCE PROGRAM FUNDED ACQUISITIONS.**

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

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

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

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

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

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

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

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

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

“(ii) the Director of National Intelligence issues a written authorization that includes—

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

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

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

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

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

“(E)(i) The head of an element of the intelligence community may not be authorized to utilize an authority referred to in subparagraph (A) for a class of acquisitions for a period of more than 3 years, except that the Director of National Intelligence (without delegation) may authorize the use of such an authority for not more than 6 years.

“(ii) Each authorization to utilize an authority referred to in subparagraph (A) may be extended in accordance with the requirements of subparagraph (B) for successive periods of not more than 3 years, except that the Director of National Intelligence (without delegation) may authorize an extension period of not more than 6 years.

“(F) Subject to clauses (i) and (ii) of subparagraph (E), the Director of National Intelligence may only delegate the authority of the Director under subparagraphs (A) through (E) to the Principal Deputy Director of National Intelligence or a Deputy Director of National Intelligence.

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

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

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

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

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

**Subtitle D—Congressional Oversight, Plans, and Reports****SEC. 331. NOTIFICATION PROCEDURES.**

(a) PROCEDURES.—Section 501(c) of the National Security Act of 1947 (50 U.S.C. 413(c)) is amended by striking “such procedures” and inserting “such written procedures”.

(b) INTELLIGENCE ACTIVITIES.—Section 502(a)(2) of such Act (50 U.S.C. 413a(a)(2)) is amended by inserting “(including the legal basis under which the intelligence activity is being or was conducted)” after “concerning intelligence activities”.

(c) COVERT ACTIONS.—Section 503 of such Act (50 U.S.C. 413b) is amended—

(1) in subsection (b)(2), by inserting “(including the legal basis under which the covert action is being or was conducted)” after “concerning covert actions”;

(2) in subsection (c)—

(A) in paragraph (1), by inserting “in writing” after “be reported”;

(B) in paragraph (4), by striking “committee. When” and inserting the following: “committee.

“(5) When”; and

(C) in paragraph (5), as designated by subparagraph (B)—

(i) by inserting “, or a notice provided under subsection (d)(1),” after “access to a finding”; and

(ii) by inserting “written” before “statement”;

(3) in subsection (d)—

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

(B) in paragraph (1), as designated by subparagraph (A), by inserting “in writing” after “notified”; and

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

“(2) In determining whether an activity constitutes a significant undertaking for purposes of paragraph (1), the President shall consider whether the activity—

“(A) involves significant risk of 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) presents a reasonably foreseeable risk of serious damage to the diplomatic relations of the United States if such activity were disclosed without authorization.”; and

(4) by adding at the end the following new subsection:

“(g) The President shall maintain—

“(1) a record of the Members of Congress to whom a finding is reported under subsection (c) or notice is provided under subsection (d)(1) and the date on which each Member of Congress receives such finding or notice; and

“(2) each written statement provided under subsection (c)(5).”

**SEC. 332. CERTIFICATION OF COMPLIANCE WITH OVERSIGHT REQUIREMENTS.**

(a) IN GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by section 325 of this Act, is further amended by adding at the end the following new section:

**“CERTIFICATION OF COMPLIANCE WITH OVERSIGHT REQUIREMENTS**

“SEC. 508. The head of each element of the intelligence community shall annually submit to the congressional intelligence committees—

“(1) a certification that, to the best of the knowledge of the head of such element—

“(A) the head of such element is in full compliance with the requirements of this title; and

“(B) any information required to be submitted by the head of such element under this Act before the date of the submission of such certification has been properly submitted; or

“(2) if the head of such element is unable to submit a certification under paragraph (1), a statement—

“(A) of the reasons the head of such element is unable to submit such a certification;

“(B) describing any information required to be submitted by the head of such element under this Act before the date of the submission of such statement that has not been properly submitted; and

“(C) that the head of such element will submit such information as soon as possible after the submission of such statement.”

(b) APPLICABILITY DATE.—The first certification or statement required to be submitted by the head of each element of the intelligence community under section 508 of the National Security Act of 1947, as added by subsection (a), shall be submitted not later than 90 days after the date of the enactment of this Act.

(c) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947, as amended by section 325 of this Act, is further amended by inserting after the item related to section 507 the following new item:

“Sec. 508. Certification of compliance with oversight requirements.”

**SEC. 333. REPORT ON DETENTION AND INTERROGATION ACTIVITIES.**

(a) REQUIREMENT FOR REPORT.—Not later than December 1, 2010, the Director of National Intelligence, in coordination with the Attorney General and the Secretary of Defense, shall submit to the congressional intelligence committees a comprehensive report containing—

(1) the policies and procedures of the United States Government governing participation by an element of the intelligence community in the interrogation of individuals detained by the United States who are suspected of international terrorism with the objective, in whole or in part, of acquiring national intelligence, including such policies and procedures of each appropriate element of the intelligence community or interagency body established to carry out interrogation;

(2) the policies and procedures relating to any detention by the Central Intelligence Agency of such individuals in accordance with Executive Order 13491;

(3) the legal basis for the policies and procedures referred to in paragraphs (1) and (2);

(4) the training and research to support the policies and procedures referred to in paragraphs (1) and (2); and

(5) any action that has been taken to implement section 1004 of the Detainee Treatment Act of 2005 (42 U.S.C. 2000dd-1).

(b) OTHER SUBMISSION OF REPORT.—

(1) CONGRESSIONAL ARMED SERVICES COMMITTEES.—To the extent that the report required by subsection (a) addresses an element of the intelligence community within the Department of Defense, the Director of National Intelligence, in consultation with the Secretary of Defense, shall submit that portion of the report, and any associated material that is necessary to make that portion understandable, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives. The Director of National Intelligence may authorize redactions of the report and any associated materials submitted pursuant to this paragraph, if such redactions are consistent with the protection of sensitive intelligence sources and methods.

(2) CONGRESSIONAL JUDICIARY COMMITTEES.—To the extent that the report required by subsection (a) addresses an element of the intelligence community within the Department of Justice, the Director of National Intelligence, in consultation with the Attorney General, shall submit that portion of the report, and any associated material that is necessary to make that portion understandable, to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives. The Director of National Intelligence may authorize redactions of the report and any associated materials submitted pursuant to this paragraph, if such redactions are consistent with the protection of sensitive intelligence sources and methods.

(c) FORM OF SUBMISSIONS.—Any submission required under this section may be submitted in classified form.

**SEC. 334. SUMMARY OF INTELLIGENCE RELATING TO TERRORIST RECIDIVISM OF DETAINEES HELD AT UNITED STATES NAVAL STATION, GUANTANAMO BAY, CUBA.**

Not later than 60 days after the date of the enactment of this Act, the Director of National Intelligence, in consultation with the Director of the Central Intelligence Agency and the Director of the Defense Intelligence Agency, shall make publicly available an unclassified summary of—

(1) intelligence relating to recidivism of detainees currently or formerly held at the Naval Detention Facility at Guantanamo Bay, Cuba, by the Department of Defense; and

(2) an assessment of the likelihood that such detainees will engage in terrorism or communicate with persons in terrorist organizations.

**SEC. 335. REPORT AND STRATEGIC PLAN ON BIOLOGICAL WEAPONS.**

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

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

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

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

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

(2) information on fiscal, human, technical, open-source, and other intelligence collection resources of the United States dedicated for use to detect or protect against the threat of biological weapons;

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

(A) intelligence collection gaps or inefficiencies;

(B) inadequate information sharing practices; or

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

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

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

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

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

**SEC. 336. CYBERSECURITY OVERSIGHT.**

(a) NOTIFICATION OF CYBERSECURITY PROGRAMS.—

(1) REQUIREMENT FOR NOTIFICATION.—

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

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

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

(A) the legal basis for the cybersecurity program;

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

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

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

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

(F) recommendations, if any, for legislation to improve the capabilities of the United States Government to protect the cybersecurity of the United States.

(b) PROGRAM REPORTS.—

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

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

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

(i) is in compliance with—

(I) the legal basis referred to in subsection (a)(2)(A); and

(II) an assessment referred to in subsection (a)(2)(D), if any;

(ii) is adequately described by the concept of operation referred to in subsection (a)(2)(C); and

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

(2) SCHEDULE FOR SUBMISSION OF REPORTS.—

(A) EXISTING PROGRAMS.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the head of a department or agency of the United States with responsibility for a cybersecurity program for which a notification is required to be submitted under subsection (a)(1)(A) shall submit a report required under paragraph (1).

(B) NEW PROGRAMS.—Not later than 120 days after the date on which a certification is submitted under subsection (a)(1)(B), and annually thereafter, the head of a department or agency of the United States with responsibility for the cybersecurity program for which such certification is submitted shall submit a report required under paragraph (1).

(3) COOPERATION AND COORDINATION.—

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

(B) COORDINATION.—The heads of all of the departments and agencies of the United States required to submit a report under paragraph (1) for a particular cybersecurity program shall designate one such head to coordinate the conduct of the reports on such program.

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

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

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

(3) an assessment of the effectiveness of cyber-threat information sharing and distribution; and

(4) any other matters identified by either Inspector General that would help to fully

inform Congress or the President regarding the effectiveness and legality of cybersecurity programs.

(d) **PERSONNEL DETAILS.**—

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

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

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

(B) on a reimbursable or nonreimbursable basis.

(e) **ADDITIONAL PLAN.**—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to Congress a plan for recruiting, retaining, and training a highly-qualified cybersecurity intelligence community workforce to secure the networks of the intelligence community. Such plan shall include—

(1) an assessment of the capabilities of the current workforce;

(2) an examination of issues of recruiting, retention, and the professional development of such workforce, including the possibility of providing retention bonuses or other forms of compensation;

(3) an assessment of the benefits of outreach and training with both private industry and academic institutions with respect to such workforce;

(4) an assessment of the impact of the establishment of the Department of Defense Cyber Command on such workforce;

(5) an examination of best practices for making the intelligence community workforce aware of cybersecurity best practices and principles; and

(6) strategies for addressing such other matters as the Director of National Intelligence considers necessary to the cybersecurity of the intelligence community.

(f) **REPORT ON GUIDELINES AND LEGISLATION TO IMPROVE CYBERSECURITY OF THE UNITED STATES.**—

(1) **INITIAL.**—Not later than one year after the date of the enactment of this Act, the Director of National Intelligence, in coordination with the Attorney General, the Director of the National Security Agency, the White House Cybersecurity Coordinator, and any other officials the Director of National Intelligence considers appropriate, shall submit to Congress a report containing guidelines or legislative recommendations, if appropriate, to improve the capabilities of the intelligence community and law enforcement agencies to protect the cybersecurity of the United States. Such report shall include guidelines or legislative recommendations on—

(A) improving the ability of the intelligence community to detect hostile actions and attribute attacks to specific parties;

(B) the need for data retention requirements to assist the intelligence community and law enforcement agencies;

(C) improving the ability of the intelligence community to anticipate nontraditional targets of foreign intelligence services; and

(D) the adequacy of existing criminal statutes to successfully deter cyber attacks, including statutes criminalizing the facilitation of criminal acts, the scope of laws for which a cyber crime constitutes a predicate offense, trespassing statutes, data breach no-

tification requirements, and victim restitution statutes.

(2) **SUBSEQUENT.**—Not later than one year after the date on which the initial report is submitted under paragraph (1), and annually thereafter for two years, the Director of National Intelligence, in consultation with the Attorney General, the Director of the National Security Agency, the White House Cybersecurity Coordinator, and any other officials the Director of National Intelligence considers appropriate, shall submit to Congress an update of the report required under paragraph (1).

(g) **SUNSET.**—The requirements and authorities of subsections (a) through (e) shall terminate on December 31, 2013.

(h) **DEFINITIONS.**—In this section:

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

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

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

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

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

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

**SEC. 337. REPORT ON FOREIGN LANGUAGE PROFICIENCY IN THE INTELLIGENCE COMMUNITY.**

(a) **REPORT.**—Not later than one year after the date of the enactment of this Act, and biennially thereafter for four years, the Director of National Intelligence shall submit to the congressional intelligence committees and the Committees on Armed Services of the House of Representatives and the Senate a report on the proficiency in foreign languages and, as 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 a description of the level of proficiency required;

(2) an estimate of the number of such positions that such element will require during the five-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 preceding 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 a description of the proficiency level of such persons;

(6) the number of personnel of such element currently attending foreign language

training, including the provider of such training;

(7) a description of the efforts of such element 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 utilized by such element;

(9) for each foreign language and, as 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 a foreign country, international organization, or other foreign entity; 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;

(11) an identification of any critical gaps in foreign language proficiency with respect to such element and recommendations for eliminating such gaps;

(12) recommendations, if any, for eliminating required reports relating to foreign-language proficiency that the Director of National Intelligence considers outdated or no longer relevant; and

(13) an assessment of the feasibility of employing foreign nationals lawfully present in the United States who have previously worked as translators or interpreters for the Armed Forces or another department or agency of the United States Government in Iraq or Afghanistan to meet the critical language needs of such element.

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

**SEC. 338. REPORT ON PLANS TO INCREASE DIVERSITY WITHIN THE INTELLIGENCE COMMUNITY.**

(a) **REQUIREMENT FOR REPORT.**—Not later than one year after the date of the enactment of this Act, the Director of National Intelligence, in coordination with the head of each element of the intelligence community, shall submit to the congressional intelligence committees a report on the plans of each such 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).

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

#### **SEC. 339. REPORT ON INTELLIGENCE COMMUNITY CONTRACTORS.**

(a) **REQUIREMENT FOR REPORT.**—Not later than February 1, 2011, the Director of National Intelligence shall submit to the congressional intelligence committees and the Committees on Armed Services of the House of Representatives and the Senate a report describing the use of personal services contracts across the intelligence community, the impact of the use of such contracts on the intelligence community workforce, plans for conversion of contractor employment into United States Government employment, and the accountability mechanisms that govern the performance of such personal services contracts.

(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 and in effect as of February 1, 2011, 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 United States Government employees performing substantially similar functions;

(B) an identification of contracts in effect during the preceding fiscal year under which the contractor is performing substantially similar functions to a United States Government employee;

(C) an assessment of costs incurred or savings achieved during the preceding fiscal year 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 United States Government employees performing substantially similar functions during the preceding fiscal year;

(G) an analysis of the attrition of United States Government employees for contractor positions that provide substantially similar functions during the preceding fiscal year;

(H) a description of positions that have been or will be converted from contractor employment to United States Government employment during fiscal years 2011 and 2012;

(I) an analysis of the oversight and accountability mechanisms applicable to per-

sonal services contracts awarded for intelligence activities by each element of the intelligence community during fiscal years 2009 and 2010;

(J) an analysis of procedures in use in the intelligence community as of February 1, 2011, 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. 340. STUDY ON ELECTRONIC WASTE DESTRUCTION PRACTICES OF THE INTELLIGENCE COMMUNITY.**

(a) **STUDY.**—The Inspector General of the Intelligence Community shall conduct a study on the electronic waste destruction practices of the intelligence community. Such study shall assess—

(1) the security of the electronic waste disposal practices of the intelligence community, including the potential for counterintelligence exploitation of destroyed, discarded, or recycled materials;

(2) the environmental impact of such disposal practices; and

(3) methods to improve the security and environmental impact of such disposal practices, including steps to prevent the forensic exploitation of electronic waste.

(b) **REPORT.**—Not later than one year 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 study conducted under subsection (a).

#### **SEC. 341. REVIEW OF RECORDS RELATING TO POTENTIAL HEALTH RISKS AMONG DESERT STORM VETERANS.**

(a) **REVIEW.**—The Director of the Central Intelligence Agency shall conduct a classification review of the records of the Agency that are relevant to the known or potential health effects suffered by veterans of Operation Desert Storm as described in the November 2008, report by the Department of Veterans Affairs Research Advisory Committee on Gulf War Veterans' Illnesses.

(b) **REPORT.**—Not later than one year after the date of the enactment of this Act, the Director of the Central Intelligence Agency shall submit to Congress the results of the classification review conducted under subsection (a), including the total number of records of the Agency that are relevant.

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

#### **SEC. 342. REVIEW OF FEDERAL BUREAU OF INVESTIGATION EXERCISE OF ENFORCEMENT JURISDICTION IN FOREIGN NATIONS.**

Not later than 120 days after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation, in consultation with the Secretary of State, shall submit to Congress a review of constraints under international law and the laws of foreign nations to the assertion of enforcement jurisdiction with respect to criminal investigations of terrorism offenses under the laws of the United States conducted by agents of the Federal Bureau of Investigation in foreign nations and using funds made available for the National Intelligence Program, including constraints identified in section 432 of the Restatement (Third) of the Foreign Relations Law of the United States.

#### **SEC. 343. PUBLIC RELEASE OF INFORMATION ON PROCEDURES USED IN NARCOTICS AIRBRIDGE DENIAL PROGRAM IN PERU.**

Not later than 30 days after the date of the enactment of this Act, the Director of the Central Intelligence Agency shall make publicly available an unclassified version of the report of the Inspector General of the Central Intelligence Agency entitled "Procedures Used in Narcotics Airbridge Denial Program in Peru, 1995–2001", dated August 25, 2008.

#### **SEC. 344. REPORT ON THREAT FROM DIRTY BOMBS.**

Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence, in consultation with the Nuclear Regulatory Commission, shall submit to Congress a report summarizing intelligence related to the threat to the United States from weapons that use radiological materials, including highly dispersible substances such as cesium-137.

#### **SEC. 345. REPORT ON CREATION OF SPACE INTELLIGENCE OFFICE.**

Not later than 60 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to Congress a report on the feasibility and advisability of creating a national space intelligence office to manage space-related intelligence assets and access to such assets.

