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111TH CONGRESS, 1st Session } HOUSE OF REPRESENTATIVES { REPORT 111–186

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2010

JUNE 26, 2009.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. REYES, from the Permanent Select Committee on Intelligence, submitted the following

R E P O R T

together with

MINORITY AND ADDITIONAL VIEWS

[To accompany H.R. 2701]

[Including cost estimate of the Congressional Budget Office]

The Permanent Select Committee on Intelligence, to whom was referred the bill (H.R. 2701) 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, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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Sec. 105. Prohibition on earmarks.
Sec. 106. Restriction on conduct of intelligence activities.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 201. Authorization of appropriations.

TITLE III—GENERAL INTELLIGENCE COMMUNITY MATTERS

Subtitle A—Personnel Matters

Sec. 301. Increase in employee compensation and benefits authorized by law.
Sec. 302. Temporary appointment to fill vacancies in Presidentially appointed and Senate confirmed positions in the Office of the Director of National Intelligence.
Sec. 303. Enhanced flexibility in nonreimbursable details to elements of the intelligence community.
Sec. 304. Provisions relating to the Defense Civilian Intelligence Personnel System.

Subtitle B—Education

Sec. 311. Permanent authorization for the Pat Roberts Intelligence Scholars Program.
Sec. 312. Intelligence officer training program.
Sec. 313. Modifications to the Stokes educational scholarship program.
Sec. 314. Pilot program for intensive language instruction in African languages.

Subtitle C—Congressional Oversight of Covert Actions

Sec. 321. Reporting on covert actions.

Subtitle D—Reports and Other Congressional Oversight

Sec. 331. Report on financial intelligence on terrorist assets.
Sec. 332. Annual personnel level assessments for the intelligence community.
Sec. 333. Semiannual reports on nuclear weapons programs of Iran, Syria, and North Korea.
Sec. 334. Annual report on foreign language proficiency in the intelligence community.
Sec. 335. Government Accountability Office audits and investigations.
Sec. 336. Certification of compliance with oversight requirements.
Sec. 337. Reports on foreign industrial espionage.
Sec. 338. Report on intelligence community contractors.
Sec. 339. Report on transformation of the intelligence capabilities of the Federal Bureau of Investigation.
Sec. 340. Report on intelligence resources dedicated to Iraq and Afghanistan.
Sec. 341. Report on international traffic in arms regulations.
Sec. 342. Report on nuclear trafficking.
Sec. 343. Study on revoking pensions of persons who commit unauthorized disclosures of classified information.
Sec. 344. Study on electronic waste destruction practices of the intelligence community.
Sec. 345. Report on retirement benefits for former employees of Air America.
Sec. 346. Study on college tuition programs for employees of the intelligence community.
Sec. 347. National Intelligence Estimate on global supply chain vulnerabilities.
Sec. 348. Review of records relating to potential health risks among Desert Storm veterans.
Sec. 349. Review of pensions of employees affected by "five and out" program of the Federal Bureau of Investigation.
Sec. 350. Summary of intelligence relating to terrorist recidivism of detainees held at United States Naval Station, Guantanamo Bay, Cuba.
Sec. 351. Summary of intelligence on Uighur detainees held at United States Naval Station, Guantanamo Bay, Cuba.
Sec. 352. Report on interrogation research and training.
Sec. 353. Report on plans to increase diversity within the intelligence community.
Sec. 354. Review of Federal Bureau of Investigation exercise of enforcement jurisdiction in foreign nations.
Sec. 355. Repeal of certain reporting requirements.
Sec. 356. Incorporation of reporting requirements.
Sec. 357. Conforming amendments.

Subtitle E—Other Matters

Sec. 361. Modification of availability of funds for different intelligence activities.
Sec. 362. Protection of certain national security information.
Sec. 363. Extension of authority to delete information about receipt and disposition of foreign gifts and decorations.
Sec. 364. Exemption of dissemination of terrorist identity information from Freedom of Information Act.
Sec. 365. Misuse of the intelligence community and Office of the Director of National Intelligence name, initials, or seal.
Sec. 366. Security clearances: reports; ombudsman; reciprocity.
Sec. 367. Limitation on use of funds for the transfer or release of individuals detained at United States Naval Station, Guantanamo Bay, Cuba.
Sec. 368. 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. Clarification of limitation on colocation of the Office of the Director of National Intelligence.
Sec. 402. Membership of the Director of National Intelligence on the Transportation Security Oversight Board.
Sec. 403. Additional duties of the Director of Science and Technology.
Sec. 404. Plan to implement recommendations of the data center energy efficiency reports.
Sec. 405. Title of Chief Information Officer of the Intelligence Community.
Sec. 406. Inspector General of the Intelligence Community.

Subtitle B—Central Intelligence Agency

Sec. 411. Review of covert action programs by Inspector General of the Central Intelligence Agency.
Sec. 412. Prohibition on the use of private contractors for interrogations involving persons in the custody of the Central Intelligence Agency.
Sec. 413. Appeals from decisions of Central Intelligence Agency contracting officers.
Sec. 414. Deputy Director of the Central Intelligence Agency.
Sec. 415. Protection against reprisals.
Sec. 416. Requirement for video recording of interrogations of persons in the custody of the Central Intelligence Agency.

Subtitle C—Other Elements

Sec. 421. Homeland Security intelligence elements.
Sec. 422. Clarification of inclusion of Drug Enforcement Administration as an element of the intelligence community.
Sec. 423. Repeal of certain authorities relating to the Office of the National Counterintelligence Executive.
Sec. 424. Confirmation of appointment of heads of certain components of the intelligence community.
Sec. 425. Associate Director of the National Security Agency for Compliance and Training.
Sec. 426. General Counsel of the National Security Agency.
Sec. 427. Inspector General of the National Security Agency.
Sec. 428. Charter for the National Reconnaissance Office.

TITLE V—OTHER MATTERS

Subtitle A—General Intelligence Matters

Sec. 501. Extension of National Commission for the Review of the Research and Development Programs of the United States Intelligence Community.
Sec. 502. Expansion and clarification of the duties of the program manager for the information sharing environment.
Sec. 503. Classification review of executive branch materials in the possession of the congressional intelligence committees.
Sec. 504. Prohibition on use of funds to provide Miranda warnings to certain persons outside of the United States.

Subtitle B—Technical Amendments

Sec. 511. Technical amendments to the Central Intelligence Agency Act of 1949.
Sec. 512. Technical amendment to mandatory retirement provision of Central Intelligence Agency Retirement Act.
Sec. 513. Technical amendments to the Executive Schedule.
Sec. 514. Technical amendments to the Foreign Intelligence Surveillance Act of 1978.
Sec. 515. Technical amendments to section 105 of the Intelligence Authorization Act for Fiscal Year 2004.
Sec. 516. Technical amendments to the Intelligence Reform and Terrorism Prevention Act of 2004.
Sec. 517. Technical amendments relating to the multiyear National Intelligence Program.
Sec. 518. Technical amendments to the National Security Act of 1947.
Sec. 519. Technical amendments to title 10, United States Code.

SEC. 2. DEFINITIONS.

In this Act:

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

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

(B) the Select Committee on Intelligence of the Senate.

(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 ceilings as of September 30, 2010, for the conduct of the intelligence ac-

tivities 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 H.R. 2701 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.—With the approval of the Director of the Office of Management and Budget, the Director of National Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 2010 by the classified Schedule of Authorizations referred to in section 102(a) if the Director of National Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed 3 percent of the number of civilian personnel authorized under such Schedule for such element.

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

SEC. 104. INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Intelligence Community Management Account of the Director of National Intelligence for fiscal year 2010 the sum of $672,812,000. Within such amount, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for advanced research and development shall remain available until September 30, 2011.

(b) AUTHORIZED PERSONNEL LEVELS.—The elements within the Intelligence Community Management Account of the Director of National Intelligence are authorized 853 full-time or full-time equivalent personnel as of September 30, 2010. Personnel serving in such elements may be permanent employees of the Office of the Director of National Intelligence or personnel detailed from other elements of the United States Government.

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

(d) CLASSIFIED AUTHORIZATIONS.—

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

(2) AUTHORIZATION OF PERSONNEL.—In addition to the personnel authorized by subsection (b) for elements of the Intelligence Community Management Account as of September 30, 2010, there are authorized such additional 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. PROHIBITION ON EARMARKS.

(a) IN GENERAL.—Nothing in the classified Schedule of Authorizations, a report of the Permanent Select Committee on Intelligence of the House of Representatives or the Select Committee on Intelligence of the Senate to accompany the bill H.R. 2701 of the One Hundred Eleventh Congress, a joint statement of the managers accompanying a conference report on such bill, or the classified annex to this Act, shall be construed to authorize or require the expenditure of funds for a congressional earmark.

(b) CONGRESSIONAL EARMARK DEFINED.—In this section, the term "congressional earmark" means a provision or report language included primarily at the request of a Member, Delegate, or Resident Commissioner of the House of Representatives or a Senator providing, authorizing, or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality, or congressional district, other

than through a statutory or administrative formula-driven or competitive award process.

SEC. 106. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

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

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

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

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. TEMPORARY APPOINTMENT TO FILL VACANCIES IN PRESIDENTIALLY APPOINTED AND SENATE CONFIRMED POSITIONS IN THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

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

(1) redesignating subsection (e) as subsection (f); and

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

"(e) TEMPORARY APPOINTMENT TO FILL VACANCIES.—Notwithstanding section 3345 of title 5, United States Code, if an officer of the Office of the Director of National Intelligence, other than the Director of National Intelligence, whose appointment to office is required to be made by the President, by and with the advice and consent of the Senate, dies, resigns, or is unable to perform the functions and duties of the office—

"(1) if during the 365-day period immediately preceding the date of death, resignation, or beginning of inability to serve of the applicable officer, the person serving as the first assistant to the office of such officer served as such first assistant for not less than 90 days, such first assistant shall perform the functions and duties of the office temporarily in an acting capacity subject to the time limitations of section 3346 of title 5, United States Code;

"(2) notwithstanding paragraph (1), the President may direct a person who serves in an office for which appointment is required to be made by the President, by and with the advice and consent of the Senate, to perform the functions and duties of the vacant office temporarily in an acting capacity subject to the time limitations of such section 3346; or

"(3) notwithstanding paragraph (1), the Director of National Intelligence shall recommend to the President, and the President may direct, a person to perform the functions and duties of the vacant office temporarily in an acting capacity subject to the time limitations of such section 3346, if—

"(A) during the 365-day period preceding the date of death, resignation, or beginning of inability to serve of the applicable officer, such person served in a position in an element of the intelligence community for not less than 90 days;

"(B) the rate of pay for the position described under subparagraph (A) is equal to or greater than the minimum rate of pay payable for a position at GS–15 of the General Schedule; and

"(C) in the case of a person who is employed by an element of the intelligence community—

"(i) the Director of National Intelligence shall consult with the head of such element; and

"(ii) if the head of such element objects to the recommendation, the Director of National Intelligence may make the recommendation to the President over the objection of the head of such element after informing the President of such objection.".

SEC. 303. 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 an element of the intelligence community funded through the Community Management Account from another element of the United States Government on a reimbursable or nonreimbursable basis, as jointly agreed to by the Director of National Intelligence and the head of the detailing element, for a period not to exceed two years.".

(b) CONFORMING AMENDMENT.—The table of contents in the first section of such Act (50 U.S.C. 401 note) is amended by inserting after the item relating to section 113 the following new item:

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

SEC. 304. PROVISIONS RELATING TO THE DEFENSE CIVILIAN INTELLIGENCE PERSONNEL SYSTEM.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "covered position" means a defense intelligence position in the Department of Defense established under chapter 83 of title 10, United States Code, excluding an Intelligence Senior Level position designated under section 1607 of such title and any position in the Defense Intelligence Senior Executive Service;

(2) the term "DCIPS pay system", as used with respect to a covered position, means the provisions of the Defense Civilian Intelligence Personnel System under which the rate of salary or basic pay for such position is determined, excluding any provisions relating to bonuses, awards, or any other amounts not in the nature of salary or basic pay;

(3) the term "Defense Civilian Intelligence Personnel System" means the personnel system established under chapter 83 of title 10, United States Code; and

(4) the term "appropriate pay system", as used with respect to a covered position, means—

(A) the system under which, as of September 30, 2007, the rate of salary or basic pay for such position was determined; or

(B) if subparagraph (A) does not apply, the system under which, as of September 30, 2007, the rate of salary or basic pay was determined for the positions within the Department of Defense most similar to the position involved,

excluding any provisions relating to bonuses, awards, or any other amounts which are not in the nature of salary or basic pay.

(b) REQUIREMENT THAT APPOINTMENTS TO COVERED POSITIONS AFTER JUNE 16, 2009, BE SUBJECT TO THE APPROPRIATE PAY SYSTEM.—Notwithstanding any other provision of law—

(1) the DCIPS pay system—

(A) shall not apply to any individual holding a covered position who is not subject to such system as of June 16, 2009; and

(B) shall not apply to any covered position which is not subject to such system as of June 16, 2009; and

(2) any individual who, after June 16, 2009, is appointed to a covered position shall accordingly be subject to the appropriate pay system.

(c) TERMINATION OF DCIPS PAY SYSTEM FOR COVERED POSITIONS AND CONVERSION OF EMPLOYEES HOLDING COVERED POSITIONS TO THE APPROPRIATE PAY SYSTEM.—

(1) IN GENERAL.—The Secretary of Defense shall take all actions which may be necessary to provide, within 12 months after the date of enactment of this Act, for the termination of the DCIPS pay system with respect to covered positions and for the conversion of any employees holding any covered positions which, as of such date of enactment, remain subject to the DCIPS pay system, to the appropriate pay system. No employee shall suffer any loss of or decrease in pay because of the preceding sentence.

(2) REPORT.—If the Secretary of Defense is of the view that the DCIPS pay system should not be terminated with respect to covered positions, as required by paragraph (1), the Secretary shall submit to the President and both Houses of Congress as soon as practicable, but in no event later than 6 months after the date of the enactment of this Act, a written report setting forth a statement of the Secretary's views and the reasons therefor. Such report shall specifically include—

(A) the Secretary's opinion as to whether the DCIPS pay system should be continued, with or without changes, with respect to covered positions; and

(B) if, in the opinion of the Secretary, the DCIPS pay system should be continued with respect to covered positions, with changes—

(i) a detailed description of the proposed changes; and

(ii) a description of any administrative action or legislation which may be necessary.

The requirements of this paragraph shall be carried out by the Secretary of Defense in conjunction with the Director of the Office of Personnel Management.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be considered to affect—

(1) the provisions of the Defense Civilian Intelligence Personnel System governing aspects of compensation apart from salary or basic pay; or

(2) the application of such provisions with respect to a covered position or any individual holding a covered position, including after June 16, 2009.

Subtitle B—Education

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 OF INTELLIGENCE ANALYSTS

"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 to—

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

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

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

"(4) 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 appropriate to carry out such program.".

(b) CONFORMING AMENDMENTS.—

(1) TABLE OF CONTENTS.—The table of contents in the first section of such Act (50 U.S.C. 401 note), as amended by section 303 of this Act, is further amended by inserting after the item relating to section 1021 the following new item:

"Sec. 1022. Program on recruitment and training of intelligence analysts.".

(2) REPEAL OF PILOT PROGRAM.—Section 318 of the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108–177; 50 U.S.C. 441g note) is repealed.

SEC. 312. 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 311 of this Act, is further amended by adding at the end the following new section:

"INTELLIGENCE OFFICER TRAINING PROGRAM

"SEC. 1023. (a) PROGRAMS.—(1) The Director of National Intelligence may carry out a grant program 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 of National Intelligence 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 of National Intelligence 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.

"(3) 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.

"(4) 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—

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

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

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

"(c) REGULATIONS.—The Director of National Intelligence shall prescribe such regulations as may be necessary to carry out this section.

"(d) DEFINITIONS.—In this section:

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

"(2) DIRECTOR.—The term 'Director' means the Director of National Intelligence.".

(b) REPEAL OF DUPLICATIVE PROVISIONS.—

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

(A) 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.

(c) CONFORMING AMENDMENTS.—The table of contents in the first section of the National Security Act of 1947 (50 U.S.C. 401 note), as amended by section 311 of this Act, is further amended by—

(1) striking the item relating to section 1003; and

(2) inserting after the item relating to section 1022 the following new item:

"Sec. 1023. Intelligence officer training program.".

SEC. 313. MODIFICATIONS TO THE STOKES EDUCATIONAL SCHOLARSHIP PROGRAM.

(a) EXPANSION OF 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 striking "undergraduate" and inserting "undergraduate and graduate"; and

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

(2) in subsection (e)(2), by striking "undergraduate" and inserting "undergraduate and graduate".

(b) TERMINATION.—Section 16(d)(1)(C) of such Act is amended by striking "terminated either by" and all that follows and inserting the following: "terminated by—

"(i) the Agency due to misconduct by the person;

"(ii) the person voluntarily; or

"(iii) by the Agency for the failure of the person to maintain such level of academic standing in the educational course of training as the Director of the National Security Agency specifies in the agreement under this paragraph; and".

(c) AUTHORITY TO WITHHOLD DISCLOSURE OF AFFILIATION WITH NSA.—Section 16(e) 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".

(d) OTHER ELEMENTS OF THE INTELLIGENCE COMMUNITY.—

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

"STOKES SCHOLARSHIP PROGRAM

"SEC. 1024. The head of an element of the intelligence community may establish an undergraduate and graduate training program with respect to civilian employees of such element in the same manner and under the same conditions as the Secretary of Defense is authorized to establish such a program under section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note).".

(2) CONFORMING AMENDMENT.—The table of contents in the first section of such Act (50 U.S.C. 401 note), as amended by section 312 of this Act, is further amended by inserting after the item relating to section 1023 the following new item:

"Sec. 1024. Stokes scholarship 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 such Act, 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 in accordance with subsection (a) shall terminate on the date that is 5 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—Congressional Oversight of Covert Actions

SEC. 321. REPORTING ON COVERT ACTIONS.

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

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

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

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

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

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

"(E) the likelihood that the intelligence activity will fail.".

(b) PROCEDURES.—Section 501(c) of such Act (50 U.S.C. 413(c)) is amended by striking "such procedures" and inserting "such written procedures".

(c) INTELLIGENCE ACTIVITIES.—Section 502(a)(2) of such Act (50 U.S.C. 413a(a)(2)) is amended by inserting "(including any information or material relating to the legal authority under which an intelligence activity is being or was conducted, and any information or material relating to legal issues upon which guidance was sought in carrying out or planning the intelligence activity, including dissenting legal views)" after "concerning intelligence activities".

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

(1) in subsection (b)(2), by inserting "(including any information or material relating to the legal authority under which a covert action is being or was conducted, and any information or material relating to legal issues upon which guidance was sought in carrying out or planning the covert action, including dissenting legal views)" after "concerning covert actions";

(2) in subsection (c)—

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

"(2) If, pursuant to the procedures established by each of the congressional intelligence committees under section 501(c), one of the congressional intelligence committees determines that not all members of that committee are required to have access to a finding under this subsection, the President may limit access to such finding or such notice as provided in such procedures."; and

(B) in paragraph (4), by striking "is limited to the Members of Congress specified in paragraph (2)" and inserting "is not provided to all members of one of the congressional intelligence committees in accordance with paragraph (2)";

(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) of this paragraph, by striking "specified in" and inserting "informed in accordance with"; and

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

"(2) For purposes of this subsection, an activity shall constitute a 'significant undertaking' if the activity—

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

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

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

"(D) requires notification under section 504;

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

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

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

"(g)(1) A Member of Congress to which a finding is reported under subsection (c) or notice is provided under subsection (d)(1) may submit to the Director of National Intelligence an objection to any part of such finding or such notice. Not later than 48 hours after such an objection is submitted to the Director of National Intel-

ligence, the Director shall report such objection in writing to the President and such Member of Congress.

"(2) In any case where access to a finding reported under subsection (c) or notice provided under subsection (d)(1) is not made available to all members of a congressional intelligence committee in accordance with subsection (c)(2), the President shall provide such members with general information on the content of the finding or notice.

"(3) The President shall—

"(A) maintain a record of the Members of Congress to which 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

"(B) not later than 30 days after the date on which such finding is reported or such notice is provided, provide such record to—

"(i) in the case of a finding reported or notice provided to a Member of the House of Representatives, the Permanent Select Committee on Intelligence of the House of Representatives; and

"(ii) in the case of a finding reported or notice provided to a Member of the Senate, the Select Committee on Intelligence of the Senate.

"(h) Any requirement under section 501, 502, or this section to provide information to the congressional intelligence committees shall be construed to require the submission of such information to all members of such committees, unless such information is specifically authorized not to be submitted to all members of one of such committees in accordance with subsection (c)(2).".

Subtitle D—Reports and Other Congressional Oversight

SEC. 331. 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 "SEMIANNUAL" and inserting "ANNUAL";

(2) in subsection (a)—

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

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

(i) by striking "semiannual basis" and inserting "annual basis"; and

(ii) by striking "preceding six-month period" and inserting "preceding 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,".

SEC. 332. ANNUAL PERSONNEL LEVEL ASSESSMENTS FOR THE INTELLIGENCE COMMUNITY.

Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.) is amended by inserting after section 507 the following new section:

"ANNUAL PERSONNEL LEVEL ASSESSMENT FOR THE INTELLIGENCE COMMUNITY

"SEC. 508. (a) ASSESSMENT.—The Director of National Intelligence shall, in consultation with the head of each element of the intelligence community, prepare an annual personnel level assessment for such element that assesses the personnel levels of such element for the fiscal year following the fiscal year in which the assessment is submitted.

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

"(c) CONTENTS.—Each assessment required by subsection (a) shall include, for the element of the intelligence community concerned, the following information:

"(1) The budget submission for personnel costs of such element 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 preceding five fiscal years.

"(4) The number of personnel positions requested for such element for the upcoming fiscal year.

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

"(6) The numerical and percentage increase or decrease of such number as compared to the number of personnel positions of such element during the preceding five fiscal years.

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

"(8) The numerical and percentage increase or decrease of such costs of contractors as compared to the best estimate of the costs of contractors to be funded by such element during the current fiscal year.

"(9) The numerical and percentage increase or decrease of such costs of contractors as compared to the cost of contractors, and the number of contractors, of such element during the preceding five fiscal years.

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

"(11) The number of intelligence collectors and analysts employed or contracted by such element.

"(12) A list of all contractors that have been the subject of an investigation completed by the inspector general of such element during the preceding fiscal year, or are or have been the subject of an investigation by such inspector general during the current fiscal year.

"(13) A statement by the Director of National Intelligence of whether, based on current and projected funding, such element will have sufficient—

"(A) internal infrastructure to support the requested personnel and contractor levels;

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

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

SEC. 333. SEMIANNUAL REPORTS ON NUCLEAR WEAPONS PROGRAMS OF IRAN, SYRIA, AND NORTH KOREA.

(a) IN GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by section 332, is further amended by adding at the end the following new section:

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

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

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

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

"(2) an evaluation of the sources upon which the intelligence used to prepare the assessment referred to in paragraph (1) is based, including the number of such sources and an assessment of the reliability of each source;

"(3) a summary of any intelligence related to any program gathered or developed since the previous report was submitted under subsection (a), including intelligence collected from both open and clandestine sources for each country; and

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

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

"(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means—

"(1) the congressional intelligence committees;

"(2) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives; and

"(3) the Committee on Armed Services and the Committee on Foreign Relations of the Senate.".

(b) APPLICABILITY DATE.—The first report required to be submitted under section 509 of the National Security Act of 1947, as added by subsection (a), shall be submitted not later than 120 days after the date of the enactment of this Act.

SEC. 334. ANNUAL REPORT ON FOREIGN LANGUAGE PROFICIENCY IN THE INTELLIGENCE COMMUNITY.

Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by section 333 of this Act, is further amended by adding at the end the following new section:

"REPORT ON FOREIGN LANGUAGE PROFICIENCY IN THE INTELLIGENCE COMMUNITY

"SEC. 510. Each year on the date provided in section 507, 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 the level of proficiency required;

"(2) an estimate of the number of such positions that each 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 previous fiscal year that indicated foreign language proficiency, including the foreign language indicated and the proficiency level;

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

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

"(7) a description of 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;

"(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 an ally of the United States; and

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

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

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

"(12) 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 Federal

Government in Iraq or Afghanistan to meet the critical language needs of such element.".

SEC. 335. GOVERNMENT ACCOUNTABILITY OFFICE AUDITS AND INVESTIGATIONS.

Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by section 334 of this Act, is further amended by adding at the end the following new section:

"GOVERNMENT ACCOUNTABILITY OFFICE ANALYSES, EVALUATIONS, AND INVESTIGATIONS

"SEC. 511. (a) IN GENERAL.—Except as provided in subsection (b), the Director of National Intelligence shall ensure that personnel of the Government Accountability Office designated by the Comptroller General are provided with access to all information in the possession of an element of the intelligence community that the Comptroller General determines is necessary for such personnel to conduct an analysis, evaluation, or investigation of a program or activity of an element of the intelligence community that is requested by one of the congressional intelligence committees.

"(b) EXCEPTION.—(1)(A) Subject to subparagraph (B), the Director of National Intelligence may restrict access to information referred to in subsection (a) by personnel designated in such subsection if the Director determines that the restriction is necessary to protect vital national security interests of the United States.

"(B) The Director of National Intelligence may not restrict access under subparagraph (A) solely on the basis of the level of classification or compartmentation of information that the personnel designated in subsection (a) may seek access to while conducting an analysis, evaluation, or investigation.

"(2) If 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 within 7 days.

"(3) The Director shall notify the Comptroller General at the time a report under paragraph (2) is submitted, and, to the extent consistent with the protection of intelligence sources and methods, provide the Comptroller General with a copy of such report.

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

SEC. 336. 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 335 of this Act, is further amended by adding at the end the following new section:

"CERTIFICATION OF COMPLIANCE WITH OVERSIGHT REQUIREMENTS

"SEC. 512. The head of each element of the intelligence community shall semiannually 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 of the intelligence community is in full compliance with the requirements of this title; and

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

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

"(A) of the reasons such head of such element is not able to submit such a certification;

"(B) describing any information required to be submitted by such 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 512 of the National Security Act of 1947, as added by subsection (a) of this section, shall be submitted not later than 90 days after the date of the enactment of this Act.

SEC. 337. REPORTS ON FOREIGN INDUSTRIAL ESPIONAGE.

(a) IN GENERAL.—Section 809(b) of the Intelligence Authorization Act for Fiscal Year 1995 (50 U.S.C. app. 2170b(b)) is amended—

(1) in the heading, by striking "ANNUAL" and inserting "BIANNUAL";

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

"(1) SUBMISSION TO CONGRESS.—The President shall biannually submit to the congressional intelligence committees, the Committees on Armed Services of the House of Representatives and the Senate, and congressional leadership a report updating the information referred to in subsection (a)(1)(D).";

(3) by striking paragraph (2); and

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

(b) INITIAL REPORT.—The first report required under section 809(b)(1) of such Act, as amended by subsection (a)(2) of this section, shall be submitted not later than February 1, 2010.

SEC. 338. REPORT ON INTELLIGENCE COMMUNITY CONTRACTORS.

(a) REQUIREMENT FOR REPORT.—Not later than November 1, 2010, 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 Federal 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 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 Federal Government employees performing substantially similar functions;

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

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

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

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

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

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

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

(I) an analysis of the oversight and accountability mechanisms applicable to personal services contracts awarded for intelligence activities by each element of the intelligence community during fiscal years 2008 and 2009;

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

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

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

(A) Intelligence collection.

(B) Intelligence analysis.

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

SEC. 339. REPORT ON TRANSFORMATION OF THE INTELLIGENCE CAPABILITIES OF THE FEDERAL BUREAU OF INVESTIGATION.

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

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

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

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

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

(A) identifying new intelligence targets within the scope of the national security functions of the Bureau, outside the parameters of an existing case file or ongoing investigation;

(B) collecting intelligence domestically, including collection through human and technical sources;

(C) recruiting human sources;

(D) training Special Agents to spot, assess, recruit, and handle human sources;

(E) working collaboratively with other Federal departments and agencies to jointly collect intelligence on domestic counterterrorism and counterintelligence targets;

(F) producing a common intelligence picture of domestic threats to the national security of the United States;

(G) producing high quality and timely intelligence analysis;

(H) integrating intelligence analysts into its intelligence collection operations; and

(I) sharing intelligence information with intelligence community partners.

SEC. 340. REPORT ON INTELLIGENCE RESOURCES DEDICATED TO IRAQ AND AFGHANISTAN.

Not later than 120 days after the date of the enactment of this Act, the Director of National Intelligence and the Secretary of Defense shall jointly submit to the congressional intelligence committees and the Committees on Armed Services of the House of Representatives and the Senate a report on intelligence collection and analysis resources (1) dedicated to Iraq and Afghanistan during fiscal years 2008 and 2009, and (2) planned to be dedicated during fiscal year 2010. Such report shall include detailed information on fiscal, human, technical, and other intelligence collection and analysis resources.

SEC. 341. REPORT ON INTERNATIONAL TRAFFIC IN ARMS REGULATIONS.

(a) REPORT.—Not later than February 1, 2011, the Director of National Intelligence shall submit to the congressional intelligence committees, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Foreign Relations of the Senate a report assessing the threat to national security presented by the efforts of foreign countries to acquire, through espionage, diversion, or other means, sensitive equipment and technology, and the degree to which United States export controls (including the International Traffic in Arms Regulations) are adequate to defeat such efforts.

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

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

SEC. 342. REPORT ON NUCLEAR TRAFFICKING.

(a) REPORT.—Not later than February 1, 2010, the Director of National Intelligence shall submit to the congressional intelligence committees, the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives, and the Committee on Armed Services and the Committee on Foreign Relations of the Senate a report on the illicit trade of nuclear and radiological material and equipment.

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

(1) details of all known or suspected cases of the illicit sale, transfer, brokering, or transport of—

(A) nuclear or radiological material;

(B) equipment useful for the production of nuclear or radiological material; or

(C) nuclear explosive devices;

(2) an assessment of the countries that represent the greatest risk of nuclear trafficking activities; and

(3) a discussion of any dissents, caveats, gaps in knowledge, or other information that would reduce confidence in the assessment referred to in paragraph (2).

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

SEC. 343. STUDY ON REVOKING PENSIONS OF PERSONS WHO COMMIT UNAUTHORIZED DISCLOSURES OF CLASSIFIED INFORMATION.

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

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

SEC. 344. 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. 345. REPORT ON RETIREMENT BENEFITS FOR FORMER EMPLOYEES OF AIR AMERICA.

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

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

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

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

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

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

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

(2) A description of—

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

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

(C) the retirement benefits actually paid such employees;

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

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

(3) An assessment of the difference between—

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

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

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

(5) If legislative action is considered advisable under paragraph (4), a proposal for such action and an assessment of its costs.

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

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

(d) DEFINITIONS.—In this section:

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

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

SEC. 346. STUDY ON COLLEGE TUITION PROGRAMS FOR EMPLOYEES OF THE INTELLIGENCE COMMUNITY.

(a) STUDY.—The Director of National Intelligence shall conduct a study on the feasability of—

(1) providing matching funds for contributions to college savings programs made by employees of elements of the intelligence community; and

(2) establishing a program to pay the college tuition of each child of an employee of an element of the intelligence community that has died in the performance of the official duties of such employee.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to Congress a report containing the results of the study conducted under subsection (a).

(c) COLLEGE SAVINGS PROGRAM DEFINED.—In this section, the term "college savings program" means—

(1) a qualified tuition program, as defined in section 529 of the Internal Revenue Code of 1986;

(2) a Coverdell education savings account, as defined in section 530 of the Internal Revenue Code of 1986; and

(3) any other appropriate program providing tax incentives for saving funds to pay for college tuition, as determined by the Director of National Intelligence.

SEC. 347. NATIONAL INTELLIGENCE ESTIMATE ON GLOBAL SUPPLY CHAIN VULNERABILITIES.

(a) REPORT.—Not later than one year after the date of the enactment of this Act, the Director of National Intelligence shall submit to Congress a National Intelligence Estimate or National Intelligence Assessment on the global supply chain to determine whether such supply chain poses a risk to defense and intelligence systems due to counterfeit components that may be defective or deliberately manipulated by a foreign government or a criminal organization.

(b) REVIEW OF MITIGATION.—

(1) NCIX REVIEW.—The National Counterintelligence Executive shall conduct a review of the adequacy of the mechanisms to identify and mitigate vulnerabilities in the global supply chain that pose a risk to defense and intelligence systems due to counterfeit components that may be defective or deliberately manipulated by a foreign government or a criminal organization.

(2) SUBMISSION.—Not later than one year after the date of the enactment of this Act, the National Counterintelligence Executive shall submit to Congress a report containing the results of the review conducted under paragraph (1).

SEC. 348. 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. 349. REVIEW OF PENSIONS OF EMPLOYEES AFFECTED BY "FIVE AND OUT" PROGRAM OF THE FEDERAL BUREAU OF INVESTIGATION.

None of the funds authorized to be appropriated by this Act may be used to implement the program of the Federal Bureau of Investigation requiring the mandatory reassignment of a supervisor of the Bureau after such supervisor serves in a management position for seven years (commonly known as the "seven and out" program) until the Director of the Federal Bureau of Investigation submits to the congressional intelligence committees a certification that the Director has completed a review of issues related to the pensions of former employees of the Bureau affected by a previous program of mandatory reassignment after serving in a management position for five years (commonly known as the "five and out" program) and the effect of such program on the Bureau and the results of such review.

SEC. 350. SUMMARY OF INTELLIGENCE RELATING TO TERRORIST RECIDIVISM OF DETAINEES HELD AT UNITED STATES NAVAL STATION, GUANTANAMO BAY, CUBA.

Not later than 30 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 United States Naval Station, 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. 351. SUMMARY OF INTELLIGENCE ON UIGHUR DETAINEES HELD AT UNITED STATES NAVAL STATION, GUANTANAMO BAY, CUBA.

Not later than 30 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 threats posed by Uighur detainees currently or formerly held at United States Naval Station, 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. 352. REPORT ON INTERROGATION RESEARCH AND TRAINING.

(a) REQUIREMENT FOR REPORT.—Not later than December 31, 2009, the Director of National Intelligence, in coordination with the heads of the relevant elements of the intelligence community, shall submit to the congressional intelligence committees and the Committees on Appropriations of the House of Representatives and the Senate a report on the state of research, analysis, and training in interrogation and debriefing practices.

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

(1) an assessment of—

(A) the quality and value of scientific and technical research in interrogation and debriefing practices that has been conducted independently or in affiliation with the Federal Government and the identification of areas in which additional research could potentially improve interrogation practices;

(B) the state of interrogation and debriefing training in the intelligence community, including the character and adequacy of the ethical component of such training, and the identification of any gaps in training;

(C) the adequacy of efforts to enhance career path options for intelligence community personnel that serve as interrogators and debriefers, including efforts to recruit and retain career personnel; and

(D) the effectiveness of existing processes for studying and implementing lessons learned and best practices of interrogation and debriefing; and

(2) any recommendations that the Director considers appropriate for improving the performance of the intelligence community with respect to the issues described in subparagraphs (A) through (D) of paragraph (1).

SEC. 353. REPORT ON PLANS TO INCREASE DIVERSITY WITHIN THE INTELLIGENCE COMMUNITY.

(a) REQUIREMENT FOR REPORT.—Not later than November 1, 2010, the Director of National Intelligence, in coordination with the heads of the elements of the intelligence community, shall submit to the congressional intelligence committees a report on the plans of each element to increase diversity within the intelligence community.

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

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

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

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

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

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

SEC. 354. REVIEW OF FEDERAL BUREAU OF INVESTIGATION EXERCISE OF ENFORCEMENT JURISDICTION IN FOREIGN NATIONS.

Not later than 60 days after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the appropriate committees of 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. 355. REPEAL 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 CERTIFICATION ON COUNTERINTELLIGENCE INITIATIVES.—Section 1102(b) of the National Security Act of 1947 (50 U.S.C. 442a(b)) is amended—

(1) by striking "(1) The Director" and inserting "The Director" ; and

(2) by striking paragraph (2).

(c) 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.

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

SEC. 356. 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. 357. CONFORMING AMENDMENTS.

(a) 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) and (G);

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

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

"(I) The annual report on financial intelligence on terrorist assets required by section 118.

"(J) The annual report on foreign language proficiency in the intelligence community required by section 510."; and

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

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

(b) TABLE OF CONTENTS.—The table of contents in the first section of such Act (50 U.S.C. 401 note), as amended by section 313 of this Act, is further amended by—

(1) striking the item relating to section 109; and

(2) inserting after the item relating to section 507 the following new items:

"Sec. 508. Annual personnel level assessment for the intelligence community.
"Sec. 509. Semiannual reports on the nuclear weapons programs of Iran, Syria, and North Korea.
"Sec. 510. Report on foreign language proficiency in the intelligence community.
"Sec. 511. Government Accountability Office analyses, evaluations, and investigations.
"Sec. 512. Certification of compliance with oversight requirements.".

Subtitle E—Other Matters

SEC. 361. 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. 362. PROTECTION OF CERTAIN NATIONAL SECURITY INFORMATION.

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

(1) DISCLOSURE 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 AFTER ACCESS TO CLASSIFIED INFORMATION.—Subsection (b) of such section is amended by striking "five years" and inserting "10 years".

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

SEC. 363. EXTENSION OF AUTHORITY TO DELETE INFORMATION ABOUT RECEIPT AND DISPOSITION OF FOREIGN GIFTS AND DECORATIONS.

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

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

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

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

SEC. 364. EXEMPTION OF DISSEMINATION OF TERRORIST IDENTITY INFORMATION FROM FREEDOM OF INFORMATION ACT.

