

# Calendar No. 730

110TH CONGRESS  
2D SESSION

# S. 2996

[Report No. 110-333]

To authorize appropriations for fiscal year 2009 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MAY 8, 2008

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

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## A BILL

To authorize appropriations for fiscal year 2009 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

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

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

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

1 (b) TABLE OF CONTENTS.—The table of contents for  
 2 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 level adjustments.  
 Sec. 104. Intelligence Community Management Account.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND  
 DISABILITY SYSTEM

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

TITLE III—GENERAL INTELLIGENCE COMMUNITY MATTERS

Subtitle A—Personnel Matters

- Sec. 301. Increase in employee compensation and benefits authorized by law.  
 Sec. 302. Enhanced flexibility in nonreimbursable details to elements of the intelligence community.  
 Sec. 303. Enhancement of authority of the Director of National Intelligence for flexible personnel management among the elements of the intelligence community.  
 Sec. 304. Delegation of authority for travel on common carriers for intelligence collection personnel.  
 Sec. 305. Annual personnel level assessments for the intelligence community.

Subtitle B—Acquisition Matters

- Sec. 311. Reports on the acquisition of major systems.  
 Sec. 312. Vulnerability assessments of major systems.  
 Sec. 313. Intelligence community business system modernization.  
 Sec. 314. Excessive cost growth of major systems.  
 Sec. 315. Prohibition on conflicts of interest in intelligence community contracting.  
 Sec. 316. Future budget projections.

Subtitle C—Interrogation and Detention Related Matters

- Sec. 321. Limitation on interrogation techniques.  
 Sec. 322. Prohibition on interrogations by contractors.  
 Sec. 323. Notification of the International Committee of the Red Cross.  
 Sec. 324. Report on compliance with the Detainee Treatment Act of 2005 and related provisions of the Military Commissions Act of 2006.

Subtitle D—Reporting Requirements

- Sec. 331. Report on use of contractors by elements of the intelligence community.

- Sec. 332. Improvement of notification of Congress regarding intelligence activities of the United States.
- Sec. 333. Federal Bureau of Investigation intelligence transformation.
- Sec. 334. Incorporation of reporting requirements.
- Sec. 335. Repeal of certain reporting requirements.

#### Subtitle E—Other Matters

- Sec. 341. Restriction on conduct of intelligence activities.
- Sec. 342. Clarification of definition of intelligence community under the National Security Act of 1947.
- Sec. 343. Modification of availability of funds for different intelligence activities.
- Sec. 344. Additional limitation on availability of funds for intelligence and intelligence-related activities.
- Sec. 345. Limitation on reprogrammings and transfers of funds.
- Sec. 346. Availability to public of certain intelligence funding information.
- Sec. 347. Increase in penalties for disclosure of undercover intelligence officers and agents.
- Sec. 348. Authority to designate undercover operations to collect foreign intelligence or counterintelligence.
- Sec. 349. Language and intelligence analyst training program.
- Sec. 350. Extension of authority to delete information about receipt and disposition of foreign gifts and decorations.
- Sec. 351. Extension of National Commission for the Review of the Research and Development Programs of the United States Intelligence Community.
- Sec. 352. Clarifying amendments relating to section 105 of the Intelligence Authorization Act for Fiscal Year 2004.

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

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

- Sec. 401. Accountability reviews by the Director of National Intelligence.
- Sec. 402. Authorities for intelligence information sharing.
- Sec. 403. Modification of limitation on delegation by the Director of National Intelligence of the protection of intelligence sources and methods.
- Sec. 404. Authorities of the Director of National Intelligence for interagency funding.
- Sec. 405. Clarification of limitation on colocation of the Office of the Director of National Intelligence.
- Sec. 406. Title of Chief Information Officer of the Intelligence Community.
- Sec. 407. Inspector General of the Intelligence Community.
- Sec. 408. Chief Financial Officer of the Intelligence Community.
- Sec. 409. Leadership and location of certain offices and officials.
- Sec. 410. National Space Intelligence Office.
- Sec. 411. Operational files in the Office of the Director of National Intelligence.
- Sec. 412. Membership of the Director of National Intelligence on the Transportation Security Oversight Board.
- Sec. 413. Director of National Intelligence report on retirement benefits for former employees of Air America.
- Sec. 414. Repeal of certain authorities relating to the Office of the National Counterintelligence Executive.

- Sec. 415. Applicability of the Privacy Act to the Director of National Intelligence and the Office of the Director of National Intelligence.
- Sec. 416. Inapplicability of Federal Advisory Committee Act to advisory committees of the Office of the Director of National Intelligence.