#### **SEC. 346. REPORT ON ATTEMPT TO DETONATE EXPLOSIVE DEVICE ON NORTHWEST AIRLINES FLIGHT 253.**

Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to Congress a report on the attempt to detonate an explosive device aboard Northwest Airlines flight number 253 on December 25, 2009. Such report shall describe the failures, if any, to share or analyze intelligence or other information and the measures that the intelligence community has taken or will take to prevent such failures, including—

(1) a description of the roles and responsibilities of the counterterrorism analytic components of the intelligence community in synchronizing, correlating, and analyzing all sources of intelligence related to terrorism;

(2) an assessment of the technological capabilities of the United States Government to assess terrorist threats, including—

(A) a list of all databases used by counterterrorism analysts;

(B) a description of the steps taken by the intelligence community to integrate all relevant terrorist databases and allow for cross-database searches;

(C) a description of the steps taken by the intelligence community to correlate biographic information with terrorism-related intelligence; and

(D) a description of the improvements to information technology needed to enable the United States Government to better share information;

(3) any recommendations that the Director considers appropriate for legislation to improve the sharing of intelligence or information relating to terrorists;

(4) a description of the steps taken by the intelligence community to train analysts on watchlisting processes and procedures;

(5) a description of the manner in which watchlisting information is entered, reviewed, searched, analyzed, and acted upon by the relevant elements of the United States Government;

(6) a description of the steps the intelligence community is taking to enhance the rigor and raise the standard of tradecraft of intelligence analysis related to uncovering and preventing terrorist plots;

(7) a description of the processes and procedures by which the intelligence community



prioritizes terrorism threat leads and the standards used by elements of the intelligence community to determine if follow-up action is appropriate;

(8) a description of the steps taken to enhance record information on possible terrorists in the Terrorist Identities Datamart Environment;

(9) an assessment of how to meet the challenge associated with exploiting the ever-increasing volume of information available to the intelligence community; and

(10) a description of the steps the intelligence community has taken or will take to respond to any findings and recommendations of the congressional intelligence committees, with respect to any such failures, that have been transmitted to the Director of National Intelligence.

**SEC. 347. REPEAL OR MODIFICATION OF CERTAIN REPORTING REQUIREMENTS.**

(a) ANNUAL REPORT ON INTELLIGENCE.—Section 109 of the National Security Act of 1947 (50 U.S.C. 404d) is repealed.

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

(1) by striking subsection (b); and  
(2) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.

(c) ANNUAL REPORT ON PROGRESS IN AUDITABLE FINANCIAL STATEMENTS.—Section 114A of the National Security Act of 1947 (50 U.S.C. 404i-1) is repealed.

(d) REPORT ON FINANCIAL INTELLIGENCE ON TERRORIST ASSETS.—Section 118 of the National Security Act of 1947 (50 U.S.C. 404m) is amended—

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

(2) in subsection (a)—  
(A) in the heading, by striking “SEMI-ANNUAL” 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 one-year period”;

(C) by striking paragraph (2); and

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

(3) in subsection (d)—

(A) in paragraph (1), by inserting “the Committee on Armed Services,” after “the Committee on Appropriations.”; and

(B) in paragraph (2), by inserting “the Committee on Armed Services,” after “the Committee on Appropriations.”.

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

(1) by striking “(1)”; and  
(2) by striking paragraph (2).

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

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

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

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

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

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

“(1) REQUIREMENT TO SUBMIT.—Not later than February 1, 2011, and once every two years thereafter, the President shall submit to the congressional intelligence committees and congressional leadership a report updating the information referred to in subsection (a)(1)(D).”; and

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

(i) TABLE OF CONTENTS AMENDMENTS.—

(1) NATIONAL SECURITY ACT OF 1947.—The table of contents in the first section of the National Security Act of 1947, as amended by section 332 of this Act, is further amended—

(A) by striking the item relating to section 109;

(B) by striking the item relating to section 114A; and

(C) by striking the item relating to section 118 and inserting the following new item:

“Sec. 118. Annual report on financial intelligence on terrorist assets.”.

(2) INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2003.—The table of contents in the first section of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107-306; 116 Stat. 2383) is amended by striking the item relating to section 826.

**SEC. 348. 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. 349. CONFORMING AMENDMENTS FOR REPORT SUBMISSION DATES.**

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

(1) in subsection (a)—  
(A) in paragraph (1)—

(i) by striking subparagraphs (A), (B), and (G);

(ii) by redesignating subparagraphs (C), (D), (E), (F), (H), (I), and (N) as subparagraphs (A), (B), (C), (D), (E), (F), and (G), respectively; and

(iii) by adding at the end the following new subparagraphs:

“(H) The annual report on outside employment of employees of elements of the intelligence community required by section 102A(u)(2).

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

(B) in paragraph (2), by striking subparagraphs (C) and (D); and

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

**Subtitle E—Other Matters**

**SEC. 361. 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

that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).”.

**SEC. 362. 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. 363. 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, if any, for modification of this title for the purpose of improving legal protections for covert agents,” after “measures to protect the identities of covert agents.”.

**SEC. 364. NATIONAL INTELLIGENCE PROGRAM BUDGET.**

Section 601 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (50 U.S.C. 415c) is amended to read as follows:

**“SEC. 601. AVAILABILITY TO PUBLIC OF CERTAIN INTELLIGENCE FUNDING INFORMATION.**

“(a) BUDGET REQUEST.—At the time that the President submits to Congress the budget for a fiscal year pursuant to section 1105 of title 31, United States Code, the President shall disclose to the public the aggregate amount of appropriations requested for that fiscal year for the National Intelligence Program.

“(b) AMOUNTS APPROPRIATED EACH FISCAL YEAR.—Not later than 30 days after the end of each fiscal year, the Director of National Intelligence shall disclose to the public the aggregate amount of funds appropriated by Congress for the National Intelligence Program for such fiscal year.

“(c) WAIVER.—

“(1) IN GENERAL.—The President may waive or postpone the disclosure required by subsection (a) or (b) for a fiscal year by submitting to the Select Committee on Intelligence of the Senate and Permanent Select Committee on Intelligence of the House of Representatives—

“(A) a statement, in unclassified form, that the disclosure required in subsection (a) or (b) for that fiscal year would damage national security; and

“(B) a statement detailing the reasons for the waiver or postponement, which may be submitted in classified form.

“(2) SUBMISSION DATES.—The President shall submit the statements required under paragraph (1)—

“(A) in the case of a waiver or postponement of a disclosure required under subsection (a), at the time of the submission of the budget for the fiscal year for which such disclosure is waived or postponed; and

“(B) in the case of a waiver or postponement of a disclosure required under subsection (b), not later than 30 days after the



date of the end of the fiscal year for which such disclosure is waived or postponed.

“(d) DEFINITION.—As used in this section, the term ‘National Intelligence Program’ has the meaning given the term in section 3(6) of the National Security Act of 1947 (50 U.S.C. 401a(6)).”

**SEC. 365. IMPROVING THE REVIEW AUTHORITY OF THE PUBLIC INTEREST DECLASSIFICATION BOARD.**

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

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

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

**SEC. 366. AUTHORITY TO DESIGNATE UNDERCOVER OPERATIONS TO COLLECT FOREIGN INTELLIGENCE OR COUNTERINTELLIGENCE.**

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

**SEC. 367. SECURITY CLEARANCES: REPORTS; RECIPROCITY.**

(a) REPORTS RELATING TO SECURITY CLEARANCES.—

(1) QUADRENNIAL AUDIT; SECURITY CLEARANCE DETERMINATIONS.—

(A) IN GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by section 325 of this Act, is further amended by inserting after section 506G, as added by section 325(a), the following new section:

“REPORTS ON SECURITY CLEARANCES

“SEC. 506H. (a) QUADRENNIAL AUDIT OF POSITION REQUIREMENTS.—(1) The President shall every four years conduct an audit of the manner in which the executive branch determines whether a security clearance is required for a particular position in the United States Government.

“(2) Not later than 30 days after the completion of an audit conducted under paragraph (1), the President shall submit to Congress the results of such audit.

“(b) REPORT ON SECURITY CLEARANCE DETERMINATIONS.—(1) Not later than February 1 of each year, the President shall submit to Congress a report on the security clearance process. Such report shall include, for each security clearance level—

“(A) the number of employees of the United States Government who—

“(i) held a security clearance at such level as of October 1 of the preceding year; and

“(ii) were approved for a security clearance at such level during the preceding fiscal year;

“(B) the number of contractors to the United States Government who—

“(i) held a security clearance at such level as of October 1 of the preceding year; and

“(ii) were approved for a security clearance at such level during the preceding fiscal year; and

“(C) for each element of the intelligence community—

“(i) the total amount of time it took to process the security clearance determination for such level that—

“(I) was among the 80 percent of security clearance determinations made during the preceding fiscal year that took the shortest amount of time to complete; and

“(II) took the longest amount of time to complete;

“(ii) the total amount of time it took to process the security clearance determination for such level that—

“(I) was among the 90 percent of security clearance determinations made during the preceding fiscal year that took the shortest amount of time to complete; and

“(II) took the longest amount of time to complete;

“(iii) the number of pending security clearance investigations for such level as of October 1 of the preceding year that have remained pending for—

“(I) 4 months or less;

“(II) between 4 months and 8 months;

“(III) between 8 months and one year; and

“(IV) more than one year;

“(iv) the percentage of reviews during the preceding fiscal year that resulted in a denial or revocation of a security clearance;

“(v) the percentage of investigations during the preceding fiscal year that resulted in incomplete information;

“(vi) the percentage of investigations during the preceding fiscal year that did not result in enough information to make a decision on potentially adverse information; and

“(vii) for security clearance determinations completed or pending during the preceding fiscal year that have taken longer than one year to complete—

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

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

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

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

“(2) For purposes of paragraph (1), the President may consider—

“(A) security clearances at the level of confidential and secret as one security clearance level; and

“(B) security clearances at the level of top secret or higher as one security clearance level.

“(c) FORM.—The results required under subsection (a)(2) and the reports required under subsection (b)(1) shall be submitted in unclassified form, but may include a classified annex.”.

(B) INITIAL AUDIT.—The first audit required to be conducted under section 506H(a)(1) of the National Security Act of 1947, as added by subparagraph (A) of this paragraph, shall be completed not later than February 1, 2011.

(C) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of such Act, as amended by section 348(i) of this Act, is further amended by inserting after the item relating to section 506G, as added by section 325 of this Act, the following new item:

“Sec. 506H. Reports on security clearances.”.

(2) REPORT ON METRICS FOR ADJUDICATION QUALITY.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on security clearance investigations and adjudications. Such report shall include—

(A) United States Government-wide adjudication guidelines and metrics for adjudication quality;

(B) a plan to improve the professional development of security clearance adjudicators;

(C) metrics to evaluate the effectiveness of interagency clearance reciprocity;

(D) United States Government-wide investigation standards and metrics for investigation quality; and

(E) the advisability, feasibility, counterintelligence risk, and cost effectiveness of—

(i) by not later than January 1, 2012, requiring the investigation and adjudication of security clearances to be conducted by not more than two Federal agencies; and

(ii) by not later than January 1, 2015, requiring the investigation and adjudication of security clearances to be conducted by not more than one Federal agency.

(b) SECURITY CLEARANCE RECIPROCITY.—

(1) AUDIT.—The Inspector General of the Intelligence Community shall conduct an audit of the reciprocity of security clearances among the elements of the intelligence community.

(2) REPORT.—Not later than 180 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 paragraph (1). Such report shall include an assessment of the time required to obtain a reciprocal security clearance for—

(A) an employee of an element of the intelligence community detailed to another element of the intelligence community;

(B) an employee of an element of the intelligence community seeking permanent employment with another element of the intelligence community; and

(C) a contractor seeking permanent employment with an element of the intelligence community.

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

**SEC. 368. CORRECTING LONG-STANDING MATERIAL WEAKNESSES.**

(a) DEFINITIONS.—In this section:

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

(A) the Central Intelligence Agency;

(B) the Defense Intelligence Agency;

(C) the National Geospatial-Intelligence Agency;

(D) the National Reconnaissance Office; or

(E) the National Security Agency.

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

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

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

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

(3) INDEPENDENT REVIEW.—The term “independent review” means an audit, attestation, or examination conducted by an independent auditor in accordance with generally accepted government auditing standards.

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

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

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

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

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

(A)(i) compensated under the Senior Intelligence Service pay scale; or

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

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

(b) **IDENTIFICATION OF SENIOR INTELLIGENCE MANAGEMENT OFFICIALS.**—

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

(2) **HEAD OF A COVERED ELEMENT OF THE INTELLIGENCE COMMUNITY.**—The head of a covered element of the intelligence community may designate himself or herself as the senior intelligence management official responsible for correcting a long-standing, correctable material weakness under paragraph (1).

(3) **REQUIREMENT TO UPDATE DESIGNATION.**—If the head of a covered element of the intelligence community determines that a senior intelligence management official designated under paragraph (1) is no longer responsible for correcting a long-standing, correctable material weakness, the head of such element shall designate the successor to such official not later than 10 days after the date of such determination.

(c) **NOTIFICATION.**—Not later than 10 days after the date on which the head of a covered element of the intelligence community has designated a senior intelligence management official pursuant to paragraph (1) or (3) of subsection (b), the head of such element shall provide written notification of such designation to the Director of National Intelligence and to such senior intelligence management official.

(d) **CORRECTION OF LONG-STANDING, MATERIAL WEAKNESS.**—

(1) **DETERMINATION OF CORRECTION OF DEFICIENCY.**—If a long-standing, correctable material weakness is corrected, the senior intelligence management official who is responsible for correcting such long-standing, correctable material weakness shall make and issue a determination of the correction.

(2) **BASIS FOR DETERMINATION.**—The determination of the senior intelligence management official under paragraph (1) shall be based on the findings of an independent review.

(3) **NOTIFICATION AND SUBMISSION OF FINDINGS.**—A senior intelligence management official who makes a determination under paragraph (1) shall—

(A) notify the head of the appropriate covered element of the intelligence community of such determination at the time the determination is made; and

(B) ensure that the independent auditor whose findings are the basis of a determination under paragraph (1) submits to the head of the covered element of the intelligence community and the Director of National Intelligence the findings that such determination is based on not later than 5 days after the date on which such determination is made.

(e) **CONGRESSIONAL OVERSIGHT.**—The head of a covered element of the intelligence com-

munity shall notify the congressional intelligence committees not later than 30 days after the date—

(1) on which a senior intelligence management official is designated under paragraph (1) or (3) of subsection (b) and notified under subsection (c); or

(2) of the correction of a long-standing, correctable material weakness, as verified by an independent auditor under subsection (d)(2).

#### **SEC. 369. INTELLIGENCE COMMUNITY FINANCIAL IMPROVEMENT AND AUDIT READINESS.**

Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall—

(1) conduct a review of the status of the auditability compliance of each element of the intelligence community; and

(2) develop a plan and schedule to achieve a full, unqualified audit of each element of the intelligence community not later than September 30, 2013.

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

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

#### **SEC. 401. ACCOUNTABILITY REVIEWS BY THE DIRECTOR OF NATIONAL INTELLIGENCE.**

Subsection (f) of section 102A of the National Security Act of 1947 (50 U.S.C. 403-1) is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

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

“(7)(A) The Director of National Intelligence shall, if the Director determines it is necessary, or may, if requested by a congressional intelligence committee, conduct an accountability review of an element of the intelligence community or the personnel of such element in relation to a failure or deficiency within the intelligence community.

“(B) The Director of National Intelligence, in consultation with the Attorney General, shall establish guidelines and procedures for conducting an accountability review under subparagraph (A).

“(C)(i) The Director of National Intelligence shall provide the findings of an accountability review conducted under subparagraph (A) and the Director’s recommendations for corrective or punitive action, if any, to the head of the applicable element of the intelligence community. Such recommendations may include a recommendation for dismissal of personnel.

“(ii) If the head of such element does not implement a recommendation made by the Director under clause (i), the head of such element shall submit to the congressional intelligence committees a notice of the determination not to implement the recommendation, including the reasons for the determination.

“(D) The requirements of this paragraph shall not be construed to limit any authority of the Director of National Intelligence under subsection (m) or with respect to supervision of the Central Intelligence Agency.”.

#### **SEC. 402. AUTHORITIES FOR INTELLIGENCE INFORMATION SHARING.**

(a) **AUTHORITIES FOR INTERAGENCY FUNDING.**—Section 102A(d)(2) of the National Security Act of 1947 (50 U.S.C. 403-1(d)(2)) is amended by striking “Program to another such program.” and inserting “Program—

“(A) to another such program;

“(B) to other departments or agencies of the United States Government for the development and fielding of systems of common concern related to the collection, processing,

analysis, exploitation, and dissemination of intelligence information; or

“(C) to a program funded by appropriations not within the National Intelligence Program to address critical gaps in intelligence information sharing or access capabilities.”.

(b) **AUTHORITIES OF HEADS OF OTHER DEPARTMENTS AND AGENCIES.**—Notwithstanding any other provision of law, the head of any department or agency of the United States is authorized to receive and utilize funds made available to the department or agency by the Director of National Intelligence pursuant to section 102A(d)(2) of the National Security Act of 1947 (50 U.S.C. 403-1(d)(2)), as amended by subsection (a), and receive and utilize any system referred to in such section that is made available to such department or agency.

#### **SEC. 403. LOCATION OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.**

Subsection (e) of section 103 of the National Security Act of 1947 (50 U.S.C. 403-3) is amended to read as follows:

“(e) **LOCATION OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.**—The headquarters of the Office of the Director of National Intelligence may be located in the Washington metropolitan region, as that term is defined in section 8301 of title 40, United States Code.”.

#### **SEC. 404. TITLE AND APPOINTMENT OF CHIEF INFORMATION OFFICER OF THE INTELLIGENCE COMMUNITY.**

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

(1) in subsection (a)—

(A) by inserting “of the Intelligence Community” after “Chief Information Officer”; and

(B) by striking “President,” and all that follows and inserting “President.”;

(2) by striking subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively;

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

(4) in subsection (c) (as so redesignated), by inserting “of the Intelligence Community” before “may not”.

#### **SEC. 405. 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.), as amended by section 348 of this Act, is further amended by inserting after section 103G the following new section:

#### **“INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY**

“SEC. 103H. (a) **OFFICE OF INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY.**—There is within the Office of the Director of National Intelligence an Office of the Inspector General of the Intelligence Community.