Section 119 of the National Security Act of 1947 (50 U.S.C. Section 404o) is amended by adding at the end the following new subsection:

"(k) EXEMPTION OF DISSEMINATION OF TERRORIST IDENTITY INFORMATION FROM FREEDOM OF INFORMATION ACT.—(1) Terrorist identity information disseminated for terrorist screening purposes or other authorized counterterrorism purposes shall be exempt from disclosure under section 552 of title 5, United States Code.

"(2) In this section:

"(A) AUTHORIZED COUNTERTERRORISM PURPOSE.—The term 'authorized counterterrorism purpose' includes disclosure to and appropriate use by an element of the Federal Government of terrorist identifiers of persons reasonably suspected to be terrorists or supporters of terrorists.

"(B) TERRORIST IDENTITY INFORMATION.—The term 'terrorist identity information' means—

"(i) information from a database maintained by any element of the Federal Government that would reveal whether an individual has or has not been determined to be a known or suspected terrorist or has or has not

been determined to be within the networks of contacts and support of a known or suspected terrorist; and

"(ii) information related to a determination as to whether or not an individual is or should be included in the Terrorist Screening Database or other screening databases based on a determination that the individual is a known or suspected terrorist.

"(C) TERRORIST IDENTIFIERS.—The term 'terrorist identifiers'—

"(i) includes—

"(I) names and aliases;

"(II) dates or places of birth;

"(III) unique identifying numbers or information;

"(IV) physical identifiers or biometrics; and

"(V) any other identifying information provided for watchlisting purposes; and

"(ii) does not include derogatory information or information that would reveal or compromise intelligence or law enforcement sources or methods.".

SEC. 365. MISUSE OF THE INTELLIGENCE COMMUNITY AND OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE NAME, INITIALS, OR SEAL.

(a) INTELLIGENCE COMMUNITY.—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 INTELLIGENCE COMMUNITY 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 'intelligence community', the initials 'IC', the seal of the intelligence community, 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, except that employees of the intelligence community may use the intelligence community name, initials, and seal in accordance with regulations promulgated 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) OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.—Title XI of the National Security Act of 1947 (50 U.S.C. 442 et seq.), as amended by subsection (a) of this section, is further 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. 1104. (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.".

(c) CONFORMING AMENDMENT.—The table of contents in the first section of such Act (50 U.S.C. 401 note), as amended by section 357 of this Act, is further amended by adding at the end the following new items:

"Sec. 1103. Misuse of the intelligence community name, initials, or seal.
"Sec. 1104. Misuse of the Office of the Director of National Intelligence name, initials, or seal.".

SEC. 366. SECURITY CLEARANCES: REPORTS; OMBUDSMAN; 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 336 of this Act, is further amended by adding at the end the following new section:

"REPORTS ON SECURITY CLEARANCES

"SEC. 513. (a) QUADRENNIAL AUDIT OF POSITION REQUIREMENTS.—(1) The President shall every four years conduct an audit of how the executive branch determines whether a security clearance is required for a particular position in the Federal 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 Federal Government employees 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 Federal 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 amount of time it took to process the fastest 80 percent of security clearance determinations for such level;

"(ii) the amount of time it took to process the fastest 90 percent of security clearance determinations for such level;

"(iii) the number of open security clearance investigations for such level that have remained open for—

"(I) 4 months or less;

"(II) between 4 months and 8 months;

"(III) between 8 months and 12 months; and

"(IV) more than a 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 ongoing 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 Federal 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 Director of National Intelligence 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.".

(B) INITIAL AUDIT.—The first audit required to be conducted under section 513(a)(1) of the National Security Act of 1947 (as added by paragraph (1)) shall be completed not later than February 1, 2010.

(C) CLERICAL AMENDMENT.—The table of contents in the first section of such Act (50 U.S.C. 401 note), as amended by section 365 of this Act, is

further amended by inserting after the item relating to section 512 the following new item:

"Sec. 513. Reports on security clearances.".

(2) REPORT ON METRICS FOR ADJUDICATION QUALITY.—Not later than 180 days after the date of enactment of this Act, the President shall submit to Congress a report on security clearance investigations and adjudications. Such report shall include—

(A) Federal 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) Federal Government wide investigation standards and metrics for investigation quality; and

(E) the 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) OMBUDSMAN FOR INTELLIGENCE COMMUNITY SECURITY CLEARANCES.—

(1) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.), as amended by section 303 of this Act, is further amended by inserting after section 103G the following new section:

"OMBUDSMAN FOR INTELLIGENCE COMMUNITY SECURITY CLEARANCES

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

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

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

"(1) the number of persons applying for a security clearance who have contacted the ombudsman during the preceding 12 months; and

"(2) a summary of the concerns, complaints, and questions received by the ombudsman from persons applying for security clearances.".

(2) APPOINTMENT DATE.—The Director of National Intelligence shall appoint an ombudsman for intelligence community security clearances under section 103H(a) of the National Security Act of 1947, as added by paragraph (1), not later than 120 days after the date of the enactment of this Act.

(3) CONFORMING AMENDMENT.—The table of contents in the first section of such Act (50 U.S.C. 401 note), as amended by subsection (a)(1)(C) of this section, is further amended by inserting after the item relating to section 103G the following new item:

"Sec. 103H. Ombudsman for intelligence community security clearances.".

(c) SECURITY CLEARANCE RECIPROCITY.—

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

(2) REPORT.—Not later than 120 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.

SEC. 367. LIMITATION ON USE OF FUNDS FOR THE TRANSFER OR RELEASE OF INDIVIDUALS DETAINED AT UNITED STATES NAVAL STATION, GUANTANAMO BAY, CUBA.

(a) IN GENERAL.—The Director of National Intelligence may not use any of the amounts authorized to be appropriated in this Act for fiscal year 2010 or any subsequent fiscal year to release or transfer any individual described in subsection (d) to the United States, its territories, or possessions, until 120 days after the President has submitted to the congressional defense committees the plan described in subsection (b).

(b) PLAN REQUIRED.—The President shall submit to Congress a plan on the disposition of each individual described in subsection (d). Such plan shall include—

(1) an assessment of the risk that the individual described in subsection (d) poses to the national security of the United States, its territories, or possessions;

(2) a proposal for the disposition for each such individual;

(3) a plan to mitigate any risks described in paragraph (1) should the proposed disposition required by paragraph (2) include the release or transfer to the United States, its territories, or possessions of any such individual; and

(4) a summary of the consultation required in subsection (c).

(c) CONSULTATION REQUIRED.—The President shall consult with the chief executive of the State, the District of Columbia, or the territory or possession of the United States to which the disposition in subsection (b) includes a release or transfer to that State, District of Columbia, or territory or possession.

(d) DETAINEES DESCRIBED.—An individual described in this subsection is any individual who is located at United States Naval Station, Guantanamo Bay, Cuba, as of the date of the enactment of this Act, who—

(1) is not a citizen of the United States; and

(2) is—

(A) in the custody or under the effective control of the Department of Defense, or

(B) otherwise under detention at the United States Naval Station, Guantanamo Bay, Cuba.

SEC. 368. INTELLIGENCE COMMUNITY FINANCIAL IMPROVEMENT AND AUDIT READINESS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) it is no longer excusable to allow poor business systems, a deficiency of resources, or a lack of commitment from senior leadership of the intelligence community to foster waste or nonaccountability to the United States taxpayer;

(2) the Director of National Intelligence has not made compliance with financial management and audit readiness standards a top priority; and

(3) the Director of National Intelligence should require each element of the intelligence community to develop and implement a specific plan to become compliant with the law.

(b) REVIEW; PLAN.—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 timeline 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. CLARIFICATION OF LIMITATION ON COLOCATION OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

Section 103 of the National Security Act of 1947 (50 U.S.C. 403–3), as amended by section 302(1) of this Act, is further amended—

(1) in subsection (f) (as so redesignated)—

(A) in the heading, by striking "WITH" and inserting "OF HEADQUARTERS WITH HEADQUARTERS OF";

(B) by striking "Commencing as of October 1, 2008, the" and inserting "(1) Except as provided in paragraph (2), the";

(C) in paragraph (1), as designated by paragraph (2) of this section, by inserting "the headquarters of" before "the Office";

(D) in paragraph (1) (as so designated), by striking "any other element" and inserting "the headquarters of any other element"; and

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

"(2) The President may waive the limitation in paragraph (1) if the President determines that—

"(A) a waiver is in the interests of national security; or

"(B) the costs of a headquarters of the Office of the Director of National Intelligence that is separate from the headquarters of the other elements of the intelligence community outweighs the potential benefits of the separation."; and

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

"(g) 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 defined in section 8301 of title 40, United States Code).".

SEC. 402. MEMBERSHIP OF THE DIRECTOR OF NATIONAL INTELLIGENCE ON THE TRANSPORTATION SECURITY OVERSIGHT BOARD.

Subparagraph (F) of section 115(b)(1) of title 49, United States Code, is amended to read as follows:

"(F) The Director of National Intelligence, or the Director's designee.".

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

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

(1) in subsection (c)—

(A) by redesignating paragraph (5) as paragraph (7);

(B) in paragraph (4), by striking "; and" and inserting ";"; and

(C) by inserting after paragraph (4) the following new paragraphs:

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

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

(2) in subsection (d)(3)—

(A) in subparagraph (A)—

(i) by inserting "and prioritize" after "coordinate"; and

(ii) by striking "; and" and inserting ";";

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B) identify basic, advanced, and applied research programs to be executed by elements of the intelligence community; and".

SEC. 404. 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 under paragraph (1) shall be submitted in unclassified form, but may contain a classified annex.

SEC. 405. TITLE OF CHIEF INFORMATION OFFICER OF THE INTELLIGENCE COMMUNITY.

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

(1) in subsection (a), by inserting "of the Intelligence Community" after "Chief Information Officer";

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

(3) in subsection (c) in the matter preceding paragraph (1), by inserting "of the Intelligence Community" after "Chief Information Officer"; and

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

SEC. 406. 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 366 of this Act, is further amended by inserting after section 103H (as added by such section 366) the following new section:

"INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY

"SEC. 103I. (a) OFFICE OF INSPECTOR GENERAL OF INTELLIGENCE COMMUNITY.—There is within the Office of the Director of National Intelligence an Office of the Inspector General of the Intelligence Community.

"(b) PURPOSE.—The purpose of the Office of the Inspector General of the Intelligence Community is to—

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

"(2) recommend policies designed—

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

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

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

"(A) problems and deficiencies relating to matters within the responsibility and authority of the Director of National Intelligence; and

"(B) the necessity for, and the progress of, corrective actions; and

"(4) in the manner prescribed by this section, ensure that the congressional intelligence committees are kept informed of—

"(A) significant problems and deficiencies relating to matters within the responsibility and authority of the Director of National Intelligence; and

"(B) the necessity for, and the progress of, corrective actions.

"(c) INSPECTOR GENERAL OF INTELLIGENCE COMMUNITY.—(1) There is an Inspector General of the Intelligence Community, who shall be the head of the Office of the Inspector General of the Intelligence Community, who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) The nomination of an individual for appointment as Inspector General shall be made—

"(A) without regard to political affiliation;

"(B) on the basis of integrity, compliance with the security standards of the intelligence community, and prior experience in the field of intelligence or national security;

"(C) on the basis of demonstrated ability in accounting, financial analysis, law, management analysis, public administration, or auditing; and

"(D) on the basis of expertise in investigations.

"(3) The Inspector General shall report directly to 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 of any individual from the position of Inspector General not later than 30 days before the date on which the Inspector General is removed from office.

"(d) DUTIES AND RESPONSIBILITIES.—Subject to subsections (g) and (h), the Inspector General of the Intelligence Community shall—

"(1) provide policy direction for, and plan, conduct, supervise, and coordinate independently, the investigations, inspections, and audits relating to matters within the responsibility and authority of the Director of National Intelligence to ensure they are conducted efficiently and in accordance with applicable law and regulations;

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

"(3) 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, comply with generally accepted Federal Government auditing standards.

"(e) LIMITATIONS ON ACTIVITIES.—(1)(A) Subject to subparagraph (B), the Director of National Intelligence may prohibit the Inspector General of the Intelligence Community from initiating, carrying out, or completing any investigation, inspection, or audit if the Director determines that such prohibition is necessary to protect vital national security interests of the United States.

"(B) The Director of National Intelligence may not prohibit an investigation, inspection, or audit under subparagraph (A) solely on the basis of the level of classification or compartmentation of information that the Inspector General may seek access to while conducting such investigation, inspection, or audit.

"(2) If 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 within 7 days.

"(3) The Director shall notify the Inspector General at the time a report under paragraph (2) is submitted, and, to the extent consistent with the protection of intelligence sources and methods, provide the Inspector General with a copy of such report.

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

"(f) AUTHORITIES.—(1) The Inspector General of the Intelligence Community shall have direct and prompt access to the Director of National Intelligence when necessary for any purpose pertaining to the performance of the duties of the Inspector General.

"(2)(A) The Inspector General shall have access to any employee, or any employee of a contractor, of any element of the intelligence community whose testimony is needed for the performance of the duties of the Inspector General.

"(B) The Inspector General shall have direct access to all records, reports, audits, reviews, documents, papers, recommendations, or other material which relate to the programs and operations with respect to which the Inspector General has responsibilities under this section.

"(C) The Director or, on the recommendation of the Director, another appropriate official of the intelligence community, shall take appropriate administrative action against an employee, or 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 termination of an existing contractual relationship.

"(3) The Inspector General shall, in accordance with subsection (g), receive and investigate 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 Federal Government—

"(A) the Inspector General shall not disclose the identity of the employee without the consent of the employee, unless the Inspector General determines that such disclosure is unavoidable during the course of the investigation or the disclosure is made to an official of the Department of Justice responsible for determining whether a prosecution should be undertaken; and

"(B) no action constituting a reprisal, or threat of reprisal, for making such complaint may be taken by any employee, 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 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 may require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the duties and responsibilities of the Inspector General.

"(B) In the case of departments, agencies, and other elements of the United States Government, the Inspector General shall obtain information, documents, reports, answers, records, accounts, papers, and other data and evidence for the purpose specified in subparagraph (A) using procedures other than by subpoenas.

"(C) The Inspector General may not issue a subpoena for, or on behalf of, any 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 under 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 may, to the extent and in such amounts as may be provided in advance by appropriations Acts, 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.

"(g) COORDINATION AMONG THE INSPECTORS GENERAL OF THE INTELLIGENCE COMMUNITY.—(1)(A) If a matter within the jurisdiction of the Inspector General of the Intelligence Community that may be subject to an investigation, inspection, review, or audit 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, review, or audit 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 subparagraph (C). If a dispute between an inspector general within an agency or department of the United States Government and the Inspector General of the Intelligence Community has not been resolved with the assistance of the Forum, the inspectors general shall submit the question to the Director of National Intelligence and the head of the affected agency or department for resolution.

"(C) There is established the Intelligence Community Inspectors General Forum which shall consist of all statutory or administrative inspectors general with oversight responsibility for an element of the intelligence community. The Inspector General of the Intelligence Community shall serve as the chair of the Forum. The Forum shall have no administrative authority over any inspector general, but shall serve as a mechanism for informing its members of the work of individual members of the Forum that may be of common interest and discussing questions about jurisdiction or access to employees, employees of a contractor, records, audits, reviews, documents, recommendations, or other materials that may involve or be of assistance to more than one of its members.

"(2) The inspector general conducting an investigation, inspection, review, or audit referred to in paragraph (1) shall submit the results of such investigation, inspection, review, or audit to any other inspector general, including the Inspector General of the Intelligence Community, with jurisdiction to conduct such investigation, inspection, review, or audit who did not conduct such investigation, inspection, review, or audit.

"(h) 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 and with such equipment, office supplies, maintenance services, and communications facilities and services as may be necessary for the operation of such offices.

"(2)(A) The Inspector General shall select, appoint, and employ such officers and employees as may be necessary to carry out the functions, powers, and duties of the Inspector General. The Inspector General shall ensure that any officer or employee selected, appointed, or employed has a security clearance 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 recommend policies to the Director of National Intelligence to create within the intelligence community a career cadre of sufficient size to provide appropriate continuity and objectivity needed for the effective performance of the duties of the Inspector General.

"(3)(A) The Inspector General may, in consultation with the Director, request such information or assistance as may be necessary for carrying out the duties and re-

sponsibilities 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 furnish to the Inspector General, or to an authorized designee, such information or assistance.

"(C) The Inspector General of the Intelligence Community may, upon reasonable notice to the head of any element of the intelligence community and in coordination with the inspector general of that element pursuant to subsection (g), conduct an inspection, review, or audit of such element and may enter into any place occupied by such element for purposes of the performance of the duties of the Inspector General.

"(i) REPORTS.—(1)(A) Not later than January 31 and July 31 of each year, the Inspector General of the Intelligence Community shall prepare and submit to the Director of National Intelligence a report summarizing the activities of the Office of the Inspector General of the Intelligence Community during the preceding six-month period. 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 the following:

"(i) A list of the titles or subjects of each investigation, inspection, review, or audit conducted during the period covered by such report, including a summary of the progress of each particular investigation, inspection, or audit since the preceding report of the Inspector General under this paragraph.

"(ii) A description of significant problems, abuses, and deficiencies relating to the administration and implementation of programs and operations of the intelligence community, and in the relationships between elements of the intelligence community, identified by the Inspector General during the period covered by such report.

"(iii) A description of the recommendations for disciplinary action made by the Inspector General during the period covered by such report with respect to significant problems, abuses, or deficiencies described in clause (ii).

"(iv) A statement of whether or not corrective or disciplinary action has been completed on each significant recommendation described in previous semiannual reports, and, in a case where corrective action has been completed, a description of such corrective action.

"(v) A certification 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 (f)(5) by the Inspector General during the period covered by such report.

"(vii) Any recommendations that the Inspector General considers appropriate for legislation to promote economy, efficiency, and effectiveness in the administration and implementation of matters within the responsibility and authority of the Director of National Intelligence, and to detect and eliminate fraud and abuse in such matters.

"(C) Not later than 30 days after the date of receipt of a report under subparagraph (A), the Director shall submit the report to the congressional intelligence committees together with any comments the Director considers appropriate.

"(D) Each report submitted under subparagraphs (A) and (C) shall be submitted in unclassified form, but may include a classified annex.

"(2)(A) The Inspector General shall report immediately to the Director whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to matters within the responsibility and authority of the Director of National Intelligence.

"(B) The Director shall submit to the congressional intelligence committees each report under subparagraph (A) within 7 days of the receipt of such report, together with such comments as the Director considers appropriate. The Director 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 a problem, abuse, or deficiency related to a component of such department simultaneously with transmission of the report to the congressional intelligence committees.

"(3) The Inspector General shall immediately notify and submit a report to the congressional intelligence committees on an investigation, inspection, review, or audit if—

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

"(B) the investigation, inspection, review, or audit carried out by the Inspector General focuses on any current or former intelligence community official who—

"(i) holds or held a position in an element of the intelligence community that is subject to appointment by the President, whether or not by and with the advice and consent of the Senate, including such a position held on an acting basis;

"(ii) holds or held a position in an element of the intelligence community, including a position held on an acting basis, that is appointed by the Director of National Intelligence; or

"(iii) holds or held a position as head of an element of the intelligence community or a position covered by subsection (b) or (c) of section 106;

"(C) a matter requires a report by the Inspector General to the Department of Justice on possible criminal conduct by a current or former official described in subparagraph (B);

"(D) the Inspector General receives notice from the Department of Justice declining or approving prosecution of possible criminal conduct of any current or former official described in subparagraph (B); or

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

"(4)(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 of 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-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 submit to the Director a notice of that determination, together with the complaint or information.

"(C) Upon receipt of a submittal from the Inspector General under subparagraph (B), the Director shall, not later than 7 days after 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 submit 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 intelligence committees in accordance with appropriate security practices.

"(iii) A member or employee of one of the congressional intelligence committees who receives a complaint or information under clause (ii) 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) Nothing in this paragraph shall be construed to limit the protections afforded an employee of or contractor to the Central Intelligence Agency under section 17(e)(3) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(e)(3)).

"(H) In this paragraph, the term 'urgent concern' means any of the following:

"(i) A serious or flagrant problem, abuse, violation of law or Executive order, or deficiency relating to the funding, administration, or operation of an intelligence activity involving classified information, but does not include differences of opinions concerning public policy matters.

"(ii) A false statement to Congress, or a willful withholding from Congress, on an issue of material fact relating to the funding, administration, or operation of an intelligence activity.

"(iii) An action, including a personnel action described in section 2302(a)(2)(A) of title 5, United States Code, constituting reprisal or threat of reprisal prohibited under subsection (f)(3)(B) of this section.

"(5) In accordance with section 535 of title 28, United States Code, the Inspector General shall report to the Attorney General any information, allegation, or complaint received by the Inspector General relating to violations of Federal criminal law that involves a program or operation of an element of the intelligence community, or in the relationships between the elements of the intelligence community, consistent with such guidelines as may be issued by the Attorney General pursuant to subsection (b)(2) of such section. A copy of each such report shall be furnished to the Director.

"(j) SEPARATE BUDGET ACCOUNT.—The Director of National Intelligence shall, in accordance with procedures to be issued by the Director in consultation with the congressional intelligence committees, include in the National Intelligence Program budget a separate account for the Office of Inspector General of the Intelligence Community.

"(k) CONSTRUCTION OF DUTIES REGARDING ELEMENTS OF INTELLIGENCE COMMUNITY.—Except as resolved pursuant to subsection (g), the performance by the Inspector General of the Intelligence Community of any duty, responsibility, or function regarding an element of the intelligence community shall not be construed to modify or affect the duties and responsibilities of any other inspector general having duties and responsibilities relating to such element.".

(2) CLERICAL AMENDMENT.—The table of contents in the first section of the National Security Act of 1947 (50 U.S.C. 401 note), as amended by section 366 of this Act, is further amended by inserting after the item relating to section 103H the following new item:

"Sec. 103I. Inspector General of the Intelligence Community.".

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

(c) EXECUTIVE SCHEDULE LEVEL III.—Section 5314 of title 5, United States Code, is amended by adding at the end the following new item:

"Inspector General of the Intelligence Community.".

(d) APPLICABILITY DATE; TRANSITION.—

(1) APPLICABILITY.—The amendment made by subsection (b) shall apply on the earlier of—

(A) the date of the appointment by the President and confirmation by the Senate of an individual to serve as Inspector General of the Intelligence Community; or

(B) the date of the cessation of the performance of the duties of the Inspector General of the Intelligence Community by the individual serving as the Inspector General of the Office of the Director of National Intelligence as of the date of the enactment of this Act.

(2) TRANSITION.—The individual serving as the Inspector General of the Office of the Director of National Intelligence as of the date of the enactment of this Act shall perform the duties of the Inspector General of the Intelligence Community until the individual appointed to the position of Inspector General of the Intelligence Community assumes the duties of such position.

Subtitle B—Central Intelligence Agency

SEC. 411. REVIEW OF COVERT ACTION PROGRAMS BY INSPECTOR GENERAL OF THE CENTRAL INTELLIGENCE AGENCY.

(a) IN GENERAL.—Section 503 of the National Security Act of 1947 (50 U.S.C. 413b), as amended by section 321 of this Act, is further amended—

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

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

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

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

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

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

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

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

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

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

SEC. 412. PROHIBITION ON THE USE OF PRIVATE CONTRACTORS FOR INTERROGATIONS INVOLVING PERSONS IN THE CUSTODY OF THE CENTRAL INTELLIGENCE AGENCY.

The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding at the end the following new section:

"PROHIBITION ON THE USE OF PRIVATE CONTRACTORS FOR INTERROGATIONS INVOLVING PERSONS IN THE CUSTODY OF THE CENTRAL INTELLIGENCE AGENCY

"SEC. 24. (a) PROHIBITION.—Notwithstanding any other provision of law, the Director of the Central Intelligence Agency shall not expend or obligate funds for payment to any contractor to conduct the interrogation of a detainee or prisoner in the custody of the Central Intelligence Agency.

"(b) EXCEPTION.—

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

"(A) no employee of the Federal Government is—

"(i) capable of performing such interrogation; and

"(ii) available to perform such interrogation; and

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

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

SEC. 413. APPEALS FROM DECISIONS OF CENTRAL INTELLIGENCE AGENCY CONTRACTING OFFICERS.

Section 8(d) of the Contract Disputes Act of 1978 (41 U.S.C. 607(d)) is amended by inserting before the sentence beginning with "In exercising" the following new sentence: "Notwithstanding 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 or the Civilian Board is specified by the contracting officer as the Board to which such an appeal may be made and the Board so specified shall have jurisdiction to decide that appeal.".

SEC. 414. DEPUTY DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY.

(a) ESTABLISHMENT AND DUTIES OF DEPUTY DIRECTOR OF CIA.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by inserting after section 104A the following new section:

"DEPUTY DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY

"SEC. 104B. (a) DEPUTY DIRECTOR OF 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.—The table of contents in the first section of the National Security Act of 1947 (50 U.S.C. 401 note) is 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, 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. 415. PROTECTION AGAINST REPRISALS.

Section 17(e)(3)(B) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(e)(3)(B)) is amended by inserting "or providing such information" after "making such complaint".

SEC. 416. REQUIREMENT FOR VIDEO RECORDING OF INTERROGATIONS OF PERSONS IN THE CUSTODY OF THE CENTRAL INTELLIGENCE AGENCY.

(a) IN GENERAL.—The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.), as amended by section 412 of this Act, is further amended by adding at the end the following new section:

"REQUIREMENT FOR VIDEO RECORDING OF INTERROGATIONS OF PERSONS IN THE CUSTODY OF THE CENTRAL INTELLIGENCE AGENCY

"SEC. 25. (a) IN GENERAL.—Except as provided in subsection (b), the Director of the Central Intelligence Agency shall establish guidelines to ensure that each interrogation of a person who is in the custody of the Central Intelligence Agency is recorded in video form and that the video recording of such interrogation is maintained—

"(1) for not less than 10 years from the date on which such recording is made; and

"(2) until such time as such recording is no longer relevant to an ongoing or anticipated legal proceeding or investigation or required to be maintained under any other provision of law.

"(b) EXCEPTION.—The requirement to record an interrogation in video form under subsection (a) shall not apply with respect to an interrogation incident to arrest conducted by Agency personnel designated by the Director under section 15(a) that are assigned to the headquarters of the Central Intelligence Agency and acting in the official capacity of such personnel.

"(c) INTERROGATION DEFINED.—In this section, the term 'interrogation' means the systematic process of attempting to obtain information from an uncooperative detainee.".

(b) SUBMISSION OF GUIDELINES.—Not later than 90 days after the date of the enactment of this Act, the Director of the Central Intelligence Agency shall submit to the congressional intelligence committees the guidelines developed under section 25(a) of the Central Intelligence Agency Act of 1949, as added by subsection (a) of this section. Such guidelines shall be submitted in unclassified form, but may contain a classified annex.

Subtitle C—Other Elements

SEC. 421. HOMELAND SECURITY INTELLIGENCE ELEMENTS.

Section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)) is amended—

(1) in subparagraph (H), by inserting "the Coast Guard," after "the Marine Corps,"; and

(2) in subparagraph (K), by striking "The elements" and all that follows through "the Coast Guard" and inserting "The Office of Intelligence and Analysis of the Department of Homeland Security".

SEC. 422. CLARIFICATION OF INCLUSION OF DRUG ENFORCEMENT ADMINISTRATION AS AN ELEMENT OF THE INTELLIGENCE COMMUNITY.

Section 3(4)(H) of the National Security Act of 1947 (50 U.S.C. 401a(4)(H)), as amended by section 421 of this Act, is further amended by inserting "the Drug Enforcement Administration," after "the Federal Bureau of Investigation,".

SEC. 423. REPEAL OF CERTAIN AUTHORITIES RELATING TO THE OFFICE OF THE NATIONAL COUNTERINTELLIGENCE EXECUTIVE.

(a) REPEAL OF CERTAIN AUTHORITIES.—Section 904 of the Counterintelligence Enhancement Act of 2002 (title IX of Public Law 107–306; 50 U.S.C. 402c) is amended—

(1) by striking subsections (d), (h), (i), and (j); and

(2) by redesignating subsections (e), (f), (g), (k), (l), and (m) as subsections (d), (e), (f), (g), (h), and (i), respectively; and

(3) in subsection (f), as redesignated by paragraph (2) of this subsection, 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—

(A) in paragraph (1), by striking "subsection (f)" and inserting "subsection (e)"; and

(B) in paragraph (2), by striking "subsection (f)" and inserting "subsection (e)"; and

(2) in subsection (e), as so redesignated—

(A) in paragraph (1), by striking "subsection (e)(1)" and inserting "subsection (d)(1)"; and

(B) in paragraph (2), by striking "subsection (e)(2)" and inserting "subsection (d)(2)".

SEC. 424. CONFIRMATION OF APPOINTMENT OF HEADS OF CERTAIN COMPONENTS OF THE INTELLIGENCE COMMUNITY.

(a) DIRECTOR OF NATIONAL SECURITY AGENCY.—The National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by inserting after the first section the following new section:

"SEC. 2. (a) There is a Director of the National Security Agency.

"(b) The Director of the National Security Agency shall be appointed by the President, by and with the advice and consent of the Senate.

"(c) The Director of the National Security Agency shall be the head of the National Security Agency and shall discharge such functions and duties as are provided by this Act or otherwise by law.".

(b) DIRECTOR OF NATIONAL RECONNAISSANCE OFFICE.—The Director of the National Reconnaissance Office shall be appointed by the President, by and with the advice and consent of the Senate.

(c) CONFORMING AMENDMENT.—Section 106(b)(2) of the National Security Act of 1947 (50 U.S.C. 403–6(b)(2)) is amended—

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

(2) by redesignating subparagraphs (C) through (I) as subparagraphs (A) through (G), respectively; and

(3) by moving subparagraph (G), as redesignated by paragraph (2) of this subsection, two ems to the left.

(d) EFFECTIVE DATE AND APPLICABILITY.—The amendment made by subsection (a) and the provisions of subsection (b) shall apply upon the earlier of—

(1) the date of the nomination by the President of an individual to serve in the position concerned, except that the individual serving in such position as of the date of the enactment of this Act may continue to perform such duties after such date of nomination and until the individual appointed to such position, by and with the advice and consent of the Senate, assumes the duties of such position; or

(2) the date of the cessation of the performance of the duties of such position by the individual performing such duties as of the date of the enactment of this Act.

SEC. 425. ASSOCIATE DIRECTOR OF THE NATIONAL SECURITY AGENCY FOR COMPLIANCE AND TRAINING.

The National Security Agency Act of 1959 (50 U.S.C. 402 note), as amended by section 424 of this Act, is further amended by inserting after section 2 (as added by such section 424) the following new section:

"SEC. 3. (a) There is an Associate Director of the National Security Agency for Compliance and Training, who shall be appointed by the Director of the National Security Agency.

"(b) The Associate Director of the National Security Agency for Compliance and Training shall ensure that—

"(1) all programs and activities of the National Security Agency are conducted in a manner consistent with all applicable laws, regulations, and policies; and

"(2) the training of relevant personnel is sufficient to ensure that such programs and activities are conducted in such a manner.".

SEC. 426. GENERAL COUNSEL OF THE NATIONAL SECURITY AGENCY.

(a) GENERAL COUNSEL.—The National Security Agency Act of 1959 (50 U.S.C. 402 note), as amended by section 425 of this Act, is further amended by inserting after section 3 (as added by such section 425), the following new section:

"SEC. 4. (a) There is a General Counsel of the National Security Agency, who shall be appointed by the President, by and with the advice and consent of the Senate.

"(b) The General Counsel of the National Security Agency shall serve as the chief legal officer of the National Security Agency.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that is 180 days after the date on which the Director of the National Security Agency is appointed by the President and confirmed by the Senate in accordance with section 2 of the National Security Agency Act of 1959, as added by section 424 of this Act.

SEC. 427. INSPECTOR GENERAL OF THE NATIONAL SECURITY AGENCY.

Section 12 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting "the National Security Agency;" after "the Federal Emergency Management Agency,"; and

(2) in paragraph (2), by inserting "the National Security Agency," after "the National Aeronautics and Space Administration,".

SEC. 428. CHARTER FOR THE NATIONAL RECONNAISSANCE OFFICE.

Not later than 90 days after the date of the enactment of this Act, the Director of National Intelligence and the Secretary of Defense shall jointly submit to the congressional intelligence committees and the congressional defense committees (as defined in section 101(a)(16) of title 10, United States Code) a revised charter for the National Reconnaissance Office (in this section referred to as the "NRO") . The charter shall include the following:

(1) The organizational and governance structure of the NRO.

(2) NRO participation in the development and generation of requirements and acquisition.

(3) The scope of NRO capabilities.

(4) The roles and responsibilities of the NRO and the relationship of the NRO to other elements of the intelligence community and the defense community.

TITLE V—OTHER MATTERS

Subtitle A—General Intelligence Matters

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

(a) EXTENSION.—

(1) IN GENERAL.—Subsection (a) of section 1007 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2442) is amended by striking "September 1, 2004" and inserting "February 1, 2011".

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

(3) COMMISSION MEMBERSHIP.—

(A) IN GENERAL.—The membership of the National Commission for the Review of the Research and Development Programs of the United States Intelligence Community established under subsection (a) of section 1002 of such Act (Public Law 107–306; 116 Stat. 2438) (referred to in this section

as the "Commission") shall be considered vacant and new members shall be appointed in accordance with such section 1002, as amended by subparagraph (B).

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

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

(b) FUNDING.—

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

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

SEC. 502. EXPANSION AND CLARIFICATION OF THE DUTIES OF THE PROGRAM MANAGER FOR THE INFORMATION SHARING ENVIRONMENT.

Section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by striking "terrorism and homeland security information" and inserting "national security information";

(B) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively; and

(C) by inserting after paragraph (3) the following new paragraph:

"(4) NATIONAL SECURITY INFORMATION.—The term 'national security information' includes homeland security information and terrorism information.";

(2) in subsection (b)—

(A) in paragraph (1)(A), by striking "terrorism information" and inserting "national security information"; and

(B) in paragraph (2) in the first sentence of the matter preceding subparagraph (A), by striking "terrorism information" and inserting "national security information"; and

(3) in subsection (f)(1)—

(A) in the second sentence, by inserting "in the Executive Office of the President and shall serve" after "The individual designated as the program manager shall serve"; and

(B) in the third sentence, by striking "homeland security information, terrorism information, and weapons of mass destruction information" and inserting "national security information".

SEC. 503. CLASSIFICATION REVIEW OF EXECUTIVE BRANCH MATERIALS IN THE POSSESSION OF THE CONGRESSIONAL INTELLIGENCE COMMITTEES.

The Director of National Intelligence shall, in accordance with procedures established by each of the congressional intelligence committees, conduct a classification review of materials in the possession of each of those committees that—

(1) are not less than 25 years old; and

(2) were created, or provided to that committee, by the executive branch.

SEC. 504. PROHIBITION ON USE OF FUNDS TO PROVIDE MIRANDA WARNINGS TO CERTAIN PERSONS OUTSIDE OF THE UNITED STATES.

None of the funds authorized to be appropriated by this Act may be used to provide the warnings of constitutional rights described in Miranda v. Arizona, 384 U.S.436 (U.S. 1966), to a person located outside of the United States who is not a United States person and is—

(1) suspected of terrorism, associated with terrorists, or believed to have knowledge of terrorists; or

(2) a detainee in the custody of the Armed Forces of the United States.

Subtitle B—Technical Amendments

SEC. 511. 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 section 5(a)(1), by striking "authorized under paragraphs (2) and (3)" and all that follows through "(50 U.S.C. 403(a)(2), (3), 403–3(c)(7), (d), 403–4(a), (g), and 405)" and inserting "authorized under section 104A of the National Security Act of 1947 (50 U.S.C. 403–4a)"; and

(2) in section 17(d)(3)(B)—

(A) in clause (i), by striking "advise" and inserting "advice"; and

(B) in clause (ii)—

(i) in subclause (I), by striking "Executive Director" and inserting "Associate Deputy Director";

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

(iii) in subclause (III), by striking "Deputy Director for Intelligence" and inserting "Director of Intelligence";

(iv) in subclause (IV), by striking "Deputy Director for Administration" and inserting "Director of Support"; and

(v) in subclause (V), by striking "Deputy Director for Science and Technology" and inserting "Director of Science and Technology".

SEC. 512. TECHNICAL AMENDMENT TO MANDATORY RETIREMENT PROVISION OF CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT.

Section 235(b)(1)(A) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2055(b)(1)(A)) is amended to read as follows:

"(A) Upon reaching age 65, in the case of a participant in the system who is at the Senior Intelligence Service rank of level 4 or above; and".

SEC. 513. 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. 514. TECHNICAL AMENDMENTS TO THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) in section 101—

(A) in subsection (a), by moving paragraph (7) two ems to the right; and

(B) by moving subsections (b) through (p) two ems to the right;

(2) in section 103, by redesignating subsection (i) as subsection (h);

(3) in section 109(a)—

(A) in paragraph (1), by striking "section 112.;" and inserting "section 112;"; and

(B) in paragraph (2), by striking the second period;

(4) in section 301(1), by striking "'United States'" and all that follows through "and 'State'" and inserting "'United States', 'person', 'weapon of mass destruction', and 'State'";

(5) in section 304(b), by striking "subsection (a)(3)" and inserting "subsection (a)(2)"; and

(6) in section 502(a), by striking "a annual" and inserting "an annual".

SEC. 515. 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. 516. TECHNICAL 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 1016(e)(10)(B) (6 U.S.C. 485(e)(10)(B)), by striking "Attorney General" the second place it appears and inserting "Department of Justice";

(2) in section 2001 (28 U.S.C. 532 note)—

(A) in subsection (c)(1)—

(i) by striking "shall," and inserting "shall"; and

(ii) by inserting "of" before "an institutional culture";

(B) in subsection (e)(2), by striking "the National Intelligence Director in a manner consistent with section 112(e)" and inserting "the Director of National Intelligence in a manner consistent with applicable law"; and

(C) in subsection (f) in the matter preceding paragraph (1), by striking "shall," and inserting "shall"; and

(3) in section 2006 (28 U.S.C. 509 note)—

(A) in paragraph (2), by striking "the Federal" and inserting "Federal"; and

(B) in paragraph (3), by striking "the specific" and inserting "specific".

SEC. 517. TECHNICAL AMENDMENTS RELATING TO THE MULTIYEAR NATIONAL INTELLIGENCE PROGRAM.

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) in subsection (a)—

(A) in the heading, by striking "FOREIGN";

(B) by striking "foreign" each place it appears; and

(C) by striking "Director of Central Intelligence" and inserting "Director of National Intelligence";

(3) in subsection (b), by striking "The Director" and inserting "The Director of National Intelligence"; and

(4) in subsection (c)—

(A) by striking "Director of Central Intelligence" and inserting "Director of National Intelligence"; and

(B) by striking "section 114a" and inserting "section 221".

SEC. 518. TECHNICAL AMENDMENTS TO THE NATIONAL SECURITY ACT OF 1947.

The National Security Act of 1947 (50 U.S.C. 401 et seq.) is further amended—

(1) 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";

(B) in subsection (d)—

(i) in paragraph (1)(B), by striking "Joint Military Intelligence Program" and inserting "Military Intelligence Program or any successor program";

(ii) in paragraph (3) in the matter preceding subparagraph (A), by striking "subparagraph (A)" and inserting "paragraph (1)(A)"; and

(iii) in paragraph (5)—

(I) in subparagraph (A), by striking "or personnel" in the matter preceding clause (i); and

(II) in subparagraph (B), by striking "or agency involved" in the second sentence and inserting "involved or the Director of the Central Intelligence Agency (in the case of the Central Intelligence Agency)";

(C) in subsection (l)(2)(B), by striking "section" and inserting "paragraph"; and

(D) in subsection (n), by inserting "AND OTHER" after "ACQUISITION";

(3) in section 103(b), by striking ", the National Security Act of 1947 (50 U.S.C. 401 et seq.),";

(4) in section 104A(g)(1) in the matter preceding subparagraph (A), by striking "Directorate of Operations" and inserting "National Clandestine Service";

(5) in section 119(c)(2)(B) (50 U.S.C. 404o(c)(2)(B)), by striking "subsection (h)" and inserting "subsection (i)";

(6) in section 701(b)(1), by striking "Directorate of Operations" and inserting "National Clandestine Service";

(7) in section 705(e)(2)(D)(i) (50 U.S.C. 432c(e)(2)(D)(i)), by striking "responsible" and inserting "responsive"; and

(8) in the table of contents in the first section—

(A) by striking the item relating to section 1002; and

(B) by inserting after the item relating to section 1001 the following new item:

"Sec. 1002. Framework for cross-disciplinary education and training.".

SEC. 519. 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".

PURPOSE

The purpose of H.R. 2701 is to authorize the intelligence and intelligence-related activities of the United States Government for fiscal year 2010 in order to enhance the national security of the United States, to support and assist the armed forces of the United States, and to facilitate and oversee the execution of the foreign policy of the United States. The bill also clarifies certain authorities of the Intelligence Community and makes technical corrections to existing statutes.

CLASSIFIED ANNEX AND COMMITTEE INTENT

The classified annex to this report includes the classified Schedule of Authorizations and its associated explanatory language. The Committee views the classified annex as an integral part of this legislation. The classified annex contains a thorough discussion of the issues considered by the Committee underlying the funding authorizations found in the classified Schedule of Authorizations. The Committee intends that all intelligence programs discussed in the classified annex to this report be conducted in accordance with the guidance and limitations set forth as associated language therein.

The classified Schedule of Authorizations is incorporated directly into this legislation by virtue of Section 102 of the bill. The classified annex is available for review by all members of the House of Representatives, subject to the requirements of clause 13 of Rule XXIII of the Rules of the House of Representatives, and Rule 14 of the Rules of Procedure for the House Permanent Select Committee on Intelligence. In addition, Section 356 of the bill incorporates reporting requirements of the Classified Annex and any Joint Explanatory Statement into the Act.

SCOPE OF COMMITTEE REVIEW

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

OVERSIGHT FINDINGS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, this legislation results from hearings and other oversight activities conducted by the Committee, pursuant to clause 3(m) of Rule X and are reflected in the body of this report.

With respect to clause 3(c) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this legislation does not include any new spending or credit authority, nor does it provide for any increase or decrease in tax revenues or expenditures. The bill does, however, authorize appropriations.

Other fiscal features of this legislation are addressed in the estimate prepared by the Committee under clause 3(d)(2) of Rule XIII of the rules of the House of Representatives.

GENERAL PERFORMANCE GOALS AND OBJECTIVES

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, this legislation would address several general and outcome-related performance goals and objectives. The general goals and objectives of this legislation are to provide the necessary resources and authorities to enhance the national security of the United States, to support and assist the armed forces of the United States, and to facilitate and oversee the execution of the foreign policy of the United States.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in Article I, Section 8 of the United States Constitution.

COMMITTEE STATEMENT AND VIEWS

A. OVERVIEW

In drafting the fiscal year 2010 Intelligence Authorization Act, the Committee sought to adopt legislative measures and authorize funding that would address the country's most pressing threats and improve national security. The Committee applauds the extraordinary efforts that the brave women and men of the Intelligence Community have put forth to protect our nation, but recognizes that there is still a great deal of work still to be done. To that end, H.R. 2701 provides the Intelligence Community with the necessary funding and intelligence authorities to continue this important work and simultaneously establishes critical oversight mechanisms to ensure that these funds are expended and these authorities are exercised in an effective, efficient, and responsible manner.

The bill includes specific provisions that will assist the Intelligence Community in its efforts to continue the fight against al-Qa'ida where they have established strongholds, to address concerns from emerging trouble spots such as Yemen and Somalia, and to confront global challenges posed by such threats as weapons of mass destruction. The Committee has also included provisions to improve accountability and oversight by creating an Intelligence Community Inspector General and by establishing reporting re-

quirements needed to assess the Intelligence Community's progress in closing critical intelligence gaps and making important internal reforms.

As always, the Committee seeks to authorize the funds necessary to enable the Intelligence Community to carry out its mission while ensuring that the Congress and the courts are able to exercise their constitutional responsibility to conduct effective oversight on behalf of all Americans.

B. THE COMMITTEE REVIEW

The Committee completed its review of the President's fiscal year 2010 budget request, carrying out its annual responsibility to prepare an authorization based on close examination of the U.S. Government's intelligence programs and proposed expenditures.

Over the past two months, the Committee conducted 11 full committee-level budget hearings and briefings on numerous topics, including the following:

- National Intelligence Program
- Military Intelligence Program
- Signals Intelligence
- Overhead Architecture
- Human Intelligence
- Covert Action
- Human Capital
- Cybersecurity

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

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

C. THE LEGISLATION

The bill and accompanying classified Schedule of Authorizations includes the Committee's recommended authorizations for the Intelligence Community for fiscal year 2010 and includes authorizations for the intelligence portion of the funding for overseas contingency operations for fiscal year 2010. The legislative provisions in H.R. 2701 will enhance U.S. intelligence capabilities in several important respects.

First, the bill invests in human resources by building upon the Committee's longstanding commitment to improving language capabilities and increasing diversity in the Intelligence Community. The bill adds funding and establishes new reporting requirements designed to provide the Committee with the information it needs to assess the Intelligence Community's progress toward critical personnel goals. In an effort to encourage critical language acquisition,

the bill authorizes the expansion of the Boren Fellowship program to include five high-priority African languages, and also makes permanent the Pat Roberts Intelligence Scholars Program, which provides stipends to college students studying critical languages and other subjects important to the Intelligence Community. The bill further requires the Director of National Intelligence (DNI) to develop a plan to increase diversity within the Intelligence Community.

The bill mandates implementation of security clearance reform to allow first- and second-generation Americans, many of whom may have critical language skills, to serve in the Intelligence Community with proper clearances. The Committee is concerned that there are no effective methods of measuring the quality of the security clearance process. In the absence of such measures, there are no guarantees that the system is functioning effectively, by granting trustworthy people access to classified information and preventing others from having those accesses. In addition, the delay in granting clearances frequently costs the Intelligence Community qualified applicants.

Second, the bill enhances congressional oversight by ensuring that the Committee receives the information it needs to conduct its inherent oversight function. The National Security Act of 1947 mandates that the Committee be "fully and currently informed" of all intelligence activities. Over the past several years, the executive branch has failed to meet that standard in a number of important cases. These failures prompted the Committee to adopt language to enhance reporting on intelligence activities to the full membership of the congressional intelligence committees.

One particular provision would repeal the so-called "Gang of Eight" provision, which has allowed the executive branch to limit notification on certain covert actions to only the chairmen and ranking members of the congressional intelligence committees. The new provision in H.R. 2701 would only allow the President to limit briefings pursuant to written procedures established by the congressional intelligence committees and allows the Committee to set procedures for the receipt of such notifications.

The bill also strengthens the oversight mechanisms available to the Committee. It would create a statutory and independent Intelligence Community-wide Inspector General with a clearly-defined responsibility to report directly to Congress. A separate provision clarifies the DNI's obligation to cooperate with GAO investigations requested by the congressional intelligence committees to ensure that those committees will benefit from GAO's skilled personnel and thorough, objective analysis.

In furtherance of the President's emphasis on protecting government information systems, the bill also makes a sizeable investment in foundational cybersecurity capabilities.

Finally, the legislation authorizes funding to enhance human intelligence collection and provides critical funds for traditional intelligence challenges and other enduring and emerging global security issues in Asia, Africa, and Latin America.

D. AREAS OF SPECIAL INTEREST

The way forward in Afghanistan and Pakistan

It is beyond dispute that the security of Afghanistan and Pakistan is inextricably linked to the security of the United States and its allies. The Committee notes with increasing concern that both the political and military situations in these countries continue to deteriorate.

After an eight-year presence of U.S. military and Coalition Forces in the region, al-Qa'ida, Taliban, and other affiliated groups continue to enjoy a safe haven in Pakistan's Federally Administered Tribal Areas (FATA) from which they are able to plan and operate undeterred and with impunity. The Taliban has been able to regroup and gain more ground in Afghanistan, thereby posing a real challenge to the stability of the national government. The opium trade is booming, providing funding for the Taliban's illicit activities and attacks on Coalition forces. Citizens still lack the basic facilities they expect from their government, such as transportation and communications infrastructure, education, and health care.

On the other side of the border in Pakistan, the situation is equally dire. The significance of the threat posed by the Pakistani Taliban, al-Qa'ida, and their affiliates to Pakistan, a nuclear-armed ally, cannot be overstated. The Pakistani Taliban has shown its strength in critical regions of the country, not only in the minimally-governed FATA, but also in the settled areas such as Peshawar and the Swat Valley. They have conducted suicide attacks against Pakistani and Western interests, including the attack against the Marriot Hotel in Islamabad, the murder of former Prime Minister Benazir Bhutto, and the obstruction of U.S. and Coalition supply routes to Afghanistan. More recently, the Pakistani Taliban has made brazen attempts to expand its authority into areas dangerously close to Islamabad. While the democratically-elected government has recently taken military action against the Pakistani Taliban, the government will be relatively weak and unable to repel these threats without U.S. assistance.

The Committee applauds the Administration's efforts to reemphasize the significance of these two nations and to approach the region with a new strategic vision. The Committee agrees that the United States must devote more resources, both financial and human, and use all instruments of power to overcome these challenges.

The Director of National Intelligence has briefed the Committee on the Intelligence Community's plans to adjust its strategy to match the situation on the ground. The Committee will continue to monitor developments as they relate to this region and will work diligently to ensure that the Intelligence Community has the resources and support required to carry out its mission.

Cybersecurity

Shortly after inauguration, the President ordered a 60-day review to develop a strategic framework for ensuring that all the various efforts to protect government information systems are fully integrated, properly resourced, and coordinated with Congress and the private sector.

In May 2009, the White House presented the results of that review. This review provides a meaningful roadmap for improving cybersecurity in the future and outlines some of the challenges the nation will face in building a robust cybersecurity capability.

Unfortunately, the national security establishment has come late to this issue. The Committee recognizes a need for a comprehensive effort on cybersecurity and appreciates the gravity and proximity of the cyber threat. The difficulty, as always, is in the details. As we move forward, there are critical oversight issues, difficult funding decisions, and thorny technical and policy questions still to be resolved. In some cases, those technical and policy questions may have to be resolved before the Committee has gathered enough information to be comfortable with authorizing significant sums for loosely defined purposes.

Several standards will guide the Committee's oversight in the near-term:

- Funding for cybersecurity programs may need to be reduced or slowed until the future direction for cybersecurity is better defined.
- Any cybersecurity strategy or plans should include clear goals and metrics to enhance program and congressional oversight.
- There needs to be a clear doctrine for the use of offensive cyber capabilities.
- Securing government information systems should include efforts beyond building bigger and better firewalls, such as improving the capability to attribute attacks to specific government or private actors.
- Expansion of cybersecurity authorities and capabilities must include stronger oversight mechanisms to ensure that any monitoring is conducted in a manner consistent with laws and regulations.
- Securing government information systems will require both a significant increase in the number of cybersecurity experts in government service and a cultural change in the way federal employees approach computer and information security.

The Committee will continue to monitor this area closely and looks forward to cooperating with the Administration in its efforts. The Committee will be prepared to authorize the expenditure of funds where those expenditures appear necessary and will offer legislation when there is a need for new authorities or greater oversight.

Diversity in the Intelligence Community

The Committee has long been concerned about the lack of diversity in the Intelligence Community. Despite efforts to improve the diversity of its workforce, intelligence agencies continue to lag behind the rest of the federal workforce in this area.

Diversity in the Intelligence Community is an operational imperative. For our intelligence apparatus to operate clandestinely throughout the world, the Intelligence Community needs officers of differing ethnicities. Diversity can improve our operational capabilities and, thereby, increase the quality and quantity of the intelligence our officers are able to collect.

In order to achieve this operational objective, the Intelligence Community must adopt measures of diversity that match its mission requirements. Currently, in measuring diversity, intelligence

agencies use only the six Office of Management and Budget-approved categories for identifying race and national origin. These are limited to: (1) Hispanic or Latino, (2) American Indian or Alaska Native, (3) Asian, (4) Black or African-American, (5) Native Hawaiian or Other Pacific Islander, and (6) White. These categories were created to prevent discriminatory employment and education practices, not to measure the foreign language skills and cultural knowledge the Intelligence Community needs to succeed.

While it is important that the Intelligence Community have a workforce that reflects the American population, it is far more important that its workforce be capable of operating in, collecting information about, and analyzing developments in all parts of the world. If the Intelligence Community is to succeed in its global mission, it must have a global face.

The Committee is, however, encouraged by the proposal of a new form for self-identification of ancestry, ethnicity, and cultural expertise. The form was made available for public comment on May 11, 2009. This is a good first step toward improving mission-oriented diversity, and the Committee looks forward to reviewing public comments.

Improving foreign language proficiency and management

Expert foreign language capability is critical to effective intelligence collection and analysis. The Committee is encouraged that the Central Intelligence Agency (CIA) has launched an initiative to double the number of employees with critical foreign language skills and looks forward to evaluating the fruits of that initiative in coming years.

While the Intelligence Community has made significant strides in hiring personnel who have limited proficiency in a foreign language, the Committee believes that the Intelligence Community must intensify efforts to train these personnel to a higher level of professional proficiency. This degree of language expertise generally requires a substantial commitment of time and resources, but the Committee is convinced that serious, extended foreign language study will yield substantial benefits for the Intelligence Community. In particular, the Committee recommends that programs for overseas immersion language training be expanded.

Currently, many agencies evaluate foreign language capabilities by tallying the number of filled billets that are categorized as "foreign language required" or "foreign language desired." This method of accounting does not distinguish between the varied levels of foreign language proficiency. In effect, the mechanism distorts the agency's assessment of foreign language readiness, which, in turn, adversely affects the agency's ability to accurately evaluate its foreign language needs, plan its hiring strategies, or implement necessary training programs.

In order to better inform agency foreign language plans, the Committee urges the Intelligence Community to adopt a more precise mechanism to measure the foreign language capabilities of individual agencies, preferably one that takes into account language proficiency levels.

Intelligence cooperation with Mexico and Latin America

The Committee notes that Latin America has not received attention from the Intelligence Community commensurate with the region's importance to U.S. national security. As a result, intelligence agencies are hard-pressed to provide needed insights about the complex threats emanating from the Western Hemisphere, including a brutal narcotics trade and the proliferation of violent youth gangs that have moved into American cities beyond the Southwest border region.

The Committee considers the recent announcement of the National Southwest Border Counternarcotics Strategy to be a positive indicator of the Administration's dedication to meet these hemispheric challenges head-on. In formulating specifics for the future course of this initiative, the Committee recommends that the Intelligence Community modify its approach to the region in the following ways.

First and foremost, the Committee recommends greater collaboration among the elements of the Intelligence Community. In particular, the Department of Homeland Security Intelligence and Analysis Division (DHS I&A) must do a better job of filtering and disseminating the unique intelligence that it draws from its operations on the U.S. borders and from state, local, and tribal resources. The Committee is pleased that DHS I&A plans to deploy at least one full-time employee to each of the 70 Fusion Centers operating throughout the country.

Additionally, the Intelligence Community should harness the expertise of the growing number of Hispanic-Americans, many of whom have strong cultural and linguistic ties to the region, including proficiency in regional dialects. To this end, the Committee encourages the Intelligence Community to intensify its multipronged efforts to attract Hispanics and other minorities to its ranks. For hard target countries in the region, such as Cuba, the Committee urges the Intelligence Community to tailor recruiting drives to attract exiles from those countries, just as the United States has done with Iraqi-Americans in seeking to meet intelligence objectives in Iraq.

Finally, the Committee encourages the Intelligence Community to strengthen its relationships in Latin America, particularly with the Mexican government. Mexico is confronting powerful drug cartels that have used billions of dollars from drug sales in the United States to bribe officials and arm themselves with American-purchased weaponry. This is a shared problem for which the United States and Mexico must both shoulder the responsibility of finding a solution.

Emerging terrorist safehavens

In its role as both the overseer of the Intelligence Community and a consumer of intelligence, the Committee seeks to identify those areas of the world in which future threats lie in order to provide resources and funding to meet those threats. In that regard, the Committee is concerned with the threat of increasing instability in Yemen and the continuing turmoil in Somalia. History has demonstrated that al-Qa'ida and its affiliates seek out those countries with either a weak central government or significant instability to use as safehavens from which to plot against the United

States or U.S. interests abroad. While al-Qa'ida's main safehaven along the border of Afghanistan and Pakistan is of gravest concern, it is essential that neither Somalia nor Yemen become the next safehaven for al-Qa'ida.

Somalia has not had an effective national government since 1991. While certain areas of the country have developed internationally unrecognized governments, much of Somalia, including Mogadishu, remains largely lawless despite international efforts. Today, the terrorist group "al-Shabaab," which has issued statements praising Osama bin Laden and associating themselves with al-Qa'ida's global ideology, is making strides towards taking control of Mogadishu and southern Somalia. Al-Shabaab's control over this territory, including its ports, could provide al-Qa'ida a safehaven from which to plan terrorist attacks.

In 2000, Yemen was the site of the attack on the USS Cole, an al-Qa'ida strike against the United States that killed 17 U.S. servicemen. Following al-Qa'ida's attacks against the United States on September 11, 2001, the Yemeni government took some effective steps against terrorism, but in recent months the threat has grown again, as exemplified by the September 2008 al-Qa'ida attack against the U.S. Embassy in Sanaa, which killed 16 civilians. Since then, al-Qa'ida elements in Saudi Arabia and Yemen merged to become "Al-Qa'ida in the Arabian Peninsula" (AQAP) and are believed to be gaining strength in Yemen. Concurrently, the al-Houthi revolt in the north and unrest in the south of Yemen threaten the central government and may divert its attention from eliminating the AQAP threat. AQAP is now using the conflicts in the north and south as a rallying cry to recruit more terrorists into its ranks.

The Committee urges the Intelligence Community, and the Administration as a whole, to take immediate steps to address the situations in Somalia and Yemen. The Committee looks forward to supporting the Intelligence Community in these efforts.

Oversight of intelligence activities

The Committee notes with concern the blurred distinction between the intelligence-gathering activities carried out by the Central Intelligence Agency (CIA) and the clandestine operations of the Department of Defense (DOD). Congress chartered the Committee for the purpose of conducting oversight of all intelligence activities of the U.S. Government, including all programs funded under both the National Intelligence Program and the Military Intelligence Program.

In categorizing its clandestine activities, DOD frequently labels them as "Operational Preparation of the Environment" (OPE) to distinguish particular operations as traditional military activities and not as intelligence functions. The Committee observes, though, that overuse of this term has made the distinction all but meaningless. The determination as to whether an operation will be categorized as an intelligence activity is made on a case-by-case basis; there are no clear guidelines or principles for making consistent determinations. The Director of National Intelligence himself has acknowledged that there is no bright line between traditional intelligence missions carried out by the military and the operations of the CIA.

Clandestine military intelligence-gathering operations, even those legitimately recognized as OPE, carry the same diplomatic and national security risks as traditional intelligence-gathering activities. While the purpose of many such operations is to gather intelligence, DOD has shown a propensity to apply the OPE label where the slightest nexus of a theoretical, distant military operation might one day exist. Consequently, these activities often escape the scrutiny of the intelligence committees, and the congressional defense committees cannot be expected to exercise oversight outside of their jurisdiction.

Based on recent discussions, the Committee is hopeful that DOD will be more fulsome in its reporting. In the future, if DOD does not meet its obligations to inform the Committee of intelligence activities, the Committee will consider legislative action clarifying the Department's obligation to do so.

COMMITTEE CONSIDERATION AND ROLL CALL VOTES

On June 18, 2009, the Committee met in open and closed session and ordered the bill H.R. 2701 favorably reported, as amended.

OPEN SESSION

In open session, the Committee considered the text of the bill H.R. 2701.

Chairman Reyes offered an amendment in the nature of a substitute to H.R. 2701 and moved to adopt the amendment as the base text for consideration. The motion was agreed to by a voice vote. The contents of the amendment in the nature of a substitute, as amended, are described in the Section-by-Section analysis and the Explanation of Amendment.

The Committee then considered the following amendments to the amendment in the nature of a substitute:

Mr. Hastings offered an amendment to require the Director of National Intelligence to submit a report to the congressional intelligence committees on the plans of each element of the Intelligence Committee to increase diversity. It was agreed to by a voice vote.

Mr. Rogers offered an amendment to authorize funds to close the National Drug Intelligence Center. It was not agreed to by a roll call vote of 9 ayes to 13 noes:

Voting aye: Mr. Hoekstra, Mr. Gallegly, Mr. Thornberry, Mr. Rogers, Mrs. Myrick, Mr. Blunt, Mr. Miller, Mr. Kline, Mr. Conaway.

Voting no: Mr. Reyes, Mr. Hastings, Ms. Eshoo, Mr. Holt, Mr. Ruppersberger, Mr. Tierney, Mr. Thompson, Ms. Schakowsky, Mr. Langevin, Mr. Murphy, Mr. Schiff, Mr. Smith, Mr. Boren.

Mr. Thompson offered an amendment to require the Director of National Intelligence to submit a report to the congressional intelligence committees and the congressional appropriations committees on the state of research, analysis, and training in interrogation and debriefing practices. The amendment was agreed to by a voice vote.

Mr. Rogers offered an amendment to prohibit the use of funds for the implementation of the Federal Bureau of Investigation Global Justice Initiative. Mr. Rogers withdrew his amendment.

Mr. Langevin offered an amendment to establish, under the authority of the Office of the Director of National Intelligence, a designee to act as the outreach coordinator for information assurance education. The amendment would further require an examination of the recruiting, retention, and professional development of individuals with specialized cyber operations training and skills. Mr. Langevin withdrew his amendment.

Mr. Rogers offered an amendment to prohibit the use of funds authorized in the bill to provide Miranda warnings to certain persons outside of the United States. The amendment was agreed to by a roll call vote of 14 ayes, 7 noes, and 1 present:

Voting aye: Mr. Ruppersberger, Mr. Langevin, Mr. Murphy, Mr. Smith, Mr. Boren, Mr. Hoekstra, Mr. Gallegly, Mr. Thornberry, Mr. Rogers, Mrs. Myrick, Mr. Blunt, Mr. Miller, Mr. Kline, Mr. Conaway.

Voting no: Mr. Reyes, Mr. Hastings, Ms. Eshoo, Mr. Holt, Mr. Tierney, Mr. Thompson, Ms. Schakowsky.

Voting present: Mr. Schiff.

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

Mr. Kline offered an amendment to require the Director of National Intelligence and the Secretary of Defense to submit to the congressional intelligence committees and the congressional defense committees a revised charter for the National Reconnaissance Office. The amendment was agreed to by a voice vote.

Mr. Conaway offered an amendment to require the Director of National Intelligence to conduct a review of the status of audit readiness of each element of the Intelligence Community and to develop a plan to achieve a full, unqualified audit of each element. The amendment was agreed to by a voice vote.

Mrs. Myrick offered an amendment to prohibit the use of funds to transfer detainees from U.S. Naval Station, Guantanamo Bay, Cuba, to the United States.

Mr. Murphy offered an amendment in the nature of a substitute to the Myrick amendment, which would limit the use of funds for the transfer or release of individuals detained at U.S. Naval Station, Guantanamo Bay, Cuba, to the United States, until such time as the President presents to the congressional defense committees a plan regarding the disposition of each individual to be transferred or released. Mr. Murphy withdrew his amendment in the nature of the substitute, pending revision.

Mr. Murphy then offered an amendment in the nature of a substitute to the Myrick amendment, which would limit the use of funds for the transfer or release of individuals detained at U.S. Naval Station, Guantanamo Bay, Cuba, to the United States, until such time as the President presents to Congress a plan regarding the disposition of each individual to be transferred or released. The amendment was agreed to by a roll call vote of 12 ayes and 10 noes:

Voting aye: Mr. Reyes, Mr. Hastings, Ms. Eshoo, Mr. Holt, Mr. Ruppersberger, Mr. Thompson, Ms. Schakowsky, Mr. Langevin, Mr. Murphy, Mr. Schiff, Mr. Smith, Mr. Boren.

Voting no: Mr. Tierney, Mr. Hoekstra, Mr. Gallegly, Mr. Thornberry, Mr. Rogers, Mrs. Myrick, Mr. Blunt, Mr. Miller, Mr. Kline, Mr. Conaway.

The Committee then considered the question of the amendment offered by Mrs. Myrick, as amended by the amendment in the nature of a substitute offered by Mr. Murphy. The amendment was agreed to by a roll call vote of 14 ayes and 8 noes:

Voting aye: Mr. Reyes, Mr. Hastings, Ms. Eshoo, Mr. Ruppersberger, Mr. Thompson, Ms. Schakowsky, Mr. Langevin, Mr. Murphy, Mr. Schiff, Mr. Smith, Mr. Boren, Mr. Thornberry, Mr. Miller, Mr. Kline.

Voting no: Mr. Holt, Mr. Tierney, Mr. Hoekstra, Mr. Gallegly, Mr. Rogers, Mrs. Myrick, Mr. Blunt, Mr. Conaway.

Mr. Blunt offered an amendment to prohibit the use of intelligence funds to make payments to foreign nations for the relocation of detainees held at U.S. Naval Station, Guantanamo Bay, Cuba. The amendment was not agreed to by a roll call vote of 10 ayes and 12 noes:

Voting aye: Mr. Boren, Mr. Hoekstra, Mr. Gallegly, Mr. Thornberry, Mr. Rogers, Mrs. Myrick, Mr. Blunt, Mr. Miller, Mr. Kline, Mr. Conaway.

Voting no: Mr. Reyes, Mr. Hastings, Ms. Eshoo, Mr. Holt, Mr. Ruppersberger, Mr. Tierney, Mr. Thompson, Ms. Schakowsky, Mr. Langevin, Mr. Murphy, Mr. Schiff, Mr. Smith.

Mr. Hoekstra offered an amendment to require the Director of National Intelligence, in consultation with the Director of the Central Intelligence Agency and the Director of the Defense Intelligence Agency, to make publicly available an unclassified summary of intelligence relating to the recidivism of detainees held at U.S. Naval Station, Guantanamo Bay, Cuba. The amendment was agreed to by a roll call vote of 12 ayes and 10 noes:

Voting aye: Mr. Langevin, Mr. Schiff, Mr. Smith, Mr. Hoekstra, Mr. Gallegly, Mr. Thornberry, Mr. Rogers, Mrs. Myrick, Mr. Blunt, Mr. Miller, Mr. Kline, Mr. Conaway.

Voting no: Mr. Reyes, Mr. Hastings, Ms. Eshoo, Mr. Holt, Mr. Ruppersberger, Mr. Tierney, Mr. Thompson, Ms. Schakowsky, Mr. Murphy, Mr. Boren.

Mr. Rogers offered an amendment to require a review of the Federal Bureau of Investigation exercise of enforcement jurisdiction in foreign nations. Mr. Rogers withdrew his amendment.

Mr. Rogers offered an amendment to restrict funds for the implementation of the Federal Bureau of Investigation's "seven-and-out" program until the Director of the Federal Bureau of Investigation submits a review of pension issues related to the "five-and-out" program. Mr. Rogers withdrew his amendment.

Mr. Hoekstra offered an amendment to require the Director of National Intelligence, in consultation with the Director of the Central Intelligence Agency and the Director of the Defense Intelligence Agency, to make publicly available an unclassified summary of intelligence on Uighur detainees held at U.S. Naval Station, Guantanamo Bay, Cuba. The amendment was agreed to by a voice vote.

Mr. Thornberry offered an amendment to strike language related to the video recording of interrogations of persons in the custody of the Central Intelligence Agency. The amendment was not agreed to by a roll call vote of 9 ayes and 13 noes:

Voting aye: Mr. Hoekstra, Mr. Gallegly, Mr. Thornberry, Mr. Rogers, Mrs. Myrick, Mr. Blunt, Mr. Miller, Mr. Kline, Mr. Conaway.

Voting no: Mr. Reyes, Mr. Hastings, Ms. Eshoo, Mr. Holt, Mr. Ruppersberger, Mr. Tierney, Mr. Thompson, Ms. Schakowsky, Mr. Langevin, Mr. Murphy, Mr. Schiff, Mr. Smith, Mr. Boren.

Mr. Rogers offered an amendment to review the enforcement jurisdiction of the Federal Bureau of Investigation with respect to the criminal investigation of terrorism offenses conducted in foreign nations and using National Intelligence Program funds. The amendment was agreed to by a voice vote.

Mr. Langevin and Mr. Rogers offered an amendment to restrict funds for the implementation of the Federal Bureau of Investigation's "seven-and-out" program until the Director of the Federal Bureau of Investigation submits a review of pension issues related to the "five-and-out" program and the effects of a mandatory reassignment policy on the Bureau. The amendment was agreed to by a voice vote.

Mr. Conaway offered an amendment to strike language relating to Government Accountability Office audits and investigations. The amendment was not agreed to by a roll call vote of 9 ayes and 13 noes:

Voting aye: Mr. Hoekstra, Mr. Gallegly, Mr. Thornberry, Mr. Rogers, Mrs. Myrick, Mr. Blunt, Mr. Miller, Mr. Kline, Mr. Conaway.

Voting no: Mr. Reyes, Mr. Hastings, Ms. Eshoo, Mr. Holt, Mr. Ruppersberger, Mr. Tierney, Mr. Thompson, Ms. Schakowsky, Mr. Langevin, Mr. Murphy, Mr. Schiff, Mr. Smith, Mr. Boren.

Mr. Rogers offered an amendment to prohibit payments to foreign nations for the purposes of conducting surveillance or monitoring of a detainee who had been held at U.S. Naval Station, Guantanamo Bay, Cuba. The amendment was not agreed to by a roll call vote of 9 ayes and 13 noes:

Voting aye: Mr. Hoekstra, Mr. Gallegly, Mr. Thornberry, Mr. Rogers, Mrs. Myrick, Mr. Blunt, Mr. Miller, Mr. Kline, Mr. Conaway.

Voting no: Mr. Reyes, Mr. Hastings, Ms. Eshoo, Mr. Holt, Mr. Ruppersberger, Mr. Tierney, Mr. Thompson, Ms. Schakowsky, Mr. Langevin, Mr. Murphy, Mr. Schiff, Mr. Smith, Mr. Boren.

Mr. Hoekstra offered an amendment to require the Director of the Central Intelligence Agency to make publicly available unclassified versions of documents relating to congressional briefings on the use of enhanced interrogation techniques, as well as an unclassified version of intelligence products assessing the information gained from detainee reporting. The amendment was not agreed to by a roll call vote of 9 ayes and 13 noes:

Voting aye: Mr. Hoekstra, Mr. Gallegly, Mr. Thornberry, Mr. Rogers, Mrs. Myrick, Mr. Blunt, Mr. Miller, Mr. Kline, Mr. Conaway.

Voting no: Mr. Reyes, Mr. Hastings, Ms. Eshoo, Mr. Holt, Mr. Ruppersberger, Mr. Tierney, Mr. Thompson, Ms. Schakowsky, Mr. Langevin, Mr. Murphy, Mr. Schiff, Mr. Smith, Mr. Boren.

Mr. Thornberry offered an amendment to reform the congressional notification process as set forth in the National Security Act

of 1947. The amendment was not agreed to by a roll call vote of 10 ayes and 12 noes:

Voting aye: Mr. Holt, Mr. Hoekstra, Mr. Gallegly, Mr. Thornberry, Mr. Rogers, Mrs. Myrick, Mr. Blunt, Mr. Miller, Mr. Kline, Mr. Conaway.

Voting no: Mr. Reyes, Mr. Hastings, Ms. Eshoo, Mr. Ruppersberger, Mr. Tierney, Mr. Thompson, Ms. Schakowsky, Mr. Langevin, Mr. Murphy, Mr. Schiff, Mr. Smith, Mr. Boren.

Mr. Hoekstra offered an amendment restricting the use of funds authorized for purposes related to a covert action finding.

CLOSED SESSION

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

Voting aye: Mr. Reyes, Mr. Hastings, Ms. Eshoo, Mr. Holt, Mr. Ruppersberger, Mr. Tierney, Mr. Thompson, Ms. Schakowsky, Mr. Langevin, Mr. Schiff, Mr. Smith, Mr. Boren, Mr. Hoekstra, Mr. Gallegly, Mr. Thornberry, Mr. Rogers, Mrs. Myrick, Mr. Blunt, Mr. Miller, Mr. Kline, Mr. Conaway.

Voting no: None.

OPEN SESSION

After debate, the Committee returned to open session to complete consideration of the Hoekstra amendment. Mr. Hoekstra withdrew his amendment.

The Committee then adopted the Chairman's amendment in the nature of a substitute, as amended, by a roll call vote of 12 ayes, 9 noes, and 1 present.

Voting aye: Mr. Reyes, Mr. Hastings, Ms. Eshoo, Mr. Holt, Mr. Ruppersberger, Mr. Thompson, Ms. Schakowsky, Mr. Langevin, Mr. Murphy, Mr. Schiff, Mr. Smith, Mr. Boren.

Voting no: Mr. Hoekstra, Mr. Gallegly, Mr. Thornberry, Mr. Rogers, Mrs. Myrick, Mr. Blunt, Mr. Miller, Mr. Kline, Mr. Conaway.

Voting present: Mr. Tierney.

CLOSED SESSION

The Chairman announced his intention to discuss the classified Schedule of Authorizations. Mr. Hoekstra moved to close the meeting because national security would be endangered if the matters to be considered were disclosed. The motion was agreed to by a record vote of 22 ayes to 0 noes:

Voting aye: Mr. Reyes, Mr. Hastings, Ms. Eshoo, Mr. Holt, Mr. Ruppersberger, Mr. Tierney, Mr. Thompson, Ms. Schakowsky, Mr. Langevin, Mr. Murphy, Mr. Schiff, Mr. Smith, Mr. Boren, Mr. Hoekstra, Mr. Gallegly, Mr. Thornberry, Mr. Rogers, Mrs. Myrick, Mr. Blunt, Mr. Miller, Mr. Kline, Mr. Conaway.

Voting no: None.

OPEN SESSION

After debate on the classified Schedule of Authorizations, the Committee returned to open session.

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

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

SECTION-BY-SECTION ANALYSIS AND EXPLANATION OF THE AMENDMENT

TITLE I—INTELLIGENCE ACTIVITIES

Section 101. Authorization of appropriations

Section 101 lists the United States Government departments, agencies, and other elements for which the Act authorizes appropriations for intelligence and intelligence-related activities for fiscal year 2010.

Section 102. Classified schedule of authorizations

Section 102 makes clear that the details of the amounts authorized to be appropriated for intelligence and intelligence-related activities covered under this title for fiscal year 2010 are contained in a classified Schedule of Authorizations. Section 102 states that the Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and the House of Representatives, and to the President.

Section 103. Personnel ceiling adjustments

Section 103 allows the Director of National Intelligence (DNI), with the approval of the Director of the Office of Management and Budget (OMB), to authorize employment of civilian personnel in excess of the number authorized under Section 102 by an amount not to exceed three percent of the total limit applicable to each element of the Intelligence Community. The DNI must determine that the action is necessary to the performance of important intelligence functions and must notify the congressional intelligence committees prior to the exercise of authority under this section.

Section 104. Intelligence Community Management Account

Section 104 authorizes the sum of $672,812,000 in fiscal year 2010 for the Intelligence Community Management Account of the Office of the Director of National Intelligence (ODNI). The Section authorizes 853 full-time, or full-time equivalent, personnel for the Intelligence Community Management Account, who may be either permanent employees of the ODNI or individuals detailed from other elements of the United States Government. Section 104 also authorizes additional funds and personnel in the classified Schedule of Authorizations for the Intelligence Community Management Account.