“(b) **PURPOSE.**—The purpose of the Office of the Inspector General of the Intelligence Community is—

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

“(2) to provide leadership and coordination and recommend policies for activities designed—

“(A) to promote economy, efficiency, and effectiveness in the administration and implementation of such programs and activities; and

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

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

“(A) problems and deficiencies relating to the administration of programs and activities within the responsibility and authority of the Director of National Intelligence; and

“(B) the necessity for, and the progress of, corrective actions; and

“(4) in the manner prescribed by this section, to ensure that the congressional intelligence committees are kept similarly informed of—

“(A) significant problems and deficiencies relating to programs and activities within the responsibility and authority of the Director of National Intelligence; and

“(B) the necessity for, and the progress of, corrective actions.

“(C) INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY.—(1) There is an Inspector General of the Intelligence Community, who shall be the head of the Office of the Inspector General of the Intelligence Community, who shall be appointed by the President, by and with the advice and consent of the Senate.

“(2) The nomination of an individual for appointment as Inspector General shall be made—

“(A) without regard to political affiliation;

“(B) on the basis of integrity, compliance with security standards of the intelligence community, and prior experience in the field of intelligence or national security; and

“(C) on the basis of demonstrated ability in accounting, financial analysis, law, management analysis, public administration, or investigations.

“(3) The Inspector General shall report directly to and be under the general supervision of the Director of National Intelligence.

“(4) The Inspector General may be removed from office only by the President. The President shall communicate in writing to the congressional intelligence committees the reasons for the removal not later than 30 days prior to the effective date of such removal. Nothing in this paragraph shall be construed to prohibit a personnel action otherwise authorized by law, other than transfer or removal.

“(d) ASSISTANT INSPECTORS GENERAL.—Subject to the policies of the Director of National Intelligence, the Inspector General of the Intelligence Community shall—

“(1) appoint an Assistant Inspector General for Audit who shall have the responsibility for supervising the performance of auditing activities relating to programs and activities within the responsibility and authority of the Director;

“(2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and activities; and

“(3) appoint other Assistant Inspectors General that, in the judgment of the Inspector General, are necessary to carry out the duties of the Inspector General.

“(e) DUTIES AND RESPONSIBILITIES.—It shall be the duty and responsibility of the Inspector General of the Intelligence Community—

“(1) to provide policy direction for, and to plan, conduct, supervise, and coordinate independently, the investigations, inspections, audits, and reviews relating to programs and activities within the responsibility and authority of the Director of National Intelligence;

“(2) to keep the Director of National Intelligence fully and currently informed concerning violations of law and regulations, fraud, and other serious problems, abuses, and deficiencies relating to the programs and activities within the responsibility and authority of the Director, to recommend corrective action concerning such problems, and to report on the progress made in implementing such corrective action;

“(3) to take due regard for the protection of intelligence sources and methods in the preparation of all reports issued by the Inspector General, and, to the extent consistent with the purpose and objective of such reports, take such measures as may be appropriate to minimize the disclosure of intelligence sources and methods described in such reports; and

“(4) in the execution of the duties and responsibilities under this section, to comply with generally accepted government auditing.

“(f) LIMITATIONS ON ACTIVITIES.—(1) The Director of National Intelligence may prohibit the Inspector General of the Intelligence Community from initiating, carrying out, or completing any investigation, inspection, audit, or review if the Director determines that such prohibition is necessary to protect vital national security interests of the United States.

“(2) Not later than seven days after the date on which the Director exercises the authority under paragraph (1), the Director shall submit to the congressional intelligence committees an appropriately classified statement of the reasons for the exercise of such authority.

“(3) The Director shall advise the Inspector General at the time a statement under paragraph (2) is submitted, and, to the extent consistent with the protection of intelligence sources and methods, provide the Inspector General with a copy of such statement.

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

“(g) AUTHORITIES.—(1) The Inspector General of the Intelligence Community shall have direct and prompt access to the Director of National Intelligence when necessary for any purpose pertaining to the performance of the duties of the Inspector General.

“(2)(A) The Inspector General shall, subject to the limitations in subsection (f), make such investigations and reports relating to the administration of the programs and activities within the authorities and responsibilities of the Director as are, in the judgment of the Inspector General, necessary or desirable.

“(B) The Inspector General shall have access to any employee, or any employee of a contractor, of any element of the intelligence community needed for the performance of the duties of the Inspector General.

“(C) The Inspector General shall have direct access to all records, reports, audits, reviews, documents, papers, recommendations, or other materials that relate to the programs and activities with respect to which the Inspector General has responsibilities under this section.

“(D) The level of classification or compartmentation of information shall not, in and of itself, provide a sufficient rationale for denying the Inspector General access to any materials under subparagraph (C).

“(E) The Director, or on the recommendation of the Director, another appropriate official of the intelligence community, shall take appropriate administrative actions against an employee, or an employee of a contractor, of an element of the intelligence community that fails to cooperate with the Inspector General. Such administrative action may include loss of employment or the termination of an existing contractual relationship.

“(3) The Inspector General is authorized to receive and investigate, pursuant to subsection (h), complaints or information from any person concerning the existence of an

activity within the authorities and responsibilities of the Director of National Intelligence constituting a violation of laws, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety. Once such complaint or information has been received from an employee of the intelligence community—

“(A) the Inspector General shall not disclose the identity of the employee without the consent of the employee, unless the Inspector General determines that such disclosure is unavoidable during the course of the investigation or the disclosure is made to an official of the Department of Justice responsible for determining whether a prosecution should be undertaken; and

“(B) no action constituting a reprisal, or threat of reprisal, for making such complaint or disclosing such information to the Inspector General may be taken by any employee in a position to take such actions, unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

“(4) The Inspector General shall have the authority to administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of the duties of the Inspector General, which oath, affirmation, or affidavit when administered or taken by or before an employee of the Office of the Inspector General of the Intelligence Community designated by the Inspector General shall have the same force and effect as if administered or taken by, or before, an officer having a seal.

“(5)(A) Except as provided in subparagraph (B), the Inspector General is authorized to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data in any medium (including electronically stored information, as well as any tangible thing) and documentary evidence necessary in the performance of the duties and responsibilities of the Inspector General.

“(B) In the case of departments, agencies, and other elements of the United States Government, the Inspector General shall obtain information, documents, reports, answers, records, accounts, papers, and other data and evidence for the purpose specified in subparagraph (A) using procedures other than by subpoenas.

“(C) The Inspector General may not issue a subpoena for, or on behalf of, any component of the Office of the Director of National Intelligence or any element of the intelligence community, including the Office of the Director of National Intelligence.

“(D) In the case of contumacy or refusal to obey a subpoena issued under this paragraph, the subpoena shall be enforceable by order of any appropriate district court of the United States.

“(6) The Inspector General may obtain services as authorized by section 3109 of title 5, United States Code, at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for grade GS-15 of the General Schedule under section 5332 of title 5, United States Code.

“(7) The Inspector General may, to the extent and in such amounts as may be provided in appropriations, enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this section.

“(h) COORDINATION AMONG INSPECTORS GENERAL.—(1)(A) In the event of a matter within the jurisdiction of the Inspector General of the Intelligence Community that may be

subject to an investigation, inspection, audit, or review by both the Inspector General of the Intelligence Community and an inspector general with oversight responsibility for an element of the intelligence community, the Inspector General of the Intelligence Community and such other inspector general shall expeditiously resolve the question of which inspector general shall conduct such investigation, inspection, audit, or review to avoid unnecessary duplication of the activities of the inspectors general.

“(B) In attempting to resolve a question under subparagraph (A), the inspectors general concerned may request the assistance of the Intelligence Community Inspectors General Forum established under paragraph (2). In the event of a dispute between an inspector general within a department or agency of the United States Government and the Inspector General of the Intelligence Community that has not been resolved with the assistance of such Forum, the inspectors general shall submit the question to the Director of National Intelligence and the head of the affected department or agency for resolution.

“(2)(A) There is established the Intelligence Community Inspectors General Forum, which shall consist of all statutory or administrative inspectors general with oversight responsibility for an element of the intelligence community.

“(B) The Inspector General of the Intelligence Community shall serve as the Chair of the Forum established under subparagraph (A). The Forum shall have no administrative authority over any inspector general, but shall serve as a mechanism for informing its members of the work of individual members of the Forum that may be of common interest and discussing questions about jurisdiction or access to employees, employees of contract personnel, records, audits, reviews, documents, recommendations, or other materials that may involve or be of assistance to more than one of its members.

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

“(i) COUNSEL TO THE INSPECTOR GENERAL.—(1) The Inspector General of the Intelligence Community shall—

“(A) appoint a Counsel to the Inspector General who shall report to the Inspector General; or

“(B) obtain the services of a counsel appointed by and directly reporting to another inspector general or the Council of the Inspectors General on Integrity and Efficiency on a reimbursable basis.

“(2) The counsel appointed or obtained under paragraph (1) shall perform such functions as the Inspector General may prescribe.

“(j) STAFF AND OTHER SUPPORT.—(1) The Director of National Intelligence shall provide the Inspector General of the Intelligence Community with appropriate and adequate office space at central and field office locations, together with such equipment, office supplies, maintenance services, and communications facilities and services as may be necessary for the operation of such offices.

“(2)(A) Subject to applicable law and the policies of the Director of National Intelligence, the Inspector General shall select, appoint, and employ such officers and employees as may be necessary to carry out the functions, powers, and duties of the Inspec-

tor General. The Inspector General shall ensure that any officer or employee so selected, appointed, or employed has security clearances appropriate for the assigned duties of such officer or employee.

“(B) In making selections under subparagraph (A), the Inspector General shall ensure that such officers and employees have the requisite training and experience to enable the Inspector General to carry out the duties of the Inspector General effectively.

“(C) In meeting the requirements of this paragraph, the Inspector General shall create within the Office of the Inspector General of the Intelligence Community a career cadre of sufficient size to provide appropriate continuity and objectivity needed for the effective performance of the duties of the Inspector General.

“(3) Consistent with budgetary and personnel resources allocated by the Director of National Intelligence, the Inspector General has final approval of—

“(A) the selection of internal and external candidates for employment with the Office of the Inspector General; and

“(B) all other personnel decisions concerning personnel permanently assigned to the Office of the Inspector General, including selection and appointment to the Senior Intelligence Service, but excluding all security-based determinations that are not within the authority of a head of a component of the Office of the Director of National Intelligence.

“(4)(A) Subject to the concurrence of the Director of National Intelligence, the Inspector General may request such information or assistance as may be necessary for carrying out the duties and responsibilities of the Inspector General from any department, agency, or other element of the United States Government.

“(B) Upon request of the Inspector General for information or assistance under subparagraph (A), the head of the department, agency, or element concerned shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the department, agency, or element, furnish to the Inspector General, such information or assistance.

“(C) The Inspector General of the Intelligence Community may, upon reasonable notice to the head of any element of the intelligence community and in coordination with that element's inspector general pursuant to subsection (h), conduct, as authorized by this section, an investigation, inspection, audit, or review of such element and may enter into any place occupied by such element for purposes of the performance of the duties of the Inspector General.

“(k) REPORTS.—(1)(A) The Inspector General of the Intelligence Community shall, not later than January 31 and July 31 of each year, prepare and submit to the Director of National Intelligence a classified, and, as appropriate, unclassified semiannual report summarizing the activities of the Office of the Inspector General of the Intelligence Community during the immediately preceding 6-month period ending December 31 (of the preceding year) and June 30, respectively. The Inspector General of the Intelligence Community shall provide any portion of the report involving a component of a department of the United States Government to the head of that department simultaneously with submission of the report to the Director of National Intelligence.

“(B) Each report under this paragraph shall include, at a minimum, the following:

“(i) A list of the title or subject of each investigation, inspection, audit, or review conducted during the period covered by such report.

“(ii) A description of significant problems, abuses, and deficiencies relating to the ad-

ministration of programs and activities of the intelligence community within the responsibility and authority of the Director of National Intelligence, and in the relationships between elements of the intelligence community, identified by the Inspector General during the period covered by such report.

“(iii) A description of the recommendations for corrective action made by the Inspector General during the period covered by such report with respect to significant problems, abuses, or deficiencies identified in clause (ii).

“(iv) A statement of whether or not corrective action has been completed on each significant recommendation described in previous semiannual reports, and, in a case where corrective action has been completed, a description of such corrective action.

“(v) A certification of whether or not the Inspector General has had full and direct access to all information relevant to the performance of the functions of the Inspector General.

“(vi) A description of the exercise of the subpoena authority under subsection (g)(5) by the Inspector General during the period covered by such report.

“(vii) Such recommendations as the Inspector General considers appropriate for legislation to promote economy, efficiency, and effectiveness in the administration and implementation of programs and activities within the responsibility and authority of the Director of National Intelligence, and to detect and eliminate fraud and abuse in such programs and activities.

“(C) Not later than 30 days after the date of receipt of a report under subparagraph (A), the Director shall transmit the report to the congressional intelligence committees together with any comments the Director considers appropriate. The Director shall transmit to the committees of the Senate and of the House of Representatives with jurisdiction over a department of the United States Government any portion of the report involving a component of such department simultaneously with submission of the report to the congressional intelligence committees.

“(2)(A) The Inspector General shall report immediately to the Director whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to programs and activities within the responsibility and authority of the Director of National Intelligence.

“(B) The Director shall transmit to the congressional intelligence committees each report under subparagraph (A) within 7 calendar days of receipt of such report, together with such comments as the Director considers appropriate. The Director shall transmit to the committees of the Senate and of the House of Representatives with jurisdiction over a department of the United States Government any portion of each report under subparagraph (A) that involves a problem, abuse, or deficiency related to a component of such department simultaneously with transmission of the report to the congressional intelligence committees.

“(3)(A) In the event that—

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

“(ii) an investigation, inspection, audit, or review carried out by the Inspector General focuses on any current or former intelligence community official who—

“(I) holds or held a position in an element of the intelligence community that is subject to appointment by the President, whether or not by and with the advice and consent of the Senate, including such a position held on an acting basis;

“(II) holds or held a position in an element of the intelligence community, including a position held on an acting basis, that is appointed by the Director of National Intelligence; or

“(III) holds or held a position as head of an element of the intelligence community or a position covered by subsection (b) or (c) of section 106;

“(iii) a matter requires a report by the Inspector General to the Department of Justice on possible criminal conduct by a current or former official described in clause (ii);

“(iv) the Inspector General receives notice from the Department of Justice declining or approving prosecution of possible criminal conduct of any current or former official described in clause (ii); or

“(v) the Inspector General, after exhausting all possible alternatives, is unable to obtain significant documentary information in the course of an investigation, inspection, audit, or review, the Inspector General shall immediately notify, and submit a report to, the congressional intelligence committees on such matter.

“(B) The Inspector General shall submit to the committees of the Senate and of the House of Representatives with jurisdiction over a department of the United States Government any portion of each report under subparagraph (A) that involves an investigation, inspection, audit, or review carried out by the Inspector General focused on any current or former official of a component of such department simultaneously with submission of the report to the congressional intelligence committees.

“(4) The Director shall submit to the congressional intelligence committees any report or findings and recommendations of an investigation, inspection, audit, or review conducted by the office which has been requested by the Chairman or Vice Chairman or ranking minority member of either committee.

“(5)(A) An employee of an element of the intelligence community, an employee assigned or detailed to an element of the intelligence community, or an employee of 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 congressional intelligence committees directly as described in clause (i) only if the employee—

“(I) before making such a contact, furnishes to the Director, through the Inspector General, a statement of the employee's complaint or information and notice of the employee's intent to contact the congressional intelligence committees directly; and

“(II) obtains and follows from the Director, through the Inspector General, direction on how to contact the congressional intelligence committees in accordance with appropriate security practices.

“(iii) A member or employee of one of the congressional intelligence committees who receives a complaint or information under this subparagraph does so in that member or employee's official capacity as a member or employee of such committee.

“(E) The Inspector General shall notify an employee who reports a complaint or information to the Inspector General under this paragraph of each action taken under this paragraph with respect to the complaint or information. Such notice shall be provided not later than 3 days after any such action is taken.

“(F) An action taken by the Director or the Inspector General under this paragraph shall not be subject to judicial review.

“(G) In this paragraph, the term ‘urgent concern’ means any of the following:

“(i) A serious or flagrant problem, abuse, violation of law or Executive order, or deficiency relating to the funding, administration, or operation of an intelligence activity within the responsibility and authority of the Director of National Intelligence involving classified information, but does not include differences of opinions concerning public policy matters.

“(ii) A false statement to Congress, or a willful withholding from Congress, on an issue of material fact relating to the funding, administration, or operation of an intelligence activity.

“(iii) An action, including a personnel action described in section 2302(a)(2)(A) of title 5, United States Code, constituting reprisal or threat of reprisal prohibited under subsection (g)(3)(B) of this section in response to an employee's reporting an urgent concern in accordance with this paragraph.

“(H) Nothing in this section shall be construed to limit the protections afforded to an employee under section 17(d) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(d)) or section 8H of the Inspector General Act of 1978 (5 U.S.C. App.).

“(6) In accordance with section 535 of title 28, United States Code, the Inspector General shall expeditiously report to the Attorney General any information, allegation, or complaint received by the Inspector General relating to violations of Federal criminal law that involves a program or operation of an element of the intelligence community, or in the relationships between the elements of the intelligence community, consistent with such guidelines as may be issued by the Attorney General pursuant to subsection (b)(2) of such section. A copy of each such report shall be furnished to the Director.

“(I) CONSTRUCTION OF DUTIES REGARDING ELEMENTS OF INTELLIGENCE COMMUNITY.—Except as resolved pursuant to subsection (h), the performance by the Inspector General of the Intelligence Community of any duty, responsibility, or function regarding an element of the intelligence community shall not be construed to modify or affect the duties and responsibilities of any other inspector general having duties and responsibilities relating to such element.

“(m) SEPARATE BUDGET ACCOUNT.—The Director of National Intelligence shall, in accordance with procedures issued by the Director in consultation with the congressional intelligence committees, include in the National Intelligence Program budget a sepa-

rate account for the Office of the Inspector General of the Intelligence Community.

“(n) BUDGET.—(1) For each fiscal year, the Inspector General of the Intelligence Community shall transmit a budget estimate and request to the Director of National Intelligence that specifies for such fiscal year—

“(A) the aggregate amount requested for the operations of the Inspector General;

“(B) the amount requested for all training requirements of the Inspector General, including a certification from the Inspector General that the amount requested is sufficient to fund all training requirements for the Office of the Inspector General; and

“(C) the amount requested to support the Council of the Inspectors General on Integrity and Efficiency, including a justification for such amount.