Section 105. Prohibition on earmarks

Section 105 prohibits the inclusion of any earmarked funding requests in this bill.

Section 106. Restriction on conduct of intelligence activities

Section 106 states that authorization of appropriations for an activity does not grant authorization for any intelligence activity that is not otherwise permitted under the Constitution or laws of the United States.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Section 201. Authorization of appropriations

Section 201 authorizes appropriations in the amount of $290,900,000 for fiscal year 2010 for the Central Intelligence Agency Retirement and Disability Fund.

TITLE III—GENERAL INTELLIGENCE COMMUNITY MATTERS

SUBTITLE A—PERSONNEL MATTERS

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

Section 301 provides that funds authorized to be appropriated by this Act for salary, pay, retirement, and other benefits for federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in compensation or benefits authorized by law.

Section 302. Temporary appointment to fill vacancies in presidentially-appointed and Senate-confirmed positions in the Office of the Director of National Intelligence

Section 302 allows the DNI to fill, in an acting capacity, presidentially-appointed, Senate-confirmed positions at the ODNI with either the deputy to the vacant position or another Senate-confirmed individual serving elsewhere in the Intelligence Community. A significant number of ODNI personnel are detailed from other elements of the Intelligence Community, and thus may be ineligible under the Vacancies Act to serve in an acting capacity in Senate-confirmed ODNI positions. This section helps avoid the potentially prolonged vacancies in critical positions that could result from the appointment and confirmation process by allowing the President to appoint individuals from other elements of the Intelligence Community with the necessary skills and background to serve in an acting capacity.

Section 303. Enhanced flexibility in non-reimbursable details to elements of the Intelligence Community

Section 303 expands from one year to two years the maximum length of time that U.S. Government personnel may be detailed to the ODNI on a reimbursable or non-reimbursable basis. To utilize this authority, the agreement of both the DNI and the head of the detailing element is required.

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

Section 304. Provisions relating to the Defense Civilian Intelligence Personnel System

Section 304 curtails implementation of the Defense Civilian Intelligence Personnel System (DCIPS) by prohibiting the transition or hiring of any new employees into the system. It also requires the Secretary of Defense, within one year of enactment, to terminate the program and transition employees back to the civilian compensation system that was in effect on September 30, 2007. The provisions requiring the return of employees to the previous compensation system do not apply to members of the Defense Intelligence Senior Executive Service or to an individual in an Intelligence Senior Level position, as defined by Section 1607 of Title 10, Chapter 83.

If the Secretary of Defense, in conjunction with the Director of the Office of Personnel Management, determines that the DCIPS pay system should not be terminated with respect to covered employees, he is required to provide to Congress, within six months of enactment, a written report with the Secretary's views and his reasons therefore.

The Committee, together with the Committee on Armed Services, has expressed its concern about the implementation of the DCIPS pay system. DCIPS would do away with the existing General Schedule-pay scale and replace it with a system of pay bands. This pay-banded system has been misleadingly named "pay-for-performance."

For the past three years, the Committee has expressed concerns that this compensation system lacks transparency and accountability, and could have an adverse impact on minorities. The Committee is also concerned that the system was developed without sufficient consultation with employees in the Intelligence Community. Further, the pay system is being implemented across the Intelligence Community without regard to the needs of different career fields or mission needs of the various intelligence agencies. In 2003, the Committee objected to the implementation of a similar program at the Central Intelligence Agency out of concern that it would have an undesirable impact on the workforce.

The Committee continues to be concerned that the implementation of such a system has been rushed and that there has not been adequate time to ensure managers are properly trained. Human resources personnel have raised concerns that they will not have sufficient time prior to implementation to ensure all employees receive training, nor do they have final policy guidance. Recent training events have demonstrated that managers need more practice and guidance in determining performance objectives under the systems.

The Committee supports the idea of rewarding performance and believes that the performance bonus system has not been effectively utilized. Certainly, the existing civil service system has flaws and needs reform. The Committee notes that the Director of the Office of Personnel Management has indicated his intent to reform the civilian personnel system across the entire federal government. The Committee believes that additional employees should not transition to pay-for-performance systems prior to the implementation of a broader, government-wide pay reform.

SUBTITLE B—EDUCATION

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

Section 311 provides permanent authorization for the Pat Roberts Intelligence Scholars Program (PRISP), which provides financial assistance to students who pursue studies in critical language specialties, area studies, and technical and scientific specialties. PRISP was originally authorized as a pilot program in Section 318 of the Intelligence Authorization Act for fiscal year 2004 and has continued under year-to-year appropriations. The program has been successful and is widely supported within the Intelligence Community.

Section 312. Intelligence Officer Training Program

Section 312 authorizes the Intelligence Officer Training Program (IOTP), a program operated by the ODNI and built from a combination of previously authorized pilot programs. The IOTP seeks to recruit, prepare, and retain an ethnically and culturally diverse workforce in the Intelligence Community by providing grants to institutions of higher learning to develop courses of study in education disciplines that the DNI deems to be of critical importance to the intelligence mission. The Committee encourages the ODNI to consider awarding grants to institutions developing innovative methods for teaching high-priority foreign language skills, such as those that utilize individualized and/or web-based courses of study.

Section 313. Modifications to the Stokes Educational Scholarship Program

Section 313 expands and strengthens the Stokes Educational Scholarship Program. The Stokes Program was originally created for the National Security Agency (NSA) to help undergraduate students, particularly minority students, develop critical skills necessary to the Intelligence Community. This provision extends the program to include graduate students. It would also make the program available to other elements within the Intelligence Community.

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

Section 314 directs the DNI to establish a pilot program to expand the National Security Education Program/Boren Scholars Program to include intensive language instruction for five high-priority African languages. The program will utilize intensive immersion instruction both in the United States and abroad, and will likely focus on the Somali, Hausa, Amharic, Tigrinya, and Kituba languages. The intent of the program is to begin building capability in African languages spoken in areas where U.S. national security interests may be affected, but where insufficient instructional capability exists in the United States.

SUBTITLE C—CONGRESSIONAL OVERSIGHT OF COVERT ACTIONS

Section 321. Reporting on covert actions

Section 321 changes the processes for reporting of intelligence activities, including covert actions, to the congressional intelligence committees.

Title V of the National Security Act of 1947 requires the President to ensure that the congressional intelligence committees are kept fully and currently informed of intelligence activities. Section 503 of the National Security Act enumerates specific procedures with respect to briefings on covert actions.

In the past, the Committee has struggled with the limitations imposed by the executive branch on reporting of intelligence activities. To address this problem, subsection (a) amends Section 501(a) of the National Security Act by explicitly requiring the President to brief the congressional intelligence committees on legal authorities, operational risks, resource concerns, and potential for failure at issue with respect to significant, anticipated, or ongoing intelligence activities.

Subsection (b) amends Section 501(c) of the National Security Act by requiring that the procedures governing the briefings must be in writing.

Subsection (c) amends Section 502 of the National Security Act by providing explicit guidance on how the President should brief the intelligence committees on legal issues related to intelligence activities.

Subsection (d) amends Section 503 of the National Security Act by applying the same explicit guidance in subsection (c) to briefings on covert actions. This subsection also replaces Section 503(c)(2), which allowed the President to limit reports on covert actions to the so-called "Gang of Eight"—the chairmen and ranking members of the intelligence committees, the Speaker and Minority Leader of the House of Representatives, and the majority and minority leaders of the Senate—if the President determines that extraordinary circumstances affecting vital interests of the United States warrant limiting access.

This subsection replaces Section 503(c)(2) with a provision that requires the President to brief all members of the congressional intelligence committees, but implicitly provides for the possibility of more restricted briefings pursuant to the written procedures established by the congressional intelligence committees, pursuant to the revised Section 501(c). This language vests the authority to limit the briefings with the committees, rather than the President. Also, in defining the term "significant undertaking," the subsection explicitly establishes certain conditions under which the President is required to provide information on a covert action program to the congressional intelligence committees.

This subsection further provides that, if a briefing on a finding or notice is restricted to certain members of the committees, the President shall provide those members with general information on the content of the finding or notice. It also allows any member of Congress to whom a covert action finding or notice has been reported to submit to the DNI an objection concerning any part of that finding or notice, who must report that objection to the President in writing within 48 hours.

Additionally, this subsection requires that the President maintain a record of the members to whom a finding or notice has been reported and provide that record to the congressional intelligence committee in question within 30 days.

Finally, this subsection clarifies that, as a matter of construction, any reference in sections 501, 502, or 503 to a requirement that information be provided to the intelligence committees shall be construed to require that such information be provided to all members of those committees, except as provided in revised Section 503(c)(2).

The Committee understands well the need to protect intelligence information from unauthorized disclosure and the prerogatives of the executive branch with respect to the protection of classified information. However, these principles must be balanced against the constitutional requirement for congressional oversight.

Section 503 of the National Security Act attempted to establish a balance between the executive and legislative branches. Over the past eight years, the balance was tipped towards the executive at the expense of congressional oversight. That state of affairs was particularly troubling in light of the controversial nature of some of the programs that were not briefed to the full membership of the intelligence committees. This section resets that balance with respect for the executive branch's prerogatives, but with an eye on ensuring that Congress is able to fulfill its oversight responsibility.

SUBTITLE D—REPORTS AND OTHER CONGRESSIONAL OVERSIGHT

Section 331. Report on financial intelligence on terrorist assets

Section 331 modifies 50 U.S.C. Section 404(m) to change the requirement for the United States Department of the Treasury to submit a report to Congress on financial intelligence concerning terrorist assets. The existing provision requires the report to be submitted semiannually. This section would change the law to require that the report be submitted once every year and eliminates certain data requirements from that report.

Section 332. Annual personnel level assessments for the Intelligence Community

Section 332 provides a new mechanism for overseeing personnel growth in the Intelligence Community by requiring the DNI, in consultation with the head of the element of the Intelligence Community concerned, to prepare an annual assessment of the personnel and contractor levels for each element of the Intelligence Community for the subsequent fiscal year.

The assessment required by Section 332 must report information about budgeted personnel and contractor costs and levels, a comparison of this information to current fiscal year data and data from the previous five fiscal years, and a justification for the requested personnel and contractor levels. The assessment also requires the DNI to affirm that, based on current and projected funding, the individual elements of the Intelligence Community will have sufficient internal infrastructure and training resources to support the requested personnel and contractor levels and sufficient funding to support the administrative and operational activities of the requested personnel.

Section 332 also requires that the assessment contain information about intelligence collectors and analysts employed or contracted by each element of the Intelligence Community, and contractors who are the subjects of any inspector general investigations. The assessment must be submitted to the congressional intelligence committees concurrent with the submission of the President's budget request.

The Committee believes that the personnel level assessment required by Section 332 will provide information necessary for the executive branch and Congress to understand the consequences of modifying the Intelligence Community's personnel levels. Section 332 recognizes that personnel growth must be better planned in the future to accomplish the goals of strengthening intelligence collection, analysis, and dissemination. In addition, the Administration must adequately fund personnel growth and structure its resources to ensure that personnel growth does not compromise the implementation and execution of other programs.

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

The personnel assessment required in Section 332 should assist the DNI and the congressional intelligence committees in determining the appropriate balance of contractors and permanent government employees.

Section 333. Semiannual reports on nuclear weapons programs of Iran, Syria, and North Korea

Section 333 requires the DNI to submit to Congress classified reports on the nuclear intentions and capabilities of Iran, Syria, and North Korea not less than once in the four months after enactment and semiannually thereafter. This section provides that the DNI may submit a National Intelligence Estimate on the intentions and capabilities of any one of the three countries in lieu of submitting a report on that particular country during a six-month period.

Section 334. Annual report on foreign language proficiency in the Intelligence Community

Section 334 requires the DNI to report annually on the Intelligence Community's proficiency in foreign languages, including foreign language training. The report must provide data on positions in the various Intelligence Community elements that require foreign language proficiency, the number of personnel hired with such proficiency, and the efforts of those elements to recruit, hire, train, and retain personnel with such proficiency. Additionally, the report requires the DNI to make an assessment on the feasibility of hiring foreign nationals previously employed as translators for the U.S. Government in Iraq and Afghanistan to help meet critical language needs in the Intelligence Community. This information is intended to help the Committee better assess the Intelligence Community's ability to manage language resources.

Section 335. Government Accountability Office audits and investigations

Section 335 directs the DNI to ensure that Government Accountability Office (GAO) personnel are provided with access to all information from the Intelligence Community that the Comptroller General determines necessary for a GAO analysis, evaluation, or investigation of an Intelligence Community program or activity, when the Comptroller General conducts such analysis, evaluation, or investigation at the request of a congressional intelligence committee. The scope of this provision is limited to requests from the congressional intelligence committees.

This provision allows the DNI to restrict access to information sought by the GAO if the DNI determines that the restriction is necessary to protect the vital national security interests of the United States. If the DNI makes such a determination, the DNI must submit a statement of the reasons for the determination to the congressional intelligence committees.

Section 336. Certification of compliance with oversight requirements

Section 336 requires the head of each element of the Intelligence Community to submit on a semiannual basis a certification that the element is in full compliance with the provisions of the National Security Act of 1947 requiring that the congressional intelligence committees be kept fully and currently informed of intelligence activities.

This section provides that, if the head of an element is unable to issue such a certification, he or she must submit to the congressional intelligence committees an explanation as to why a certification could not be made and affirm that the relevant information will be submitted to the committees as soon as is possible.

The purpose of this section is to ensure that elements of the Intelligence Community remain current and timely with respect to their notification obligations.

Section 337. Reports on foreign industrial espionage

Section 337 modifies 50 U.S.C. Section 2170b(b)(1) and (2) to change the requirement for the submission of a report to Congress on Foreign Economic Collection and Industrial Espionage. The existing provision requires the report to be submitted annually. This section would change the law to require that the report be submitted once every two years.

Section 338. Report on intelligence community contractors

Section 338 requires the DNI to provide a comprehensive report on the use of contractors in the Intelligence Community. The report must include data on several critical questions concerning the use of contractors, including: a description of guidance issued by the elements of the Intelligence Community on the hiring, training, security clearance, and assignment of contract personnel; an identification of contracts in which the contractor is performing a substantially similar function to a government employee; an assessment of costs incurred or savings achieved by awarding contracts for the performance of specific functions instead of using full-time employees of the Intelligence Community; an assessment of the appropriateness of using contractors to perform the activities; and an

estimate of the number of contracts and the number of contract personnel performing intelligence functions.

These reporting requirements are designed to address the Committee's concerns regarding the Intelligence Community's large contractor workforce, including: the lack of documentation regarding the size and use of the workforce; a clear definition of the functions that may be appropriately performed by contractors; or procedures for overseeing contractors and preventing any waste, fraud, and abuse that may occur. The report is intended to aid both the Intelligence Community and the congressional intelligence committees in conducting oversight and devising appropriate policy solutions.

Section 339. Report on transformation of the intelligence capabilities of the Federal Bureau of Investigation

Section 339 requires the Federal Bureau of Investigation (FBI) to submit a comprehensive report on its efforts to transform its intelligence capabilities and to achieve long-term goals for developing the national security functions of the Bureau. This report is intended to help establish clear goals for the development of the effective functioning of the Bureau as an intelligence agency.

Section 340. Report on intelligence resources dedicated to Iraq and Afghanistan

Section 340 requires the DNI and the Secretary of Defense to submit to the congressional intelligence and defense committees a report on the intelligence resources dedicated to Iraq and Afghanistan during the preceding two fiscal years and on the plan for fiscal year 2010. The Committee wants to ensure that such resources are sufficient to support policy determinations and tactical decisions related to U.S. forces deployed in these two theaters.

Section 341. Report on International Traffic in Arms Regulations

The executive branch and industry have repeatedly identified the International Traffic in Arms Regulation (ITAR) as an impediment to technology development. ITAR was intended to protect sensitive technologies and information from being transferred to nations deemed a potential security risk. Government and industry assert that the State Department has managed ITAR in such a way so as to encourage non-U.S. companies to develop a collaborative research and development environment that has allowed the indigenous production of banned technologies, which defeats the premise of ITAR and causes a significant loss of market share in key industries for U.S. corporations.

This section requires the DNI to report to the congressional intelligence committees and to the congressional foreign affairs committees regarding the threat to national security posed by foreign government attempts to acquire sensitive technology and the effectiveness of ITAR in mitigating that threat.

The Foreign Relations Authorization Act for Fiscal Year 2010, which passed the House in June 2009, would give the President authority to reform certain aspects of ITAR's management. The Committee expects that the report required by this section will help the President and Congress better evaluate the merits of such a decision.

Commercial imagery providers have suggested that the U.S. Government has imposed on them significant legal restrictions. These providers are concerned that U.S. restrictions on the sale of commercial imagery are beginning to inhibit their growth and their competitiveness in foreign markets, especially as foreign imagery satellites improve and foreign reliance on U.S. systems diminishes. The Committee expects the report called for by this section to help Congress better understand the implications of these restrictions.

Section 342. Report on nuclear trafficking

Section 342 requires the DNI to report to certain congressional committees on the illicit trade of nuclear and radiological material and equipment. The report must include: details of all cases of illicit sale, transfer, brokering, or transport of nuclear material or nuclear explosive devices; an assessment of the countries that pose the greatest risk of nuclear trafficking; and a discussion of any dissents, caveats, gaps, or other information that would reduce confidence in the assessment of the countries that pose the greatest risk of nuclear trafficking. The Committee remains concerned about the threat from the proliferation of nuclear and radiological materials and equipment, and this report is intended to deliver an assessment of that threat.

Section 343. Study on revoking pensions of persons who commit unauthorized disclosures of classified information

Section 343 requires the DNI to conduct a study on the feasibility of revoking the pensions of personnel in the Intelligence Community who commit unauthorized disclosures of classified information and to report the results of that study to the congressional intelligence committees.

Section 344. Study on electronic waste destruction practices of the Intelligence Community

Section 344 requires the Inspector General of the Intelligence Community to conduct a study on the security and environmental impacts of the current electronic waste disposal practices of the Intelligence Community and provide the results to the congressional intelligence committees. The Committee is particularly concerned about the security implications of poorly-managed electronic waste disposal, but these disposal practices also raise questions about potential for adverse environmental effects.

Section 345. Report on retirement benefits for former employees of Air America

Section 345 requires the DNI to submit a report to Congress on the advisability of providing federal retirement benefits to United States citizens who were employees of Air America during a period when it was owned or controlled by the U. S. Government. This assessment must include a review of the costs associated with providing such a benefit and any recommendations for legislative action necessary to enact such a benefit.

Section 346. Study on college tuition programs for employees of the Intelligence Community

Section 346 requires the DNI to conduct a study on the feasibility of providing matching funds to college savings plans of personnel in the Intelligence Community and establishing a program to pay the college tuition for the children of an employee of the Intelligence Community who dies in the line of duty. The purpose of this study is to determine whether it would be practical to provide additional assistance to employees of the Intelligence Community who face college tuition payments.

Section 347. National Intelligence Estimate on global supply chain vulnerabilities

Section 347 requires the DNI to submit to Congress a National Intelligence Estimate or National Intelligence Assessment on the risks to U.S. national security resulting from the presence of counterfeit electronic components that may be defective or deliberately manipulated by foreign governments or criminal organizations. With the growing concerns over cybersecurity, the Committee believes it is appropriate to focus the Intelligence Community's attention on threats emanating from the global supply chain that provides much of the computer systems for both government and private industry.

Section 348. Review of records relating to potential health risks among Desert Storm veterans

Section 348 requires the Director of the Central Intelligence Agency (DCIA) to conduct a classification review of all CIA records relevant to known or potential health effects suffered by veterans of Operation Desert Storm. This section further requires the DCIA to report the results of the classification review to Congress.

Section 349. Review of pensions of employees affected by "five and out" program of the Federal Bureau of Investigation

Section 349 states that none of the funds authorized by the bill may be used to implement an FBI program that requires the mandatory reassignment of a FBI supervisor after he or she serves in a management position for seven years. Funds may only be expended for this program after the Director of the FBI certifies to the congressional intelligence committees that the Director has completed a review of issues related to a previous program that required the mandatory reassignment of an FBI supervisor after he or she served five years in a management position.

Section 350. Summary of intelligence relating to terrorist recidivism of detainees held at United States Naval Station, Guantanamo Bay, Cuba

Section 350 requires that the DNI, in consultation with the DCIA and the Director of the Defense Intelligence Agency, make publicly available an unclassified summary of intelligence relating to recidivism of detainees currently or formerly held at the U.S. Naval Station, Guantanamo Bay, Cuba, and an assessment of the likelihood that such detainees will engage in terrorism or communicate with persons in terrorist organizations.

Section 351. Summary of intelligence on Uighur detainees held at United States Naval Station, Guantanamo Bay, Cuba

Section 351 requires that the DNI, in consultation with the DCIA and the Director of the DIA, make publicly available an unclassified summary of intelligence relating to threats posed by Uighur detainees currently or formerly held at the U.S. Naval Station, Guantanamo Bay, Cuba, and an assessment of the likelihood that those detainees will engage in terrorism or communicate with persons in terrorist organizations.

Section 352. Report on interrogation research and training

Section 352 requires that the DNI, in coordination with the heads of the relevant elements of the Intelligence Community, submit to the congressional intelligence committees and the congressional appropriations committees a report on the state of research, analysis, and training in interrogation and debriefing process. The report must include: an assessment of the quality and value of scientific and technical research in interrogation and debriefing practices; the state of interrogation and debriefing training in the Intelligence Community; the adequacy of efforts to enhance career paths for employees who conduct interrogations and debriefings; and the effectiveness of processes for studying and implementing best practices for interrogation and debriefing.

Section 353. Report on plans to increase diversity within the intelligence community

Section 353 requires that the DNI, in coordination with the heads of the elements of the Intelligence Community, submit to the congressional intelligence committees a report on the plans of each element to increase diversity within the intelligence community. Those reports must include: specific plans to achieve the goals articulated in the DNI's strategic plan on equal opportunity and diversity; plans and initiatives to increase recruiting and hiring of diverse candidates; plans and initiatives to improve retention of diverse federal employees at the junior, midgrade, senior, and management levels; a description of specific diversity awareness training and education programs; and a description of performance metrics to measure the success of carrying out these plans.

Section 354. Review of Federal Bureau of Investigation exercise of enforcement jurisdiction in foreign nations

Section 354 requires that, no later than 60 days after enactment, the Director of the FBI conduct 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 U.S. law.

Section 355. Repeal of certain reporting requirements

Section 355 eliminates certain reporting requirements that were considered overly burdensome to the Intelligence Community in cases where the usefulness of the report has diminished, either because of changing events or because the information contained in those reports is duplicative of information already obtained through other avenues. The Committee is sensitive to the administrative burden placed on the Intelligence Community through re-

porting requirements, and seeks to eliminate, wherever possible, those reporting requirements that are no longer useful to aid congressional oversight.

Section 356. Incorporation of reporting requirements

Section 356 incorporates into the Act by reference each requirement contained in the classified annex to submit a report to the congressional intelligence committees to clarify that the requirement to complete these reports is a requirement in law.

Section 357. Conforming amendments

Section 357 makes conforming changes to the National Security Act of 1947 arising from changes and additions to the reporting requirements enumerated in Section 507 of that Act.

SUBTITLE E—OTHER MATTERS

Section 361. Modification of availability of funds for different intelligence activities

Section 361 conforms the text of Section 504(a)(3)(B) of the National Security Act of 1947 (50 U.S.C. 414(a)(3)(B)) with the text of Section 102A(d)(5)(A)(ii), as amended by Section 1011(a) of the Intelligence Reform and Terrorism Prevention Act of 2004, which governs the transfer and reprogramming of certain intelligence funding by the DNI. It replaces the "unforeseen requirements" standard in Section 504(a)(3)(B) with a more flexible standard (from Section 102A(d)(5)(A)(ii)) to govern reprogramming and transfers of funds authorized for a different intelligence or intelligence-related activity.

The new standard permits reprogramming or transfer authority if the new use of funds "supports an emergent need, improves program effectiveness, or increases efficiency." This modification brings the standard for reprogramming and transfers of intelligence funding into conformity with the standards applicable to reprogramming and transfers under Section 102A of the National Security Act of 1947. This provision would make no changes to the relevant congressional reporting requirements or processes associated with the approval of reprogramming requests.

Section 362. Protection of certain national security information

Section 362 amends Section 601 of the National Security Act of 1947 (50 U.S.C. 421) to increase the criminal penalties for individuals with authorized access to classified information who intentionally disclose information identifying a covert agent, if such individual knows the United States is taking affirmative measures to conceal the covert agent's intelligence relationship to the United States.

Section 362 also amends Section 603(a) of the National Security Act of 1947 (50 U.S.C. 423(a)) to provide that the annual report from the President on the protection of identities of certain U.S. undercover intelligence officers, agents, informants, and sources also include an assessment of the need for any legislative modification for the purposes of improving legal protections for covert agents.

Section 363. Extension of authority to delete information about receipt and disposition of foreign gifts and decorations

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

The public disclosure of gifts or decorations to personnel and certain contractors of the Intelligence Community has the potential to compromise intelligence sources or confirm intelligence relationships with foreign governments. Recognizing the risks to national security, Congress has granted limited exemptions to this rule to the DCIA and to the DNI. Section 363 provides the heads of each element of the Intelligence Community the same limited exemption from the specified public reporting requirements previously provided only to the DNI and DCIA but requires that any information withheld from the Secretary of State be provided to and retained by the DNI.

Section 364. Exemption of dissemination of terrorist identity information from the Freedom of Information Act

Section 364 establishes procedures facilitating the transfer of information concerning the identity of known or suspected terrorists from the National Counterterrorism Center to the Terrorist Screening Center. This section is designed to encourage the dissemination of information vital to the prevention of terrorist attacks to state and local law enforcement by ensuring that the dissemination does not render information that would otherwise be exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552) subject to such disclosure.

Section 365. Misuse of the Intelligence Community and Office of the Director of National Intelligence name, initials, or seal

Section 365 adds a subsection to the National Security Act of 1947 prohibiting the unauthorized use of the official name, initials, or seal of either the Office of the Director of National Intelligence or the Intelligence Community. This section also permits the Attorney General to pursue injunctive relief for such unauthorized use.

Section 366. Security Clearances: Reports; Ombudsman; Reciprocity

The Committee welcomes the Intelligence Community's progress in improving the timeliness of security clearance processing but remains concerned that the processing of some security clearances, particularly for industry, takes too long. Section 366 requires a series of reports that will contribute needed data for ongoing congressional oversight of the security clearance process and effective measurement of progress.

This section requires the President to conduct an audit every four years regarding the manner in which the executive branch determines whether a security clearance is required for a particular position in the federal government. This section also requires the President to submit to Congress an annual report regarding the number of employees and contractors with security clearances, the

amount of time taken to process security clearance determinations, and the number of security clearance determinations that have taken longer than one year to complete. The section further requires that the President submit to Congress 180 days after enactment of this Act a report on establishing security clearance adjudication standards across the federal government.

This section also directs the DNI to appoint an ombudsman for security clearances within the Intelligence Community. An ombudsman will provide persons experiencing delays in obtaining their security clearances with an avenue for seeking help resolving such delays.

The Committee has conducted extensive oversight on the security clearance process, and in particular on the Administration's attempts to reform the process. In the course of that oversight, GAO has testified to the lack of meaningful quality metrics to evaluate the efficacy of the security clearance process. The legislative measures in this section are designed to address the concerns raised by GAO in its testimony.

Section 367. Limitation on use of funds for the transfer or release of individuals detained at United States Naval Station, Guantanamo Bay, Cuba

Section 367 states that the DNI may not use any of the funds authorized by the bill to release or transfer an individual held at the U.S. Naval Station, Guantanamo Bay, Cuba, to the United States, its territories, or possessions until 120 days after the President has submitted a plan to Congress. The plan must include: an assessment of the risk that each individual to be transferred or released poses to the national security of the United States; a proposal for the disposition of each such individual; a plan to mitigate any risks, should the proposed disposition include the release or transfer of that individual to the United States, its territories, or its possessions; and a summary of consultations by the President with the chief executive of the State, District of Columbia, territory, or possession to which an individual may be transferred or released.

Section 368. Intelligence community financial improvement and audit readiness

Section 368 expresses the sense of Congress regarding the need for each element of the Intelligence Community to develop and implement a plan to become compliant with financial management and audit readiness standards. This section also requires that the DNI conduct a review of the status of the auditability compliance of each element of the Intelligence Community and develop a plan and timeline to achieve a full, unqualified audit of each element by September 30, 2013.

TITLE IV—MATTERS RELATING TO ELEMENTS OF THE INTELLIGENCE COMMUNITY

SUBTITLE A—OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

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

Section 103(e) of the National Security Act of 1947 (50 U.S.C. 403–3(e)) provides that the ODNI may not be co-located with any element of the Intelligence Community. Section 401 clarifies that the ban applies only to the co-location of the ODNI headquarters with the headquarters of another element of the Intelligence Community. It also provides the President with authority to waive that limitation where the interests of national security so dictate. Further, in response to an ambiguous requirement concerning the location of all federal government offices, this section clarifies that the ODNI offices may be located outside of the District of Columbia.

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

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

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

Section 403 clarifies the additional duties of the DNI's Director of Science and Technology. This provision ensures there is uniformity in the definitions of basic, applied, and advanced research goals and improved prioritization and coordination of science and technology across the Intelligence Community.

Section 404. Plan to implement recommendations of the data center energy efficiency reports

Section 404 requires the DNI to submit a plan to Congress on compliance with the Environmental Protection Agency's report on data center energy efficiency submitted to Congress under Section 1 of P.L. 109–431. The plan is intended to encourage the Intelligence Community to promote the use of energy efficient technologies to reduce consumption of resources such as power and water by the Intelligence Community's data centers.

Section 405. Title of Chief Information Officer of the Intelligence Community

Section 405 clarifies that the Chief Information Officer (CIO) at ODNI serves as the Intelligence Community's CIO, and not only as the CIO for the ODNI.

Section 406. Inspector General of the Intelligence Community

Section 1078 of the Intelligence Reform and Terrorism Prevent Act of 2004 authorized the DNI to establish an Office of the Inspector General if the DNI determined that such an Inspector General would be beneficial to improving the operations and effectiveness of the ODNI. The DNI created an Intelligence Community Inspector General (IC/IG) in DNI Instruction No. 2005–10 (September 7, 2005). However, the Committee believes that an IC/IG with full statutory authorities and independence can better ensure that the ODNI identifies problems and deficiencies within the Intelligence Community, especially with respect to the manner in which elements of the Intelligence Community share information and undertake joint or cooperative activities.

Section 406 creates a statutory IC/IG to be appointed by the President, with the advice and consent of the Senate. The IC/IG will report directly to the DNI and may only be removed by the President, who must communicate the reasons for removal to the congressional intelligence committees. The DNI may prohibit the IC/IG from conducting an investigation, inspection, or audit if the DNI determines that such action is necessary to protect vital national security interests. The DNI must provide the congressional intelligence committees with the reasons for such a determination within seven days.

The IC/IG will have subpoena authority, though information within the possession of the United States Government must be obtained through other procedures. Subject to the DNI's concurrence, the IC/IG may request information from any department, agency, or element of the U.S. Government.

The IC/IG must submit semiannual reports to the DNI that include a description of significant problems relating to the programs and operations of the Intelligence Community, and the DNI must submit such reports to Congress within 30 days of receipt. The IC/IG must also report immediately to the DNI serious or flagrant violations of law. Within seven days, the DNI must transmit those reports to the congressional intelligence committees.

Employees of the Intelligence Community or employees of a contractor who intend to report to Congress a violation of law or Executive Order, a false statement to or willful withholding from Congress, or other "urgent concerns" may report such complaints and supporting information to the IC/IG. The IC/IG must transmit this complaint, along with a credibility determination, to the DNI, which must then transmit the complaint, credibility determination, and supporting documentation to the congressional intelligence committees. This section does not disturb, and the Committee intends to retain, the authoritative guidance for analogous provisions of the Intelligence Community Whistleblower Act of 1998, Pub. L. No. 105–272 (October 20, 1998), the Senate Committee report for that legislation, S. Rept. 105–185, and the conference report, H. Rept. 105–780.

For matters within the jurisdiction of both the IC/IG and an Inspector General for another element of the Intelligence Community, the Inspectors General (IGs) shall resolve who will undertake an investigation, inspection, or audit. In resolving that question, the IGs may request the assistance of the Intelligence Community Inspectors General Forum, an already extant body codified in this

section. In the event that the IGs are still unable to resolve the question, they shall submit the matter for resolution to the DNI and to the head of the element in which an Inspector General with jurisdiction is located.

The Committee notes that the current DNI has expressed his support for a statutory IG in testimony. In addition, the previous Inspector General at the Office of the Director of National Intelligence (ODNI/IG) has testified to the challenges that the ODNI/IG faces in the absence of an authorizing statute and to the benefits that the creation of a statutory IC/IG would bring to the oversight of the Intelligence Community.

SUBTITLE B—CENTRAL INTELLIGENCE AGENCY

Section 411. Review of covert action programs by Inspector General of the Central Intelligence Agency

Title V of the National Security Act of 1947, entitled "Accountability for Intelligence Activities," sets forth the Act's basic requirements for executive branch obligations to keep the congressional intelligence committees fully informed of intelligence activities. Section 503 of the National Security Act of 1947 (50 U.S.C. 413b) is specifically devoted to presidential findings and congressional notification on covert actions.

Section 411 of this bill augments oversight of covert actions by requiring that the CIA Inspector General (CIA/IG) conduct an audit of each covert action at least once every three years and submit to the congressional intelligence committees a report containing the audit results within 60 days of completing the audit. To a considerable extent, this requirement codifies in statute existing practice and assures its regularity.

The DNI has expressed concern that this audit requirement, and several other provisions pertaining to reports by the Intelligence Community, raises concerns with respect to the President's authority to control access to national security information. To allay any such concern regarding the covert action audit requirement, the Committee has drafted Section 411 to state that the requirement is subject to the longstanding provisions of section 17(b)(3) and (4) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(b)(3) and (4)), which empower the DCIA to prohibit the CIA/IG from initiating, carrying out, or completing an audit if the Director determines that the prohibition is necessary to protect vital national security interests of the United States, provided that the Director reports the reasons to the congressional intelligence committees.

Section 412. Prohibition on the use of private contractors for interrogations involving persons in the custody of the Central Intelligence Agency

Section 412 prohibits the DCIA from obligating or expending funds to any contractor to conduct the interrogation of a detainee in the custody of the CIA. The DNI may, however, grant a waiver if the DCIA determines that no employee of the federal government is capable and available to conduct the interrogation and that the interrogation is in the national interest of the United States. This section also provides that contractors conducting interrogations pursuant to a waiver by the DNI shall be governed by the same

laws that would apply if the interrogation were conducted by an employee of the federal government. The Committee believes that conducting custodial interrogations is an inherently governmental function, which should, to the maximum extent practicable, be conducted by U.S. Government personnel.

Section 413. Appeals from decisions of Central Intelligence Agency contracting officers

Section 413 amends current law by providing that an appeal from a decision of a CIA contracting officer may be made to whichever of the Armed Services Board of Contract Appeals or the Civilian Board of Contract Appeals is specified by the contracting officer as the appropriate Board. This section also provides that the board so specified shall have jurisdiction to decide the appeal.

Section 414. Deputy Director of the Central Intelligence Agency

Section 414 establishes the position of Deputy Director of the Central Intelligence Agency (DDCIA) and specifies that the President shall appoint the DDCIA. This section further outlines that the duties of the DDCIA are to assist the DCIA in carrying out his or her duties and to act as DCIA during the absence of the DCIA or a vacancy in the position.

Section 415. Protection against reprisals

Section 415 expands the protections to CIA personnel who provide assistance to the CIA/IG. Section 17(e)(3)(B) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(e)(3)(b)) authorizes the CIA/IG to receive and investigate both complaints and information. Currently, Section 17(e)(3)(B) only extends protections to employees against reprisal or threat of reprisal made in response to complaints filed with the CIA/IG. This provision would clarify that these protections also apply with respect to information provided to the CIA/IG employees that may not be in direct connection with a complaint.

Section 416. Requirement for video recording of interrogations of persons in the custody of the Central Intelligence Agency

Section 416 adds to the National Security Act of 1947 a requirement for the DCIA to establish guidelines to ensure that interrogations of detainees in CIA custody are recorded in video form, and that the video recording and attendant audio recording of such interrogation is maintained for a specified period of time. This provision does not apply a videotaping requirement to security officers who might question a witness or a suspect in the course of their official duties while assigned to CIA headquarters.

SUBTITLE C—OTHER ELEMENTS

Section 421. Homeland Security intelligence elements

Section 421 affirms that both the Coast Guard and Office of Intelligence and Analysis in the Department of Homeland Security are elements of the Intelligence Community. This section further clarifies that the Office of Intelligence and Analysis is the Department of Homeland Security's Intelligence Community member in accordance with existing practice and as defined in Executive

Order 12333. The Coast Guard is listed herein as a military, multi-mission, maritime service that is located within the Department of Homeland Security.

Section 422. Clarification of inclusion of Drug Enforcement Administration as an element of the Intelligence Community

Section 422 codifies the joint decision of the DNI and the Attorney General that the Drug Enforcement Administration should be within the Intelligence Community.

Section 423. Repeal of certain authorities relating to the Office of the National Counterintelligence Executive

Section 423 amends the authorities and structures of the National Counterintelligence Executive (NCIX) to eliminate administrative authorities that had been vested in the NCIX when that official was appointed by and reported to the President. Those authorities are unnecessary now that the NCIX is appointed by and under the authority of the DNI.

Section 424. Confirmation of appointment of heads of certain components of the Intelligence Community

Section 424 establishes that the directors of the National Security Agency (NSA) and National Reconnaissance Office (NRO) are to be presidentially-appointed and Senate-confirmed. Under present law and practice, the directors of the NSA and NRO, each with a distinct and significant role in the national intelligence mission, are not confirmed by the Senate in relation to their leadership of these agencies. Presently, the President appoints the Director of NSA and the Secretary of Defense appoints the Director of the NRO. Under current law, neither of these appointments must be confirmed by the Senate unless a military officer is promoted or transferred into the position.

The Committee believes that holding confirmation hearings in both the Senate Select Committee on Intelligence and the Senate Armed Services Committee would bring to these positions an appropriate level of accountability and responsiveness to congressional oversight.

Section 425. Associate Director of the National Security Agency for Compliance and Training

Section 425 establishes an Associate Director for Compliance and Training at the NSA. This official will report to the NSA Director and will be responsible for ensuring that all NSA surveillance programs are in compliance with applicable laws, regulations, and policies.

The Committee understands the challenges involved in bringing together surveillance laws with the complicated and ever-changing technology that the NSA uses to collect vital intelligence. To date, the NSA has distributed the responsibility for compliance and training across several offices within the organization, with none occupying a sufficiently prominent position to influence outcomes effectively.

The Committee believes that the establishment of an additional Associate Director whose sole responsibility is to ensure that each component within NSA is adhering to the rules governing surveil-

lance authorities is the best way to minimize the risk of non-compliance.

The Associate Director for Compliance and Training should have expertise in both the legal and technical arenas of surveillance so that he or she can be accountable for each and every surveillance program the NSA administers.

The Associate Director for Compliance and Training will also be responsible for establishing and implementing a training regimen to ensure that the NSA workforce understands the procedures necessary to comply with the law.

Section 426. General Counsel of the National Security Agency

Section 426 requires presidential appointment and Senate confirmation for the General Counsel of the NSA. The General Counsel of the NSA faces important legal, privacy, and civil liberties issues that are only increasing in complexity. The Committee believes that holding confirmation hearings in both the Senate Select Committee on Intelligence and the Senate Armed Services Committee for the NSA's General Counsel is a warranted additional measure of congressional oversight.

Section 427. Inspector General of the National Security Agency

Section 427 amends Section 12 of the Inspector General Act of 1978 (5 U.S.C. App.) to establish an Inspector General of the NSA. As noted, complex legal, privacy, and civil liberties issues may arise during the performance of the NSA's mission. The Committee believes that the Inspector General will play a vital role in ensuring that the NSA effectively executes its mission in a manner consistent with all applicable laws and regulations.

Section 428. Charter for the National Reconnaissance Office

Section 428 requires that the DNI and Secretary of Defense jointly submit to the congressional intelligence committees and congressional defense committees a revised charter for the National Reconnaissance Office (NRO). The NRO charter has not changed since the agency's founding nearly forty years ago, and the Committee believes an updated charter would help the NRO better implement its current mission.

TITLE V—OTHER MATTERS

SUBTITLE A—GENERAL INTELLIGENCE MATTERS

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

The National Commission for the Review of Research and Development Programs of the United States Intelligence Community was authorized in the Intelligence Authorization Act for Fiscal Year 2003 and lapsed on September 1, 2004. Section 501 renews the authority for this Commission by extending the reporting deadline to February 1, 2011, and by requiring that new members be appointed to the Commission. This section also authorizes $2 million for the Commission from the Intelligence Community Management Account.

Section 502. Expansion and clarification of the duties of the Program Manager for the Information Sharing Environment

Section 502 clarifies the duties of the Information Sharing Environment (ISE) Program Manager by directing that the ISE Program Manager shall reside in the Executive Office of the President.

Section 503. Classification review of executive branch materials in the possession of the congressional intelligence committees

Section 503 requires the DNI to conduct a classification review of executive branch materials older than 25 years in the possession of the congressional intelligence committees. This provision is intended to review the holdings of the intelligence committees to determine what executive branch materials no longer need to remain classified.

Section 504. Prohibition on use of funds to provide Miranda warnings to certain persons outside of the United States

Section 504 states that no funds authorized by the bill may be used to provide the warnings of constitutional rights described in the Supreme Court's decision in Miranda v. Arizona (384 U.S. 436 (U.S. 1966)) to any person located outside of the United States who is not United States person and: (1) is suspected of terrorism, associated with terrorists, or believed to have knowledge of terrorists; or (2) is a detainee in the custody of the U.S. Armed Forces.

SUBTITLE B—TECHNICAL AMENDMENTS

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

Section 511 amends the Central Intelligence Agency Act of 1949 by updating references to the National Security Act of 1947 to reflect amendments made by the Intelligence Reform and Terrorism Prevention Act and changes in the titles of certain positions of the CIA.

Section 512. Technical amendment to mandatory retirement provision of Central Intelligence Agency Retirement Act

Section 512 updates the Central Intelligence Agency Retirement Act to reflect the use of pay levels within the Senior Intelligence Service program, rather than pay grades, by the CIA.

Section 513. Technical amendments to the Executive Schedule

Section 513 makes technical amendments to the Executive Schedule to correct outdated and incorrect references to "Director of Central Intelligence" and "General Counsel to the National Intelligence Director."

Section 514. Technical amendments to the Foreign Intelligence Surveillance Act of 1978

Section 514 corrects typographical errors and makes other technical amendments to the Foreign Intelligence Surveillance Act of 1978.

Section 515. Technical amendments to Section 105 of the Intelligence Authorization Act for Fiscal Year 2004

Section 515 clarifies that the reorganization of the Office of Intelligence and Analysis of the Department of the Treasury into the Office of Terrorism and Financial Intelligence does not affect its status as an element of the Intelligence Community or the Director of National Intelligence's responsibility with respect to that office.

Section 516. Technical amendments to the Intelligence Reform and Terrorism Prevention Act of 2004

Section 516 makes technical and conforming amendments to the Intelligence Reform and Terrorism Prevention Act that correct typographical errors, update titles, and make language internally consistent.

Section 517. Technical amendments relating to the multi-year National Intelligence Program

Section 517 updates the "multi-year national intelligence program" to incorporate organizational and nominal changes made by the Intelligence Reform and Terrorism Prevention Act.

Section 518. Technical amendments to the National Security Act of 1947

Section 518 makes technical corrections to the National Security Act of 1947 arising from enactment of the Intelligence Reform and Terrorism Prevention Act. It also corrects other technical errors.

Section 519. Technical amendments to Title 10, United States Code

Section 519 amends Title 10 by changing the title of "Associate Director of CIA for Military Affairs" to "Associate Director of Military Affairs, CIA."

STATEMENT OF FEDERAL MANDATES

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104–4) requires a statement of whether the provisions of the reported bill include unfunded mandates. In compliance with this requirement, the Committee has received a letter from the Congressional Budget Office included herein.

STATEMENT ON CONGRESSIONAL EARMARKS

Pursuant to clause 9 of Rule XXI of the Rules of the House of Representatives, the Committee reports that the bill contains no congressional earmarks, limited tax benefits, or limited tariff benefits.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

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PERMANENT SELECT COMMITTEE
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HVC-304, THE CAPITOL
WASHINGTON, DC 20515
(202) 225-7690

MICHAEL J. DELANEY
STAFF DIRECTOR

JAMES M. LEWIS
MINORITY STAFF DIRECTOR

June 23, 2009

Mr. Douglas W. Elmendorf
Director
Congressional Budget Office
Ford House Office Building, 4th Floor
Washington, D.C. 20515

Dear Mr. Elmendorf:

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, I am writing to request a cost estimate of H.R. 2701, the Intelligence Authorization Act for Fiscal Year 2010, pursuant to sections 308 and 403 of the Congressional Budget Act of 1974. I have attached a copy of the bill as approved by the House Permanent Select Committee on Intelligence.

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

Thank you in advance for your assistance.

Sincerely,

Silvestre Reyes
Chairman

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 25, 2009.

Hon. Silvestre Reyes,
Chairman, Permanent Select Committee on Intelligence,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2701, the Intelligence Authorization Act for Fiscal Year 2010.

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

Sincerely,

DOUGLAS W. ELMENDORF,
Director.

Enclosure.

H.R. 2701—Intelligence Authorization Act for Fiscal Year 2010

Summary: H.R. 2701 would authorize appropriations for fiscal year 2010 for intelligence activities of the U.S. government, for the Intelligence Community Management Account, and for the Central Intelligence Agency Retirement and Disability System (CIARDS).

Since CBO does not provide estimates for classified programs, this estimate addresses only the unclassified portions of the bill. In addition, CBO cannot provide estimates of provisions that affect both classified and unclassified programs. On that limited basis, CBO estimates that implementing certain provisions of the bill would cost $236 million in 2010 and $669 million over the 2010–2014 period. Enacting H.R. 2701 would not affect direct spending or revenues.

H.R. 2701 includes new subpoena authority that would impose an intergovernmental and private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA), but CBO expects the cost of complying with the mandate would be small and well below the thresholds established in UMRA ($69 million for intergovernmental mandates and $139 million for private-sector mandates in 2009, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2701 is shown in the following table. The costs of this legislation fall within budget function 050 (national defense).

	By fiscal year, in millions of dollars—					
	2010	2011	2012	2013	2014	2010–2014
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Intelligence Community Management Account:						
Authorization Level	673	0	0	0	0	673
Estimated Outlays	236	283	121	20	7	667
Training in African Languages:						
Authorization Level	2	0	0	0	0	2
Estimated Outlays	0	1	1	0	0	2
Total Changes:						
Authorization Level	675	0	0	0	0	675
Estimated Outlays	236	284	122	20	7	669

Basis of estimate: For this estimate, CBO assumes that H.R. 2701 will be enacted near the beginning of fiscal year 2010, that the specified amounts will be appropriated, and that outlays will follow historical spending patterns for existing or similar programs.

Intelligence Community Management Account

Section 104 would authorize the appropriation of $673 million for the Intelligence Community Management Account, which provides the principal source of funding for the Office of the Director of National Intelligence and provides resources for coordinating programs, overseeing budgets, and managing the intelligence agencies. CBO estimates that implementing this provision would cost $667 million over the 2010–2014 period, assuming appropriation of the specified amount.

Training in African languages

Section 314 would authorize the Director of National Intelligence, after consultation with the National Security Education Board, to establish a pilot program to provide scholarships for training in certain African languages not currently covered by existing scholarship programs. The bill would authorize the appropriation of $2 million for that purpose, and CBO estimates that those amounts would result in outlays of $1 million in both fiscal years 2010 and 2011, assuming the appropriation of the specified amount.

Central Intelligence Agency Retirement and Disability System

Section 201 would authorize the appropriation of $291 million to CIARDS to cover retirement costs attributable to military service and various unfunded liabilities. The appropriation to CIARDS is considered mandatory, and the authorization under this bill would be the same as the amount in the CBO baseline. Thus, this estimate does not ascribe any additional cost to that provision.

Intergovernmental and private-sector impact: H.R. 2701 contains an intergovernmental and private-sector mandate as defined in UMRA. Section 501 would extend the National Commission for the Review of Research and Development Programs of the U.S. Intelligence Community, and the subpoena authority of that commission. Entities in the public and private sectors, if subpoenaed, would be required to provide testimony, documents, or other evidence. CBO expects that the commission would likely issue subpoenas sparingly and that the costs to comply with a subpoena would not be significant. Thus, we estimate that the total costs of the mandate would be small and well below the annual thresholds established in UMRA ($69 million for intergovernmental mandates and $139 million for private-sector mandates in 2009, adjusted annually for inflation).

The bill also would create a grant program to promote the recruitment and retention of an ethnically and culturally diverse workforce within the intelligence community, which would benefit public colleges and universities. Any costs they may incur, including matching funds, would result from complying with conditions of aid.

Estimate prepared by: Federal costs: Jason Wheelock; Impact on state, local, and tribal governments: Burke Doherty; Impact on the private sector: Elizabeth Bass.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

CORRESPONDENCE WITH OTHER COMMITTEES REGARDING PARTICULAR PROVISIONS

EDOLPHUS TOWNS, NEW YORK
CHAIRMAN

DARRELL E. ISSA, CALIFORNIA
RANKING MINORITY MEMBER

ONE HUNDRED ELEVENTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
2157 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6143

Majority (202) 225-5051
Minority (202) 225-5074

June 22, 2009

The Honorable Silvestre Reyes
Chairman
House Permanent Select Committee on Intelligence
HVC 304, The Capitol
Washington, D.C. 20515

Dear Chairman Reyes:

I am writing about H.R 2701, the Intelligence Authorization Act for Fiscal Year 2010, which the Select Committee on Intelligence ordered reported to the House on June 18, 2009.

I appreciate your effort to consult with the Committee on Oversight and Government Reform and your commitment to work with the Committee regarding those provisions of H.R. 2701 that fall within the Oversight Committee's jurisdiction. These provisions include federal information policy matters and the creation of a statutory Inspector General within the Office of the Director of National Intelligence.

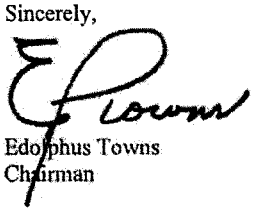
In the interest of expediting consideration of H.R. 2701, the Oversight Committee will not request a sequential referral of this bill. I would, however, request your support for the appointment of conferees from the Oversight Committee should H.R. 2701 or a similar Senate bill be considered in conference with the Senate.

This letter should not be construed as a waiver of the Oversight Committee's legislative jurisdiction over subjects addressed in H.R. 2701 that fall within the jurisdiction of the Oversight Committee.

Finally, I request that you include our exchange of letters on this matter in the Intelligence Committee Report on H.R. 2701 and in the Congressional Record during consideration of this legislation on the House floor.

Thank you for your attention to these matters.

Sincerely,



Edolphus Towns
Chairman

cc: The Honorable Darrell Issa, Committee on Oversight and Reform
Ranking Minority Member

SILVESTRE REYES, TEXAS, CHAIRMAN

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ON INTELLIGENCE

HVC-304, THE CAPITOL
WASHINGTON, DC 20515
(202) 225-7690

MICHAEL J. DELANEY
STAFF DIRECTOR

JAMES M. LEWIS
MINORITY STAFF DIRECTOR

June 22, 2009

The Honorable Edolphus Towns
Chairman
Committee on Oversight and Government Reform
2157 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your letter regarding H.R. 2701, the Intelligence Authorization Act for Fiscal Year 2010.

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

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

I will ensure that this exchange of letters is included in the Committee's report on H.R. 2701 and in the *Congressional Record* during consideration of this measure on the House floor. I look forward to working with you on this legislation and other matters of great importance to this nation.

Sincerely,

Silvestre Reyes
Chairman

cc: The Honorable Nancy Pelosi, Speaker of the House
The Honorable Peter Hoekstra, Ranking Member
The Honorable John Sullivan, Parliamentarian

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June 16, 2009

The Honorable Silvestre Reyes
Chairman
Permanent Select Committee on Intelligence
U.S. House of Representatives
HVC304, U.S. Capitol
Washington, DC 20515

Dear Chairman Reyes:

I am writing to confirm our mutual understanding regarding consideration of H.R. 2701, the Intelligence Authorization Act for Fiscal Year 2010, which was referred to the Permanent Select Committee on Intelligence. As you know, this legislation contains subject matter within the jurisdiction of the Committee on Education and Labor.

Given the importance of moving this bill forward promptly, I do not intend to request the sequential referral of H.R. 2701 to the Committee on Education and Labor. I do so, however, only with the understanding that this procedural route will not be construed to prejudice this Committee's jurisdictional interests and prerogatives on this bill or any other similar legislation. In addition, should this bill or similar legislation be considered in a conference with the Senate, I request your support for members of the Committee on Education and Labor to be appointed to the conference committee.

Finally, I ask that you include a copy of our exchange of letters in your committee's report on H.R. 2701 and in the *Congressional Record* during consideration of this bill on the House Floor. If you have any questions regarding this matter, please do not hesitate to call me. I thank you for your consideration.

Sincerely,

GEORGE MILLER
Chairman

cc: The Honorable Nancy Pelosi
The Honorable Steny Hoyer
The Honorable Howard P. "Buck" McKeon
The Honorable John V. Sullivan, Parliamentarian

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JOHN A. BOEHNER, REPUBLICAN LEADER

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HVC-304, THE CAPITOL
WASHINGTON, DC 20515
(202) 225-7690

MICHAEL J. DELANEY
STAFF DIRECTOR

JAMES M. LEWIS
MINORITY STAFF DIRECTOR

June 22, 2009

The Honorable George Miller
Chairman
Committee on Education and Labor
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your letter regarding H.R. 2701, the Intelligence Authorization Act for Fiscal Year 2010.

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

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

I will ensure that this exchange of letters is included in the Committee's report on H.R. 2701 and in the *Congressional Record* during consideration of this measure on the House floor. I look forward to working with you on this legislation and other matters of great importance to this nation.

Sincerely,

/Silvestre Reyes
Chairman

cc: The Honorable Nancy Pelosi, Speaker of the House
The Honorable Peter Hoekstra, Ranking Member
The Honorable John Sullivan, Parliamentarian

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U.S. House of Representatives

Washington, DC 20515–6035

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ERIN C. CONATON, STAFF DIRECTOR

June 22, 2009

Honorable Silvestre Reyes
Chairman
Permanent Select Committee on Intelligence
H-405, The Capitol
Washington, D.C. 20515

Dear Mr. Chairman:

On June 18, 2009, the Permanent Select Committee on Intelligence ordered H.R. 2701, the Intelligence Authorization Act for Fiscal Year 2010, to be reported. As you know, this measure contains certain provisions that are within the jurisdiction of the Committee on Armed Services.

Our Committee recognizes the importance of H.R. 2701 and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over this legislation, the Committee on Armed Services will waive further consideration of H.R. 2701. I do so with the understanding that by waiving further consideration of the bill, the Committee does not waive any future jurisdictional claims over similar measures. In the event of a conference with the Senate on this bill, the Committee on Armed Services reserves the right to seek the appointment of conferees.

I would appreciate the inclusion of this letter and a copy of your response in your Committee's report on H.R. 2701 and the *Congressional Record* during consideration of the measure on the House floor.

Very truly yours,

IKE SKELTON
Chairman

IS:jfh

cc: Honorable Nancy Pelosi
Honorable Howard P. "Buck" McKeon
Honorable Peter Hoekstra
Honorable John V. Sullivan

SILVESTRE REYES, TEXAS, CHAIRMAN

ALCEE L. HASTINGS, FLORIDA
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U.S. HOUSE OF REPRESENTATIVES

PERMANENT SELECT COMMITTEE
ON INTELLIGENCE

HVC-304, THE CAPITOL
WASHINGTON, DC 20515
(202) 225-7690

MICHAEL J. DELANEY
STAFF DIRECTOR

JAMES M. LEWIS
MINORITY STAFF DIRECTOR

June 22, 2009

The Honorable Ike Skelton
Chairman
House Armed Services Committee
2120 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your letter regarding H.R. 2701, the Intelligence Authorization Act for Fiscal Year 2010.

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

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

I will ensure that this exchange of letters is included in the Committee's report on H.R. 2701 and in the *Congressional Record* during consideration of this measure on the House floor. I look forward to working with you on this legislation and other matters of great importance to this nation.

Sincerely,

Silvestre Reyes
Chairman

cc: The Honorable Nancy Pelosi, Speaker of the House
The Honorable Peter Hoekstra, Ranking Member
The Honorable John Sullivan, Parliamentarian

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CHIEF COUNSEL

ONE HUNDRED ELEVENTH CONGRESS

CONGRESS OF THE UNITED STATES

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U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

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DOUGLAS C. ANDERSON
REPUBLICAN CHIEF COUNSEL

June 24, 2009

The Honorable Silvestre Reyes
Chairman
Permanent Select Committee on Intelligence
HVC -304, The Capitol
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to you concerning H.R. 2701, the Intelligence Authorization Act for Fiscal Year 2010.

This bill contains provisions within the Rule X jurisdiction of the Committee on Foreign Affairs. In the interest of permitting your Committee to proceed expeditiously to floor consideration of this important bill, I am willing to waive this Committee's right to mark up this bill. I do so with the understanding that by waiving consideration of the bill, the Committee on Foreign Affairs does not waive any future jurisdictional claim over the subject matters contained in the bill which fall within its Rule X jurisdiction.

Further, I request your support for the appointment of Foreign Affairs Committee conferees during any House-Senate conference convened on this legislation. I would ask that you place this letter into the Committee Report on H.R. 2701.

I look forward to working with you as we move this important measure through the legislative process.

Sincerely,

HOWARD L. BERMAN
Chairman

HLB:ds/mco

SILVESTRE REYES, TEXAS, CHAIRMAN

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U.S. HOUSE OF REPRESENTATIVES

PERMANENT SELECT COMMITTEE
ON INTELLIGENCE

HVC-304, THE CAPITOL
WASHINGTON, DC 20515
(202) 225-7690

MICHAEL J. DELANEY
STAFF DIRECTOR

JAMES M. LEWIS
MINORITY STAFF DIRECTOR

June 23, 2009

The Honorable Howard L. Berman
Chairman
Committee on Foreign Affairs
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your letter regarding H.R. 2701, the Intelligence Authorization Act for Fiscal Year 2010.

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

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

I will ensure that this exchange of letters is included in the Committee's report on H.R. 2701 and in the *Congressional Record* during consideration of this measure on the House floor. I look forward to working with you on this legislation and other matters of great importance to this nation.

Sincerely,

Silvestre Reyes
Chairman

cc: The Honorable Nancy Pelosi, Speaker of the House
The Honorable Peter Hoekstra, Ranking Member
The Honorable John Sullivan, Parliamentarian

BENNIE G. THOMPSON, MISSISSIPPI
CHAIRMAN

PETER T. KING, NEW YORK
RANKING MEMBER

One Hundred Eleventh Congress
U.S. House of Representatives
Committee on Homeland Security
Washington, DC 20515

June 22, 2009

The Honorable Sylvestre Reyes
Chairman
Permanent Select Committee
on Intelligence
H-405, The United States Capitol
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Reyes:

I write to you regarding H.R. 2701, "Intelligence Authorization Act for Fiscal Year 2010," introduced on June 4, 2009.

H.R. 2701 contains provisions that fall within the jurisdiction of the Committee on Homeland Security. I recognize and appreciate your desire to bring this legislation before the House in an expeditious manner and, accordingly, I will not seek a sequential referral of the bill. However, agreeing to waive consideration of this bill should not be construed as the Committee on Homeland Security waiving, altering, or otherwise affecting its jurisdiction over subject matters contained in the bill which fall within its Rule X jurisdiction.

Further, I request your support for the appointment of Homeland Security conferees during any House-Senate conference convened on this or similar legislation. I also ask that a copy of this letter and your response be included in the legislative report on H.R. 2701 and in the *Congressional Record* during floor consideration of this bill.

I look forward to working with you as we prepare to pass this important legislation.

Sincerely,

Bennie G. Thompson
Chairman

cc: The Honorable Nancy Pelosi, Speaker
The Honorable Peter T. King, Ranking Member
The Honorable John Sullivan, Parliamentarian

SILVESTRE REYES, TEXAS, CHAIRMAN

ALCEE L. HASTINGS, FLORIDA
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PERMANENT SELECT COMMITTEE
ON INTELLIGENCE

HVC-304, THE CAPITOL
WASHINGTON, DC 20515
(202) 225-7690

MICHAEL J. DELANEY
STAFF DIRECTOR

JAMES H. LEWIS
MINORITY STAFF DIRECTOR

June 22, 2009

The Honorable Bennie Thompson
Chairman
Committee on Homeland Security
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your letter regarding H.R. 2701, the Intelligence Authorization Act for Fiscal Year 2010.

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

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

I will ensure that this exchange of letters is included in the Committee's report on H.R. 2701 and in the *Congressional Record* during consideration of this measure on the House floor. I look forward to working with you on this legislation and other matters of great importance to this nation.

Sincerely,

Silvestre Reyes
Chairman

cc: The Honorable Nancy Pelosi, Speaker of the House
The Honorable Peter Hoekstra, Ranking Member
The Honorable John Sullivan, Parliamentarian

JOHN CONYERS, JR., Michigan
CHAIRMAN

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Congress of the United States
House of Representatives

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June 25, 2009

The Honorable Silvestre Reyes
Chairman, Permanent Select Committee on Intelligence
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Reyes:

This is to advise you that, as a result of your having consulted with us on provisions in 2701, the Intelligence Authorization Act for Fiscal Year 2010, that fall within the rule X jurisdiction of the Committee on the Judiciary, we are able, notwithstanding some continuing concerns about some of those provisions, to agree to waive seeking a formal referral of the bill, in order that it may proceed without delay to the House floor for consideration.

The Judiciary Committee takes this action with the understanding that by forgoing further consideration of H.R. 2701 at this time, we do not waive any jurisdiction over subject matter contained in this or similar legislation. We reserve the right to seek appointment of an appropriate number of conferees to any House-Senate conference involving this important legislation, and request your support if such a request is made.

I would appreciate your including this letter in your committee report, or in the Congressional Record during consideration of the bill on the House floor. Thank you for your attention to our interests, and for the cooperative relationship between our two committees.

Sincerely,

John Conyers, Jr.
Chairman

cc: The Honorable Lamar Smith
The Honorable Peter Hoekstra
The Honorable Nancy Pelosi
The Honorable Steny H. Hoyer
The Honorable John V. Sullivan, Parliamentarian

SILVESTRE REYES, TEXAS, CHAIRMAN

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NANCY PELOSI, SPEAKER
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ON INTELLIGENCE

HVC-304, THE CAPITOL
WASHINGTON, DC 20515
(202) 225-7690

MICHAEL J. DELANEY
STAFF DIRECTOR

JAMES M. LEWIS
MINORITY STAFF DIRECTOR

June 24, 2009

The Honorable John Conyers
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your letter regarding H.R. 2701, the Intelligence Authorization Act for Fiscal Year 2010.

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

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

I will ensure that this exchange of letters is included in the Committee's report on H.R. 2701 and in the *Congressional Record* during consideration of this measure on the House floor. I look forward to working with you on this legislation and other matters of great importance to this nation.

Sincerely,

Silvestre Reyes
Chairman

cc: The Honorable Nancy Pelosi, Speaker of the House
The Honorable Peter Hoekstra, Ranking Member
The Honorable John Sullivan, Parliamentarian

U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

James L. Oberstar
Chairman

David Heymsfeld, Chief of Staff
Ward W. McCarragher, Chief Counsel

John L. Mica
Ranking Republican Member

James W. Coon II, Republican Chief of Staff

June 19, 2009

The Honorable Silvestre Reyes
Chairman
Permanent Select Committee on Intelligence
HVC-304, U.S. Capitol
Washington, DC 20515

Dear Chairman Reyes:

I write to you regarding H.R. 2701, the "Intelligence Authorization Act for Fiscal Year 2010".

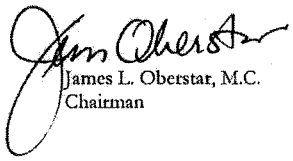
H.R. 2701 contains provisions that fall within the jurisdiction of the Committee on Transportation and Infrastructure. I recognize and appreciate your desire to bring this legislation before the House in an expeditious manner and, accordingly, I will not seek a sequential referral of the bill. However, I agree to waive consideration of this bill with the mutual understanding that my decision to forgo a sequential referral of the bill does not waive, reduce, or otherwise affect the jurisdiction of the Committee on Transportation and Infrastructure over H.R. 2701.

Further, the Committee on Transportation and Infrastructure reserves the right to seek the appointment of conferees during any House-Senate conference convened on this legislation on provisions of the bill that are within the Committee's jurisdiction. I ask for your commitment to support any request by the Committee on Transportation and Infrastructure for the appointment of conferees on H.R. 2701 or similar legislation.

Please place a copy of this letter and your response acknowledging the Committee on Transportation and Infrastructure's jurisdictional interest in the Committee Report on H.R. 2701 and in the *Congressional Record* during consideration of the measure in the House.

I look forward to working with you as we prepare to pass this important legislation.

Sincerely,



James L. Oberstar, M.C.
Chairman

cc: The Honorable Nancy Pelosi, Speaker
The Honorable John L. Mica, Ranking Member
The Honorable Peter Hoekstra, Ranking Member, Permanent Select Committee on Intelligence
The Honorable John Sullivan, Parliamentarian

SILVESTRE REYES, TEXAS, CHAIRMAN

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NANCY PELOSI, SPEAKER
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U.S. HOUSE OF REPRESENTATIVES

PERMANENT SELECT COMMITTEE
ON INTELLIGENCE

HVC-304, THE CAPITOL
WASHINGTON, DC 20515
(202) 225-7690

MICHAEL J. DELANEY
STAFF DIRECTOR

JAMES M. LEWIS
MINORITY STAFF DIRECTOR

June 22, 2009

The Honorable James L. Oberstar
Chairman
Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your letter regarding H.R. 2701, the Intelligence Authorization Act for Fiscal Year 2010.

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

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

I will ensure that this exchange of letters is included in the Committee's report on H.R. 2701 and in the *Congressional Record* during consideration of this measure on the House floor. I look forward to working with you on this legislation and other matters of great importance to this nation.

Sincerely,

Silvestre Reyes
Chairman

cc: The Honorable Nancy Pelosi, Speaker of the House
The Honorable Peter Hoekstra, Ranking Member
The Honorable John Sullivan, Parliamentarian

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

NATIONAL SECURITY ACT OF 1947

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Security Act of 1947".

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* * * * * * *

TITLE I—COORDINATION FOR NATIONAL SECURITY

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* * * * * * *

Sec. 104B. Deputy Director of the Central Intelligence Agency.

* * * * * * *

[Sec. 109. Annual report on intelligence.]

* * * * * * *

Sec. 113A. Detail of other personnel.

* * * * * * *

TITLE V—ACCOUNTABILITY FOR INTELLIGENCE ACTIVITIES

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Sec. 508. Annual personnel level assessment for the intelligence community.
Sec. 509. Semiannual reports on the nuclear weapons programs of Iran, Syria, and North Korea.
Sec. 510. Report on foreign language proficiency in the intelligence community.
Sec. 511. Government Accountability Office analyses, evaluations, and investigations.
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TITLE X—EDUCATION IN SUPPORT OF NATIONAL INTELLIGENCE

Subtitle A—Science and Technology

* * * * * * *

Sec. 1002. Framework for cross-disciplinary education and training.

* * * * * * *

Subtitle C—Additional Education Provisions

* * * * * * *

[Sec. 1002. Framework for cross-disciplinary education and training.
[Sec. 1003. Intelligence Community Scholarship Program.]
Sec. 1022. Program on recruitment and training of intelligence analysts.
Sec. 1023. Intelligence officer training program.
Sec. 1024. Stokes scholarship program.

TITLE XI—OTHER PROVISIONS

* * * * * * *

Sec. 1103. Misuse of the intelligence community name, initials, or seal.
Sec. 1104. Misuse of the Office of the Director of National Intelligence name, initials, or seal.

* * * * * * *

DEFINITIONS

SEC. 3. As used in this Act:

(1) * * *

* * * * * * *

(4) The term "intelligence community" includes the following:

(A) * * *

* * * * * * *

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

* * * * * * *

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

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

* * * * * * *

TITLE I—COORDINATION FOR NATIONAL SECURITY

* * * * * * *

RESPONSIBILITIES AND AUTHORITIES OF THE DIRECTOR OF NATIONAL INTELLIGENCE

SEC. 102A. (a) * * *

* * * * * * *

(c) BUDGET AUTHORITIES.—(1) * * *

* * * * * * *

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

* * * * * * *

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

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

* * * * * * *

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

(A) * * *

* * * * * * *

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

(i) * * *

* * * * * * *

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

* * * * * * *

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

(2)(A) * * *

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

* * * * * * *

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

* * * * * * *

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

SEC. 103. (a) * * *

(b) FUNCTION.—The function of the Office of the Director of National Intelligence is to assist the Director of National Intelligence in carrying out the duties and responsibilities of the Director under this Act[, the National Security Act of 1947 (50 U.S.C. 401 et seq.),] and other applicable provisions of law, and to carry out such other duties as may be prescribed by the President or by law.

* * * * * * *

(e) TEMPORARY APPOINTMENT TO FILL VACANCIES.—Notwithstanding section 3345 of title 5, United States Code, if an officer of the Office of the Director of National Intelligence, other than the Director of National Intelligence, whose appointment to office is required to be made by the President, by and with the advice and consent of the Senate, dies, resigns, or is unable to perform the functions and duties of the office—

(1) if during the 365-day period immediately preceding the date of death, resignation, or beginning of inability to serve of the applicable officer, the person serving as the first assistant to the office of such officer served as such first assistant for not less than 90 days, such first assistant shall perform the functions and duties of the office temporarily in an acting capacity subject to the time limitations of section 3346 of title 5, United States Code;

(2) notwithstanding paragraph (1), the President may direct a person who serves in an office for which appointment is required to be made by the President, by and with the advice and consent of the Senate, to perform the functions and duties of the

vacant office temporarily in an acting capacity subject to the time limitations of such section 3346; or

(3) notwithstanding paragraph (1), the Director of National Intelligence shall recommend to the President, and the President may direct, a person to perform the functions and duties of the vacant office temporarily in an acting capacity subject to the time limitations of such section 3346, if—

(A) during the 365-day period preceding the date of death, resignation, or beginning of inability to serve of the applicable officer, such person served in a position in an element of the intelligence community for not less than 90 days;

(B) the rate of pay for the position described under subparagraph (A) is equal to or greater than the minimum rate of pay payable for a position at GS–15 of the General Schedule; and

(C) in the case of a person who is employed by an element of the intelligence community—

(i) the Director of National Intelligence shall consult with the head of such element; and

(ii) if the head of such element objects to the recommendation, the Director of National Intelligence may make the recommendation to the President over the objection of the head of such element after informing the President of such objection.

[(e)**]** *(f)* LIMITATION ON CO-LOCATION **[**WITH**]** *OF HEADQUARTERS WITH HEADQUARTERS OF* OTHER ELEMENTS OF INTELLIGENCE COMMUNITY.—**[**Commencing as of October 1, 2008, the**]** *(1) Except as provided in paragraph (2), the headquarters of the* Office of the Director of National Intelligence may not be co-located with **[**any other element**]** *the headquarters of any other element* of the intelligence community.

(2) The President may waive the limitation in paragraph (1) if the President determines that—

(A) a waiver is in the interests of national security; or

(B) the costs of a headquarters of the Office of the Director of National Intelligence that is separate from the headquarters of the other elements of the intelligence community outweighs the potential benefits of the separation.

(g) 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 defined in section 8301 of title 40, United States Code).

* * * * * * *

DIRECTOR OF SCIENCE AND TECHNOLOGY

SEC. 103E. (a) * * *

* * * * * * *

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

(1) * * *

* * * * * * *

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

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

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

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

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

* * * * * * *

(3) The Committee shall—

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

(B) identify basic, advanced, and applied research programs to be executed by elements of the intelligence community; and

[(B)] *(C)* perform such other functions as the Director of Science and Technology shall prescribe.

* * * * * * *

CHIEF INFORMATION OFFICER

SEC. 103G. (a) CHIEF INFORMATION OFFICER.—To assist the Director of National Intelligence in carrying out the responsibilities of the Director under this Act and other applicable provisions of law, there shall be within the Office of the Director of National Intelligence a Chief Information Officer *of the Intelligence Community* who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) CHIEF INFORMATION OFFICER OF INTELLIGENCE COMMUNITY.—The Chief Information Officer *of the Intelligence Community* shall serve as the chief information officer of the intelligence community.

(c) DUTIES AND RESPONSIBILITIES.—Subject to the direction of the Director of National Intelligence, the Chief Information Officer *of the Intelligence Community* shall—

(1) * * *

* * * * * * *

(d) PROHIBITION ON SIMULTANEOUS SERVICE AS OTHER CHIEF INFORMATION OFFICER.—An individual serving in the position of Chief Information Officer *of the Intelligence Community* may not, while so serving, serve as the chief information officer of any other department or agency, or component thereof, of the United States Government.

OMBUDSMAN FOR INTELLIGENCE COMMUNITY SECURITY CLEARANCES

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

(b) PROVISION OF INFORMATION.—The head of an element of the intelligence community shall provide a person applying for a secu-

rity clearance through or in coordination with such element with contact information for the ombudsman appointed under subsection (a).

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

(1) the number of persons applying for a security clearance who have contacted the ombudsman during the preceding 12 months; and

(2) a summary of the concerns, complaints, and questions received by the ombudsman from persons applying for security clearances.

INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY

SEC. 103I. (a) OFFICE OF INSPECTOR GENERAL OF INTELLIGENCE COMMUNITY.—There is within the Office of the Director of National Intelligence an Office of the Inspector General of the Intelligence Community.

(b) PURPOSE.—The purpose of the Office of the Inspector General of the Intelligence Community is to—

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

(2) recommend policies designed—

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

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

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

(A) problems and deficiencies relating to matters within the responsibility and authority of the Director of National Intelligence; and

(B) the necessity for, and the progress of, corrective actions; and

(4) in the manner prescribed by this section, ensure that the congressional intelligence committees are kept informed of—

(A) significant problems and deficiencies relating to matters within the responsibility and authority of the Director of National Intelligence; and

(B) the necessity for, and the progress of, corrective actions.

(c) INSPECTOR GENERAL OF INTELLIGENCE COMMUNITY.—(1) There is an Inspector General of the Intelligence Community, who shall be the head of the Office of the Inspector General of the Intelligence Community, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The nomination of an individual for appointment as Inspector General shall be made—

(A) without regard to political affiliation;

(B) on the basis of integrity, compliance with the security standards of the intelligence community, and prior experience in the field of intelligence or national security;

(C) on the basis of demonstrated ability in accounting, financial analysis, law, management analysis, public administration, or auditing; and

(D) on the basis of expertise in investigations.

(3) The Inspector General shall report directly to 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 of any individual from the position of Inspector General not later than 30 days before the date on which the Inspector General is removed from office.

(d) DUTIES AND RESPONSIBILITIES.—Subject to subsections (g) and (h), the Inspector General of the Intelligence Community shall—

(1) provide policy direction for, and plan, conduct, supervise, and coordinate independently, the investigations, inspections, and audits relating to matters within the responsibility and authority of the Director of National Intelligence to ensure they are conducted efficiently and in accordance with applicable law and regulations;

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

(3) 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, comply with generally accepted Federal Government auditing standards.