“(2) In transmitting a proposed budget to the President for a fiscal year, the Director of National Intelligence shall include for such fiscal year—

“(A) the aggregate amount requested for the Inspector General of the Intelligence Community;

“(B) the amount requested for Inspector General training;

“(C) the amount requested to support the Council of the Inspectors General on Integrity and Efficiency; and

“(D) the comments of the Inspector General, if any, with respect to such proposed budget.

“(3) The Director of National Intelligence shall submit to the congressional intelligence committees, the Committee on Appropriations of the Senate, and the Committee on Appropriations of the House of Representatives for each fiscal year—

“(A) a separate statement of the budget estimate transmitted pursuant to paragraph (1);

“(B) the amount requested by the Director for the Inspector General pursuant to paragraph (2)(A);

“(C) the amount requested by the Director for the training of personnel of the Office of the Inspector General pursuant to paragraph (2)(B);

“(D) the amount requested by the Director for support for the Council of the Inspectors General on Integrity and Efficiency pursuant to paragraph (2)(C); and

“(E) the comments of the Inspector General under paragraph (2)(D), if any, on the amounts requested pursuant to paragraph (2), including whether such amounts would substantially inhibit the Inspector General from performing the duties of the Office of the Inspector General.”.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947, as amended by section 348 of this Act, is further amended by inserting after the item relating to section 103G the following new item:

“Sec. 103H. Inspector General of the Intelligence Community.”.

(b) PAY OF INSPECTOR GENERAL.—Subparagraph (A) of section 4(a)(3) of the Inspector General Reform Act of 2008 (Public Law 110-409; 5 U.S.C. App. note) is amended by inserting “the Inspector General of the Intelligence Community,” after “basic pay of”.

(c) CONSTRUCTION.—Nothing in the amendment made by subsection (a)(1) shall be construed to alter the duties and responsibilities of the General Counsel of the Office of the Director of National Intelligence.

(d) REPEAL OF SUPERSEDED AUTHORITY TO ESTABLISH POSITION.—Section 8K of the Inspector General Act of 1978 (5 U.S.C. App.) shall be repealed on the date that the President appoints, with the advice and consent of the Senate, the first individual to serve as

Inspector General for the Intelligence Community pursuant to section 103H of the National Security Act of 1947, as added by subsection (a), and such individual assumes the duties of the Inspector General.

**SEC. 406. CHIEF FINANCIAL OFFICER OF THE INTELLIGENCE COMMUNITY.**

(a) **ESTABLISHMENT.**—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.), as amended by section 405 of this Act, is further amended by inserting after section 103H, as added by section 405(a)(1), the following new section:

**“CHIEF FINANCIAL OFFICER OF THE INTELLIGENCE COMMUNITY**

**“SEC. 103I. (a) CHIEF FINANCIAL OFFICER OF THE INTELLIGENCE COMMUNITY.**—To assist the Director of National Intelligence in carrying out the responsibilities of the Director under this Act and other applicable provisions of law, there is within the Office of the Director of National Intelligence a Chief Financial Officer of the Intelligence Community who shall be appointed by the Director.

**“(b) DUTIES AND RESPONSIBILITIES.**—Subject to the direction of the Director of National Intelligence, the Chief Financial Officer of the Intelligence Community shall—

“(1) serve as the principal advisor to the Director of National Intelligence and the Principal Deputy Director of National Intelligence on the management and allocation of intelligence community budgetary resources;

“(2) participate in overseeing a comprehensive and integrated strategic process for resource management within the intelligence community;

“(3) ensure that the strategic plan of the Director of National Intelligence—

“(A) is based on budgetary constraints as specified in the Future Year Intelligence Plans and Long-term Budget Projections required under section 506G; and

“(B) contains specific goals and objectives to support a performance-based budget;

“(4) prior to the obligation or expenditure of funds for the acquisition of any major system pursuant to a Milestone A or Milestone B decision, receive verification from appropriate authorities that the national requirements for meeting the strategic plan of the Director have been established, and that such requirements are prioritized based on budgetary constraints as specified in the Future Year Intelligence Plans and the Long-term Budget Projections for such major system required under section 506G;

“(5) ensure that the collection architectures of the Director are based on budgetary constraints as specified in the Future Year Intelligence Plans and the Long-term Budget Projections required under section 506G;

“(6) coordinate or approve representations made to Congress by the intelligence community regarding National Intelligence Program budgetary resources;

“(7) participate in key mission requirements, acquisitions, or architectural boards formed within or by the Office of the Director of National Intelligence; and

“(8) perform such other duties as may be prescribed by the Director of National Intelligence.

**“(c) OTHER LAW.**—The Chief Financial Officer of the Intelligence Community shall serve as the Chief Financial Officer of the intelligence community and, to the extent applicable, shall have the duties, responsibilities, and authorities specified in chapter 9 of title 31, United States Code.

**“(d) PROHIBITION ON SIMULTANEOUS SERVICE AS OTHER CHIEF FINANCIAL OFFICER.**—An individual serving in the position of Chief Financial Officer of the Intelligence Community may not, while so serving, serve as the chief financial officer of any other depart-

ment or agency, or component thereof, of the United States Government.

**“(e) DEFINITIONS.**—In this section:

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

“(2) The term ‘Milestone A’ has the meaning given that term in section 506G(f).

“(3) The term ‘Milestone B’ has the meaning given that term in section 506C(e).”

**(b) TABLE OF CONTENTS AMENDMENT.**—The table of contents in the first section of the National Security Act of 1947, as amended by section 405(a), is further amended by inserting after the item relating to section 103H, as added by section 405(a)(2), the following new item:

**“Sec. 103I. Chief Financial Officer of the Intelligence Community.”**

**SEC. 407. LEADERSHIP AND LOCATION OF CERTAIN OFFICES AND OFFICIALS.**

**(a) NATIONAL COUNTER PROLIFERATION CENTER.**—Section 119A(a) of the National Security Act of 1947 (50 U.S.C. 404o-1(a)) is amended—

(1) by striking “Not later than 18 months after the date of the enactment of the National Security Intelligence Reform Act of 2004, the” and inserting “(1) The”; and

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

“(2) 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) The National Counter Proliferation Center shall be located within the Office of the Director of National Intelligence.”

**(b) OFFICERS.**—Section 103(c) of that Act (50 U.S.C. 403-3(c)) is amended—

(1) by redesignating paragraph (9) as paragraph (14); and

(2) by inserting after paragraph (8) the following new paragraphs:

“(9) The Chief Information Officer of the Intelligence Community.

“(10) The Inspector General of the Intelligence Community.

“(11) The Director of the National Counterterrorism Center.

“(12) The Director of the National Counter Proliferation Center.

“(13) The Chief Financial Officer of the Intelligence Community.”

**SEC. 408. PROTECTION OF CERTAIN FILES OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.**

**(a) IN GENERAL.**—Title VII of the National Security Act of 1947 (50 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

**“PROTECTION OF CERTAIN FILES OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE**

**“SEC. 706. (a) INAPPLICABILITY OF FOIA TO EXEMPTED OPERATIONAL FILES PROVIDED TO ODNI.**—(1) Subject to paragraph (2), the provisions of section 552 of title 5, United States Code, that require search, review, publication, or disclosure of a record shall not apply to a record provided to the Office of the Director of National Intelligence by an element of the intelligence community from the exempted operational files of such element.

“(2) Paragraph (1) shall not apply with respect to a record of the Office that—

“(A) contains information derived or disseminated from an exempted operational file, unless such record is created by the Office for the sole purpose of organizing such exempted operational file for use by the Office;

“(B) is disseminated by the Office to a person other than an officer, employee, or contractor of the Office; or

“(C) is no longer designated as an exempted operational file in accordance with this title.

**“(b) EFFECT OF PROVIDING FILES TO ODNI.**—Notwithstanding any other provision of this title, an exempted operational file that is provided to the Office by an element of the intelligence community shall not be subject to the provisions of section 552 of title 5, United States Code, that require search, review, publication, or disclosure of a record solely because such element provides such exempted operational file to the Office.

**“(c) SEARCH AND REVIEW FOR CERTAIN PURPOSES.**—Notwithstanding subsection (a) or (b), an exempted operational file shall continue to be subject to search and review for information concerning any of the following:

“(1) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5, United States Code.

“(2) Any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code.

“(3) The specific subject matter of an investigation for any impropriety or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity by any of the following:

“(A) The Select Committee on Intelligence of the Senate.

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

“(C) The Intelligence Oversight Board.

“(D) The Department of Justice.

“(E) The Office of the Director of National Intelligence.

“(F) The Office of the Inspector General of the Intelligence Community.

**“(d) DECENNIAL REVIEW OF EXEMPTED OPERATIONAL FILES.**—(1) Not less than once every 10 years, the Director of National Intelligence shall review the exemptions in force under subsection (a) to determine whether such exemptions may be removed from any category of exempted files or any portion thereof.

“(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

“(3) A complainant that alleges that the Director of National Intelligence has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

“(A) Whether the Director has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2010 or before the expiration of the 10-year period beginning on the date of the most recent review.

“(B) Whether the Director of National Intelligence, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.

**“(e) SUPERSEDITION OF OTHER LAWS.**—The provisions of this section may not be superseded except by a provision of law that is enacted after the date of the enactment of this section and that specifically cites and repeals or modifies such provisions.

**“(f) ALLEGATION; IMPROPER WITHHOLDING OF RECORDS; JUDICIAL REVIEW.**—(1) Except as provided in paragraph (2), whenever any person who has requested agency records under section 552 of title 5, United States Code, alleges that the Office has withheld records



improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code.

“(2) Judicial review shall not be available in the manner provided for under paragraph (1) as follows:

“(A) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by the Office, such information shall be examined ex parte, in camera by the court.

“(B) The court shall determine, to the fullest extent practicable, the issues of fact based on sworn written submissions of the parties.

“(C)(i) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, the Office may meet the burden of the Office under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted files likely to contain responsive records are records provided to the Office by an element of the intelligence community from the exempted operational files of such element.

“(ii) The court may not order the Office to review the content of any exempted file in order to make the demonstration required under clause (i), unless the complainant disputes the Office's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

“(D) In proceedings under subparagraph (C), a party may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36 of the Federal Rules of Civil Procedure.

“(E) If the court finds under this subsection that the Office has improperly withheld requested records because of failure to comply with any provision of this section, the court shall order the Office to search and review each appropriate exempted file for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), and such order shall be the exclusive remedy for failure to comply with this section.

“(F) If at any time following the filing of a complaint pursuant to this paragraph the Office agrees to search each appropriate exempted file for the requested records, the court shall dismiss the claim based upon such complaint.

“(g) DEFINITIONS.—In this section:

“(1) The term ‘exempted operational file’ means a file of an element of the intelligence community that, in accordance with this title, is exempted from the provisions of section 552 of title 5, United States Code, that require search, review, publication, or disclosure of such file.

“(2) Except as otherwise specifically provided, the term ‘Office’ means the Office of the Director of National Intelligence.”.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947, as amended by section 406(b) of this Act, is further amended by inserting after the item relating to section 705 the following new item:

“Sec. 706. Protection of certain files of the Office of the Director of National Intelligence.”.

#### SEC. 409. COUNTERINTELLIGENCE INITIATIVES FOR THE INTELLIGENCE COMMUNITY.

Section 1102 of the National Security Act of 1947 (50 U.S.C. 442a) is amended—

- (1) in subsection (a)—
  - (A) by striking paragraph (2); and
  - (B) by striking “(1) In” and inserting “In”; and
- (2) in subsection (c)—
  - (A) by striking paragraph (2); and
  - (B) by striking “(1) The” and inserting “The”.

#### SEC. 410. INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT TO ADVISORY COMMITTEES OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

(a) IN GENERAL.—Section 4(b) of the Federal Advisory Committee Act (5 U.S.C. App.) is amended—

- (1) in paragraph (1), by striking “or”;
- (2) in paragraph (2), by striking the period and inserting “; or”; and
- (3) by adding at the end the following new paragraph:

“(3) the Office of the Director of National Intelligence, if the Director of National Intelligence determines that for reasons of national security such advisory committee cannot comply with the requirements of this Act.”.

(b) ANNUAL REPORT.—

(1) IN GENERAL.—The Director of National Intelligence and the Director of the Central Intelligence Agency shall each submit to the congressional intelligence committees an annual report on advisory committees created by each such Director. Each report shall include—

- (A) a description of each such advisory committee, including the subject matter of the committee; and
- (B) a list of members of each such advisory committee.

(2) REPORT ON REASONS FOR ODNI EXCLUSION OF ADVISORY COMMITTEE FROM FACA.—Each report submitted by the Director of National Intelligence in accordance with paragraph (1) shall include the reasons for a determination by the Director under section 4(b)(3) of the Federal Advisory Committee Act (5 U.S.C. App.), as added by subsection (a) of this section, that an advisory committee cannot comply with the requirements of such Act.

#### SEC. 411. MEMBERSHIP OF THE DIRECTOR OF NATIONAL INTELLIGENCE ON THE TRANSPORTATION SECURITY OVERSIGHT BOARD.

Subparagraph (F) of section 115(b)(1) of title 49, United States Code, is amended to read as follows:

“(F) The Director of National Intelligence, or the Director's designee.”.

#### SEC. 412. 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 (50 U.S.C. 402c) is amended—

- (1) by striking subsections (d), (h), (i), and (j);

- (2) by redesignating subsections (e), (f), (g), (k), (l), and (m) as subsections (d), (e), (f), (g), (h), and (i), respectively; and

- (3) in subsection (f), as redesignated by paragraph (2), by striking paragraphs (3) and (4).

(b) CONFORMING AMENDMENTS.—Such section 904 is further amended—

- (1) in subsection (d), as redesignated by subsection (a)(2) of this section, by striking “subsection (f)” each place it appears in paragraphs (1) and (2) and inserting “subsection (e)”;

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

(B) in paragraph (2), by striking “subsection (e)(2)” and inserting “subsection (d)(2)”.

#### SEC. 413. MISUSE OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE NAME, INITIALS, OR SEAL.

(a) PROHIBITION.—Title XI of the National Security Act of 1947 (50 U.S.C. 442 et seq.) is amended by adding at the end the following new section:

“MISUSE OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE NAME, INITIALS, OR SEAL

“SEC. 1103. (a) PROHIBITED ACTS.—No person may, except with the written permission of the Director of National Intelligence, or a designee of the Director, knowingly use the words ‘Office of the Director of National Intelligence’, the initials ‘ODNI’, the seal of the Office of the Director of National Intelligence, or any colorable imitation of such words, initials, or seal in connection with any merchandise, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Director of National Intelligence.

“(b) INJUNCTION.—Whenever it appears to the Attorney General that any person is engaged or is about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.”.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of such Act, as amended by section 408 of this Act, is further amended by inserting after the item relating to section 1102 the following new item:

“Sec. 1103. Misuse of the Office of the Director of National Intelligence name, initials, or seal.”.

#### SEC. 414. 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 180 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the congressional intelligence committees a report containing the plan developed under subsection (a).

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

#### SEC. 415. DIRECTOR OF NATIONAL INTELLIGENCE SUPPORT FOR REVIEWS OF INTERNATIONAL TRAFFIC IN ARMS REGULATIONS AND EXPORT ADMINISTRATION REGULATIONS.

The Director of National Intelligence may provide support for any review conducted by a department or agency of the United States Government of the International Traffic in Arms Regulations or Export Administration Regulations, including a review of technologies and goods on the United States Munitions List and Commerce Control List that



may warrant controls that are different or additional to the controls such technologies and goods are subject to at the time of such review.

#### Subtitle B—Central Intelligence Agency

#### SEC. 421. ADDITIONAL FUNCTIONS AND AUTHORITIES FOR PROTECTIVE PERSONNEL OF THE CENTRAL INTELLIGENCE AGENCY.

Section 5(a)(4) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f(a)(4)) is amended—

(1) by striking “and the protection” and inserting “the protection”; and

(2) by inserting before the semicolon the following: “, and the protection of the Director of National Intelligence and such personnel of the Office of the Director of National Intelligence as the Director of National Intelligence may designate”.

#### SEC. 422. APPEALS FROM DECISIONS INVOLVING CONTRACTS OF THE CENTRAL INTELLIGENCE AGENCY.

Section 8(d) of the Contract Disputes Act of 1978 (41 U.S.C. 607(d)) is amended by adding at the end “Notwithstanding any other provision of this section and any other provision of law, an appeal from a decision of a contracting officer of the Central Intelligence Agency relative to a contract made by that Agency may be filed with whichever of the Armed Services Board of Contract Appeals or the Civilian Board of Contract Appeals is specified by such contracting officer as the Board to which such an appeal may be made and such Board shall have jurisdiction to decide that appeal.”.

#### SEC. 423. DEPUTY DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY.

(a) ESTABLISHMENT AND DUTIES OF DEPUTY DIRECTOR OF THE CIA.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.), as amended by section 406 of this Act, is further amended by inserting after section 104A the following new section:

##### “DEPUTY DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY

“SEC. 104B. (a) DEPUTY DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY.—There is a Deputy Director of the Central Intelligence Agency who shall be appointed by the President.

“(b) DUTIES.—The Deputy Director of the Central Intelligence Agency shall—

“(1) assist the Director of the Central Intelligence Agency in carrying out the duties and responsibilities of the Director of the Central Intelligence Agency; and

“(2) during the absence or disability of the Director of the Central Intelligence Agency, or during a vacancy in the position of Director of the Central Intelligence Agency, act for and exercise the powers of the Director of the Central Intelligence Agency.”.

##### (b) CONFORMING AMENDMENTS.—

(1) EXECUTIVE SCHEDULE III.—Section 5314 of title 5, United States Code, is amended by striking “Deputy Directors of Central Intelligence (2)” and inserting “Deputy Director of the Central Intelligence Agency”.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947, as amended by section 414 of this Act, is further amended by inserting after the item relating to section 104A the following new item:

“Sec. 104B. Deputy Director of the Central Intelligence Agency.”.