(e) LIMITATIONS ON ACTIVITIES.—(1)(A) Subject to subparagraph (B), the Director of National Intelligence may prohibit the Inspector General of the Intelligence Community from initiating, carrying out, or completing any investigation, inspection, or audit if the Director determines that such prohibition is necessary to protect vital national security interests of the United States.

(B) The Director of National Intelligence may not prohibit an investigation, inspection, or audit under subparagraph (A) solely on the basis of the level of classification or compartmentation of information that the Inspector General may seek access to while conducting such investigation, inspection, or audit.

(2) If 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 within 7 days.

(3) The Director shall notify the Inspector General at the time a report under paragraph (2) is submitted, and, to the extent consistent with the protection of intelligence sources and methods, provide the Inspector General with a copy of such report.

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

(f) AUTHORITIES.—(1) The Inspector General of the Intelligence Community shall have direct and prompt access to the Director of National Intelligence when necessary for any purpose pertaining to the performance of the duties of the Inspector General.

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

(B) The Inspector General shall have direct access to all records, reports, audits, reviews, documents, papers, recommendations, or other material which relate to the programs and operations with respect to which the Inspector General has responsibilities under this section.

(C) The Director or, on the recommendation of the Director, another appropriate official of the intelligence community, shall take appropriate administrative action against an employee, or 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 termination of an existing contractual relationship.

(3) The Inspector General shall, in accordance with subsection (g), receive and investigate 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 Federal Government—

(A) the Inspector General shall not disclose the identity of the employee without the consent of the employee, unless the Inspector General determines that such disclosure is unavoidable during the course of the investigation or the disclosure is made to an official of the Department of Justice responsible for determining whether a prosecution should be undertaken; and

(B) no action constituting a reprisal, or threat of reprisal, for making such complaint may be taken by any employee, 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 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 may require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the duties and responsibilities of the Inspector General.

(B) In the case of departments, agencies, and other elements of the United States Government, the Inspector General shall obtain information, documents, reports, answers, records, accounts, papers, and other data and evidence for the purpose specified in subparagraph (A) using procedures other than by subpoenas.

(C) The Inspector General may not issue a subpoena for, or on behalf of, any 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 under 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 may, to the extent and in such amounts as may be provided in advance by appropriations Acts, 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.

(g) COORDINATION AMONG THE INSPECTORS GENERAL OF THE INTELLIGENCE COMMUNITY.—(1)(A) If a matter within the jurisdiction of the Inspector General of the Intelligence Community that may be subject to an investigation, inspection, review, or audit 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, review, or audit 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 subparagraph (C). If a dispute between an inspector general within an agency or department of the United States Government and the Inspector General of the Intelligence Community has not been resolved with the assistance of the Forum, the inspectors general shall submit the question to the Director of National Intelligence and the head of the affected agency or department for resolution.

(C) There is established the Intelligence Community Inspectors General Forum which shall consist of all statutory or administrative inspectors general with oversight responsibility for an element of the intelligence community. The Inspector General of the Intelligence Community shall serve as the chair of the Forum. The

Forum shall have no administrative authority over any inspector general, but shall serve as a mechanism for informing its members of the work of individual members of the Forum that may be of common interest and discussing questions about jurisdiction or access to employees, employees of a contractor, records, audits, reviews, documents, recommendations, or other materials that may involve or be of assistance to more than one of its members.

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

(h) 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 and with such equipment, office supplies, maintenance services, and communications facilities and services as may be necessary for the operation of such offices.

(2)(A) The Inspector General shall select, appoint, and employ such officers and employees as may be necessary to carry out the functions, powers, and duties of the Inspector General. The Inspector General shall ensure that any officer or employee selected, appointed, or employed has a security clearance 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 recommend policies to the Director of National Intelligence to create within the intelligence community a career cadre of sufficient size to provide appropriate continuity and objectivity needed for the effective performance of the duties of the Inspector General.

(3)(A) The Inspector General may, in consultation with the Director, 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 furnish to the Inspector General, or to an authorized designee, such information or assistance.

(C) The Inspector General of the Intelligence Community may, upon reasonable notice to the head of any element of the intelligence community and in coordination with the inspector general of that element pursuant to subsection (g), conduct an inspection, review, or audit of such element and may enter into any place occupied by such element for purposes of the performance of the duties of the Inspector General.

(i) REPORTS.—(1)(A) Not later than January 31 and July 31 of each year, the Inspector General of the Intelligence Community shall prepare and submit to the Director of National Intelligence a report

summarizing the activities of the Office of the Inspector General of the Intelligence Community during the preceding six-month period. 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 the following:

(i) A list of the titles or subjects of each investigation, inspection, review, or audit conducted during the period covered by such report, including a summary of the progress of each particular investigation, inspection, or audit since the preceding report of the Inspector General under this paragraph.

(ii) A description of significant problems, abuses, and deficiencies relating to the administration and implementation of programs and operations of the intelligence community, and in the relationships between elements of the intelligence community, identified by the Inspector General during the period covered by such report.

(iii) A description of the recommendations for disciplinary action made by the Inspector General during the period covered by such report with respect to significant problems, abuses, or deficiencies described in clause (ii).

(iv) A statement of whether or not corrective or disciplinary action has been completed on each significant recommendation described in previous semiannual reports, and, in a case where corrective action has been completed, a description of such corrective action.

(v) A certification 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 (f)(5) by the Inspector General during the period covered by such report.

(vii) Any recommendations that the Inspector General considers appropriate for legislation to promote economy, efficiency, and effectiveness in the administration and implementation of matters within the responsibility and authority of the Director of National Intelligence, and to detect and eliminate fraud and abuse in such matters.

(C) Not later than 30 days after the date of receipt of a report under subparagraph (A), the Director shall submit the report to the congressional intelligence committees together with any comments the Director considers appropriate.

(D) Each report submitted under subparagraphs (A) and (C) shall be submitted in unclassified form, but may include a classified annex.

(2)(A) The Inspector General shall report immediately to the Director whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to matters within the responsibility and authority of the Director of National Intelligence.

(B) The Director shall submit to the congressional intelligence committees each report under subparagraph (A) within 7 days of the receipt of such report, together with such comments as the Director

considers appropriate. The Director 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 a problem, abuse, or deficiency related to a component of such department simultaneously with transmission of the report to the congressional intelligence committees.

(3) The Inspector General shall immediately notify and submit a report to the congressional intelligence committees on an investigation, inspection, review, or audit if—

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

(B) the investigation, inspection, review, or audit carried out by the Inspector General focuses on any current or former intelligence community official who—

(i) holds or held a position in an element of the intelligence community that is subject to appointment by the President, whether or not by and with the advice and consent of the Senate, including such a position held on an acting basis;

(ii) holds or held a position in an element of the intelligence community, including a position held on an acting basis, that is appointed by the Director of National Intelligence; or

(iii) holds or held a position as head of an element of the intelligence community or a position covered by subsection (b) or (c) of section 106;

(C) a matter requires a report by the Inspector General to the Department of Justice on possible criminal conduct by a current or former official described in subparagraph (B);

(D) the Inspector General receives notice from the Department of Justice declining or approving prosecution of possible criminal conduct of any current or former official described in subparagraph (B); or

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

(4)(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 of 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-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 submit to the Director a notice of that determination, together with the complaint or information.

(C) Upon receipt of a submittal from the Inspector General under subparagraph (B), the Director shall, not later than 7 days after such receipt, forward such transmittal to the congressional intel-

ligence committees, together with any comments the Director considers appropriate.

(D)(i) If the Inspector General does not find credible under subparagraph (B) a complaint or information submitted under subparagraph (A), or does not submit 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 intelligence committees in accordance with appropriate security practices.

(iii) A member or employee of one of the congressional intelligence committees who receives a complaint or information under clause (ii) 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) Nothing in this paragraph shall be construed to limit the protections afforded an employee of or contractor to the Central Intelligence Agency under section 17(e)(3) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(e)(3)).

(H) In this paragraph, the term "urgent concern" means any of the following:

(i) A serious or flagrant problem, abuse, violation of law or Executive order, or deficiency relating to the funding, administration, or operation of an intelligence activity involving classified information, but does not include differences of opinions concerning public policy matters.

(ii) A false statement to Congress, or a willful withholding from Congress, on an issue of material fact relating to the funding, administration, or operation of an intelligence activity.

(iii) An action, including a personnel action described in section 2302(a)(2)(A) of title 5, United States Code, constituting reprisal or threat of reprisal prohibited under subsection (f)(3)(B) of this section.

(5) In accordance with section 535 of title 28, United States Code, the Inspector General shall report to the Attorney General any information, allegation, or complaint received by the Inspector General relating to violations of Federal criminal law that involves a program or operation of an element of the intelligence community, or in the relationships between the elements of the intelligence community, consistent with such guidelines as may be issued by the Attor-

ney General pursuant to subsection (b)(2) of such section. A copy of each such report shall be furnished to the Director.

(j) SEPARATE BUDGET ACCOUNT.—The Director of National Intelligence shall, in accordance with procedures to be issued by the Director in consultation with the congressional intelligence committees, include in the National Intelligence Program budget a separate account for the Office of Inspector General of the Intelligence Community.

(k) CONSTRUCTION OF DUTIES REGARDING ELEMENTS OF INTELLIGENCE COMMUNITY.—Except as resolved pursuant to subsection (g), the performance by the Inspector General of the Intelligence Community of any duty, responsibility, or function regarding an element of the intelligence community shall not be construed to modify or affect the duties and responsibilities of any other inspector general having duties and responsibilities relating to such element.

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DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY

SEC. 104A. (a) * * *

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(g) FOREIGN LANGUAGE PROFICIENCY FOR CERTAIN SENIOR LEVEL POSITIONS IN CENTRAL INTELLIGENCE AGENCY.—(1) Except as provided pursuant to paragraph (2), an individual may not be appointed to a position in the Senior Intelligence Service in the Directorate of Intelligence or the [Directorate of Operations] *National Clandestine Service* of the Central Intelligence Agency unless the Director of the Central Intelligence Agency determines that the individual—

(A) * * *

* * * * * * *

DEPUTY DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY

SEC. 104B. (a) DEPUTY DIRECTOR OF 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.

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APPOINTMENT OF OFFICIALS RESPONSIBLE FOR INTELLIGENCE-RELATED ACTIVITIES

SEC. 106. (a) * * *

(b) CONCURRENCE OF DNI IN APPOINTMENTS TO POSITIONS IN THE INTELLIGENCE COMMUNITY.—(1) * * *

(2) Paragraph (1) applies to the following positions:

[(A) The Director of the National Security Agency.

[(B) The Director of the National Reconnaissance Office.]

[(C)] *(A)* The Director of the National Geospatial-Intelligence Agency.

[(D)] *(B)* The Assistant Secretary of State for Intelligence and Research.

[(E)] *(C)* The Director of the Office of Intelligence of the Department of Energy.

[(F)] *(D)* The Director of the Office of Counterintelligence of the Department of Energy.

[(G)] *(E)* The Assistant Secretary for Intelligence and Analysis of the Department of the Treasury.

[(H)] *(F)* The Executive Assistant Director for Intelligence of the Federal Bureau of Investigation or any successor to that position.

[(I)] *(G)* The Under Secretary of Homeland Security for Intelligence and Analysis.

* * * * * * *

[ANNUAL REPORT ON INTELLIGENCE

[SEC. 109. (a) IN GENERAL.—(1)(A) Not later each year than the date provided in section 507, the President shall submit to the congressional intelligence committees a report on the requirements of the United States for intelligence and the activities of the intelligence community.

[(B) Not later than January 31 each year, and included with the budget of the President for the next fiscal year under section 1105(a) of title 31, United States Code, the President shall submit to the appropriate congressional committees the report described in subparagraph (A).

[(2) The purpose of the report is to facilitate an assessment of the activities of the intelligence community during the preceding fiscal year and to assist in the development of a mission and a budget for the intelligence community for the fiscal year beginning in the year in which the report is submitted.

[(3) The report shall be submitted in unclassified form, but may include a classified annex.

[(b) MATTERS COVERED.—(1) Each report under subsection (a) shall—

[(A) specify the intelligence required to meet the national security interests of the United States, and set forth an order of priority for the collection and analysis of intelligence required to meet such interests, for the fiscal year beginning in the year in which the report is submitted; and

[(B) evaluate the performance of the intelligence community in collecting and analyzing intelligence required to meet such interests during the fiscal year ending in the year preceding the year in which the report is submitted, including a description of the significant successes and significant failures of the intelligence community in such collection and analysis during that fiscal year.

[(2) The report shall specify matters under paragraph (1)(A) in sufficient detail to assist Congress in making decisions with respect to the allocation of resources for the matters specified.

[(c) DEFINITION.—In this section, the term "appropriate congressional committees" means the following:

[(1) The Committee on Appropriations and the Committee on Armed Services of the Senate.

[(2) The Committee on Appropriations and the Committee on Armed Services of the House of Representatives.]

* * * * * * *

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 an element of the intelligence community funded through the Community Management Account from another element of the United States Government on a reimbursable or nonreimbursable basis, as jointly agreed to by the Director of National Intelligence and the head of the detailing element, for a period not to exceed two years.

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[SEMIANNUAL] *ANNUAL* REPORT ON FINANCIAL INTELLIGENCE ON TERRORIST ASSETS

SEC. 118. (a) [SEMIANNUAL] *ANNUAL* REPORT.—On a [semiannual basis] *annual basis*, the Secretary of the Treasury (acting through the head of the Office of Intelligence Support) shall submit a report to the appropriate congressional committees that fully informs the committees concerning operations against terrorist financial networks. Each such report shall include with respect to the [preceding six-month period] *preceding one-year period*—

(1) * * *

[(2) the total number of applications for asset seizure and designations of individuals or entities suspected of having engaged in financial support of terrorist activities that were granted, modified, or denied;]

[(3)] *(2)* the total number of physical searches of offices, residences, or financial records of individuals or entities suspected of having engaged in financial support for terrorist activity; and

[(4)] *(3)* whether the financial intelligence information seized in these cases has been shared on a full and timely basis with the all departments, agencies, and other entities of the United States Government involved in intelligence activities participating in the Foreign Terrorist Asset Tracking Center.

* * * * * * *

(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term "appropriate congressional committees" means the following:

(1) The Permanent Select Committee on Intelligence, the Committee on Appropriations, *the Committee on Armed Services,* and the Committee on Financial Services of the House of Representatives.

(2) The Select Committee on Intelligence, the Committee on Appropriations, *the Committee on Armed Services,* and the Committee on Banking, Housing, and Urban Affairs of the Senate.

NATIONAL COUNTERTERRORISM CENTER

SEC. 119. (a) * * *

* * * * * * *

(c) REPORTING.—(1) * * *

(2) The matters described in this paragraph are as follows:

(A) * * *

(B) The activities of the Directorate of Intelligence of the National Counterterrorism Center under ⟦subsection (h)⟧ *subsection (i).*

* * * * * * *

(k) EXEMPTION OF DISSEMINATION OF TERRORIST IDENTITY INFORMATION FROM FREEDOM OF INFORMATION ACT.—(1) Terrorist identity information disseminated for terrorist screening purposes or other authorized counterterrorism purposes shall be exempt from disclosure under section 552 of title 5, United States Code.

(2) In this section:

(A) AUTHORIZED COUNTERTERRORISM PURPOSE.—The term "authorized counterterrorism purpose" includes disclosure to and appropriate use by an element of the Federal Government of terrorist identifiers of persons reasonably suspected to be terrorists or supporters of terrorists.

(B) TERRORIST IDENTITY INFORMATION.—The term "terrorist identity information" means—

(i) information from a database maintained by any element of the Federal Government that would reveal whether an individual has or has not been determined to be a known or suspected terrorist or has or has not been determined to be within the networks of contacts and support of a known or suspected terrorist; and

(ii) information related to a determination as to whether or not an individual is or should be included in the Terrorist Screening Database or other screening databases based on a determination that the individual is a known or suspected terrorist.

(C) TERRORIST IDENTIFIERS.—The term "terrorist identifiers"—

(i) includes—

(I) names and aliases;

(II) dates or places of birth;

(III) unique identifying numbers or information;

(IV) physical identifiers or biometrics; and

(V) any other identifying information provided for watchlisting purposes; and

(ii) does not include derogatory information or information that would reveal or compromise intelligence or law enforcement sources or methods.

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TITLE V—ACCOUNTABILITY FOR INTELLIGENCE ACTIVITIES

GENERAL CONGRESSIONAL OVERSIGHT PROVISIONS

SEC. 501. (a)(1) * * *

* * * * * * *

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

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

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

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

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

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

* * * * * * *

(c) The President and the congressional intelligence committees shall each establish ⟦such procedures⟧ *such written procedures* as may be necessary to carry out the provisions of this title.

* * * * * * *

(f) As used in this section, the term "intelligence activities" includes covert actions as defined in section ⟦503(e)⟧ *503(i)*, and includes financial intelligence activities.

REPORTING OF INTELLIGENCE ACTIVITIES OTHER THAN COVERT ACTIONS

SEC. 502. (a) IN GENERAL.—To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters, the Director of National Intelligence and the heads of all departments, agencies, and other entities of the United States Government involved in intelligence activities shall—

(1) keep the congressional intelligence committees fully and currently informed of all intelligence activities, other than a covert action (as defined in section ⟦503(e)⟧ *503(i)*), which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government, including any significant anticipated intelligence activity and any significant intelligence failure; and

(2) furnish the congressional intelligence committees any information or material concerning intelligence activities *(including any information or material relating to the legal authority under which an intelligence activity is being or was conducted, and any information or material relating to legal issues upon which guidance was sought in carrying out or planning the in-*

telligence activity, including dissenting legal views), other than covert actions, which is within their custody or control, and which is requested by either of the congressional intelligence committees in order to carry out its authorized responsibilities.

* * * * * * *

PRESIDENTIAL APPROVAL AND REPORTING OF COVERT ACTIONS

SEC. 503. (a) * * *

(b) To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters, the Director of National Intelligence and the heads of all departments, agencies, and entities of the United States Government involved in a covert action—

(1) * * *

(2) shall furnish to the congressional intelligence committees any information or material concerning covert actions *(including any information or material relating to the legal authority under which a covert action is being or was conducted, and any information or material relating to legal issues upon which guidance was sought in carrying out or planning the covert action, including dissenting legal views)* which is in the possession, custody, or control of any department, agency, or entity of the United States Government and which is requested by either of the congressional intelligence committees in order to carry out its authorized responsibilities.

(c)(1) * * *

[(2) If the President determines that it is essential to limit access to the finding to meet extraordinary circumstances affecting vital interests of the United States, the finding may be reported to the chairmen and ranking minority members of the congressional intelligence committees, the Speaker and minority leader of the House of Representatives, the majority and minority leaders of the Senate, and such other member or members of the congressional leadership as may be included by the President.**]**

(2) If, pursuant to the procedures established by each of the congressional intelligence committees under section 501(c), one of the congressional intelligence committees determines that not all members of that committee are required to have access to a finding under this subsection, the President may limit access to such finding or such notice as provided in such procedures.

* * * * * * *

(4) In a case under paragraph (1), (2), or (3), a copy of the finding, signed by the President, shall be provided to the chairman of each congressional intelligence committee. When access to a finding **[**is limited to the Members of Congress specified in paragraph (2)**]** *is not provided to all members of one of the congressional intelligence committees in accordance with paragraph (2)*, a statement of the reasons for limiting such access shall also be provided.

[(d) The President**]** *(d)(1) The President* shall ensure that the congressional intelligence committees, or, if applicable, the Members of Congress **[**specified in**]** *informed in accordance with* subsection (c)(2), are notified of any significant change in a previously approved covert action, or any significant undertaking pursuant to

a previously approved finding, in the same manner as findings are reported pursuant to subsection (c).

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

(A) involves the potential for loss of life;

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

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

(D) requires notification under section 504;

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

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

(e) INSPECTOR GENERAL AUDITS OF COVERT ACTIONS.—

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

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

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

* * * * * * *

(g)(1) A Member of Congress to which a finding is reported under subsection (c) or notice is provided under subsection (d)(1) may submit to the Director of National Intelligence an objection to any part of such finding or such notice. Not later than 48 hours after such an objection is submitted to the Director of National Intelligence, the Director shall report such objection in writing to the President and such Member of Congress.

(2) In any case where access to a finding reported under subsection (c) or notice provided under subsection (d)(1) is not made available to all members of a congressional intelligence committee in accordance with subsection (c)(2), the President shall provide such members with general information on the content of the finding or notice.

(3) The President shall—

(A) maintain a record of the Members of Congress to which 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

(B) not later than 30 days after the date on which such finding is reported or such notice is provided, provide such record to—

(i) in the case of a finding reported or notice provided to a Member of the House of Representatives, the Permanent Select Committee on Intelligence of the House of Representatives; and

(ii) in the case of a finding reported or notice provided to a Member of the Senate, the Select Committee on Intelligence of the Senate.

(h) Any requirement under section 501, 502, or this section to provide information to the congressional intelligence committees shall be construed to require the submission of such information to all members of such committees, unless such information is specifically authorized not to be submitted to all members of one of such committees in accordance with subsection (c)(2).

[(e)**]** *(i)* As used in this title, the term "covert action" means an activity or activities of the United States Government to influence political, economic, or military conditions abroad, where it is intended that the role of the United States Government will not be apparent or acknowledged publicly, but does not include—

(1) * * *

FUNDING OF INTELLIGENCE ACTIVITIES

SEC. 504. (a) Appropriated funds available to an intelligence agency may be obligated or expended for an intelligence or intelligence-related activity only if—

(1) * * *

* * * * * * *

(3) in the case of funds specifically authorized by the Congress for a different activity—

(A) * * *

[(B) the need for funds for such activity is based on unforseen requirements; and**]**

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

* * * * * * *

(c) No funds appropriated for, or otherwise available to, any department, agency, or entity of the United States Government may be expended, or may be directed to be expended, for any covert action, as defined in section **[**503(e)**]** *503(i)*, unless and until a Presidential finding required by subsection (a) of section 503 has been signed or otherwise issued in accordance with that subsection.

* * * * * * *

DATES FOR SUBMITTAL OF VARIOUS ANNUAL AND SEMIANNUAL REPORTS TO THE CONGRESSIONAL INTELLIGENCE COMMITTEES

SEC. 507. (a) ANNUAL REPORTS.—(1) The date for the submittal to the congressional intelligence committees of the following annual reports shall be the date each year provided in subsection (c)(1)(A):

[(A) The annual report on intelligence required by section 109.**]**

[(B)] *(A)* The annual report on intelligence provided to the United Nations required by section 112(b)(1).

[(C)] *(B)* The annual report on the protection of the identities of covert agents required by section 603.

[(D)] *(C)* The annual report of the Inspectors Generals of the intelligence community on proposed resources and activities of their offices required by section 8H(g) of the Inspector General Act of 1978.

[(E)] *(D)* The annual report on the acquisition of technology relating to weapons of mass destruction and advanced conventional munitions required by section 721 of the Intelligence Authorization Act for Fiscal Year 1997 (Public Law 104–293; 50 U.S.C. 2366).

[(F)] *(E)* The annual report on commercial activities as security for intelligence collection required by section 437(c) of title 10, United States Code.

[(G) The annual update on foreign industrial espionage required by section 809(b) of the Counterintelligence and Security Enhancements Act of 1994 (title VIII of Public Law 103–359; 50 U.S.C. App. 2170b(b)).]

[(H)] *(F)* The annual report on certifications for immunity in interdiction of aircraft engaged in illicit drug trafficking required by section 1012(c)(2) of the National Defense Authorization Act for Fiscal Year 1995 (22 U.S.C. 2291–4(c)(2)).

[(I)] *(G)* The annual report on activities under the David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102–183; 50 U.S.C. 1901 et seq.) required by section 806(a) of that Act (50 U.S.C. 1906(a)).

[(N)] *(H)* The annual report on hiring and retention of minority employees in the intelligence community required by section 114(c).

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

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

(2) The date for the submittal to the congressional intelligence committees of the following annual reports shall be the date each year provided in subsection (c)(1)(B):

(A) * * *

* * * * * * *

[(D) The annual report on counterdrug intelligence matters required by section 826 of the Intelligence Authorization Act for Fiscal Year 2003.]

(b) SEMIANNUAL REPORTS.—The dates for the submittal to the congressional intelligence committees of the following semiannual reports shall be the dates each year provided in subsection (c)(2):

(1) * * *

* * * * * * *

[(6) The semiannual report on financial intelligence on terrorist assets required by section 118.]

* * * * * * *

ANNUAL PERSONNEL LEVEL ASSESSMENT FOR THE INTELLIGENCE COMMUNITY

SEC. 508. (a) ASSESSMENT.—The Director of National Intelligence shall, in consultation with the head of each element of the intelligence community, prepare an annual personnel level assessment for such element that assesses the personnel levels of such element for the fiscal year following the fiscal year in which the assessment is submitted.

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

(c) CONTENTS.—Each assessment required by subsection (a) shall include, for the element of the intelligence community concerned, the following information:

(1) The budget submission for personnel costs of such element 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 preceding five fiscal years.

(4) The number of personnel positions requested for such element for the upcoming fiscal year.

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

(6) The numerical and percentage increase or decrease of such number as compared to the number of personnel positions of such element during the preceding five fiscal years.

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

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

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

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

(11) The number of intelligence collectors and analysts employed or contracted by such element.

(12) A list of all contractors that have been the subject of an investigation completed by the inspector general of such element during the preceding fiscal year, or are or have been the subject of an investigation by such inspector general during the current fiscal year.

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

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

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

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

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

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

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

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

(2) an evaluation of the sources upon which the intelligence used to prepare the assessment referred to in paragraph (1) is based, including the number of such sources and an assessment of the reliability of each source;

(3) a summary of any intelligence related to any program gathered or developed since the previous report was submitted under subsection (a), including intelligence collected from both open and clandestine sources for each country; and

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

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

(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term "appropriate congressional committees" means—

(1) the congressional intelligence committees;

(2) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives; and

(3) the Committee on Armed Services and the Committee on Foreign Relations of the Senate.

REPORT ON FOREIGN LANGUAGE PROFICIENCY IN THE INTELLIGENCE COMMUNITY

SEC. 510. Each year on the date provided in section 507, 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 the level of proficiency required;

(2) an estimate of the number of such positions that each 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 previous fiscal year that indicated foreign language proficiency, including the foreign language indicated and the proficiency level;

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

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

(7) a description of 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;

(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 an ally of the United States; and

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

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

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

(12) 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 Federal Government in Iraq or Afghanistan to meet the critical language needs of such element.

GOVERNMENT ACCOUNTABILITY OFFICE ANALYSES, EVALUATIONS, AND INVESTIGATIONS

SEC. 511. (a) IN GENERAL.—Except as provided in subsection (b), the Director of National Intelligence shall ensure that personnel of the Government Accountability Office designated by the Comptroller General are provided with access to all information in the possession of an element of the intelligence community that the Comptroller General determines is necessary for such personnel to conduct an analysis, evaluation, or investigation of a program or activity of an element of the intelligence community that is requested by one of the congressional intelligence committees.

(b) EXCEPTION.—(1)(A) Subject to subparagraph (B), the Director of National Intelligence may restrict access to information referred to in subsection (a) by personnel designated in such subsection if the Director determines that the restriction is necessary to protect vital national security interests of the United States.

(B) The Director of National Intelligence may not restrict access under subparagraph (A) solely on the basis of the level of classification or compartmentation of information that the personnel designated in subsection (a) may seek access to while conducting an analysis, evaluation, or investigation.

(2) If 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 within 7 days.

(3) The Director shall notify the Comptroller General at the time a report under paragraph (2) is submitted, and, to the extent consistent with the protection of intelligence sources and methods, provide the Comptroller General with a copy of such report.

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

CERTIFICATION OF COMPLIANCE WITH OVERSIGHT REQUIREMENTS

SEC. 512. The head of each element of the intelligence community shall semiannually 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 of the intelligence community is in full compliance with the requirements of this title; and

(B) any information required to be submitted by such head of such element under this Act before the date of the

submission of such certification has been properly submitted; or

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

(A) of the reasons such head of such element is not able to submit such a certification;

(B) describing any information required to be submitted by such 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.

REPORTS ON SECURITY CLEARANCES

SEC. 513. (a) QUADRENNIAL AUDIT OF POSITION REQUIREMENTS.—(1) The President shall every four years conduct an audit of how the executive branch determines whether a security clearance is required for a particular position in the Federal 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 Federal Government employees 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 Federal 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 amount of time it took to process the fastest 80 percent of security clearance determinations for such level;

(ii) the amount of time it took to process the fastest 90 percent of security clearance determinations for such level;

(iii) the number of open security clearance investigations for such level that have remained open for—

(I) 4 months or less;

(II) between 4 months and 8 months;

(III) between 8 months and 12 months; and

(IV) more than a 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 ongoing 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 Federal 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 Director of National Intelligence 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.

TITLE VI—PROTECTION OF CERTAIN NATIONAL SECURITY INFORMATION

PROTECTION OF IDENTITIES OF CERTAIN UNITED STATES UNDERCOVER INTELLIGENCE OFFICERS, AGENTS, INFORMANTS, AND SOURCES

SEC. 601. (a) Whoever, having or having had authorized access to classified information that identifies a covert agent, intentionally discloses any information identifying such covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such covert agent and that the United States is taking affirmative measures to conceal such covert agent's intelligence relationship to the United States, shall be fined under title 18, United States Code, or imprisoned not more than [ten years] *15 years*, or both.

(b) Whoever, as a result of having authorized access to classified information, learns the identity of a covert agent and intentionally discloses any information identifying such covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such covert agent and that the United States is taking affirmative measures to conceal such covert agent's intelligence relationship to the United States, shall be fined under title 18, United States Code, or imprisoned not more than [five years] *10 years*, or both.

* * * * * * *

REPORT

SEC. 603. (a) The President, after receiving information from the Director of National Intelligence, shall submit to the congressional intelligence committees an annual report on measures to protect the identities of covert agents, *including an assessment of the need for any modification of this title for the purpose of improving legal*

protections for covert agents, and on any other matter relevant to the protection of the identities of covert agents. The date for the submittal of the report shall be the date provided in section 507.

* * * * * * *

TITLE VII—PROTECTION OF OPERATIONAL FILES

OPERATIONAL FILES OF THE CENTRAL INTELLIGENCE AGENCY

SEC. 701. (a) * * *

(b) In this section, the term "operational files" means—

(1) files of the [Directorate of Operations] *National Clandestine Service* which document the conduct of foreign intelligence or counterintelligence operations or intelligence or security liaison arrangements or information exchanges with foreign governments or their intelligence or security services;

* * * * * * *

OPERATIONAL FILES OF THE DEFENSE INTELLIGENCE AGENCY

SEC. 705. (a) * * *

* * * * * * *

(e) ALLEGATION; IMPROPER WITHHOLDING OF RECORDS; JUDICIAL REVIEW.—(1) * * *

(2) Judicial review shall not be available in the manner provided under paragraph (1) as follows:

(A) * * *

* * * * * * *

(D)(i) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, the Defense Intelligence Agency shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain [responsible] *responsive* records currently perform the functions set forth in subsection (b).

* * * * * * *

TITLE X—EDUCATION IN SUPPORT OF NATIONAL INTELLIGENCE

SUBTITLE A—SCIENCE AND TECHNOLOGY

* * * * * * *

[INTELLIGENCE COMMUNITY SCHOLARSHIP PROGRAM

[SEC. 1003. (a) ESTABLISHMENT.—

[(1) IN GENERAL.—The Director of National Intelligence, in consultation with the head of each agency of the intelligence community, shall establish a scholarship program (to be known as the "Intelligence Community Scholarship Program") to award scholarships to individuals that is designed to recruit and prepare students for civilian careers in the intelligence community to meet the critical needs of the intelligence community agencies.

[(2) SELECTION OF RECIPIENTS.—

[(A) MERIT AND AGENCY NEEDS.—Individuals shall be selected to receive scholarships under this section through a competitive process primarily on the basis of academic merit and the needs of the agency.

[(B) DEMONSTRATED COMMITMENT.—Individuals selected under this section shall have a demonstrated commitment to the field of study for which the scholarship is awarded.

[(3) CONTRACTUAL AGREEMENTS.—To carry out the Program the head of each agency shall enter into contractual agreements with individuals selected under paragraph (2) under which the individuals agree to serve as full-time employees of the agency, for the period described in subsection (g)(1), in positions needed by the agency and for which the individuals are qualified, in exchange for receiving a scholarship.

[(b) ELIGIBILITY.—In order to be eligible to participate in the Program, an individual shall—

[(1) be enrolled or accepted for enrollment as a full-time student at an institution of higher education and be pursuing or intend to pursue undergraduate or graduate education in an academic field or discipline described in the list made available under subsection (d);

[(2) be a United States citizen; and

[(3) at the time of the initial scholarship award, not be an employee (as defined under section 2105 of title 5, United States Code).

[(c) APPLICATION.—An individual seeking a scholarship under this section shall submit an application to the Director of National Intelligence at such time, in such manner, and containing such information, agreements, or assurances as the Director may require.

[(d) PROGRAMS AND FIELDS OF STUDY.—The Director of National Intelligence shall—

[(1) make publicly available a list of academic programs and fields of study for which scholarships under the Program may be used; and

[(2) update the list as necessary.

[(e) SCHOLARSHIPS.—

[(1) IN GENERAL.—The Director of National Intelligence may provide a scholarship under the Program for an academic year if the individual applying for the scholarship has submitted to the Director, as part of the application required under subsection (c), a proposed academic program leading to a degree in a program or field of study on the list made available under subsection (d).

[(2) LIMITATION ON YEARS.—An individual may not receive a scholarship under this section for more than 4 academic years, unless the Director of National Intelligence grants a waiver.

[(3) STUDENT RESPONSIBILITIES.—Scholarship recipients shall maintain satisfactory academic progress.

[(4) AMOUNT.—The dollar amount of a scholarship under this section for an academic year shall be determined under regulations issued by the Director of National Intelligence, but shall in no case exceed the cost of tuition, fees, and other authorized expenses as established by the Director.

[(5) USE OF SCHOLARSHIPS.—A scholarship provided under this section may be expended for tuition, fees, and other authorized expenses as established by the Director of National Intelligence by regulation.

[(6) PAYMENT TO INSTITUTION OF HIGHER EDUCATION.—The Director of National Intelligence may enter into a contractual agreement with an institution of higher education under which the amounts provided for a scholarship under this section for tuition, fees, and other authorized expenses are paid directly to the institution with respect to which the scholarship is provided.

[(f) SPECIAL CONSIDERATION FOR CURRENT EMPLOYEES.—

[(1) SET ASIDE OF SCHOLARSHIPS.—Notwithstanding paragraphs (1) and (3) of subsection (b), 10 percent of the scholarships awarded under this section shall be set aside for individuals who are employees of agencies on the date of enactment of this section to enhance the education of such employees in areas of critical needs of agencies.

[(2) FULL- OR PART-TIME EDUCATION.—Employees who are awarded scholarships under paragraph (1) shall be permitted to pursue undergraduate or graduate education under the scholarship on a full-time or part-time basis.

[(g) EMPLOYEE SERVICE.—

[(1) PERIOD OF SERVICE.—Except as provided in subsection (i)(2), the period of service for which an individual shall be obligated to serve as an employee of the agency is 24 months for each academic year for which a scholarship under this section is provided. Under no circumstances shall the total period of obligated service be more than 8 years.

[(2) BEGINNING OF SERVICE.—

[(A) IN GENERAL.—Except as provided in subparagraph (B), obligated service under paragraph (1) shall begin not later than 60 days after the individual obtains the educational degree for which the scholarship was provided.

[(B) DEFERRAL.—In accordance with regulations established by the Director of National Intelligence, the Director or designee may defer the obligation of an individual to provide a period of service under paragraph (1) if the Director or designee determines that such a deferral is appropriate.

[(h) REPAYMENT.—

[(1) IN GENERAL.—Scholarship recipients who fail to maintain a high level of academic standing, as defined by the Director of National Intelligence, who are dismissed from their educational institutions for disciplinary reasons, or who voluntarily terminate academic training before graduation from the educational program for which the scholarship was awarded, shall be in breach of their contractual agreement and, in lieu of any service obligation arising under such agreement, shall be liable to the United States for repayment within 1 year after the date of default of all scholarship funds paid to them and to the institution of higher education on their behalf under the agreement, except as provided in subsection (i)(2). The repayment period may be extended by the Director when determined to be necessary, as established by regulation.

[(2) LIABILITY.—Scholarship recipients who, for any reason, fail to begin or complete their service obligation after completion of academic training, or fail to comply with the terms and conditions of deferment established by the Director of National Intelligence under subsection (i)(2)(B), shall be in breach of their contractual agreement. When recipients breach their agreements for the reasons stated in the preceding sentence, the recipient shall be liable to the United States for an amount equal to—

[(A) the total amount of scholarships received by such individual under this section; and

[(B) the interest on the amounts of such awards which would be payable if at the time the awards were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States, multiplied by 3.

[(i) CANCELLATION, WAIVER, OR SUSPENSION OF OBLIGATION.—

[(1) CANCELLATION.—Any obligation of an individual incurred under the Program (or a contractual agreement thereunder) for service or payment shall be canceled upon the death of the individual.

[(2) WAIVER OR SUSPENSION.—The Director of National Intelligence shall prescribe regulations to provide for the partial or total waiver or suspension of any obligation of service or payment incurred by an individual under the Program (or a contractual agreement thereunder) whenever compliance by the individual is impossible or would involve extreme hardship to the individual, or if enforcement of such obligation with respect to the individual would be contrary to the best interests of the Government.

[(j) REGULATIONS.—The Director of National Intelligence shall prescribe regulations necessary to carry out this section.