(c) APPLICABILITY.—The amendments made by this section shall apply on the earlier of—

(1) the date of the appointment by the President of an individual to serve as Deputy Director of the Central Intelligence Agency pursuant to section 104B of the National Security Act of 1947, as added by subsection (a), except that the individual administratively performing the duties of the Deputy Director

of the Central Intelligence Agency as of the date of the enactment of this Act may continue to perform such duties until the individual appointed to the position of Deputy Director of the Central Intelligence Agency assumes the duties of such position; or

(2) the date of the cessation of the performance of the duties of the Deputy Director of the Central Intelligence Agency by the individual administratively performing such duties as of the date of the enactment of this Act.

#### SEC. 424. AUTHORITY TO AUTHORIZE TRAVEL ON A COMMON CARRIER.

Subsection (b) of section 116 of the National Security Act of 1947 (50 U.S.C. 404k) is amended by striking the period at the end and inserting “, who may delegate such authority to other appropriate officials of the Central Intelligence Agency.”.

#### SEC. 425. INSPECTOR GENERAL FOR THE CENTRAL INTELLIGENCE AGENCY.

(a) APPOINTMENT AND QUALIFICATIONS OF THE INSPECTOR GENERAL.—Paragraph (1) of section 17(b) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(b)) is amended by striking the second and third sentences and inserting “This appointment shall be made without regard to political affiliation and shall be on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigation. Such appointment shall also be made on the basis of compliance with the security standards of the Agency and prior experience in the field of foreign intelligence.”.

(b) REMOVAL OF THE INSPECTOR GENERAL.—Paragraph (6) of section 17(b) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(b)) is amended—

(1) by striking “immediately”; and

(2) by striking the period at the end and inserting “not later than 30 days prior to the effective date of such removal. Nothing in this paragraph shall be construed to prohibit a personnel action otherwise authorized by law, other than transfer or removal.”.

(c) APPLICATION OF SEMIANNUAL REPORTING REQUIREMENTS WITH RESPECT TO REVIEW REPORTS.—Paragraph (1) of section 17(d) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(d)) is amended in the matter preceding subparagraph (A) by inserting “review,” after “investigation.”.

(d) PROTECTION AGAINST REPRISALS.—Subparagraph (B) of section 17(e)(3) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(e)(3)) is amended by inserting “or providing such information” after “making such complaint”.

(e) INSPECTOR GENERAL SUBPOENA POWER.—Subparagraph (A) of section 17(e)(5) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(e)(5)) is amended by inserting “in any medium (including electronically stored information or any tangible thing)” after “other data”.

##### (f) OTHER ADMINISTRATIVE AUTHORITIES.—

(1) IN GENERAL.—Subsection (e) of section 17 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q), as amended by subsections (d) and (e) of this section, is further amended—

(A) by redesignating paragraph (8) as subparagraph (9);

(B) in paragraph (9), as so redesignated—

(i) by striking “Subject to the concurrence of the Director, the” and inserting “The”; and

(ii) by adding at the end the following: “Consistent with budgetary and personnel resources allocated by the Director, the Inspector General has final approval of—

“(A) the selection of internal and external candidates for employment with the Office of Inspector General; and

“(B) all other personnel decisions concerning personnel permanently assigned to the Office of Inspector General, including selection and appointment to the Senior Intelligence Service, but excluding all security-based determinations that are not within the authority of a head of other Central Intelligence Agency offices.”; and

(C) by inserting after paragraph (7) the following new paragraph:

“(8)(A) The Inspector General shall—

“(i) appoint a Counsel to the Inspector General who shall report to the Inspector General; or

“(ii) obtain the services of a counsel appointed by and directly reporting to another Inspector General or the Council of the Inspectors General on Integrity and Efficiency on a reimbursable basis.

“(B) The counsel appointed or obtained under subparagraph (A) shall perform such functions as the Inspector General may prescribe.”.

(2) CONSTRUCTION.—Nothing in the amendment made by paragraph (1)(C) shall be construed to alter the duties and responsibilities of the General Counsel of the Central Intelligence Agency.

#### SEC. 426. BUDGET OF THE INSPECTOR GENERAL FOR THE CENTRAL INTELLIGENCE AGENCY.

Subsection (f) of section 17 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q) is amended—

(1) by inserting “(1)” before “Beginning”; and

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

“(2) For each fiscal year, the Inspector General shall transmit a budget estimate and request through the Director to the Director of National Intelligence that specifies for such fiscal year—

“(A) the aggregate amount requested for the operations of the Inspector General;

“(B) the amount requested for all training requirements of the Inspector General, including a certification from the Inspector General that the amount requested is sufficient to fund all training requirements for the Office; and

“(C) the amount requested to support the Council of the Inspectors General on Integrity and Efficiency, including a justification for such amount.

“(3) In transmitting a proposed budget to the President for a fiscal year, the Director of National Intelligence shall include for such fiscal year—

“(A) the aggregate amount requested for the Inspector General of the Central Intelligence Agency;

“(B) the amount requested for Inspector General training;

“(C) the amount requested to support the Council of the Inspectors General on Integrity and Efficiency; and

“(D) the comments of the Inspector General, if any, with respect to such proposed budget.

“(4) The Director of National Intelligence shall submit to the Committee on Appropriations and the Select Committee on Intelligence of the Senate and the Committee on Appropriations and the Permanent Select Committee on Intelligence of the House of Representatives for each fiscal year—

“(A) a separate statement of the budget estimate transmitted pursuant to paragraph (2);

“(B) the amount requested by the Director of National Intelligence for the Inspector General pursuant to paragraph (3)(A);

“(C) the amount requested by the Director of National Intelligence for training of personnel of the Office of the Inspector General pursuant to paragraph (3)(B);

“(D) the amount requested by the Director of National Intelligence for support for the

Council of the Inspectors General on Integrity and Efficiency pursuant to paragraph (3)(C); and

“(E) the comments of the Inspector General under paragraph (3)(D), if any, on the amounts requested pursuant to paragraph (3), including whether such amounts would substantially inhibit the Inspector General from performing the duties of the Office.”.

**SEC. 427. PUBLIC AVAILABILITY OF UNCLASSIFIED VERSIONS OF CERTAIN INTELLIGENCE PRODUCTS.**

The Director of the Central Intelligence Agency shall make publicly available an unclassified version of any memoranda or finished intelligence products assessing the—

(1) information gained from high-value detainee reporting; and

(2) dated April 3, 2003, July 15, 2004, March 2, 2005, and June 1, 2005.

**Subtitle C—Defense Intelligence Components**  
**SEC. 431. INSPECTOR GENERAL MATTERS.**

(a) **COVERAGE UNDER INSPECTOR GENERAL ACT OF 1978.**—Subsection (a)(2) of section 8G of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by inserting “the Defense Intelligence Agency,” after “the Corporation for Public Broadcasting,”;

(2) by inserting “the National Geospatial-Intelligence Agency,” after “the National Endowment for the Humanities,”; and

(3) by inserting “the National Reconnaissance Office, the National Security Agency,” after “the National Labor Relations Board,”.

(b) **CERTAIN DESIGNATIONS UNDER INSPECTOR GENERAL ACT OF 1978.**—Subsection (a) of section 8H of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following new paragraph:

“(3) The Inspectors General of the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, and the National Security Agency shall be designees of the Inspector General of the Department of Defense for purposes of this section.”.

(c) **POWER OF HEADS OF ELEMENTS OVER INVESTIGATIONS.**—Subsection (d) of section 8G of such Act (5 U.S.C. App.) is amended—

(1) by inserting “(1)” after “(d)”;

(2) in the second sentence of paragraph (1), as designated by paragraph (1) of this subsection, by striking “The head” and inserting “Except as provided in paragraph (2), the head”; and

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

“(2)(A) The Secretary of Defense, in consultation with the Director of National Intelligence, may prohibit the inspector general of an element of the intelligence community specified in subparagraph (D) from initiating, carrying out, or completing any audit or investigation if the Secretary determines that the prohibition is necessary to protect vital national security interests of the United States.

“(B) If the Secretary exercises the authority under subparagraph (A), the Secretary shall submit to the committees of Congress specified in subparagraph (E) an appropriately classified statement of the reasons for the exercise of such authority not later than 7 days after the exercise of such authority.

“(C) At the same time the Secretary submits under subparagraph (B) a statement on the exercise of the authority in subparagraph (A) to the committees of Congress specified in subparagraph (E), the Secretary shall notify the inspector general of such element of the submittal of such statement and, to the extent consistent with the protection of intelligence sources and methods, provide such inspector general with a copy of such statement. Such inspector general may

submit to such committees of Congress any comments on a notice or statement received by the inspector general under this subparagraph that the inspector general considers appropriate.

“(D) The elements of the intelligence community specified in this subparagraph are as follows:

“(i) The Defense Intelligence Agency.

“(ii) The National Geospatial-Intelligence Agency.

“(iii) The National Reconnaissance Office.

“(iv) The National Security Agency.

“(E) The committees of Congress specified in this subparagraph are—

“(i) the Committee on Armed Services and the Select Committee on Intelligence of the Senate; and

“(ii) the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.”.

**SEC. 432. CLARIFICATION OF NATIONAL SECURITY MISSIONS OF NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY FOR ANALYSIS AND DISSEMINATION OF CERTAIN INTELLIGENCE INFORMATION.**

Section 442(a) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting after paragraph (1) the following new paragraph (2):

“(2)(A) As directed by the Director of National Intelligence, the National Geospatial-Intelligence Agency shall develop a system to facilitate the analysis, dissemination, and incorporation of likenesses, videos, and presentations produced by ground-based platforms, including handheld or clandestine photography taken by or on behalf of human intelligence collection organizations or available as open-source information, into the National System for Geospatial Intelligence.

“(B) The authority provided by this paragraph does not include authority for the National Geospatial-Intelligence Agency to manage tasking of handheld or clandestine photography taken by or on behalf of human intelligence collection organizations.”; and

(3) in paragraph (3), as so redesignated, by striking “paragraph (1)” and inserting “paragraphs (1) and (2)”.

**SEC. 433. DIRECTOR OF COMPLIANCE OF THE NATIONAL SECURITY AGENCY.**

The National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by inserting after the first section the following new section:

“SEC. 2. There is a Director of Compliance of the National Security Agency, who shall be appointed by the Director of the National Security Agency and who shall be responsible for the programs of compliance over mission activities of the National Security Agency.”.

**Subtitle D—Other Elements**

**SEC. 441. CODIFICATION OF ADDITIONAL ELEMENTS OF THE INTELLIGENCE COMMUNITY.**

Section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)) is amended—

(1) in subparagraph (H)—

(A) by inserting “the Coast Guard,” after “the Marine Corps,”; and

(B) by inserting “the Drug Enforcement Administration,” after “the Federal Bureau of Investigation,”; and

(2) in subparagraph (K), by striking “, including the Office of Intelligence of the Coast Guard”.

**SEC. 442. AUTHORIZATION OF APPROPRIATIONS FOR COAST GUARD NATIONAL TACTICAL INTEGRATION OFFICE.**

Title 14, United States Code, is amended—

(1) in paragraph (4) of section 93(a), by striking “function” and inserting “function,

including research, development, test, or evaluation related to intelligence systems and capabilities.”; and

(2) in paragraph (4) of section 662, by inserting “intelligence systems and capabilities or” after “related to”.

**SEC. 443. RETENTION AND RELOCATION BONUSES FOR THE FEDERAL BUREAU OF INVESTIGATION.**

Section 5759 of title 5, United States Code, is amended—

(1) in subsection (a)(2), by striking “is transferred to a different geographic area with a higher cost of living” and inserting “is subject to a mobility agreement and is transferred to a position in a different geographical area in which there is a shortage of critical skills”;

(2) in subsection (b)(2), by striking the period at the end and inserting “, including requirements for a bonus recipient’s repayment of a bonus in circumstances determined by the Director of the Federal Bureau of Investigation.”;

(3) in subsection (c), by striking “basic pay,” and inserting “annual rate of basic pay. The bonus may be paid in a lump sum or installments linked to completion of periods of service.”; and

(4) in subsection (d), by striking “retention bonus” and inserting “bonus paid under this section”.

**SEC. 444. EXTENSION OF THE AUTHORITY OF THE FEDERAL BUREAU OF INVESTIGATION TO WAIVE MANDATORY RETIREMENT PROVISIONS.**

(a) **CIVIL SERVICE RETIREMENT SYSTEM.**—Subsection (b) of section 8335 of title 5, United States Code, is amended—

(1) in the paragraph (2) enacted by section 112(a)(2) of the Department of Justice Appropriations Act, 2005 (title I of division B of Public Law 108-447; 118 Stat. 2868), by striking “2009” and inserting “2011”; and

(2) by striking the paragraph (2) enacted by section 2005(a)(2) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3704).

(b) **FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.**—Subsection (b) of section 8425 of title 5, United States Code, is amended—

(1) in the paragraph (2) enacted by section 112(b)(2) of the Department of Justice Appropriations Act, 2005 (title I of division B of Public Law 108-447; 118 Stat. 2868), by striking “2009” and inserting “2011”; and

(2) by striking the paragraph (2) enacted by section 2005(b)(2) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3704).

**SEC. 445. REPORT AND ASSESSMENTS ON TRANSFORMATION OF THE INTELLIGENCE CAPABILITIES OF THE FEDERAL BUREAU OF INVESTIGATION.**

(a) **REPORT.**—

(1) **REQUIREMENT.**—Not later than 180 days after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation, in consultation with the Director of National Intelligence, shall submit to the congressional intelligence committees, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives a report describing—

(A) a long-term vision for the intelligence capabilities of the National Security Branch of the Bureau;

(B) a strategic plan for the National Security Branch; and

(C) the progress made in advancing the capabilities of the National Security Branch.

(2) **CONTENT.**—The report required by paragraph (1) shall include—

(A) a description of the direction, strategy, and goals for improving the intelligence capabilities of the National Security Branch;

(B) a description of the intelligence and national security capabilities of the National Security Branch that will be fully functional within the five-year period beginning on the date on which the report is submitted;

(C) a description—

(i) of the internal reforms that were carried out at the National Security Branch during the two-year period ending on the date on which the report is submitted; and

(ii) of the manner in which such reforms have advanced the capabilities of the National Security Branch;

(D) an assessment of the effectiveness of the National Security Branch in performing tasks that are critical to the effective functioning of the National Security Branch as an intelligence agency, including—

(i) human intelligence collection, both within and outside the parameters of an existing case file or ongoing investigation, in a manner that protects civil liberties;

(ii) intelligence analysis, including the ability of the National Security Branch to produce, and provide policymakers with, information on national security threats to the United States;

(iii) management, including the ability of the National Security Branch to manage and develop human capital and implement an organizational structure that supports the objectives and strategies of the Branch;

(iv) integration of the National Security Branch into the intelligence community, including an ability to robustly share intelligence and effectively communicate and operate with appropriate Federal, State, local, and tribal partners;

(v) implementation of an infrastructure that supports the national security and intelligence missions of the National Security Branch, including proper information technology and facilities; and

(vi) reformation of the culture of the National Security Branch, including the integration by the Branch of intelligence analysts and other professional staff into intelligence collection operations and the success of the National Security Branch in ensuring that intelligence and threat information drive the operations of the Branch;

(E) performance metrics and specific annual timetables for advancing the performance of the tasks referred to in clauses (i) through (vi) of subparagraph (D) and a description of the activities being undertaken to ensure that the performance of the National Security Branch in carrying out such tasks improves; and

(F) an assessment of the effectiveness of the field office supervisory term limit policy of the Federal Bureau of Investigation that requires the mandatory reassignment of a supervisor of the Bureau after a specific term of years.

(b) ANNUAL ASSESSMENTS.—

(1) REQUIREMENT FOR ASSESSMENTS.—Not later than 180 days after the date on which the report required by subsection (a)(1) is submitted, and annually thereafter for five years, the Director of National Intelligence, in consultation with the Director of the Federal Bureau of Investigation, shall submit to the congressional intelligence committees, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives an assessment of the performance of the National Security Branch in carrying out the tasks referred to in clauses (i) through (vi) of subsection (a)(2)(D) in comparison to such performance during previous years.

(2) CONSIDERATIONS.—In conducting each assessment required by paragraph (1), the Director of National Intelligence—

(A) shall use the performance metrics and specific annual timetables for carrying out

such tasks referred to in subsection (a)(2)(E); and

(B) may request the assistance of any expert that the Director considers appropriate, including an inspector general of an appropriate department or agency.

#### **TITLE V—REORGANIZATION OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE**

##### **SEC. 501. REORGANIZATION OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.**

(a) REORGANIZATION OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.—

(1) IN GENERAL.—Subtitle B of title III of the Intelligence Authorization Act for Fiscal Year 2001 (Public Law 106-567; 22 U.S.C. 7301 et seq.) is amended by striking sections 321, 322, 323, and 324, and inserting the following new sections:

##### **“SEC. 321. DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.**

“(a) REORGANIZATION.—The Diplomatic Telecommunications Service Program Office established pursuant to title V of Public Law 102-140 shall be reorganized in accordance with this subtitle.

“(b) DUTIES.—The duties of the DTS-PO include implementing a program for the establishment and maintenance of a DTS Network capable of providing multiple levels of service to meet the wide-ranging needs of all United States Government departments and agencies operating from diplomatic and consular facilities outside of the United States, including national security needs for secure, reliable, and robust communications capabilities.

##### **“SEC. 322. ESTABLISHMENT OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE GOVERNANCE BOARD.**

“(a) GOVERNANCE BOARD.—

“(1) ESTABLISHMENT.—There is established the Diplomatic Telecommunications Service Governance Board to direct and oversee the activities and performance of the DTS-PO.

“(2) EXECUTIVE AGENT.—

“(A) DESIGNATION.—The Director of the Office of Management and Budget shall designate, from among the departments and agencies of the United States Government that use the DTS Network, a department or agency as the DTS-PO Executive Agent.

“(B) DUTIES.—The Executive Agent designated under subparagraph (A) shall—

“(i) nominate a Director of the DTS-PO for approval by the Governance Board in accordance with subsection (e); and

“(ii) perform such other duties as established by the Governance Board in the determination of written implementing arrangements and other relevant and appropriate governance processes and procedures under paragraph (3).