[(k) DEFINITIONS.—In this section:

[(1) AGENCY.—The term "agency" means each element of the intelligence community as determined by the Director of National Intelligence.

[(2) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given that term under section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

[(3) PROGRAM.—The term "Program" means the Intelligence Community Scholarship Program established under subsection (a).]

* * * * * * *

SUBTITLE C—ADDITIONAL EDUCATION PROVISIONS

* * * * * * *

PROGRAM ON RECRUITMENT AND TRAINING OF INTELLIGENCE ANALYSTS

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 to—

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

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

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

(4) 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 appropriate to carry out such program.

INTELLIGENCE OFFICER TRAINING PROGRAM

SEC. 1023. (a) PROGRAMS.—(1) The Director of National Intelligence may carry out a grant program 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 of National Intelligence 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 of National Intelligence 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.

(3) 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.

(4) 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—

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

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

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

(c) REGULATIONS.—The Director of National Intelligence shall prescribe such regulations as may be necessary to carry out this section.

(d) DEFINITIONS.—In this section:

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

(2) DIRECTOR.—The term "Director" means the Director of National Intelligence.

STOKES SCHOLARSHIP PROGRAM

SEC. 1024. The head of an element of the intelligence community may establish an undergraduate and graduate training program with respect to civilian employees of such element in the same manner and under the same conditions as the Secretary of Defense is authorized to establish such a program under section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note).

TITLE XI—ADDITIONAL MISCELLANEOUS PROVISIONS

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COUNTERINTELLIGENCE INITIATIVES

SEC. 1102. (a) * * *

(b) ANNUAL REVIEW OF DISSEMINATION LISTS.—**[**(1) The Director**]** *The Director* of National Intelligence shall establish and implement a process for all elements of the intelligence community to review, on an annual basis, individuals included on distribution lists for access to classified information. Such process shall ensure that only individuals who have a particularized "need to know" (as determined by the Director) are continued on such distribution lists.

[(2) Not later than October 15 of each year, the Director shall certify to the congressional intelligence committees that the review required under paragraph (1) has been conducted in all elements of the intelligence community during the preceding fiscal year.**]**

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MISUSE OF THE INTELLIGENCE COMMUNITY 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 des-

ignee of the Director, knowingly use the words "intelligence community", the initials "IC", the seal of the intelligence community, 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, except that employees of the intelligence community may use the intelligence community name, initials, and seal in accordance with regulations promulgated 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.

MISUSE OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE NAME, INITIALS, OR SEAL

SEC. 1104. (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.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2004

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TITLE I—INTELLIGENCE ACTIVITIES

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SEC. 105. OFFICE OF INTELLIGENCE AND ANALYSIS OF THE DEPARTMENT OF THE TREASURY.

(a) * * *

(b) CONSTRUCTION OF AUTHORITY.—Nothing in section 311 of title 31, United States Code (as amended by subsection (a)), *or in section 313 of such title,* shall be construed to alter the authorities and responsibilities of the [Director of Central Intelligence] *Director of National Intelligence* with respect to the Office of Intelligence and Analysis of the Department of the Treasury as an element of the intelligence community.

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TITLE III—GENERAL PROVISIONS

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Subtitle B—Intelligence

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[SEC. 318. PILOT PROGRAM ON RECRUITMENT AND TRAINING OF INTELLIGENCE ANALYSTS.

[(a) PILOT PROGRAM.—(1) The Director of National Intelligence shall carry out a pilot 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 analytic capabilities of the intelligence community are deficient or in which future analytic capabilities of the intelligence community are likely to be deficient.

[(2) A student or former student selected for participation in the pilot 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 pilot program shall be known as the Pat Roberts Intelligence Scholars Program.

[(b) ELEMENTS.—In carrying out the pilot 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 analysts; 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 analytic capabilities.

[(c) DURATION.—The Director shall carry out the pilot program under subsection (a) during fiscal years 2004 through 2006.

[(d) LIMITATION ON NUMBER OF MEMBERS DURING FISCAL YEAR 2004.—The total number of individuals participating in the pilot program under subsection (a) during fiscal year 2004 may not exceed 150 students.

[(e) RESPONSIBILITY.—The Director shall carry out the pilot program under subsection (a) through the Deputy Director of National Intelligence.

[(f) REPORTS.—(1) Not later than 120 days after the date of the enactment of this Act, the Director shall submit to Congress a preliminary report on the pilot program under subsection (a), including a description of the pilot program and the authorities to be utilized in carrying out the pilot program.

[(2) Not later than one year after the commencement of the pilot program, the Director shall submit to Congress a report on the pilot program. The report shall include—

[(A) a description of the activities under the pilot program, including the number of individuals who participated in the pilot program and the training provided such individuals under the pilot program;

[(B) an assessment of the effectiveness of the pilot program in meeting the purpose of the pilot program; and

[(C) any recommendations for additional legislative or administrative action that the Director considers appropriate in light of the pilot program.

[(g) FUNDING.—Of the amounts authorized to be appropriated by this Act, $4,000,000 shall be available until expended to carry out this section.

[SEC. 319. IMPROVEMENT OF EQUALITY OF EMPLOYMENT OPPORTUNITIES IN THE INTELLIGENCE COMMUNITY.

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

[(1) It is the recommendation of the Joint Inquiry of the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001, that the Intelligence Community should enhance recruitment of a more ethnically and culturally diverse workforce and devise a strategy to capitalize upon the unique cultural and linguistic capabilities of first generation Americans.

[(2) The Intelligence Community could greatly benefit from an increased number of employees who are proficient in foreign languages and knowledgeable of world cultures, especially in foreign languages that are critical to the national security interests of the United States. Particular emphasis should be given to the recruitment of United States citizens whose linguistic capabilities are acutely required for the improvement of the overall intelligence collection and analysis effort of the United States Government.

[(3) The Intelligence Community has a significantly lower percentage of women and minorities than the total workforce of the Federal government and the total civilian labor force.

[(4) Women and minorities continue to be under-represented in senior grade levels, and in core mission areas, of the intelligence community.

[(b) PILOT PROJECT TO PROMOTE EQUALITY OF EMPLOYMENT OPPORTUNITIES FOR WOMEN AND MINORITIES THROUGHOUT THE INTELLIGENCE COMMUNITY USING INNOVATIVE METHODOLOGIES.—The Director of National Intelligence shall carry out a pilot project under this section to test and evaluate alternative, innovative

methods to promote equality of employment opportunities in the intelligence community for women, minorities, and individuals with diverse ethnic and cultural backgrounds, skills, language proficiency, and expertise.

[(c) METHODS.—In carrying out the pilot project, the Director shall employ methods to increase diversity of officers and employees in the intelligence community.

[(d) DURATION OF PROJECT.—The Director shall carry out the project under this section for a 3-year period.

[(e) REPORT.—Not later than 2 years after the date the Director implements the pilot project under this section, the Director shall submit to Congress a report on the project. The report shall include—

[(1) an assessment of the effectiveness of the project; and

[(2) recommendations on the continuation of the project, as well recommendations as for improving the effectiveness of the project in meeting the goals of promoting equality of employment opportunities in the intelligence community for women, minorities, and individuals with diverse ethnic and cultural backgrounds, skills, language proficiency, and expertise.

[(f) DIVERSITY PLAN.—(1) Not later than February 15, 2004, the Director of Central Intelligence shall submit to Congress a report which describes the plan of the Director, entitled the "DCI Diversity Strategic Plan", and any subsequent revision to that plan, to increase diversity of officers and employees in the intelligence community, including the short- and long-term goals of the plan. The report shall also provide a detailed description of the progress that has been made by each element of the intelligence community in implementing the plan.

[(2) In implementing the plan, the Director of National Intelligence shall incorporate innovative methods for recruitment and hiring that the Director has determined to be effective from the pilot project carried out under this section.

[(g) 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. 401(4)).]

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RONALD W. REAGAN NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

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DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

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Subtitle C—Intelligence-Related Matters

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[SEC. 922. PILOT PROGRAM ON CRYPTOLOGIC SERVICE TRAINING.

[(a) PROGRAM AUTHORIZED.—The Director of the National Security Agency may carry out a pilot program on cryptologic service training for the intelligence community.

[(b) OBJECTIVE OF PROGRAM.—The objective of the pilot program is to increase the number of qualified entry-level language analysts and intelligence analysts available to the National Security Agency and the other elements of the intelligence community through the directed preparation and recruitment of qualified entry-level language analysts and intelligence analysts who commit to a period of service or a career in the intelligence community.

[(c) PROGRAM SCOPE.—The pilot program shall be national in scope.

[(d) PROGRAM PARTICIPANTS.—(1) Subject to the provisions of this subsection, the Director shall select the participants in the pilot program from among individuals qualified to participate in the pilot program utilizing such procedures as the Director considers appropriate for purposes of the pilot program.

[(2) Each individual who receives financial assistance under the pilot program shall perform one year of obligated service with the National Security Agency, or another element of the intelligence community approved by the Director, for each academic year for which such individual receives such financial assistance upon such individual's completion of post-secondary education.

[(3) Each individual selected to participate in the pilot program shall be qualified for a security clearance appropriate for the individual under the pilot program.

[(4) The total number of participants in the pilot program at any one time may not exceed 400 individuals.

[(e) PROGRAM MANAGEMENT.—In carrying out the pilot program, the Director shall—

[(1) identify individuals interested in working in the intelligence community, and committed to taking college-level courses that will better prepare them for a career in the intelligence community as a language analyst or intelligence analyst;

[(2) provide each individual selected for participation in the pilot program—

[(A) financial assistance for the pursuit of courses at institutions of higher education selected by the Director in fields of study that will qualify such individual for employment by an element of the intelligence community as a language analyst or intelligence analyst; and

[(B) educational counseling on the selection of courses to be so pursued; and

[(3) provide each individual so selected information on the opportunities available for employment in the intelligence community.

[(f) DURATION OF PROGRAM.—(1) The Director shall terminate the pilot program not later than six years after the date of the enactment of this Act.

[(2) The termination of the pilot program under paragraph (1) shall not prevent the Director from continuing to provide assistance, counseling, and information under subsection (e) to individuals who are participating in the pilot program on the date of termination of the pilot program throughout the academic year in progress as of that date.]

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NATIONAL SECURITY AGENCY ACT OF 1959

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SEC. 2. (a) There is a Director of the National Security Agency.

(b) The Director of the National Security Agency shall be appointed by the President, by and with the advice and consent of the Senate.

(c) The Director of the National Security Agency shall be the head of the National Security Agency and shall discharge such functions and duties as are provided by this Act or otherwise by law.

SEC. 3. (a) There is an Associate Director of the National Security Agency for Compliance and Training, who shall be appointed by the Director of the National Security Agency.

(b) The Associate Director of the National Security Agency for Compliance and Training shall ensure that—

(1) all programs and activities of the National Security Agency are conducted in a manner consistent with all applicable laws, regulations, and policies; and

(2) the training of relevant personnel is sufficient to ensure that such programs and activities are conducted in such a manner.

SEC. 4. (a) There is a General Counsel of the National Security Agency, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) The General Counsel of the National Security Agency shall serve as the chief legal officer of the National Security Agency.

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SEC. 16. (a) The purpose of this section is to establish an [undergraduate] *undergraduate and graduate* training program, which may lead to [the baccalaureate] *a baccalaureate or graduate* degree, to facilitate the recruitment of individuals, particularly minority high school students, with a demonstrated capability to develop skills critical to the mission of the National Security Agency, including mathematics, computer science, engineering, and foreign languages.

* * * * * * *

(d)(1) To be eligible for assignment under subsection (b), an employee of the Agency must agree in writing—

(A) * * *

* * * * * * *

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

(i) the Agency due to misconduct by the person;

(ii) the person voluntarily; or

(iii) by the Agency for the failure of the person to maintain such level of academic standing in the educational course of training as the Director of the National Security Agency specifies in the agreement under this paragraph; and

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(e)[(1) When an employee is assigned under this section to an institution, the Agency shall disclose to the institution to which the employee is assigned that the Agency employs the employee and that the Agency funds the employee's education.]

[(2)] Agency efforts to recruit individuals at educational institutions for participation in the [undergraduate] *undergraduate and graduate* training program established by this section shall be made openly and according to the common practices of universities and employers recruiting at such institutions.

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INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1995

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TITLE VIII—COUNTERINTELLIGENCE AND SECURITY

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SEC. 809. REPORTS ON FOREIGN INDUSTRIAL ESPIONAGE.

(a) * * *

(b) [ANNUAL] *BIANNUAL* UPDATE.—

[(1) SUBMITTAL TO CONGRESSIONAL INTELLIGENCE COMMITTEES.—Not later each year than the date provided in section 507 of the National Security Act of 1947, the President shall submit to the congressional intelligence committees a report updating the information referred to in subsection (a)(1)(D).]

(1) SUBMISSION TO CONGRESS.—The President shall biannually submit to the congressional intelligence committees, the Committees on Armed Services of the House of Representatives and the Senate, and congressional leadership a report updating the information referred to in subsection (a)(1)(D).

[(2) SUBMITTAL TO CONGRESSIONAL LEADERSHIP.—Not later than April 14 each year, the President shall submit to the congressional leadership a report updating the information referred to in subsection (a)(1)(D).]

[(3)] *(2)* DEFINITIONS.—In this subsection:

(A) * * *

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INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2003

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TITLE III—GENERAL PROVISIONS

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Subtitle E—Terrorism

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SEC. 343. TERRORIST IDENTIFICATION CLASSIFICATION SYSTEM.

(a) * * *

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[(d) REPORTING AND CERTIFICATION.—(1) The Director shall review on an annual basis the information provided by various departments and agencies for purposes of the list under subsection (a) in order to determine whether or not the information so provided is derived from the widest possible range of intelligence available to such departments and agencies.

[(2) The Director shall, as a result of each review under paragraph (1), certify whether or not the elements of the intelligence community responsible for the collection of intelligence related to the list have provided information for purposes of the list that is derived from the widest possible range of intelligence available to such department and agencies.]

[(e)] *(d)* REPORT ON CRITERIA FOR INFORMATION SHARING.—(1) * * *

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[(f)] *(e)* SYSTEM ADMINISTRATION REQUIREMENTS.—(1) * * *

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[(g)] *(f)* REPORT ON STATUS OF SYSTEM.—(1) * * *

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[(h)] *(g)* CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term "congressional intelligence committees" means—

(1) * * *

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TITLE VIII—REPORTING REQUIREMENTS

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Subtitle C—Recurring Annual Reports

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[SEC. 826. ANNUAL REPORT ON COUNTERDRUG INTELLIGENCE MATTERS.

[(a) ANNUAL REPORT.—The Counterdrug Intelligence Coordinating Group shall submit to the appropriate committees of Congress each year a report on current counterdrug intelligence matters. The report shall include the recommendations of the Counterdrug Intelligence Coordinating Group on the appropriate number of permanent staff, and of detailed personnel, for the staff of the Counterdrug Intelligence Executive Secretariat.

[(b) SUBMITTAL DATE.—The date of the submittal each year of the report required by subsection (a) shall be the date provided in section 507 of the National Security Act of 1947, as added by section 811 of this Act.

[(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

[(1) the Committees on Appropriations of the Senate and House of Representatives; and

[(2) the congressional intelligence committees (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)).]

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TITLE X—NATIONAL COMMISSION FOR REVIEW OF RESEARCH AND DEVELOPMENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY

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SEC. 1002. NATIONAL COMMISSION FOR THE REVIEW OF THE RESEARCH AND DEVELOPMENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY.

(a) * * *

(b) COMPOSITION.—The Commission shall be composed of 12 members, as follows:

(1) [The Deputy Director of Central Intelligence for Community Management.] *The Principal Deputy Director of National Intelligence.*

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(i) REVIEW.—The Commission shall review the status of research and development programs and activities within the intelligence community, [including] *including advanced research and development programs and activities. Such review shall include—*

(1) * * *

* * * * * * *

SEC. 1007. FINAL REPORT; TERMINATION.

(a) FINAL REPORT.—Not later than [September 1, 2004] *February 1, 2011*, the Commission shall submit to the congressional intelligence committees, the Director of Central Intelligence, and the Secretary of Defense a final report as required by section 1002(h)(2).

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TITLE 5, UNITED STATES CODE

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PART III—EMPLOYEES

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SUBPART D—PAY AND ALLOWANCES

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CHAPTER 53—PAY RATES AND SYSTEMS

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SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES

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§ 5313. Positions at level II

Level II of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Deputy Secretary of Defense.

* * * * * * *

[Director of Central Intelligence.]

Director of the Central Intelligence Agency.

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§ 5314. Positions at level III

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Solicitor General of the United States.

* * * * * * *

Deputy Administrator of the National Aeronautics and Space Administration.

[Deputy Directors of Central Intelligence (2)] *Deputy Director of the Central Intelligence Agency.*

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Inspector General of the Intelligence Community.

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§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Deputy Administrator of General Services.

* * * * * * *

[General Counsel of the Office of the National Intelligence Director.]

General Counsel of the Office of the Director of National Intelligence.

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SUBPART F—LABOR-MANAGEMENT AND EMPLOYEE RELATIONS

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CHAPTER 73—SUITABILITY, SECURITY, AND CONDUCT

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SUBCHAPTER IV—FOREIGN GIFTS AND DECORATIONS

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§ 7342. Receipt and disposition of foreign gifts and decorations

(a) * * *

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(f)(1) * * *

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[(4)(A) In transmitting such listings for the Central Intelligence Agency, the Director of the Central Intelligence Agency may delete the information described in subparagraphs (A) and (C) of paragraphs (2) and (3) if the Director certifies in writing to the Secretary of State that the publication of such information could adversely affect United States intelligence sources.

[(B) In transmitting such listings for the Office of the Director of National Intelligence, the Director of National Intelligence may delete the information described in subparagraphs (A) and (C) of paragraphs (2) and (3) if the Director certifies in writing to the Secretary of State that the publication of such information could adversely affect United States intelligence sources.]

(4)(A) In transmitting such listings for an element of the intelligence community, the head of such element may delete the information described in subparagraph (A) or (C) of paragraph (2) or in

subparagraph (A) or (C) of paragraph (3) if the head of such element certifies in writing to the Secretary of State that the publication of such information could adversely affect United States intelligence sources or methods.

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

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

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TITLE 49, UNITED STATES CODE

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Subtitle I—Department OF Transportation

* * * * * * *

CHAPTER 1—ORGANIZATION

* * * * * * *

§ 115. Transportation Security Oversight Board

(a) * * *

(b) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Board shall be composed of 7 members as follows:

(A) * * *

* * * * * * *

[(F) The Director of the Central Intelligence Agency, or the Director's designee.**]**

(F) The Director of National Intelligence, or the Director's designee.

* * * * * * *

INSPECTOR GENERAL ACT OF 1978

* * * * * * *

[AUTHORITY TO ESTABLISH INSPECTOR GENERAL OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

[SEC. 8K. If the Director of National Intelligence determines that an Office of Inspector General would be beneficial to improving the operations and effectiveness of the Office of the Director of National Intelligence, the Director of National Intelligence is authorized to establish, with any of the duties, responsibilities, and authorities set forth in this Act, an Office of Inspector General.**]**

* * * * * * *

DEFINITIONS

SEC. 12. As used in this Act—

(1) the term "head of the establishment" means the Secretary of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Labor, State, Transportation, Homeland Security, or the Treasury; the Attorney General; the Administrator of the Agency for International Development, Environmental Protection, General Services, National Aeronautics and Space, or Small Business, or Veterans' Affairs; the Director of the Federal Emergency Management Agency, *the National Security Agency;* or the Office of Personnel Management; the Chairman of the Nuclear Regulatory Commission or the Railroad Retirement Board; the Chairperson of the Thrift Depositor Protection Oversight Board; the Chief Executive Officer of the Corporation for National and Community Service; the Administrator of the Community Development Financial Institutions Fund; the chief executive officer of the Resolution Trust Corporation; the Chairperson of the Federal Deposit Insurance Corporation; the Commissioner of Social Security, Social Security Administration; the Director of the Federal Housing Finance Agency; the Board of Directors of the Tennessee Valley Authority; the President of the Export-Import Bank; or the Federal Cochairpersons of the Commissions established under section 15301 of title 40, United States Code; as the case may be;

(2) the term "establishment" means the Department of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Justice, Labor, State, Transportation, Homeland Security, or the Treasury; the Agency for International Development, the Community Development Financial Institutions Fund, the Environmental Protection Agency, the Federal Emergency Management Agency, the General Services Administration, the National Aeronautics and Space Administration, *the National Security Agency,* the Nuclear Regulatory Commission, the Office of Personnel Management, the Railroad Retirement Board, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the Small Business Administration, the Corporation for National and Community Service, or the Veterans' Administration, the Social Security Administration, the Federal Housing Finance Agency, the Tennessee Valley Authority, the Export-Import Bank, or the Commissions established under section 15301 of title 40, United States Code, as the case may be;

* * * * * * *

CENTRAL INTELLIGENCE AGENCY ACT OF 1949

* * * * * * *

GENERAL AUTHORITIES

SEC. 5. (a) IN GENERAL.—In the performance of its functions, the Central Intelligence Agency is authorized to—

(1) Transfer to and receive from other Government agencies such sums as may be approved by the Office of Management and Budget, for the performance of any of the functions or activities [authorized under paragraphs (2) and (3) of section 102(a), subsections (c)(7) and (d) of section 103, subsections (a) and (g) of section 104, and section 303 of the National Security Act of 1947 (50 U.S.C. 403(a)(2), (3), 403–3(c)(7), (d), 403–4(a), (g), and 405)] *authorized under section 104A of the National Security Act of 1947 (50 U.S.C. 403–4a)*, and any other Government agency is authorized to transfer to or receive from the Agency such sums without regard to any provisions of law limiting or prohibiting transfers between appropriations. Sums transferred to the Agency in accordance with this paragraph may be expended for the purposes and under the authority of this Act without regard to limitations of appropriations from which transferred;

* * * * * * *

SEC. 17. INSPECTOR GENERAL FOR THE AGENCY.

(a) * * *

* * * * * * *

(d) SEMIANNUAL REPORTS; IMMEDIATE REPORTS OF SERIOUS OR FLAGRANT PROBLEMS; REPORTS OF FUNCTIONAL PROBLEMS; REPORTS TO CONGRESS ON URGENT CONCERNS.—(1) * * *

* * * * * * *

(3) In the event that—

(A) * * *

(B) an investigation, inspection, or audit carried out by the Inspector General should focus on any current or former Agency official who—

(i) holds or held a position in the Agency that is subject to appointment by the President, by and with the [advise] *advice* and consent of the Senate, including such a position held on an acting basis; or

(ii) holds or held the position in the Agency, including such a position held on an acting basis, of—

(I) [Executive Director] *Associate Deputy Director*;

(II) [Deputy Director for Operations] *Director of the National Clandestine Service*;

(III) [Deputy Director for Intelligence] *Director of Intelligence*;

(IV) [Deputy Director for Administration] *Director of Support*; or

(V) [Deputy Director for Science and Technology] *Director of Science and Technology*;

* * * * * * *

(e) AUTHORITIES OF THE INSPECTOR GENERAL.—(1) * * *

* * * * * * *

(3) The Inspector General is authorized to receive and investigate complaints or information from any person concerning the exist-

ence of an activity constituting a violation of laws, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety. Once such complaint or information has been received from an employee of the Agency—

(A) * * *

(B) no action constituting a reprisal, or threat of reprisal, for making such complaint *or providing such information* may be taken by any employee of the Agency 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.

* * * * * * *

PROHIBITION ON THE USE OF PRIVATE CONTRACTORS FOR INTERROGATIONS INVOLVING PERSONS IN THE CUSTODY OF THE CENTRAL INTELLIGENCE AGENCY

SEC. 24. (a) PROHIBITION.—Notwithstanding any other provision of law, the Director of the Central Intelligence Agency shall not expend or obligate funds for payment to any contractor to conduct the interrogation of a detainee or prisoner in the custody of the Central Intelligence Agency.

(b) EXCEPTION.—

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

(A) no employee of the Federal Government is—

(i) capable of performing such interrogation; and

(ii) available to perform such interrogation; and

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

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

REQUIREMENT FOR VIDEO RECORDING OF INTERROGATIONS OF PERSONS IN THE CUSTODY OF THE CENTRAL INTELLIGENCE AGENCY

SEC. 25. (a) IN GENERAL.—Except as provided in subsection (b), the Director of the Central Intelligence Agency shall establish guidelines to ensure that each interrogation of a person who is in the custody of the Central Intelligence Agency is recorded in video form and that the video recording of such interrogation is maintained—

(1) for not less than 10 years from the date on which such recording is made; and

(2) until such time as such recording is no longer relevant to an ongoing or anticipated legal proceeding or investigation or required to be maintained under any other provision of law.

(b) EXCEPTION.—The requirement to record an interrogation in video form under subsection (a) shall not apply with respect to an interrogation incident to arrest conducted by Agency personnel des-

ignated by the Director under section 15(a) that are assigned to the headquarters of the Central Intelligence Agency and acting in the official capacity of such personnel.

(c) INTERROGATION DEFINED.—In this section, the term "interrogation" means the systematic process of attempting to obtain information from an uncooperative detainee.

CONTRACT DISPUTES ACT OF 1978

* * * * * * *

AGENCY BOARDS OF CONTRACT APPEALS

SEC. 8. (a) * * *

* * * * * * *

(d) The Armed Services Board shall have jurisdiction to decide any appeal from a decision of a contracting officer of the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, or the National Aeronautics and Space Administration relative to a contract made by that department or agency. The Civilian Board shall have jurisdiction to decide any appeal from a decision of a contracting officer of any executive agency (other than the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, the National Aeronautics and Space Administration, the United States Postal Service, the Postal Rate Commission, or the Tennessee Valley Authority) relative to a contract made by that agency. Each other agency board shall have jurisdiction to decide any appeal from a decision of a contracting officer relative to a contract made by its agency. *Notwithstanding 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 or the Civilian Board is specified by the contracting officer as the Board to which such an appeal may be made and the Board so specified shall have jurisdiction to decide that appeal.* In exercising this jurisdiction, the agency board is authorized to grant any relief that would be available to a litigant asserting a contract claim in the United States Court of Federal Claims.

* * * * * * *

COUNTERINTELLIGENCE ENHANCEMENT ACT OF 2002

* * * * * * *

TITLE IX—COUNTERINTELLIGENCE ACTIVITIES

* * * * * * *

SEC. 904. OFFICE OF THE NATIONAL COUNTERINTELLIGENCE EXECUTIVE.

(a) * * *

* * * * * * *

[(d) GENERAL COUNSEL.—(1) There shall be in the Office of the National Counterintelligence Executive a general counsel who shall serve as principal legal advisor to the National Counterintelligence Executive.

[(2) The general counsel shall—

[(A) provide legal advice and counsel to the Executive on matters relating to functions of the Office;

[(B) ensure that the Office complies with all applicable laws, regulations, Executive orders, and guidelines; and

[(C) carry out such other duties as the Executive may specify.]

[(e)] *(d)* FUNCTIONS.—Subject to the direction and control of the National Counterintelligence Executive, the functions of the Office of the National Counterintelligence Executive shall be as follows:

(1) NATIONAL THREAT IDENTIFICATION AND PRIORITIZATION ASSESSMENT.—Subject to [subsection (f)] *subsection (e)*, in consultation with appropriate department and agencies of the United States Government, and private sector entities, to produce on an annual basis a strategic planning assessment of the counterintelligence requirements of the United States to be known as the National Threat Identification and Prioritization Assessment.

(2) NATIONAL COUNTERINTELLIGENCE STRATEGY.—Subject to [subsection (f)] *subsection (e)*, in consultation with appropriate department and agencies of the United States Government, and private sector entities, and based on the most current National Threat Identification and Prioritization Assessment under paragraph (1), to produce on an annual basis a strategy for the counterintelligence programs and activities of the United States Government to be known as the National Counterintelligence Strategy.

* * * * * * *

[(f)] *(e)* ADDITIONAL REQUIREMENTS REGARDING NATIONAL THREAT IDENTIFICATION AND PRIORITIZATION ASSESSMENT AND NATIONAL COUNTERINTELLIGENCE STRATEGY.—(1) A National Threat Identification and Prioritization Assessment under [subsection (e)(1)] *subsection (d)(1)*, and any modification of such assessment, shall not go into effect until approved by the President.

(2) A National Counterintelligence Strategy under [subsection (e)(2)] *subsection (d)(2)*, and any modification of such strategy, shall not go into effect until approved by the President.

(3) The National Counterintelligence Executive shall submit to the congressional intelligence committees each National Threat Identification and Prioritization Assessment, or modification thereof, and each National Counterintelligence Strategy, or modification thereof, approved under this section.

* * * * * * *

[(g)] *(f)* PERSONNEL.—(1) * * *

* * * * * * *

[(3) The employment of personnel by the Office, including the appointment, compensation and benefits, management, and separation of such personnel, shall be governed by the provisions of law on such matters with respect to the personnel of the Central Intel-

ligence Agency, except that, for purposes of the applicability of such provisions of law to personnel of the Office, the National Counterintelligence Executive shall be treated as the head of the Office.

[(4) Positions in the Office shall be excepted service positions for purposes of title 5, United States Code.]

[(h) SUPPORT.—(1) The Attorney General, Secretary of Defense, and Director of National Intelligence may each provide the Office of the National Counterintelligence Executive such support as may be necessary to permit the Office to carry out its functions under this section.

[(2) Subject to any terms and conditions specified by the Director of National Intelligence, the Director may provide administrative and contract support to the Office as if the Office were an element of the Central Intelligence Agency.

[(3) Support provided under this subsection may be provided on a reimbursable or nonreimbursable basis, at the election of the official providing such support.

[(i) AVAILABILITY OF FUNDS FOR REIMBURSEMENT.—The National Counterintelligence Executive may, from amounts available for the Office, transfer to a department or agency detailing personnel under subsection (g), or providing support under subsection (h), on a reimbursable basis amounts appropriate to reimburse such department or agency for the detail of such personnel or the provision of such support, as the case may be.

[(j) CONTRACTS.—(1) Subject to paragraph (2), the National Counterintelligence Executive may enter into any contract, lease, cooperative agreement, or other transaction that the Executive considers appropriate to carry out the functions of the Office of the National Counterintelligence Executive under this section.

[(2) The authority under paragraph (1) to enter into contracts, leases, cooperative agreements, and other transactions shall be subject to any terms, conditions, and limitations applicable to the Central Intelligence Agency under law with respect to similar contracts, leases, cooperative agreements, and other transactions.]

[(k)] *(g)* TREATMENT OF ACTIVITIES UNDER CERTAIN ADMINISTRATIVE LAWS.—The files of the Office shall be treated as operational files of the Central Intelligence Agency for purposes of section 701 of the National Security Act of 1947 (50 U.S.C. 431) to the extent such files meet criteria under subsection (b) of that section for treatment of files as operational files of an element of the Agency.

[(l)] *(h)* OVERSIGHT BY CONGRESS.—The location of the Office of the National Counterintelligence Executive within the Office of the Director of National Intelligence shall not be construed as affecting access by Congress, or any committee of Congress, to—

(1) * * *

* * * * * * *

[(m)] *(i)* CONSTRUCTION.—Nothing in this section shall be construed as affecting the authority of the Director of National Intelligence, the Secretary of Defense, the Secretary of State, the Attorney General, or the Director of the Federal Bureau of Investigation as provided or specified under the National Security Act of 1947 or under other provisions of law.

* * * * * * *

INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004

* * * * * * *

TITLE I—REFORM OF THE INTELLIGENCE COMMUNITY

* * * * * * *

SEC. 1016. INFORMATION SHARING.

(a) DEFINITIONS.—In this section:

(1) * * *

* * * * * * *

(3) INFORMATION SHARING ENVIRONMENT.—The terms "information sharing environment" and "ISE" mean an approach that facilitates the sharing of [terrorism and homeland security information] *national security information*, which may include any method determined necessary and appropriate for carrying out this section.

(4) NATIONAL SECURITY INFORMATION.—The term "national security information" includes homeland security information and terrorism information.

[(4)] *(5)* PROGRAM MANAGER.—The term "program manager" means the program manager designated under subsection (f).

[(5)] *(6)* TERRORISM INFORMATION.—The term "terrorism information"—

(A) * * *

* * * * * * *

[(6)] *(7)* WEAPONS OF MASS DESTRUCTION INFORMATION.—The term "weapons of mass destruction information" means information that could reasonably be expected to assist in the development, proliferation, or use of a weapon of mass destruction (including a chemical, biological, radiological, or nuclear weapon) that could be used by a terrorist or a terrorist organization against the United States, including information about the location of any stockpile of nuclear materials that could be exploited for use in such a weapon that could be used by a terrorist or a terrorist organization against the United States.

(b) INFORMATION SHARING ENVIRONMENT.—

(1) ESTABLISHMENT.—The President shall—

(A) create an information sharing environment for the sharing of [terrorism information] *national security information* in a manner consistent with national security and with applicable legal standards relating to privacy and civil liberties;

* * * * * * *

(2) ATTRIBUTES.—The President shall, through the structures described in subparagraphs (B) and (C) of paragraph (1), ensure that the ISE provides and facilitates the means for sharing [terrorism information] *national security information* among all appropriate Federal, State, local, and tribal entities, and the private sector through the use of policy guidelines and technologies. The President shall, to the greatest extent prac-

ticable, ensure that the ISE provides the functional equivalent of, or otherwise supports, a decentralized, distributed, and coordinated environment that—

(A) * * *

* * * * * * *

(e) IMPLEMENTATION PLAN REPORT.—Not later than one year after the date of the enactment of this Act, the President shall, with the assistance of the program manager, submit to Congress a report containing an implementation plan for the ISE. The report shall include the following:

(1) * * *

* * * * * * *

(10) A delineation of the roles of the Federal departments and agencies that will participate in the ISE, including an identification of the agencies that will deliver the infrastructure needed to operate and manage the ISE (as distinct from individual department or agency components that are part of the ISE), with such delineation of roles to be consistent with—

(A) * * *

(B) the authority of the Secretary of Homeland Security and the Attorney General, and the role of the Department of Homeland Security and the [Attorney General] *Department of Justice*, in coordinating with State, local, and tribal officials and the private sector.

* * * * * * *

(f) PROGRAM MANAGER.—

(1) DESIGNATION.—Not later than 120 days after the date of the enactment of this Act, with notification to Congress, the President shall designate an individual as the program manager responsible for information sharing across the Federal Government. The individual designated as the program manager shall serve *in the Executive Office of the President and shall serve* as program manager until removed from service or replaced by the President (at the President's sole discretion). The program manager, in consultation with the head of any affected department or agency, shall have and exercise governmentwide authority over the sharing of information within the scope of the information sharing environment, including [homeland security information, terrorism information, and weapons of mass destruction information] *national security information*, by all Federal departments, agencies, and components, irrespective of the Federal department, agency, or component in which the program manager may be administratively located, except as otherwise expressly provided by law.

* * * * * * *

TITLE II—FEDERAL BUREAU OF INVESTIGATION

SEC. 2001. IMPROVEMENT OF INTELLIGENCE CAPABILITIES OF THE FEDERAL BUREAU OF INVESTIGATION.

(a) * * *

* * * * * * *

(c) NATIONAL INTELLIGENCE WORKFORCE.—(1) In developing and maintaining a national intelligence workforce under subsection (b), the Director of the Federal Bureau of Investigation [shall,] *shall* develop and maintain a specialized and integrated national intelligence workforce consisting of agents, analysts, linguists, and surveillance specialists who are recruited, trained, and rewarded in a manner which ensures the existence within the Federal Bureau of Investigation *of* an institutional culture with substantial expertise in, and commitment to, the intelligence mission of the Bureau.

* * * * * * *

(e) DISCHARGE OF IMPROVEMENTS.—(1) * * *

(2) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) under the joint guidance of the Attorney General and [the National Intelligence Director in a manner consistent with section 112(e)] *the Director of National Intelligence in a manner consistent with applicable law*.

(f) BUDGET MATTERS.—The Director of the Federal Bureau of Investigation [shall,] *shall* establish a budget structure of the Federal Bureau of Investigation to reflect the four principal missions of the Bureau as follows:

(1) * * *

* * * * * * *

SEC. 2006. FEDERAL BUREAU OF INVESTIGATION USE OF TRANSLATORS.

Not later than 30 days after the date of the enactment of this Act, and annually thereafter, the Attorney General of the United States shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report that contains, with respect to each preceding 12-month period—

(1) * * *

(2) any legal or practical impediments to using translators employed by [the Federal] *Federal*, State, or local agencies on a full-time, part-time, or shared basis;

(3) the needs of the Federal Bureau of Investigation for [the specific] *specific* translation services in certain languages, and recommendations for meeting those needs;

* * * * * * *

CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT

* * * * * * *

TITLE II—THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

* * * * * * *

Part D—Benefits Accruing to Certain Participants

* * * * * * *

SEC. 235. MANDATORY RETIREMENT.

(a) * * *

(b) MANDATORY RETIREMENT FOR AGE.—

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

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

(A) Upon reaching age 65, in the case of a participant in the system who is at the Senior Intelligence Service rank of level 4 or above; and

* * * * * * *

FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978

* * * * * * *

TITLE I—ELECTRONIC SURVEILLANCE WITHIN THE UNITED STATES FOR FOREIGN INTELLIGENCE PURPOSES

DEFINITIONS

SEC. 101. As used in this title:

(a) "Foreign power" means—

(1) * * *

* * * * * * *

(7) an entity not substantially composed of United States persons that is engaged in the international proliferation of weapons of mass destruction.

(b) "Agent of a foreign power" means—

(1) * * *

* * * * * * *

(c) "International terrorism" means activities that—

(1) * * *

* * * * * * *

(d) "Sabotage" means activities that involve a violation of chapter 105 of title 18, United States Code, or that would involve such a violation if committed against the United States.