“(3) REQUIREMENT FOR IMPLEMENTING ARRANGEMENTS.—Subject to the requirements of this subtitle, the Governance Board shall determine the written implementing arrangements and other relevant and appropriate governance processes and procedures to manage, oversee, resource, or otherwise administer the DTS-PO.

“(b) MEMBERSHIP.—

“(1) SELECTION.—The Director of the Office of Management and Budget shall designate from among the departments and agencies that use the DTS Network—

“(A) four departments and agencies to each appoint one voting member of the Governance Board from the personnel of such departments and agencies; and

“(B) any other departments and agencies that the Director considers appropriate to each appoint one nonvoting member of the Governance Board from the personnel of such departments and agencies.

“(2) VOTING AND NONVOTING MEMBERS.—The Governance Board shall consist of voting members and nonvoting members as follows:

“(A) VOTING MEMBERS.—The voting members shall consist of a Chair, who shall be designated by the Director of the Office of Management and Budget, and the four members appointed by departments and agencies designated under paragraph (1)(A).

“(B) NONVOTING MEMBERS.—The nonvoting members shall consist of the members appointed by departments and agencies designated under paragraph (1)(B) and shall act in an advisory capacity.

“(c) CHAIR DUTIES AND AUTHORITIES.—The Chair of the Governance Board shall—

“(1) preside over all meetings and deliberations of the Governance Board;

“(2) provide the Secretariat functions of the Governance Board; and

“(3) propose bylaws governing the operation of the Governance Board.

“(d) QUORUM, DECISIONS, MEETINGS.—A quorum of the Governance Board shall consist of the presence of the Chair and four voting members. The decisions of the Governance Board shall require a majority of the voting membership. The Chair shall convene a meeting of the Governance Board not less than four times each year to carry out the functions of the Governance Board. The Chair or any voting member may convene a meeting of the Governance Board.

“(e) GOVERNANCE BOARD DUTIES.—The Governance Board shall have the following duties with respect to the DTS-PO:

“(1) To approve and monitor the plans, services, priorities, policies, and pricing methodology of the DTS-PO for bandwidth costs and projects carried out at the request of a department or agency that uses the DTS Network.

“(2) To provide to the DTS-PO Executive Agent the recommendation of the Governance Board with respect to the approval, disapproval, or modification of each annual budget request for the DTS-PO, prior to the submission of any such request by the Executive Agent.

“(3) To review the performance of the DTS-PO against plans approved under paragraph (1) and the management activities and internal controls of the DTS-PO.

“(4) To require from the DTS-PO any plans, reports, documents, and records the Governance Board considers necessary to perform its oversight responsibilities.

“(5) To conduct and evaluate independent audits of the DTS-PO.

“(6) To approve or disapprove the nomination of the Director of the DTS-PO by the Executive Agent with a majority vote of the Governance Board.

“(7) To recommend to the Executive Agent the replacement of the Director of the DTS-PO with a majority vote of the Governance Board.

“(f) NATIONAL SECURITY INTERESTS.—The Governance Board shall ensure that those enhancements of, and the provision of service for, telecommunication capabilities that involve the national security interests of the United States receive the highest prioritization.

##### **“SEC. 323. FUNDING OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE.**

“(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for the operations, maintenance, development, enhancement, modernization, and investment costs of the DTS Network and the DTS-PO. Funds appropriated for allocation to the DTS-PO shall remain available to the DTS-PO for a period of two fiscal years.

“(b) FEES.—The DTS-PO shall charge a department or agency that uses the DTS Network for only those bandwidth costs attributable to such department or agency and for

specific projects carried out at the request of such department or agency, pursuant to the pricing methodology for such bandwidth costs and such projects approved under section 322(e)(1), for which amounts have not been appropriated for allocation to the DTS-PO. The DTS-PO is authorized to directly receive payments from departments or agencies that use the DTS Network and to invoice such departments or agencies for the fees under this section either in advance of, or upon or after, providing the bandwidth or performing such projects. Such funds received from such departments or agencies shall remain available to the DTS-PO for a period of two fiscal years.

#### “SEC. 324. DEFINITIONS.

“In this subtitle:

“(1) **DTS NETWORK.**—The term ‘DTS Network’ means the worldwide telecommunications network supporting all United States Government agencies and departments operating from diplomatic and consular facilities outside of the United States.

“(2) **DTS-PO.**—The term ‘DTS-PO’ means the Diplomatic Telecommunications Service Program Office.

“(3) **GOVERNANCE BOARD.**—The term ‘Governance Board’ means the Diplomatic Telecommunications Service Governance Board established under section 322(a)(1).”.

(2) **TABLE OF CONTENTS AMENDMENT.**—The table of contents in section 1(b) of the Intelligence Authorization Act for Fiscal Year 2001 (Public Law 106-567; 114 Stat. 2831) is amended by striking the items relating to sections 321, 322, 323, and 324 and inserting the following new items:

“Sec. 321. Diplomatic Telecommunications Service Program Office.

“Sec. 322. Establishment of the Diplomatic Telecommunications Service Governance Board.

“Sec. 323. Funding of the Diplomatic Telecommunications Service.

“Sec. 324. Definitions.”.

(b) **CONFORMING AMENDMENTS.**—

(1) **REPEAL OF SUSPENSION OF REORGANIZATION.**—

(A) **REPEAL.**—The Intelligence Authorization Act for Fiscal Year 2002 (Public Law 107-108; 22 U.S.C. 7301 note) is amended by striking section 311.

(B) **TABLE OF CONTENTS AMENDMENT.**—The table of contents in section 1 of such Act is amended by striking the item relating to section 311.

(2) **REPEAL OF REFORM.**—

(A) **REPEAL.**—The Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted into law by section 1000(a)(7) of Public Law 106-113 and contained in appendix G of that Act; 113 Stat. 1501A-405) is amended by striking section 305.

(B) **TABLE OF CONTENTS AMENDMENT.**—The table of contents in section 2(b) of such Act is amended by striking the item related to section 305.

(3) **REPEAL OF REPORTING REQUIREMENTS.**—Section 507(b) of the National Security Act of 1947 (50 U.S.C. 415b(b)), as amended by section 351 of this Act, is further amended—

(A) by striking paragraph (3); and

(B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

### **TITLE VI—FOREIGN INTELLIGENCE AND INFORMATION COMMISSION ACT**

#### **SEC. 601. SHORT TITLE.**

This title may be cited as the “Foreign Intelligence and Information Commission Act”.

#### **SEC. 602. DEFINITIONS.**

In this title:

(1) **COMMISSION.**—The term “Commission” means the Foreign Intelligence and Informa-

tion Commission established in section 603(a).

(2) **FOREIGN INTELLIGENCE; INTELLIGENCE.**—The terms “foreign intelligence” and “intelligence” have the meaning given those terms in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

(3) **INFORMATION.**—The term “information” includes information of relevance to the foreign policy of the United States collected and conveyed through diplomatic reporting and other reporting by personnel of the United States Government who are not employed by an element of the intelligence community, including public and open-source information.

#### **SEC. 603. ESTABLISHMENT AND FUNCTIONS OF THE COMMISSION.**

(a) **ESTABLISHMENT.**—There is established in the legislative branch a Foreign Intelligence and Information Commission.

(b) **PURPOSE.**—The purpose of the Commission is to evaluate systems and processes at the strategic, interagency level and provide recommendations accordingly, and not to seek to duplicate the functions of the Director of National Intelligence.

(c) **FUNCTIONS.**—The Commission shall—

(1) evaluate the current processes or systems for the strategic integration of the intelligence community, including the Open Source Center, and other elements of the United States Government, including the Department of State, with regard to the collection, reporting, and analysis of foreign intelligence and information;

(2) provide recommendations to improve or develop such processes or systems to integrate the intelligence community with other elements of the United States Government, potentially including the development of an interagency strategy that identifies—

(A) the collection, reporting, and analysis requirements of the United States Government;

(B) the elements of the United States Government best positioned to meet collection and reporting requirements, with regard to missions, comparative institutional advantages, and any other relevant factors; and

(C) interagency budget and resource allocations necessary to achieve such collection, reporting, and analytical requirements;

(3) evaluate the extent to which current intelligence collection, reporting, and analysis strategies are intended to provide global coverage and anticipate future threats, challenges, and crises;

(4) provide recommendations on how to incorporate into the interagency strategy the means to anticipate future threats, challenges, and crises, including by identifying and supporting collection, reporting, and analytical capabilities that are global in scope and directed at emerging, long-term, and strategic targets;

(5) provide recommendations on strategies for sustaining human and budgetary resources to effect the global collection and reporting missions identified in the interagency strategy, including the prepositioning of collection and reporting capabilities;

(6) provide recommendations for developing, clarifying, and, if necessary, bolstering current and future collection and reporting roles and capabilities of elements of the United States Government that are not elements of the intelligence community deployed in foreign countries;

(7) provide recommendations related to the role of individual country missions in contributing to the interagency strategy;

(8) evaluate the extent to which the establishment of new embassies and out-of-embassy posts are able to contribute to expanded global coverage and increased collection and reporting and provide recommenda-

tions related to the establishment of new embassies and out-of-embassy posts;

(9) provide recommendations on executive or legislative changes necessary to establish any new executive branch entity or to expand the authorities of any existing executive branch entity, as needed to improve the strategic integration referred to in paragraph (1) and develop and oversee the implementation of any interagency strategy;

(10) provide recommendations on processes for developing and presenting to Congress budget requests for each relevant element of the United States Government that reflect the allocations identified in the interagency strategy and for congressional oversight of the development and implementation of the strategy; and

(11) provide recommendations on any institutional reforms related to the collection and reporting roles of individual elements of the United States Government outside the intelligence community, as well as any budgetary, legislative, or other changes needed to achieve such reforms.

#### **SEC. 604. MEMBERS AND STAFF OF THE COMMISSION.**

(a) **MEMBERS OF THE COMMISSION.**—

(1) **APPOINTMENT.**—The Commission shall be composed of 10 members as follows:

(A) Two members appointed by the majority leader of the Senate.

(B) Two members appointed by the minority leader of the Senate.

(C) Two members appointed by the Speaker of the House of Representatives.

(D) Two members appointed by the minority leader of the House of Representatives.

(E) One nonvoting member appointed by the Director of National Intelligence.

(F) One nonvoting member appointed by the Secretary of State.

(2) **SELECTION.**—

(A) **IN GENERAL.**—Members of the Commission shall be individuals who—

(i) are not officers or employees of the United States Government or any State or local government; and

(ii) have knowledge and experience—

(I) in foreign intelligence and intelligence collection, reporting, and analysis, including clandestine collection and classified analysis (such as experience in the intelligence community), diplomatic reporting and analysis, and collection of public and open-source information;

(II) in issues related to the national security and foreign policy of the United States gained by serving as a senior official of the Department of State, a member of the Foreign Service, an employee or officer of an appropriate department or agency of the United States, or an independent organization with expertise in the field of international affairs; or

(III) with foreign policy decision-making.

(B) **DIVERSITY OF EXPERIENCE.**—The individuals appointed to the Commission should be selected with a view to establishing diversity of experience with regard to various geographic regions, functions, and issues.

(3) **CONSULTATION.**—The Speaker and the minority leader of the House of Representatives, the majority leader and the minority leader of the Senate, the Director of National Intelligence, and the Secretary of State shall consult among themselves prior to the appointment of the members of the Commission in order to achieve, to the maximum extent possible, fair and equitable representation of various points of view with respect to the matters to be considered by the Commission in accordance with this title.

(4) **TIME OF APPOINTMENT.**—The appointments under subsection (a) shall be made—

(A) after the date on which funds are first appropriated for the Commission pursuant to section 609; and

(B) not later than 60 days after such date.

(5) **TERM OF APPOINTMENT.**—Members shall be appointed for the life of the Commission.

(6) **VACANCIES.**—Any vacancy of the Commission shall not affect the powers of the Commission and shall be filled in the manner in which the original appointment was made.

(7) **CHAIR.**—The voting members of the Commission shall designate one of the voting members to serve as the chair of the Commission.

(8) **QUORUM.**—Five voting members of the Commission shall constitute a quorum for purposes of transacting the business of the Commission.

(9) **MEETINGS.**—The Commission shall meet at the call of the chair and shall meet regularly, not less than once every 3 months, during the life of the Commission.

(b) **STAFF.**—

(1) **IN GENERAL.**—The chair of the Commission may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and chapter 51 and subchapter III of chapter 53 of that title relating to classification of positions and General Schedule pay rates, appoint and terminate an executive director and, in consultation with the executive director, appoint and terminate such other additional personnel as may be necessary to enable the Commission to perform its duties. In addition to the executive director and one full-time support staff for the executive director, there shall be additional staff with relevant intelligence and foreign policy experience to support the work of the Commission.

(2) **SELECTION OF THE EXECUTIVE DIRECTOR.**—The executive director shall be selected with the approval of a majority of the voting members of the Commission.

(3) **COMPENSATION.**—

(A) **EXECUTIVE DIRECTOR.**—The executive director shall be compensated at the maximum annual rate payable for an employee of a standing committee of the Senate under section 105(e) of the Legislative Branch Appropriations Act, 1968 (2 U.S.C. 61-1(e)), as adjusted by any order of the President pro tempore of the Senate.

(B) **STAFF.**—The chair of the Commission may fix the compensation of other personnel of the Commission without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for such personnel may not exceed the maximum annual rate payable for an employee of a standing committee of the Senate under section 105(e) of the Legislative Branch Appropriations Act, 1968 (2 U.S.C. 61-1(e)), as adjusted by any order of the President pro tempore of the Senate.

(C) **EXPERTS AND CONSULTANTS.**—The Commission is authorized to procure temporary or intermittent services of experts and consultants as necessary to the extent authorized by section 3109 of title 5, United States Code, at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable under section 5376 of such title.

(d) **STAFF AND SERVICES OF OTHER AGENCIES OR DEPARTMENTS OF THE UNITED STATES.**—Upon the request of the Commission, the head of a department or agency of the United States may detail, on a reimbursable or nonreimbursable basis, any of the personnel of that department or agency to the Commission to assist the Commission in carrying out this title. The detail of any such personnel shall be without interruption or loss of civil service or Foreign Service status or privilege.

(e) **SECURITY CLEARANCE.**—The appropriate departments or agencies of the United States

shall cooperate with the Commission in expeditiously providing to the members and staff of the Commission appropriate security clearances to the extent possible pursuant to existing procedures and requirements.

(f) **REPORTS UNDER ETHICS IN GOVERNMENT ACT OF 1978.**—Notwithstanding any other provision of law, for purposes of title I of the Ethics in Government Act of 1978 (5 U.S.C. App.), each member and staff of the Commission—

(1) shall be deemed to be an officer or employee of the Congress (as defined in section 109(13) of such title); and

(2) shall file any report required to be filed by such member or such staff (including by virtue of the application of paragraph (1)) under title I of the Ethics in Government Act of 1978 (5 U.S.C. App.) with the Secretary of the Senate.

#### **SEC. 605. POWERS AND DUTIES OF THE COMMISSION.**

(a) **HEARINGS AND EVIDENCE.**—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this title.

(b) **INFORMATION FROM FEDERAL AGENCIES.**—The Commission may secure directly from any department or agency of the United States such information as the Commission considers necessary to carry out this title. Upon request of the chair of the Commission, the head of such department or agency shall furnish such information to the Commission, subject to applicable law.

(c) **POSTAL SERVICES.**—The Commission may use the United States mails in the same manner and under the same conditions as a department or agency of the United States.

(d) **ADMINISTRATIVE SUPPORT.**—The Administrator of the General Services Administration shall provide to the Commission on a reimbursable basis (or, in the discretion of the Administrator, on a nonreimbursable basis) such administrative support services as the Commission may request to carry out this title.

(e) **ADMINISTRATIVE PROCEDURES.**—The Commission may adopt such rules and regulations, relating to administrative procedure, as may be reasonably necessary to enable the Commission to carry out this title.

(f) **TRAVEL.**—

(1) **IN GENERAL.**—The members and staff of the Commission may, with the approval of the Commission, conduct such travel as is necessary to carry out this title.

(2) **EXPENSES.**—Members of the Commission shall serve without pay but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(g) **GIFTS.**—No member or staff of the Commission may receive a gift or benefit by reason of the service of such member or staff to the Commission.

#### **SEC. 606. REPORT OF THE COMMISSION.**

(a) **IN GENERAL.**—

(1) **INTERIM REPORT.**—Not later than 300 days after the date on which all members of the Commission are appointed under section 604(a), the Commission shall submit to the congressional intelligence committees an interim report setting forth the preliminary evaluations and recommendations of the Commission described in section 603(c).

(2) **FINAL REPORT.**—Not later than 60 days after the date of the submission of the report required by paragraph (1), the Commission shall submit a final report setting forth the final evaluations and recommendations of the Commission described in section 603(c) to each of the following:

(A) The President.

(B) The Director of National Intelligence.

(C) The Secretary of State.

(D) The congressional intelligence committees.

(E) The Committee on Foreign Relations of the Senate.

(F) The Committee on Foreign Affairs of the House of Representatives.

(b) **INDIVIDUAL OR DISSENTING VIEWS.**—Each member of the Commission may include that member's individual or dissenting views in a report required by paragraph (1) or (2) of subsection (a).

(c) **FORM OF REPORT.**—The reports required by paragraphs (1) and (2) of subsection (a), including any finding or recommendation of such report, shall be submitted in unclassified form, but may include a classified annex.

#### **SEC. 607. TERMINATION.**

(a) **IN GENERAL.**—The Commission shall terminate on the date that is 60 days after the date of the submission of the report required by section 606(a)(2).

(b) **TRANSFER OF RECORDS.**—Upon the termination of the Commission under subsection (a), all records, files, documents, and other materials in the possession, custody, or control of the Commission shall be transferred to the Select Committee on Intelligence of the Senate and deemed to be records of such Committee.

#### **SEC. 608. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.**

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

#### **SEC. 609. AUTHORIZATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—There is authorized to be appropriated such sums as may be necessary to carry out this title.

(b) **AVAILABILITY.**—Amounts made available to the Commission pursuant to subsection (a) shall remain available until expended.

### **TITLE VII—OTHER MATTERS**

#### **SEC. 701. EXTENSION OF NATIONAL COMMISSION FOR THE REVIEW OF THE RESEARCH AND DEVELOPMENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY.**

(a) **EXTENSION.**—

(1) **IN GENERAL.**—Effective on the date on which funds are first appropriated pursuant to subsection (b)(1) and subject to paragraph (3), subsection (a) of section 1007 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107-306; 50 U.S.C. 401 note) is amended by striking “September 1, 2004,” and inserting “one year after the date on which all members of the Commission are appointed pursuant to section 701(a)(3) of the Intelligence Authorization Act for Fiscal Year 2010.”

(2) **APPLICABILITY OF AMENDMENT.**—The amendment made by paragraph (1) shall take effect as if included in the enactment of such section 1007.

(3) **COMMISSION MEMBERSHIP.**—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; 50 U.S.C. 401 note) (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).

(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.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

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

(3) REPEAL OF EXISTING FUNDING AUTHORITY.—Section 1010 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107-306; 50 U.S.C. 401 note) is repealed.

(c) TECHNICAL AMENDMENTS.—

(1) DIRECTOR OF CENTRAL INTELLIGENCE.—The Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107-306) is amended by striking “Director of Central Intelligence” each place it appears and inserting “Director of National Intelligence” in the following provisions:

- (A) Section 1002(h)(2).
- (B) Section 1003(d)(1).
- (C) Section 1006(a)(1).
- (D) Section 1006(b).
- (E) Section 1007(a).
- (F) Section 1008.

(2) DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE FOR COMMUNITY MANAGEMENT.—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.”.

**SEC. 702. CLASSIFICATION REVIEW OF EXECUTIVE BRANCH MATERIALS IN THE POSSESSION OF THE CONGRESSIONAL INTELLIGENCE COMMITTEES.**

The Director of National Intelligence is authorized to conduct, at the request of one of the congressional intelligence committees and in accordance with procedures established by that committee, a classification review of materials in the possession of that committee that—

- (1) are not less than 25 years old; and
- (2) were created, or provided to that committee, by an entity in the executive branch.

**TITLE VIII—TECHNICAL AMENDMENTS**

**SEC. 801. TECHNICAL AMENDMENTS TO THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.**

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

- (1) in section 101—
  - (A) in subsection (a), by moving paragraph (7) two ems to the right; and
  - (B) by moving subsections (b) through (p) two ems to the right;
- (2) in section 103, by redesignating subsection (i) as subsection (h);
- (3) in section 109(a)—
  - (A) in paragraph (1), by striking “section 112,” and inserting “section 112;”;
  - (B) in paragraph (2), by striking the second period;
- (4) in section 301(1), by striking “‘United States’” and all that follows through “‘and State’” and inserting “‘United States’, ‘person’, ‘weapon of mass destruction’, and ‘State’”;
- (5) in section 304(b), by striking “subsection (a)(3)” and inserting “subsection (a)(2)”;
- (6) in section 502(a), by striking “a annual” and inserting “an annual”.

**SEC. 802. TECHNICAL AMENDMENTS TO THE CENTRAL INTELLIGENCE AGENCY ACT OF 1949.**

The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended—

- (1) in paragraph (1) of section 5(a), by striking “authorized under paragraphs (2) and (3) of section 102(a), subsections (c)(7) and (d) of section 103, subsections (a) and (g) of section 104, and section 303 of the National Security Act of 1947 (50 U.S.C. 403(a)(2), (3), 403-3(c)(7), (d), 403-4(a), (g), and 405)” and inserting “authorized under section 104A of the National Security Act of 1947 (50 U.S.C. 403-4a).”;

(2) in section 17(d)(3)(B)—

- (A) in clause (i), by striking “advise” and inserting “advise”; and
- (B) by amending clause (ii) to read as follows:
  - “(i) holds or held the position in the Agency, including such a position held on an acting basis, of—
    - “(I) Deputy Director;
    - “(II) Associate Deputy Director;
    - “(III) Director of the National Clandestine Service;
    - “(IV) Director of Intelligence;
    - “(V) Director of Support; or
    - “(VI) Director of Science and Technology.”.

**SEC. 803. TECHNICAL AMENDMENTS TO TITLE 10, UNITED STATES CODE.**

Section 528(c) of title 10, United States Code, is amended—

- (1) in the heading, by striking “ASSOCIATE DIRECTOR OF CIA FOR MILITARY AFFAIRS” and inserting “ASSOCIATE DIRECTOR OF MILITARY AFFAIRS, CIA”; and
- (2) by striking “Associate Director of the Central Intelligence Agency for Military Affairs” and inserting “Associate Director of Military Affairs, Central Intelligence Agency, or any successor position”.

**SEC. 804. TECHNICAL AMENDMENTS TO THE NATIONAL SECURITY ACT OF 1947.**

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

- (1) in section 3(4)(L), by striking “other” the second place it appears;
- (2) in section 102A—
  - (A) in subsection (c)(3)(A), by striking “annual budgets for the Joint Military Intelligence Program and for Tactical Intelligence and Related Activities” and inserting “annual budget for the Military Intelligence Program or any successor program or programs”;
  - (B) in subsection (d)—
    - (i) in paragraph (1)(B), by striking “Joint Military Intelligence Program” and inserting “Military Intelligence Program or any successor program or programs”;
    - (ii) in paragraph (3) in the matter preceding subparagraph (A), by striking “subparagraph (A)” and inserting “paragraph (1)(A)”;
    - (iii) in paragraph (5)—
      - (I) in subparagraph (A), by striking “or personnel” in the matter preceding clause (i); and
      - (II) in subparagraph (B), by striking “or agency involved” in the second sentence and inserting “involved or the Director of the Central Intelligence Agency (in the case of the Central Intelligence Agency)”;
  - (C) in subsection (1)(2)(B), by striking “section” and inserting “paragraph”;
  - (D) in subsection (n), by inserting “AND OTHER” after “ACQUISITION”;
- (3) in section 103(b), by striking “the National Security Act of 1947 (50 U.S.C. 401 et seq.)”;
- (4) in section 104A(g)(1) in the matter preceding subparagraph (A), by striking “Directorate of Operations” and inserting “National Clandestine Service”;
- (5) in section 119(c)(2)(B) (50 U.S.C. 404(c)(2)(B)), by striking “subsection (i)” and inserting “subsection (i)”;
- (6) in section 701(b)(1), by striking “Directorate of Operations” and inserting “National Clandestine Service”;
- (7) in section 705(e)(2)(D)(i) (50 U.S.C. 432c(e)(2)(D)(i)), by striking “responsible” and inserting “responsive”;
- (8) in section 1003(h)(2) in the matter preceding subparagraph (A), by striking “subsection (i)(2)(B)” and inserting “subsection (g)(2)(B)”.

**SEC. 805. TECHNICAL AMENDMENTS RELATING TO THE MULTIYEAR NATIONAL INTELLIGENCE PROGRAM.**

(a) IN GENERAL.—Subsection (a) of section 1403 of the National Defense Authorization Act for Fiscal Year 1991 (50 U.S.C. 404b) is amended—

- (1) in the heading, by striking “FOREIGN”;
- (2) by striking “foreign” each place it appears.

(b) RESPONSIBILITY OF DIRECTOR OF NATIONAL INTELLIGENCE.—Such section 1403, as amended by subsection (a), is further amended—

- (1) in subsections (a) and (c), by striking “Director of Central Intelligence” and inserting “Director of National Intelligence”;

(2) in subsection (b), by inserting “of National Intelligence” after “Director”.

(c) FUTURE-YEARS DEFENSE PROGRAM.—Subsection (c) of such section 1403, as amended by subsection (b), is further amended by striking “multiyear defense program submitted pursuant to section 114a of title 10, United States Code” and inserting “future-years defense program submitted pursuant to section 221 of title 10, United States Code”.

(d) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—The heading of such section 1403 is amended to read as follows:

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

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 2 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1485) is amended by striking the item relating to section 1403 and inserting the following new item:

“Sec. 1403. Multiyear National Intelligence Program.”.

**SEC. 806. TECHNICAL AMENDMENTS TO THE INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.**

(a) AMENDMENTS TO THE NATIONAL SECURITY INTELLIGENCE REFORM ACT OF 2004.—The National Security Intelligence Reform Act of 2004 (title I of Public Law 108-458; 118 Stat. 3643) is amended—

- (1) in subparagraph (B) of section 1016(e)(10) (6 U.S.C. 485(e)(10)), by striking “Attorney General” the second place it appears and inserting “Department of Justice”;
- (2) in subsection (e) of section 1071, by striking “(1)”;
- (3) in subsection (b) of section 1072, in the subsection heading by inserting “AGENCY” after “INTELLIGENCE”.

(b) OTHER AMENDMENTS TO THE INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.—The Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3638) is amended—

- (1) in section 2001 (28 U.S.C. 532 note)—
  - (A) in paragraph (1) of subsection (c)—
    - (i) by striking “shall,” and inserting “shall”;
    - (ii) by inserting “of” before “an institutional culture”;
  - (B) in paragraph (2) of subsection (e), by striking “the National Intelligence Director in a manner consistent with section 112(e)” and inserting “the Director of National Intelligence in a manner consistent with applicable law”;
  - (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”;
  - (B) in paragraph (3), by striking “the specific” and inserting “specific”.



**SEC. 807. 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 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. 808. TECHNICAL AMENDMENTS TO SECTION 105 OF THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2004.**

Section 105(b) of the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108-177; 117 Stat. 2603; 31 U.S.C. 311 note) is amended—

(1) by striking “Director of Central Intelligence” and inserting “Director of National Intelligence”; and

(2) by inserting “or in section 313 of such title,” after “subsection (a).”

**SEC. 809. TECHNICAL AMENDMENTS TO SECTION 602 OF THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1995.**

Section 602 of the Intelligence Authorization Act for Fiscal Year 1995 (50 U.S.C. 403-2b) is amended—

(1) in subsection (a), in paragraph (2), by striking “Director of Central Intelligence” and inserting “Director of National Intelligence”; and

(2) in subsection (b)—

(A) in paragraph (1), by striking “Director of Central Intelligence” and inserting “Director of National Intelligence”; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking “Director of Central Intelligence” and inserting “Director of National Intelligence”; and

(ii) in subparagraph (B), by striking “Director of Central Intelligence” and inserting “Director of National Intelligence”; and

(C) in paragraph (3), by striking “Director of Central Intelligence” and inserting “Director of the Central Intelligence Agency”.

**SEC. 810. TECHNICAL AMENDMENTS TO SECTION 403 OF THE INTELLIGENCE AUTHORIZATION ACT, FISCAL YEAR 1992.**

(a) ROLE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.—Section 403 of the Intelligence Authorization Act, Fiscal Year 1992 (50 U.S.C. 403-2) is amended by striking “The Director of Central Intelligence” and inserting the following:

“(a) IN GENERAL.—The Director of National Intelligence”.

(b) DEFINITION OF INTELLIGENCE COMMUNITY.—Section 403 of the Intelligence Authorization Act, Fiscal Year 1992, as amended by subsection (a), is further amended—

(1) by striking “Intelligence Community” and insert “intelligence community”; and

(2) by striking the second sentence and inserting the following:

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

Mrs. FEINSTEIN. It is my understanding the bill is passed. I thank the Senate for passage of this bill.

This is a bill which the Senate Select Committee on Intelligence reported out by a unanimous 15-to-0 vote on July 19. This is the Senate’s second time approving an intelligence authorization bill for fiscal year 2010. The

committee reported S. 1494 unanimously in July 2009, and the Senate passed it by unanimous consent in September 2009. The House passed its bill, its 2010 authorization bill, in February 2010.

The House and Senate Intelligence Committees then worked for months, together with the administration, to agree on a bill that would make a substantial contribution to national security and that would be able to pass both Chambers and become law with the President’s approval. S. 3611 is that agreement.

I thank the White House for their efforts to come to an agreement on the legislation, as well as the efforts of the vice chairman, Senator BOND, and his staff. This is his last bill and, as such, I thank him very much for his cooperation in this matter, for the ability to work with him over this period of time.

I would also like to acknowledge the leadership of the distinguished chairman of the House Intelligence Committee, Mr. REYES.

Broadly speaking, the bill advances the cause of effective oversight of the intelligence community and contributes significantly to the Director of National Intelligence’s ability to direct and lead the intelligence community as an integrated whole.

It is my understanding that the House will be back in session next week. I would urge them to take up this important legislation at that time.

Our committee filed a detailed report on S. 3611, which is available both in print and on our Web site to all Members of the Senate, our colleagues in the House, and the public as Senate Report 111-223.

The bill contains 106 sections divided into eight titles. Let me commend the reading of the bill and our report to all who may be interested in why it is essential that the Congress complete action on this needed and overdue legislation. In these remarks, I will only mention a few highlights.

This is the committee’s second report of an intelligence Authorization for fiscal year 2010. We reported S. 1494 unanimously in July 2009 and the Senate passed it by unanimous consent in September 2009. The House passed its fiscal year 2010 in February 2010.

The House and Senate Intelligence Committees then worked for months, together with the administration, to agree on a bill that would make a substantial contribution to national security and that would be able to pass both Chambers and become law with the President’s approval. S. 3611 is that agreement.

Broadly speaking, the bill advances the cause of effective oversight of the intelligence community and contributes significantly to the Director of National Intelligence’s ability to direct and lead the intelligence community as an integrated whole.

To illustrate, with respect to oversight, the bill will complete an effort that the Senate began in 2004 to create

a strong and independent statutory inspector general for the intelligence community. A principal focus of that community-wide IG will be on progress and problems with the integration of the efforts of the 16 components of the intelligence community. The bill also strengthens the CIA inspector general and provides a statutory basis for IGs in the major intelligence elements within the Department of Defense.

This strengthened IG system within the intelligence community will provide greater visibility for the leaders of the IC, including the DNI, into management, information sharing and information security, and other problems within the intelligence community. The reports of their investigations and audits will also be, as IG reports have been, an invaluable aid for congressional oversight.

Other parts of the bill will also directly aid congressional oversight. These include requirements that executive and legislative procedures on full and timely notifications to the intelligence committees be in writing and that written records of notifications to the intelligence committees of intelligence activities and covert actions also be in writing.

Importantly, the bill also requires that the head of each intelligence element certify annually on compliance with substantial congressional notification requirements that already exist in title V of the National Security Act.

The bill takes important steps to improve both executive and congressional oversight of intelligence community procurement and budget matters. In the coming years, all parts of the government will need to address the reality that appropriation levels will not rise as they have in the past. This means that controlling cost overruns and promoting sound long term budget planning is an essential part of national security. The bill takes important steps toward those objectives.

The bill grants to the Director of National Intelligence important authorities to manage the intelligence community. These include authorities concerning personnel management, acquisition authority, and information sharing. There may be more to accomplish in all of these respects and we have invited General Clapper, if he is confirmed as I hope and expect he will, not to be hesitant in asking for additional authority if he identifies a need for it.

As is detailed in the committee’s report, there are 10 provisions in this legislation that enhance the DNI’s authority and management flexibilities. Eight of those 10 provisions were requested by this administration or the prior one.

There is more in this broad ranging legislation, from large to small items. Indeed, the very length of the bill is testimony to the fact that we have gone 5 years without an intelligence authorization. From fiscal years 1979 to 2005, the Congress had enacted an authorization for every fiscal year. The



fiscal year 2010 bill is an opportunity, which we must not lose, to get back on track.

I will briefly note the reasons for the managers' amendment that the distinguished vice chairman, Senator BOND, and I have propounded.

Three provisions of S. 3611 as reported by our committee on July 19, sections 106, 333(c.), and 334 of S. 3611, have been enacted into law by provisions of the Supplemental Appropriations Act, 2010, sections 301, 308, and 3011 of Public Law 111-212, which the President signed into law on July 29. Accordingly, the managers' amendment deletes those now enacted provisions from S. 3611.

The managers' amendment also addresses requests from the Budget and Judiciary Committees. As requested by the Budget Committee, the amendment adds a pay-go provision. I should note that the Congressional Budget Office table that will be printed in the RECORD indicates that the bill makes no changes in the government's direct spending. As requested by the Judiciary Committee, the amendment clarifies that reports provided to the Congress under several sections of the bill will be provided to the Judiciary Committee.

This legislation reflects the negotiations with the House committee, the intelligence community, and the White House. Provisions that our committee, and the Senate, passed last September had to be removed due to veto threats or objections from the House of Representatives. I look forward to addressing some of those issues in future legislation.

Beginning with our distinguished vice chairman, Senator BOND, and acknowledging also the leadership of the distinguished chairman of the House Intelligence Committee, Mr. REYES, I would like to thank all of my colleagues for their work in producing a bill that will take important strides in improving the authority and oversight of the intelligence community through this 2010 bill, even as we recognize that there is more to achieve in authorization legislation for fiscal years 2011 and beyond.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Madam President, I thank the chair of our committee. I thank her, her staff, for all of the good work that has gone into this bill, repeatedly, as she pointed out.

For too many years Congress has failed to pass an intelligence authorization bill that could be signed into law. I am very pleased to join with Senator FEINSTEIN, the distinguished chair of the Senate Select Committee on Intelligence, in achieving passage of S. 3611, the Intelligence Authorization Act for Fiscal Year 2010.

Over the past several months, we worked closely with the House Permanent Select Committees on Intelligence and Administration to reach a compromise text that could serve as a

conference report for this bill. The bill now before this Senate and having passed the Senate contains all of the elements of the compromise. It has been agreed to in advance by representatives of the administration. But, unfortunately, the House has thus far declined to move the process forward, bringing this bill formally to conference.

The chair and I agreed that we would be able to move this process forward by having the Senate pass the compromise text for the House to consider when it returns next week.

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

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

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

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

Similarly, the intelligence community must get a handle on its personnel levels. In these tough economic times, it is more important than ever to make sure that the intelligence community is appropriately resourced to ensure that its personnel can effectively perform their respective national security missions.

However, I am concerned about the number of contractors used by the in-

telligence community to perform functions better left to government employees. There are some jobs that demand the use of contractors, for example, certain technical jobs or short-term functions, but too often, the quick fix is just to hire contractors, not long-term support. And so, our bill includes a provision calling for annual personnel level assessments for the intelligence community. These assessments will ensure that, before more people are brought in, there are adequate resources to support them and enough work to keep them busy.