(e) "Foreign intelligence information" means—

(1) * * *

* * * * * * *

(f) "Electronic surveillance" means—

(1) * * *

* * * * * * *

(g) "Attorney General" means the Attorney General of the United States (or Acting Attorney General), the Deputy Attorney General, or, upon the designation of the Attorney General, the Assistant Attorney General designated as the Assistant Attorney General for National Security under section 507A of title 28, United States Code.

(h) "Minimization procedures", with respect to electronic surveillance, means—

(1) * * *

* * * * * * *

(i) "United States person" means a citizen of the United States, an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act), an unincorporated association a substantial number of members of which are citizens of the United States or aliens lawfully admitted for permanent residence, or a corporation which is incorporated in the United States, but does not include a corporation or an association which is a foreign power, as defined in subsection (a) (1), (2), or (3).

(j) "United States", when used in a geographic sense, means all areas under the territorial sovereignty of the United States and the Trust Territory of the Pacific Islands.

(k) "Aggrieved person" means a person who is the target of an electronic surveillance or any other person whose communications or activities were subject to electronic surveillance.

(l) "Wire communication" means any communications while it is being carried by a wire, cable, or other like connection furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of interstate or foreign communications.

(m) "Person" means any individual, including any officer or employee of the Federal Government, or any group, entity, association, corporation, or foreign power.

(n) "Contents", when used with respect to a communication, includes any information concerning the identity of the parties to such communications or the existence, substance, purport, or meaning of that communication.

(o) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, an any territory or possession of the United States.

(p) "Weapon of mass destruction" means—

(1) * * *

* * * * * * *

DESIGNATION OF JUDGES

SEC. 103.

(a) * * *

* * * * * * *

[(i)] *(h)* Nothing in this Act shall be construed to reduce or contravene the inherent authority of the court established under subsection (a) to determine or enforce compliance with an order or a rule of such court or with a procedure approved by such court.

* * * * * * *

PENALTIES

SEC. 109. (a) OFFENSE.—A person is guilty of an offense if he intentionally—

(1) engages in electronic surveillance under color of law except as authorized by this Act, chapter 119, 121, or 206 of title 18, United States Code, or any express statutory authorization that is an additional exclusive means for conducting electronic surveillance under [section 112.;] *section 112;* or

(2) disclose or uses information obtained under color of law by electronic surveillance, knowing or having reason to known that the information was obtained through electronic surveillance not authorized by this Act, chapter 119, 121, or 206 of title 18, United States Code, or any express statutory authorization that is an additional exclusive means for conducting electronic surveillance under section 112.[.]

* * * * * * *

TITLE III—PHYSICAL SEARCHES WITHIN THE UNITED STATES FOR FOREIGN INTELLIGENCE PURPOSES

DEFINITIONS

SEC. 301. As used in this title:

(1) The terms "foreign power", "agent of a foreign power", "international terrorism", "sabotage", "foreign intelligence information", "Attorney General", "United States person", ["United States", "person", "weapon of mass destruction", and "State"] *"United States", "person", "weapon of mass destruction", and "State"* shall have the same meanings as in section 101 of this Act, except as specifically provided by this title.

* * * * * * *

ISSUANCE OF AN ORDER

SEC. 304. (a) * * *

(b) In determining whether or not probable cause exists for purposes of an order under [subsection (a)(3)] *subsection (a)(2)*, a judge may consider past activities of the target, as well as facts and circumstances relating to current or future activities of the target.

* * * * * * *

TITLE V—ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE PURPOSES

* * * * * * *

SEC. 502. CONGRESSIONAL OVERSIGHT.

(a) On [a annual] *an annual* basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate concerning all requests for the production of tangible things under section 501.

* * * * * * *

SECTION 1403 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1991

SEC. 1403. MULTIYEAR NATIONAL [FOREIGN] INTELLIGENCE PROGRAM

(a) ANNUAL SUBMISSION OF MULTIYEAR NATIONAL [FOREIGN] INTELLIGENCE PROGRAM.—The [Director of Central Intelligence] *Director of National Intelligence* shall submit to the congressional committees specified in subsection (d) each year a multiyear national [foreign] intelligence program plan reflecting the estimated expenditures and proposed appropriations required to support that program. Any such multiyear national [foreign] intelligence program plan shall cover the fiscal year with respect to which the budget is submitted and at least four succeeding fiscal years.

(b) TIME OF SUBMISSION.—The Director *of National Intelligence* shall submit the report required by subsection (a) each year at or about the same time that the budget is submitted to Congress pursuant to section 1105(a) of title 31, United States Code.

(c) CONSISTENCY WITH BUDGET ESTIMATES.—The [Director of Central Intelligence] *Director of National Intelligence* and the Secretary of Defense shall ensure that the estimates referred to in subsection (a) are consistent with the budget estimates submitted to Congress pursuant to section 1105(a) of title 31, United States Code, for the fiscal year concerned and with the estimated expenditures and proposed appropriations for the multiyear defense program submitted pursuant to section [114a] *221* of title 10, United States Code.

TITLE 10, UNITED STATES CODE

* * * * * * *

Subtitle A—General Military Law

* * * * * * *

PART II—PERSONNEL

* * * * * * *

CHAPTER 32—OFFICER STRENGTH AND DISTRIBUTION IN GRADE

* * * * * * *

§ 528. Officers serving in certain intelligence positions: military status; exclusion from distribution and strength limitations; pay and allowances

(a) * * *

* * * * * * *

(c) [ASSOCIATE DIRECTOR OF CIA FOR MILITARY AFFAIRS] *ASSOCIATE DIRECTOR OF MILITARY AFFAIRS, CIA*.—An officer of the armed forces serving in the position of [Associate Director of the Central Intelligence Agency for Military Affairs] *Associate Director of Military Affairs, Central Intelligence Agency, or any successor position*, while serving in that position, shall be excluded from the limitations in sections 525 and 526 of this title.

* * * * * * *

MINORITY VIEWS

H.R. 2701—Intelligence Authorization Act for Fiscal Year 2010

We are disappointed that this year's intelligence authorization bill has taken a significant step back from last year's bipartisan legislation. It puts aside consensus in last year's bill and in this year's classified Schedule of Authorizations with respect to many significant issues. Instead, it advances provisions that appear to be designed for partisan messaging rather than to address critical national security issues, and it would reopen and modify areas of bipartisan consensus reached with respect to several discrete issues in the Intelligence Reform and Terrorism Prevention Act. In its current form, the bill also contains provisions that we believe would inappropriately hamper the flexibility and responsiveness of the intelligence community and includes discrete items that we believe are flawed or have not been fully vetted. In many respects, the bill is not fully transparent with respect to its purpose and effect or in making information available to the public that could be released on important issues.

While we believe that the bill has been strengthened by successful bipartisan work on the classified schedule of authorizations and by Republican amendments adopted by the Committee, on balance we have significant reservations with the bill in its current form that force us to oppose it. We hope that these issues can be addressed going forward in the legislative process in order to complete bipartisan legislation to authorize the critical activities of the intelligence community.

THE BILL FAILS TO ADDRESS CRITICAL NATIONAL SECURITY ISSUES, CONCENTRATING INSTEAD ON CREATING PARTISAN COVER

The transition to a new Administration has caused several longstanding national security issues to be revisited, from the President's decision to release legal memoranda concerning sensitive compartmented activities of the Central Intelligence Agency and to close the detention facility at Guantanamo, to decisions to relocate detainees and potentially to bring them into the United States, to the apparent initiation of policies intended to convert the global war on terrorism into a matter of prosecution and litigation. While we recognize that changes in policy are inevitable in a new Administration and that President Obama has also wisely continued many past policies, we are deeply concerned that many decisions with significant implications for the intelligence community have been and continue to be implemented with absolutely no consulta-

tion with Congress, contrary to the established practice of the previous Administration.[1]

H.R. 2701 fails entirely to address many of these critical issues, abdicating the responsibility of the Committee. In other areas, it appears more focused on creating partisan cover for certain inconvenient truths faced by the Majority than in honestly confronting them. These inconvenient truths include the bipartisan consensus that has existed with respect to critical national security programs, even though they may no longer be seen as "politically correct" as threats become perceived as less imminent. We continue to believe that these issues must be addressed on their substantive merits, with the paramount goal of empowering the intelligence community to protect the American people consistent with our values. It is unfortunate that this bill fails to do so.

National Security Act Amendments

Last year, we wrote that "It is likely that there is no single current issue on which there is a stronger bipartisan consensus than our shared deep concern that the Administration is not fulfilling its statutory duty to keep each member of the Committee fully and currently informed with respect to certain intelligence matters." It is precisely for this reason that we joined with Chairman Reyes at that time in supporting truly bipartisan language to reform provisions of the National Security Act governing reporting of intelligence activities to the Committee. Inexplicably, that provision was removed from this year's bill and replaced with a partisan provision with serious flaws. The need for the change was so poorly understood that Chairman Reyes centered his opposition to a Republican amendment to restore the bipartisan language on provisions that had been in his own bill last year, and Majority counsel had to correct the record at markup to clarify that they had not properly described or apparently even understood their own proposal. The core provisions of the National Security Act are no place for such hasty, partisan lawmaking.

This fiasco seems to have arisen because the Majority believed it needed political cover for its claims that it had not been briefed with respect to several intelligence community programs on which the record incontrovertibly shows not only that multiple members were briefed repeatedly on the programs in question on a bipartisan basis, but that they raised no objections, and took no action to object or to defend the programs as career intelligence officers acted in reliance on such approvals. Thus was born the canard that the "problem" somehow was not the failure of members to seek further information or raise whatever concerns they may have had, but instead was the fault of the career briefers, or the process itself. The Majority promptly issued a press release to promise that it would fix such problems—with no mention of the bipartisan pro-

[1] We have expressed concern in the past at the failure of the previous Administration to fully brief the Committee with respect to certain discrete matters, but the record is clear that the Committee was consulted regularly with respect to certain major initiatives. By contrast, the current Administration has conducted little to no consultation at all. In fact, the President's task forces with respect to some of the most relevant issues still have not briefed the Committee even on their processes and have twice cancelled Committee briefings, despite having held repeated meetings with outside advocacy groups. This is plainly unacceptable.

visions from the previous year.[2] Those provisions were developed to address the real and repeatedly demonstrated problem of briefings that had been too narrowly limited to certain members rather than the new, politically convenient, false issues relating to the conduct of the briefings themselves.

Section 502 of last year's bill makes amendments to certain congressional notification procedures of the National Security Act of 1947. It was the product of bipartisan discussion and agreement between Chairman Reyes and Ranking Member Hoekstra and includes language suggested by both. The provision expressly provided that information briefed to the Committee reporting on activities other than covert actions shall be made available to each member of the Committee, unless the President requests in writing that access to the information be limited and details extraordinary circumstances justifying the request. In the event of such a request to limit access, the Chairman and Ranking Member of the Committee may jointly determine whether and how to limit access to the material within the Committee. Absent such an agreement, access to the information or material would be limited. The provision specifically addressed and balanced the Constitutional powers and responsibilities of both the Executive and Legislative Branches, and set forth a specific mechanism to reconcile them.

By contrast, the partisan provision in Section 321 of this year's bill would do nothing to solve the problem. In fact, it is so poorly drafted that it would lead to nothing but confusion. It nowhere creates a statutory presumption that all Members of the Committee should be briefed. Instead, it would require the Committee to unilaterally develop procedures for the handling of reporting on sensitive matters, even though the President has significant constitutional authorities in the area of national security that Courts have repeatedly said must be considered with and balanced against the authorities of Congress. The provision nowhere provides a mechanism for ensuring that decisions within the Committee are made on a bipartisan basis or for reconciling any dispute between the branches with respect to such reporting, which is a recipe for Constitutional gridlock that could be disastrous with respect to such sensitive matters.

Moreover, the partisan provision purports to regulate objections that Members might wish to raise to a sensitive activity, including a statutory 48 hour time limit. The Majority staff indicated its belief at markup that this provision only requires an objection to be memorialized and transmitted to the Executive Branch within 48 hours, but the overall structure of the provision is not explicit. It is possible that such a provision could be read to restrict the time period in which members could raise objections. While we agree that formalizing and memorializing the process of objection to sensitive activities may be warranted, this sloppy provision nowhere states the legal scope or effect of such an objection and could require hasty decisionmaking on potentially critical matters. Moreover, if circumstances change or additional information is gathered

[2] "Reyes Statement on Congressional Notification Reform," May 14, 2009. (http://intelligence.house.gov/Media/PDFS/ReyesRelease051109.pdf)

after initial reporting of a covert action, the provision might be read to bar subsequent objection by Congress.

Congressman Mac Thornberry offered an amendment at markup to replace this sloppy provision with last year's bipartisan language—further extended to include reporting of covert actions—even though we believe parts of that compromise are excessively prescriptive and focus disproportionately on legal issues rather than intelligence policy issues. The amendment to remove the partisan provision was defeated virtually on a party line vote, with only Congressman Rush Holt now supporting the original compromise on the Majority side. The core of the National Security Act is far too important for such gamesmanship, and this provision must be addressed and repaired as the legislation advances.

Release of unclassified versions of briefing memoranda and finished intelligence products assessing information gained from detainee reporting

On a related issue, Ranking Member Hoekstra offered an amendment that would allow the American people to reach their own well-informed conclusions with respect to briefings to Congress on the use of Enhanced Interrogation Techniques. This issue gave rise to the broader controversy over briefings to the Committee after President Obama unilaterally and selectively released legal memoranda dealing with previously highly compartmented intelligence activities that lead to public calls for individuals to be held accountable for the activities, despite clear bipartisan consensus and support for the programs in question in repeated briefings to Members of the Committee. Ranking Member Hoekstra and Republican Members and staff of the Committee have had the opportunity to review the memoranda memorializing such briefings and believe that two facts are readily apparent. First, the memoranda clearly indicate that members of the Committee supported the activities in question on a bipartisan basis and raised no objections to the activities in question. Second, while certain redactions might still be justified to protect identities of intelligence community personnel, detainees, or details of sources and methods, there is little reason why the core of the documents could not be declassified and publicly released to allow the American people to decide for themselves.

Similarly, Ranking Member Hoekstra's amendment would have provided for the release of unclassified versions of finished intelligence products assessing the information gained from detainee reporting after the September 1 1 attacks. Unfortunately, however, despite the President's unilateral decision to release the legal memoranda and publicly confirm substantial elements of these sensitive intelligence activities, the Majority voted in favor of partisan cover and would not support the release of these documents that would allow the full picture to be known and understood. It is ironic that many members of the Committee who have so vehemently argued in favor of greater transparency by the intelligence community and against perceived selective "cherry-picking" of publicly disclosed intelligence opposed this amendment, again for apparent partisan purposes. The record on this matter cannot he fully or

fairly evaluated by the public until a version of these documents is made public.

"Global Justice" Initiative

The bill also has not addressed critical aspects of the so-called "Global Justice" initiative being considered by the Federal Bureau of Investigation, which we believe could significantly hamper intelligence collection and potentially prevention of terrorist acts by making it a priority to handle these matters abroad as law enforcement matters. While we appreciate the commitments from Chairman Reyes and Subcommittee Chairman Thompson to further review the matter, we believe that the Committee should have immediately made a clear and unambiguous statement against the implementation of any such policy.

The Committee has devoted substantial energy and attention since the September 11, 2001 attacks to ensure that prevention of attacks and intelligence collection take priority in foreign countries over the inherent disadvantages of the criminal justice model. The FBI and Department of Justice should not unilaterally seek to undo these important, carefully coordinated efforts. The 9/11 Commission noted that "The concern about the FBI is that it has long favored its criminal justice mission over its national security mission." Unfortunately, efforts to develop the "Global Justice" initiative suggest that this message has not yet been fully heeded.

The initiative represents a fundamental policy shift in the fight against radical jihadists. As part of this new initiative, FBI agents would be deployed in the middle of intelligence collection activities worldwide, potentially including the battlefield, to gather evidence. FBI agents would also take first priority in questioning persons of interest rather than trained intelligence interrogators. Thus, FBI agents might read Miranda warnings to non-U.S. persons held overseas who are not entitled to such rights outside the context of a criminal prosecution inside the United States—a significant disincentive for any subject to provide information that might be urgently needed to prevent an attack. And if those detainees didn't immediately "lawyer up," FBI agents would ask questions to build a litigation case- not to produce intelligence.

Given the gravity of this potential policy shift, we are pleased that the Committee recognized the importance of some implications of the Global Justice Initiative, but we do not believe sufficient steps have been taken to address our fundamental concerns about this new and dangerous program. On a positive note, the Committee adopted two amendments offered by Congressman Mike Rogers. The first amendment prohibits the use of intelligence funds to read Miranda warnings to non-U.S. person detainees held by the U.S. military overseas. As previously mentioned, we believe strongly that such warnings could impair the immediate collection of critical intelligence and could serve as a significant disincentive to cooperation. It is important to emphasize that U.S. courts have repeatedly held that foreign persons in foreign countries generally do not enjoy constitutional protections, rendering the Miranda warnings unnecessary absent an immediate, specific intent to initiate criminal prosecution.

The second amendment related to the "Global Justice" initiative requires the FBI Director to review the legal problems caused by FBI agents trying to conduct investigations (using intelligence funding) of non U.S. persons outside of the United States and to report his findings to the congressional intelligence committees. As recognized by the authoritative Restatement (Third) of the Foreign Relations Law of the United States, international law clearly provides as a matter of sovereignty that U.S. law enforcement officers may only exercise their functions in other countries with the specific consent of duly authorized officials of those countries. Without such authorization, those countries could protest and seek reparation from the United States.

This initiative must be reviewed carefully as the legislation moves forward.

National Drug Intelligence Center

Congressman Mike Rogers offered an amendment that would have authorized funding to close the National Drug Intelligence Center (NDIC), which is located in central Pennsylvania and has long-been a controversial and questionable effort inside the intelligence community. U.S. News and World Report once famously describe the center as, a "Drug War boondoggle rocked by scandal" and quoted its first deputy director as stating that the center was, "in search of a mission." In light of its reputation and dubious usefulness, the previous administration repeatedly recommended the facility be budgeted for closure and its minimal efforts shifted to the more productive and better situated El Paso Intelligence Center. The Majority refused to take responsibility for this boondoggle, and voted against the amendment.

NDIC has only remained open the past several years as a result of receiving the largest single, pork barrel expenditure in the intelligence budget. In the Fiscal Year 2007 Intelligence Authorization Act, the Majority improperly included the earmark in the bill with no transparency, contrary to the applicable rules. Oversight visits and briefings with the Committee have repeatedly borne out that the center is duplicative, poorly located, lacking in mission, with no clear direction for the future, and its funding could be directed to higher intelligence community priorities.

In light of bipartisan, Republican-led, action in the Intelligence Committee in recent years to end the earmark and close NDIC, its political patrons apparently had enough and have attempted to shift its authorization to the House Judiciary Committee after years hidden away in intelligence funding. The resulting attempt to hide oversight for an "intelligence center" in the Judiciary Committee is a direct affront to this Committee's proper authorities and responsibilities in the House. It is an unprecedented effort to shift and diminish the power of this Committee for purely political reasons and the Majority should not have allowed this bald-faced political move to stand. This amendment would have placed NDIC back under the proper oversight of the House Intelligence Committee and directs, as this Committee has previously, that funds be appropriated to cease the center's operations.

Since its inception, more than $400 million in taxpayer dollars has been spent with little to show in the way of results. A report

by the House Committee on Government Reform and Oversight concluded that NDIC should be terminated because it is "an expensive and duplicative use of scarce Federal drug enforcement resources," and the Office of Management and Budget previously concluded that "NDIC has experienced problems with duplication of effort and lack of coordination with other intelligence providers and consumers. Focusing resources on a smaller number of intelligence providers would increase the impact of those resources."

At a time when the American people are stretching to more with less and the federal budget deficit is soaring out of control, this Committee has an obligation to ensure taxpayer money for national security is being used in the wisest and best manner possible to ensure our nation's safety. Committee Members have a fiduciary responsibility to stand up for the Committee's authorities. The Majority, however, voted to accept this attempt to shift and hide NDIC funding and continue to shirk responsibility for Member pet projects.

Detainees

This bill fails entirely to address the critical issue of the disposition of the detainees currently held at Guantanamo Bay in the wake of the President's unilateral decision to close the facility, before reviewing the relevant facts and options and with no plan. We believe that the security of the American people must come first. The Majority blocked an amendment, offered by Congressman Roy Blunt, which would have prohibited the use of intelligence funds to foreign countries in exchange for accepting newly relocated Guantanamo detainees. This issue must be handled transparently—secret intelligence funds should not be used as a slush fund to pay foreign countries to relieve the United States of its responsibilities.

Despite its willingness to secretly pay foreign nations potentially significant amounts of taxpayer dollars to take detainees, the Majority apparently believes that these detainees are still dangerous, voting against an amendment offered by Congressman Mike Rogers to clarify the record on the issue by preventing the Administration from paying foreign countries to conduct surveillance on or monitor newly released detainees. The Majority apparently agrees that these newly released detainees need to be monitored, but does not believe they pose a sufficient threat to prevent them from being released in the first place.

The Majority also rejected an amendment, offered by Congresswoman Sue Myrick, which would have prevented intelligence dollars from being spent to bring Guantanamo detainees into the United States, despite clear bipartisan opposition in the House and among the American people to bringing dangerous terrorists into the United States. Instead, the Majority adopted a watered-down substitute that withholds money until the President submits a "plan" for these Guantanamo detainees.

Hastily drafted despite delays in the Committee's markup, the substitute amendment requires the "plan" to be submitted to the Congressional defense committees rather than this Committee, despite later Majority criticism of a Republican amendment on the ground that such a provision would cause a sequential referral. In addition, the watered down substitute would have limited effect, re-

stricting funding only to the Director of National Intelligence and not to individual agencies in the intelligence community. The Majority is apparently comfortable allowing the Administration to put down whatever it likes on paper, call it a "plan" for dealing with detainees, and spend money to send these terrorists virtually anywhere from Palau to Peoria. We are not satisfied by half measures. The President and the Majority must more meaningfully address the "problem" of Guantanamo Bay—caused by the premature decision to close the facility—head on.

The Committee agreed to two amendments offered by Ranking Member Hoekstra to require the intelligence community to produce an unclassified summary of the threat posed by the Uighurs at Guantanamo and an unclassified summary on the recidivism of Guantanamo detainees repatriated or released to third countries over the years, although we are disappointed that only a few members of the Majority supported these amendments. These amendments will provide greater transparency and clarity to the public debate over these detainees. The American people deserve to know exactly what kind of people are being held at Guantanamo and exactly what kind of threats we will all face if these detainees are released, brought to this country for trial, or ultimately inserted into the federal prison system.

Failure to protect intelligence community personnel

This bill also contains a provision that we believe will unnecessarily expose intelligence personnel to risk. Section 416 of this bill requires the Central Intelligence Agency to videotape interrogations of detainees. This requirement could quickly become a substantial liability for our CIA officers in the field if the President allows them to interrogate suspected terrorists again. These tapes could pose a logistical and security nightmare, and it is clear that the implications of such a requirement have not been fully vetted.[3] Officers at remote locations would have to figure out a way to securely store the tapes. If these tapes were ever lost or stolen, they would create tremendous risks. Videotaped interrogations could reveal the identity of our CIA officers—making them and their families a target for retaliation. Tapes could also betray detainees who might choose to cooperate and mark them for death. Of course, images from even a lawful, properly conducted interrogation might provide material for our adversaries to exploit for propaganda purposes.

Congressman Mac Thornberry offered an amendment to strip section 416 out of this bill and protect our CIA officers going forward. Unfortunately, the amendment was defeated in a split partisan vote. This provision must be more carefully addressed going forward.

More broadly, we are concerned at the increasing politicization of career intelligence community personnel merely for carrying out

[3] The Committee's investigation with respect to the destruction of previous tapes has suggested potentially significant issues with respect to the destruction of previously created interrogation videotapes. We wish to note the distinction between the need to preserve existing or future videotapes once created and the policy question of whether such tapes should be created in the future.

policies that were authorized by the President and approved and funded by the Congress.

On May 4, 2009, Philip Mudd, a veteran intelligence officer who has worked for the CIA and the FBI, was nominated to be Under Secretary for Intelligence and Analysis for the Department of Homeland Security. However, on June 5, 2009, Mudd withdrew his nomination because of worries that attacks by Senate Democrats over his work on anti-terror programs would be a "distraction" to the Obama administration. Last November, former CIA officer John Brennan withdrew from consideration to be appointed the CIA Director for the same reason.

We are concerned that highly qualified intelligence officers are becoming pawns in a political game which has caused the careers of some extremely talented intelligence officers, like Mudd and Brennan, to hit a brick wall. These officers are being punished not for wrongdoing but for their success in administering innovative anti-terrorist programs that kept our nation safe from terrorist attack over the last seven years.

It is time to stop this assault on our intelligence community. This is not just wrong, it's dangerous. There are many dire threats facing our nation from radical jihadists, WMD proliferation, the global economic situation, and many regional issues. America needs an intelligence corps that is prepared to take manageable risks without fear of being undercut by changing political moods. Using intelligence officers as pawns in political games will dissuade our best and brightest intelligence officers from serving in controversial and high-risk environments.

THE BILL CONTAINS SIGNIFICANT SUBSTANTIVE FLAWS

The base bill hastily drafted by the Majority contains several operative provisions that significantly concern us, and equally as many that are poorly researched, of questionable need or have unknown implications. Many of the new provisions reflect the fact that this bill was thrown together in a few days time and is largely cobbled from ODNI proposals that have not been thoroughly considered, and reversals on old issues that were resolved on a bipartisan basis during negotiations on the Intelligence Reform and Terrorism Prevention Act (IRTPA).

Management issues

The base bill was improved by two Republican initiatives on key management issues. One Republican amendment, offered by Congressman John Kline, requires the National Reconnaissance Office (NRO) to submit an updated charter to Congress within 90 days of enactment of the bill. The NRO's existing charter was adopted in 1965 and has not been updated in the forty plus years since that time and no longer reflects the organizational, functional and operational realities of today's NRO. For example, from a practical perspective, neither the ODNI nor the current DOD acquisition guidelines existed when the current charter was written. This amendment would require the NRO and DOD to finalize and submit a new charter, which we understand has been in the drafting process for quite some time. The amendment was intended to ensure that the NRO's current organizational structure and reporting chains

are reflected in the charter, as well as the modern day functional duties of NRO.

Another Republican amendment offered by Congressman Mike Conaway contained a sense of Congress that reaching auditability for all intelligence community elements should be a priority for the DNI. This is intended to put the IC on notice that it is critically necessary to reach and maintain a level of auditability for all elements of the community and to make certain that the DNI takes a leadership role in ensuring this happens. The amendment also requires the DNI to complete a review to determine specifically where the office is in this process, and to come up with a measurable time frame for reaching a point where the entire IC can be audited. It is essential that the DNI maintains strong financial management and business systems that allow for comprehensive auditing, in order to improve financial management government-wide. The American taxpayers should be assured that we hold government agencies to the same high standards as we do publicly traded companies. These two Republican amendments significantly improve the bill from management and accountability standpoint.

Inspector General of the Intelligence Community

We have significant concerns with Section 406 of the bill, which would create a new Inspector General of the Intelligence Community. While we do not oppose either enhanced oversight of the intelligence community or a capability to review cross-cutting issues within the intelligence community, we are concerned that this provision duplicates efforts of Department and Agency inspectors general, is unnecessarily complex and unwieldy, and threatens to further grow the size and bureaucracy of the Office of the Director of National Intelligence. For example, the bill would make various changes that would subject the National Security Agency to the jurisdiction of not one, but three statutory inspectors general. (Department of Defense, Inspector General of the Intelligence Community, and National Security Agency). Moreover, the Committee's experience has been that increasing size of the bureaucracy has in some cases delayed work on important investigations. This provision can only make the problem worse and further hamper the timeliness of review by the Committee.

General Accounting Office

Section 335 of the bill would require the DNI to provide access for GAO employees to all information that the Comptroller General of the GAO deems necessary to conduct an investigation that is requested by one of the intelligence committees. It is unclear why the Majority believes this broad expansion is even necessary. The elements of the intelligence community all currently have Inspectors General that are able to perform the investigative and auditory functions sought here, while limiting the number of persons that have access to sensitive intelligence information. Moreover, this Committee is charged with oversight of IC programs, and we find it surprising that the Majority is willing to outsource that oversight responsibility. That the Majority is incapable or unwilling to perform the Committee's oversight function is not a sufficient reason to break from a longstanding, carefully structured oversight process

designed to balance congressional oversight needs with the Executive's need to protect sensitive information. This provision dangerously subordinates the DNI's responsibility to protect the Nation's most sensitive national security information to an entity responsible for performing audits at Congress' behest.

The provision also lacks any restriction governing the handling of classified information by the GAO—which is not subject to the detailed Rules of the House or the Committee on such matters—and the use and distribution of GAO products. As drafted, the GAO will have access to the most sensitive national security information, and there is no restriction on how they may use that information, who may be designated to receive it and how it may be distributed—especially after the information is incorporated into a GAO product or report. Under the House Rules, this Committee has jurisdiction over sources and methods, and nothing in this provision would prevent the GAO from distributing sensitive sources and methods material beyond this Committee. Aside from the institutional interests that the Majority should be more concerned with protecting, the potential for sensitive information to be inadvertently or intentionally disclosed greatly and dangerously increases with this provision included in the bill.

Less flexibility and more bureaucracy for the intelligence community

The bill also contains several provisions that will hamper the flexibility of community personnel. It will require for the first time Senate confirmation of the National Security Agency Director, NSA General Counsel, and the Director of the National Reconnaissance Office. These positions have traditionally not required Senate confirmation and have been filled by career intelligence professionals. Despite the 9/11 Commission's recommendation that we minimize as much as possible the disruption of national security policymaking by accelerating the process for national security appointments, the Majority seeks to instead add more politics and more delay into the process by requiring additional key intelligence positions to be subject to lengthy, politicized Senate confirmation process. It is unclear how subjecting career intelligence employees to these processes or replacing them in favor of partisan political appointments will enhance our ability to respond to catastrophic terrorist attacks like 9/11.

The bill also adds another layer of bureaucracy to NSA by creating a new Associate Director position that will duplicate oversight responsibilities already charged to the General Counsel. If there are concerns with the way NSA's Office of the General Counsel has handled matters in the past, creating another layer in the bureaucracy at an additional cost to the taxpayers is not the best way to address those concerns.

Further hampering the IC is the Majority's unexplained decision to mandate personnel practices in the Defense Department that are opposed by the current Administration. Section 304 of the bill terminates DOD's use of the Defense Civilian Intelligence Personnel System or "pay for performance" as the system is more familiarly known. The rationale for this provision is not transparent. DOD is implementing DCIPS to bring DOD intelligence personnel in line with the rest of the IC. While we are aware of some concerns with

respect to compensation reform at the CIA, we believe that the concept has generally worked at DOD. The Administration has already responded to the Majority's concerns about pay for performance earlier this month after delaying implementation and conducting a review following a request from the Chairman. Suspension of DCIPS will leave Intelligence employees working side by side under different systems and different terms of employment.

Burdensome reports and Congressionally Directed Actions

We are once again troubled by the proliferation of reports that are required of the intelligence community. At least 41 new reports and Congressionally Directed Actions are mandated in the bill and classified annex, while only five statutorily required reports are removed.

In order for the House and Senate intelligence committees to do their job on behalf of Congress and the American people, the Committees must have access to the necessary information. Requiring that an agency produce a periodic report on certain activities is sometimes the most efficient way to obtain that information. But at other times, a briefing or a simple letter can serve just as well. Too often, requiring a new report is used as a substitute for reading, studying, and learning from what has already been provided. Many times, such a requirement is used to convey interest in a topic or as a fall-back position to a thwarted legislative provision.

The burden of researching, writing, approving, and transmitting this volume of reports to Congress, strains the resources of the intelligence community. If the congressional Committees were to carefully read and study each one, it would also strain the Committee's resources. Unfortunately, these reports frequently become a paper shuffling exercise for both branches, rather than a serious, substantive exchange of information needed for proper oversight and decisions.

We believe that the Committee should be much more judicious in the reports it requires and that it should demand high quality responses to those requests. The growing demand for little read or used mounds of paper does not benefit either branch.

Modifications to provisions of the Intelligence Reform and Terrorism Prevention Act

Several provisions of the bill change elements of the Intelligence Reform and Terrorism Prevention Act (IRTPA) enacted after exhaustive bipartisan discussion and consideration. With no apparent rationale, the Majority has also loosened the agreed upon threshold that is required for the IC to request a reprogramming of funds that were directed by Congress to be used in specific ways. Currently, the IC may request a reprogramming of funds when there is need based on "unforeseen requirements." Under the standard just adopted by the Majority, the IC may request reprogramming based on an emergent need, improved program effectiveness or an increase in efficiency. In effect, this significant change would allow reprogrammings whenever the Executive Branch seeks to do so with only the thinnest of justifications. It is unclear why the Majority would water down our institutional interests by giving up control and oversight of IC spending.

Several provisions are also inconsistent with the bipartisan IRTPA agreement that became law not quite five years ago, and the reason for the changes are not transparent. The DNI requested that Agencies be mandated to allow non-reimbursable detailees to serve at ODNI for an extended period, and the Majority did so without an appropriate review of whether it was truly needed, or what the repercussions may be. Similarly, the bill makes changes to the duties of the program manager for the Information Sharing Environment whose responsibilities were set forth in IRTPA. Without explanation, the Majority decided to open up issues long ago resolved where there is no demonstrated need to do so. Like many of the IRTPA provisions, these provisions were the subject of detailed Committee consideration and in-depth discussions in 2004 and ill-considered changes at the behest of the ODNI whose authorities were so carefully balanced in that bill without full consideration for the implications is ill-advised.

Additional substantive concerns

The bill also contains additional provisions that do not appear to have been well-thought through or vetted, some submitted by the Administration two days before the legislative package was drafted and incorporated verbatim in the bill. While these provisions may appear technical on the surface, they could have significant substantive implications and do not appear to have been studied or justified. It is simply not possible to thoroughly study and contemplate the intent and implications of these provisions in just a couple of days. Rather than spending the time to consider these provisions, the Majority added them to this bill.

Notably, several education and scholarship programs are made permanent without any specific demonstration of their effectiveness and impact from the IC. While these programs may have merit, it does not make sense to permanently authorize certain pilot programs merely because the IC asks for them. The Committee has not received any information indicating how these programs have worked and why they should be made permanent. To blindly enact these programs does a disservice to the Committee's important oversight role.

Section 302 of the bill also permits the DNI to temporarily appoint certain personnel from other IC agencies to fill vacancies of presidentially appointed or Senate confirmed positions. This is another provision that the Committee received from the Administration days before it was included in the bill. ODNI indicated it recently had trouble filling a specialized Senate confirmed position on a temporary basis necessitating this provision. Instead of considering whether the ODNI's issue may be addressed in other ways, the Majority accepted most of the Administration's language on this provision and the implications of greatly expanding the DNI's authority to fill critical positions previously subject to confirmation remain unknown.

Section 413 allows CIA contractors to appeal disputes to the Armed Services contracting appeals board. The provision also appeared in the bill just days after the Administration requested the provision be included in this year's authorization bill. The provision would amend current law to permit a CIA contracting officer to ap-

peal a contracting decision to the Armed Services Board of Contract Appeals or the Civilian Board of Contract Appeals. Until recently, the law provided for appeal to both boards and was only recently amended to permit appeal to the Civilian Board only. We are unaware of any consideration given to the ramifications of expanding this jurisdiction or even if the reasoning behind why the law was recently amended has been reviewed.

The bill contains provisions requested by the DNI that would protect from misuse of the DNI seal. We have no information from the DNI that misuse of the seal is a significant problem they have encountered. This provision was also added to the bill without any consideration of its necessity. Frankly, we find it surprising that a provision like this would receive any attention in a time where the IC is facing much more pressing and serious issues that the Committee needs to address, particularly when the Community has not had an authorization bill in several years.

Section 502 of the bill extends the National Commission for the Review of the Research and Development Programs of the intelligence community. Again, the Committee has not been provided with a rationale for reauthorizing this Commission and the Majority has not articulated any reason to reauthorize a Commission whose previous authorization expired before the Committee ever met.

Section 503 of the bill requires the DNI to conduct a classification review of materials in the possession of the intelligence communities that are at least twenty-five years old and were provided to the Committee by the Executive Branch. This provision appeared in the draft bill in the days before Committee consideration without explanation and fails to recognize that the Executive Branch already conducts classification reviews of such material pursuant to its original classification authorities. We believe that our intelligence professionals could better spend their time on a variety of matters that do not involve doing duplicative classification reviews. Our recommendation on a better method for minimizing the mounds of paper that are put into the Committee's storage would be to stop propounding dozens of new reporting requirements to the IC each time we pass an authorization bill.

Conclusion

In conclusion, we are disappointed that substantial bipartisan agreement on this year's classified Schedule of Authorizations and in the legislative provisions of last year's bill have been put aside, apparently to turn this critical national security bill into a partisan messaging tool and a vehicle in many cases for questionable provisions to advance partisan policy initiatives or rubber stamp the requests of the Administration, ignoring other critical substantive issues. We hope that these concerns can be addressed as the bill moves forward in the legislative process, but must urge our colleagues to oppose it in its current form.

PETER HOEKSTRA.
ELTON GALLEGLY.
MAC THORNBERRY.
MIKE ROGERS.
SUE MYRICK.

ROY BLUNT.
JEFF MILLER.
JOHN KLINE.
K. MICHAEL CONAWAY.

ADDITIONAL VIEWS

During committee consideration of the bill H.R. 2701, I indicated that I had additional questions on portions of the classified annex and was not yet prepared to vote to approve the Schedule of Authorizations. As a result, I requested that I be recorded as voting present on the question of whether to report the bill favorably to the House.

I have subsequently received answers to my questions. Had I known those answers at the time of the mark-up, I would have voted to report the bill favorably.

ALCEE L. HASTINGS,
Vice Chairman.

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