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

I commend Senator FEINSTEIN for her leadership in shepherding this bill through the committee and the Senate. I appreciate her willingness to work through the countless issues raised throughout this process. I also thank my colleagues for supporting this bill.

It is well-past time that Congress send an intelligence authorization bill to the President for his signature. Only by fulfilling our legislative function will we get back on track with performing effective and much-needed intelligence oversight.

I, again, extend and expand my thanks to the distinguished chair for making sure the Senate Intelligence Committee can work in a bipartisan manner, which we have done on this bill, and on lengthy oversight matters that we have undertaken out of view of public scrutiny, obviously, but spending many days, many hours in meetings, looking over the wide range of critical efforts that are needed by our intelligence community to keep our country safe.

Why does passing an authorization bill matter at this late date in the fiscal year? An annual intelligence authorization bill does more than just authorize funding for intelligence activities, funding that in many cases has already been appropriated and spent. But it is vital that the intelligence committees be able to provide direction for the expenditure of funds for the intelligence community. But by providing current and congressional guidance and statutory authority we can ensure that the intelligence community has the maximum flexibility, the capability it needs to function effectively, spend taxpayer funds wisely, and keep our Nation safe.

The Senate bill has the full support of the Senate. Senior administration has said they will recommend the President sign this compromise text into law. I urge, once again, the Speaker of the House of Representatives to bring up this bill and pass it when the House returns to session next week so we can get back on track with performing effective intelligence oversight.

Mr. LEAHY. Madam President, today the Senate passed a new version of the

Intelligence Authorization Act for Fiscal Year 2010 (S. 3611) with a manager's amendment to address key concerns of the Judiciary Committee. I appreciate the commitment of Senator FEINSTEIN, the chair of the Senate Select Committee on Intelligence, to work with me to strengthen this important legislation. The bill the Senate has approved recognizes the shared jurisdiction of the committee on the Judiciary and the Select Committee on Intelligence in several legislative areas.

Last fall, when an earlier version of this bill—S. 1494—was considered by the Senate, I recognized that several provisions in the bill fell under the jurisdiction of the Judiciary Committee. Senator FEINSTEIN and I engaged in serious negotiations concerning these provisions. We negotiated agreements regarding exemptions to the Freedom of Information Act, FOIA, as well as numerous reporting requirements, such as a significant, new requirement for the Federal Bureau of Investigation—FBI—an agency clearly under the jurisdiction of the Judiciary Committee, and an important new cybersecurity oversight provision.

Negotiations I undertook with Senator FEINSTEIN last fall on the earlier version of the bill narrowed the operational files FOIA exemption for information provided by intelligence agencies to the Office of the Director of National Intelligence, ODNI, and struck a FOIA (b)(3) exemption for terrorist identity information. Those agreements were preserved in the new version of the bill, S. 3611.

Senator FEINSTEIN has told me she is also committed to ensuring that the Judiciary Committee will receive reports required by the bill's section 337, Cybersecurity Oversight. I appreciate Senator FEINSTEIN's support for these improvements. The manager's amendment to the intelligence authorization bill agreed to today explicitly identifies the Judiciary Committee as a recipient of relevant reporting provisions.

The intelligence authorization bill includes several reporting requirements that involve areas of long-standing interest and jurisdiction of the Judiciary Committee. The new version of the bill, S. 3611, ensures that the Judiciary Committee is a recipient of those reports. Section 333 of the bill directs the Director of National Intelligence to provide a comprehensive report on all measures taken by the Office of the Director of National Intelligence and by elements of the intelligence community to comply with the provisions of applicable law, international obligations, and executive orders relating to the detention and interrogation activities of the intelligence community. These include compliance with the Detainee Treatment Act of 2005; the Military Commissions Act of 2006; common Article 3 of the Geneva Conventions; the Convention Against Torture; Executive Order 13492, relating to lawful interrogations; and Executive Order

13493, relating to detention policy options.

The managers' amendment to the intelligence authorization bill modifies section 333 to ensure that to the extent that the report addresses an element of the intelligence community within the Department of Justice, it shall be submitted, along with associated material, to the Judiciary Committees of the House and Senate. This reporting requirement is a cornerstone of the agreement I reached with Senator FEINSTEIN last year. I am pleased to see it retained in the bill we passed today.

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

Section 405 of the bill establishes a new Office of Inspector General of the intelligence community to conduct independent investigations, inspections, audits and reviews on programs and activities conducted under the authority of the Director of National Intelligence. Under this new authority, the inspector general is required to submit a semiannual report to the Director of National Intelligence summarizing its activities. The amendment incorporated into S. 1494 last fall, and carried over to S. 3611, modifies the reporting provision to require the inspector general to submit reports that focus on government officials to the committees of the Senate and the House of Representatives with jurisdiction over the department that official represents.

Section 405 of the bill creates an entirely new inspector general with significant authority and responsibility in the intelligence community. That authority will implicate agencies within the jurisdiction of the Judiciary Committee, including the Department of Justice and components of the Department of Homeland Security. I believe this modification to the bill provides an important recognition of the Judiciary Committee's need to be involved in the investigations and activities of this new inspector general.

Another significant new provision is section 445 of the bill, Report and As-

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

I am very pleased that the bill passed today contains several important improvements that I recommended to strengthen FOIA. I am particularly pleased that the bill, as amended, does not contain a broad and unnecessary exemption to FOIA's disclosure requirements for terrorist identity information. That provision was included in an earlier version of the bill, but I worked to ensure it was struck prior to passage of S. 1494 last fall. It is not included in S. 3611, the successor to S. 1494.

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

Lastly, as a result of my negotiations with Senator FEINSTEIN last fall, S. 3611 narrows the exemption to FOIA's search requirements for operational files information that the Nation's intelligence agencies share with the ODNI. The bill makes it clear that operational files that are already exempt from these search requirements retain this exemption under circumstances where the files are disseminated to the ODNI. This carefully crafted compromise will help ensure both effective information sharing among our intelligence agencies and the free flow of information to the American public.

I believe that S. 3611 and the managers amendment passed today recognize the value and significance of the shared jurisdiction in many areas of national security between the Judiciary and Intelligence Committees. The Judiciary Committee has long engaged in oversight and legislative activity regarding cyber threats and cybersecurity. Senator FEINSTEIN and I have worked together in the Judiciary Committee for many years on these issues, and we both recognize the shared jurisdiction and responsibilities of the Judiciary and Intelligence Committees

with regard to oversight of cyber matters and cybersecurity.

I appreciate Senator FEINSTEIN's cooperation in adopting these improvements. In a letter sent to me yesterday, August 3, 2010, Senator FEINSTEIN reiterated her commitment to work with the Judiciary Committee in the area of cyber matters. I ask unanimous consent to have her August 3, 2010 letter printed in the RECORD. I also ask unanimous consent to print in the RECORD an exchange of letters between Senator FEINSTEIN and myself dated September 15 and 16, 2009, that discussed Senate jurisdiction over the section in the bill that addresses cybersecurity oversight. In the earlier version of the bill, S. 1494, the section was numbered 340. In the new version of the bill, S. 3611, the cybersecurity oversight section is numbered 337.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. LEAHY. As Senator FEINSTEIN has described it, Section 337 of the bill is intended to provide a preliminary framework for executive and congressional oversight of cybersecurity programs, as defined in the section, to ensure that these programs are consistent with legal authorities, preserve reasonable expectations of privacy, and are subject to independent audit and review. Section 337 of S. 3611 creates several reporting requirements with regard to the executive and congressional oversight of cybersecurity programs. These include Presidential notifications to Congress, reports to Congress and the President from the head of a department or agency with responsibility for cybersecurity programs, in conjunction with the inspector general of that department or agency, and a joint report to Congress and the President from the inspector general of the Department of Homeland Security and the inspector general of the intelligence community on the status of the sharing of cyber threat information within 1 year. I look forward to continuing to work with Senator FEINSTEIN in the Judiciary Committee and in the Senate to ensure strong oversight and legislation with regard to cyber matters.

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

#### EXHIBIT 1

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

Hon. PATRICK LEAHY,  
Chairman, Committee on the Judiciary, Dirksen  
Office Building, Washington, DC.

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

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

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

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

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

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

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

Sincerely,

DIANNE FEINSTEIN,  
Chairman.

U.S. SENATE,  
SELECT COMMITTEE ON INTELLIGENCE,  
Washington, DC, August 3, 2010.

Hon. PATRICK J. LEAHY,  
Chairman, Committee on the Judiciary, Dirksen  
Office Building, Washington, DC.

DEAR CHAIRMAN LEAHY: We exchanged letters last September about section 340 of S. 1494, the Intelligence Authorization Act for Fiscal Year 2010. As described in the report of the Select Committee on Intelligence, the purpose of section 340 is to establish a preliminary framework for executive and legislative oversight to ensure that the federal government's national cyber security mission is consistent with legal authorities and preserves reasonable expectations of privacy.

On September 16, 2009, you placed in the Congressional Record, at 155 Cong. Rec. S9451, my letter to you of September 15. Because section 340 provides for various reports or notifications to be submitted "to the Congress," I wrote to convey to you my recognition of the Judiciary Committee's longstanding interest in, and jurisdiction over,

cyber matters, and my belief that documents provided to Congress under section 340 should be provided to the Judiciary Committee. I also stated my commitment that should the Intelligence Committee receive reports under section 340 that are within the jurisdiction of the Judiciary Committee but are not provided to it, then I will ensure your committee's member and staff access to those documents as appropriate.

The Intelligence Committee has now reported a second FY 2010 Intelligence Authorization, S. 3611, which is based on the work of the House and Senate Intelligence Committees and the Administration to reconcile S. 1494 and H.R. 2701, the House intelligence bill. Section 337 of S. 3611 is the direct descendant of section 340 of S. 1494. The legislative history of section 340 of S. 1494, including my letter to you of September 15, 2009, is part of the legislative history of section 337 of S. 3611.

The recognition I expressed of the role of the Judiciary Committee in cyber matters, my belief in the right of the Judiciary Committee to receive reports under section 337, and my commitment to provide to your committee access to such reports in the event they are provided to my committee but not to yours, apply as much to section 337 of S. 3611 as they applied to section 340 of S. 1494.

I look forward to working with your committee, and other interested committees of the Senate, in establishing a strong basis for cyber security oversight.

Sincerely,

DIANNE FEINSTEIN,  
Chairman.

U.S. SENATE,  
COMMITTEE ON THE JUDICIARY,  
Washington, DC, September 16, 2009.

Hon. DIANNE FEINSTEIN,  
Chairman, Senate Select Committee on Intel-  
ligence, Hart Senate Office Building, Wash-  
ington, DC.

DEAR CHAIRMAN FEINSTEIN: Thank you for your letter today regarding S. 1494, the Intelligence Authorization Act for Fiscal Year 2010. I was happy to work with you to reach agreement on the amendment you are offering to the bill to include the Judiciary Committee as a recipient of relevant reporting provisions and to strike a proposed FOIA exemption and modify another FOIA provision. I appreciate your support for those improvements.

I had my first opportunity to review this legislation when it was hotlined on August 5. As you noted, our staffs have been in discussions over various provisions of S. 1494 that involve the jurisdiction of the Judiciary Committee and issues on which it shares an interest with the Senate Select Committee on Intelligence.

Our understanding also includes the commitment in your letter to me today to ensure that the Judiciary Committee receives reports required by Section 340, Cybersecurity Oversight. As you know as a member and former chair of the Judiciary Committee Subcommittee on Terrorism and Homeland Security, the Judiciary Committee has long engaged in oversight and legislative activity regarding cyber threats and cybersecurity. You and I have long worked together in the Judiciary Committee on these issues and I appreciate your recognition of the shared jurisdiction and responsibilities of the Judiciary and Intelligence Committees with regard to oversight of cyber matters and cybersecurity. I appreciate your commitment to ensure that the Judiciary Committee will receive reports received under the Cybersecurity Oversight provision.

As you have described it, Section 340 is intended to provide a preliminary framework for executive and congressional oversight of

cybersecurity programs, as defined in the section, to ensure that these programs are consistent with legal authorities, preserve reasonable expectations of privacy, and are subject to independent audit and review. Section 340 creates several reporting requirements with regard to the executive and congressional oversight of cybersecurity programs. These include Presidential notifications to Congress, reports to Congress and the President from the head of a department or agency with responsibility for cybersecurity programs, in conjunction with the inspector general of that department or agency, and a joint report to Congress and the President from the Inspector General of the Department of Homeland Security and the Inspector General of the Intelligence Community on the status of the sharing of cyber threat information within one year.

According to the legislative language, reports under the section are to be submitted "to the Congress." As you noted in your letter, the Judiciary Committee has a "long-standing interest in, and jurisdiction over" cyber matters and cyber security. This includes criminal activities, cybersecurity matters handled by the Justice Department and other departments and agencies under the Judiciary Committee's jurisdiction, the privacy interests of the American people, and constitutional and legal dimensions of the Government's cyber activities, including all legal guidance. Thank you for your willingness to work together on this issue, and the other provisions of the intelligence legislation.

I look forward to continuing to work together with you in the Judiciary Committee and in the Senate to ensure strong oversight and legislation with regard to cyber matters.

Sincerely,

PATRICK LEAHY,  
*Chairman.*

The PRESIDING OFFICER. The Senator from North Dakota.

#### COBELL SETTLEMENT

Mr. DORGAN. Madam President, as we conclude our work prior to the August break, we are working very hard to try to address the Cobell settlement and the Pigford settlement, these settlements are the result of lawsuits that were filed, negotiations that ensued, and eventually reaching agreement to settle these two cases.

I would like to talk briefly about the Cobell settlement. To start, I want to show a photograph, a picture of a woman named Mary Fish. I wonder how anyone serving in this Chamber or how anyone in this country would feel had they been Mary Fish. She was an Oklahoma Indian. She lived in a small, humble home, never had very much. But she had a piece of property, 40 acres, and she had six oil wells on her land—six oil wells on her land.

How she got "her land" dates back to 1887 when the Federal Government first divided up tribal lands and gave individual Indians separate parcels of land and then said to the Indians: You know what. We are going to give you separate parcels of land that will be yours. But, we are going to manage them for you. We will hold them in trust and provide income from your land to you.

So poor Mary Fish, an Oklahoma Indian, had six oil wells on her land and

lived a humble life and died a few years ago waiting, waiting for justice, justice that she never received. The Federal Government never explained to Mary how much oil was being pumped from the wells on her land.

Even with all of the oil wells on her land, Mary made only a few dollars a year from six wells. At one point she got a check from the Federal Government for 6 cents. Another time she got a check from the Federal Government for \$3. One time she got a check for \$3,000. Another time, although oil was still being produced, one of the statements that Mary received showed a negative \$5 in her account.

She died waiting for the government to account for the royalties on her land, and for this legislation that would settle this matter. She died waiting for justice.

So what is the Cobell settlement, and what does it have to do with Mary Fish and all the oil produced from her land. The Cobell settlement is an agreement reached by the Secretary of the Interior and the all of the plaintiffs in the Cobell lawsuit—individual Indians like Mary. I am going to speak about the Cobell settlement, and a couple of colleagues are going to talk about the Pigford settlement. We are here today talking about settling both of these issues.

The Cobell settlement established deadlines for the Congress to act. The Court wants to see this matter resolved. The current deadline for Congress is August 6. We have already missed six deadlines established by the federal court. And if Congress does not act, the parties will return back to litigation, litigation that has gone on now for almost 15 years in the federal courts.

As I indicated, this situation in the Cobell case resulted from a century of mismanagement of Indian trust accounts. I want to show a photograph of the way trust records of the accounts for the individual Indians were kept on one Indian reservation—rat-infested warehouses with boxes laying all over. They would not be able to find a piece of paper in this pile to save their souls. And this is how the government kept records for individual Indian trust accounts. The result is, so many Indians were cheated. Yes, there have been circumstances in the last century in which Indians were systematically cheated and looted. Grand theft occurred, a substantial amount of money was made off these lands. Someone else got it, the Indians did not. After all these years, it is long past the time for us to agree to settle these grievances.

The government has long known about the problem. In 1915, a government report identified "fraud, corruption and incompetence in the management of these Indian trust accounts." That was in 1915. In 1992, a House report compared the federal government's management of Indian trust accounts to "a bank that doesn't know how much money it has."

Finally, in 1994, Congress passed a law requiring that the government account for the money it was managing for American Indians, and then 2 years later, where there was still nothing being done and no progress, Elouise Cobell filed a case asking the government to follow the law.

Elouise Cobell is a member of the Blackfeet Nation of Montana. She is quite a remarkable woman. Like many American Indians, she grew up hearing stories of government checks and how the checks never made any sense. The checks arrived once in a while and were in amounts no one understood or could explain.

In 1996, she filed a lawsuit. Her lawsuit said: Give me an accounting of the money that you have collected from my lands, and do the same for every other American Indian. That was in 1996.

We are now in the year 2010, and finally agreement has been reached by the U.S. Department of the Interior and the U.S. Department of Justice to settle these accounts. It was 10 years ago when the court ruled against the Federal Government. The Federal Court said the Federal Government was wrong; they mismanaged these accounts, and violated the trust. Yes, there has been corruption, incompetence, and mismanagement.

So 10 years ago, the Federal court ruled against the Federal Government, saying the Federal Government had lost, damaged, destroyed trust records, and the Federal Government admitted it could not account for these trust moneys. After all of this, the government had the nerve to spend taxpayers' money to appeal the court's decision. So it goes on and on and on. Millions have been spent in endless litigation with no settlement in sight.

Finally, last December, and agreement was reached in settlement talks with the Interior Department and the Indians that resulted a settlement and this legislation to approve the settlement.

I want to just mention a couple of other brief points. I know a couple of colleagues wish to make some comments today.

The judge, when hearing of the settlement between the Federal Government and the Cobell plaintiffs, said the agreement was a win/win and that justice is on hold. That is what this is about. It is about providing the funding to settle the Cobell case and provide some amount of justice.

Others will talk about settling the Pigford case.

I will very briefly say again a lot of American Indians have died waiting for this moment. There are other stories I want to share.

This is Susie White Calf. She is a Blackfeet Indian from Montana. This picture was taken in 2001, the same year the courts found the Federal Government had broken its responsibility to Indians. Six years later, she passed away, in 2007. She will not get justice.