#### Subtitle B—Central Intelligence Agency

- Sec. 421. Inapplicability to Director of the Central Intelligence Agency of requirement for annual report on progress in auditable financial statements.
- Sec. 422. Additional functions and authorities for protective personnel of the Central Intelligence Agency.
- Sec. 423. Technical amendments relating to titles of certain Central Intelligence Agency positions.

#### Subtitle C—Defense Intelligence Components

- Sec. 431. Enhancement of National Security Agency training program.
- Sec. 432. Codification of authorities of National Security Agency protective personnel.
- Sec. 433. Inspector general matters.
- Sec. 434. Confirmation of appointment of heads of certain components of the intelligence community.
- Sec. 435. Clarification of national security missions of National Geospatial-Intelligence Agency for analysis and dissemination of certain intelligence information.

#### Subtitle D—Other Elements

- Sec. 441. Clarification of inclusion of Coast Guard and Drug Enforcement Administration as elements of the intelligence community.

### TITLE V—FOREIGN INTELLIGENCE AND INFORMATION COMMISSION

- Sec. 501. Short title.
- Sec. 502. Definitions.
- Sec. 503. Findings.
- Sec. 504. Establishment and functions of the Commission.
- Sec. 505. Members and staff of the Commission.
- Sec. 506. Powers and duties of the Commission.
- Sec. 507. Report of the Commission.
- Sec. 508. Termination.
- Sec. 509. Nonapplicability of Federal Advisory Committee Act.
- Sec. 510. Funding.

### TITLE VI—TECHNICAL AMENDMENTS

- Sec. 601. Technical amendment to the Central Intelligence Agency Act of 1949.
- Sec. 602. Technical amendments relating to the multiyear National Intelligence Program.
- Sec. 603. Technical clarification of certain references to Joint Military Intelligence Program and Tactical Intelligence and Related Activities.
- Sec. 604. Technical amendments to the National Security Act of 1947.

Sec. 605. Technical amendments to the Intelligence Reform and Terrorism Prevention Act of 2004.

Sec. 606. Technical amendments to the Executive Schedule.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) CONGRESSIONAL INTELLIGENCE COMMIT-  
4 TEES.—The term “congressional intelligence com-  
5 mittees” means—

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

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

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

14 **TITLE I—BUDGET AND**  
15 **PERSONNEL AUTHORIZATIONS**

16 **SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

17 Funds are hereby authorized to be appropriated for  
18 fiscal year 2009 for the conduct of the intelligence and  
19 intelligence-related activities of the following elements of  
20 the United States Government:

21 (1) The Office of the Director of National Intel-  
22 ligence.

23 (2) The Central Intelligence Agency.

24 (3) The Department of Defense.

1 (4) The Defense Intelligence Agency.

2 (5) The National Security Agency.

3 (6) The Department of the Army, the Depart-  
4 ment of the Navy, and the Department of the Air  
5 Force.

6 (7) The Coast Guard.

7 (8) The Department of State.

8 (9) The Department of the Treasury.

9 (10) The Department of Energy.

10 (11) The Department of Justice.

11 (12) The Federal Bureau of Investigation.

12 (13) The Drug Enforcement Administration.

13 (14) The National Reconnaissance Office.

14 (15) The National Geospatial-Intelligence Agen-  
15 cy.

16 (16) The Department of Homeland Security.

17 **SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.**

18 (a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL  
19 LEVELS.—The amounts authorized to be appropriated  
20 under section 101 and, subject to section 103, the author-  
21 ized personnel levels as of September 30, 2009, for the  
22 conduct of the intelligence activities of the elements listed  
23 in paragraphs (1) through (16) of section 101, are those  
24 specified in the classified Schedule of Authorizations pre-

1 pared to accompany the conference report on the bill  
2 \_\_\_\_\_ of the One Hundred Tenth Congress.

3 (b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AU-  
4 THORIZATIONS.—The classified Schedule of Authoriza-  
5 tions referred to in subsection (a) shall be made available  
6 to the Committee on Appropriations of the Senate, the  
7 Committee on Appropriations of the House of Representa-  
8 tives, and to the President. The President shall provide  
9 for suitable distribution of the Schedule, or of appropriate  
10 portions of the Schedule, within the executive branch.

11 **SEC. 103. PERSONNEL LEVEL ADJUSTMENTS.**

12 (a) AUTHORITY FOR INCREASES.—With the approval  
13 of the Director of the Office of Management and Budget,  
14 the Director of National Intelligence may authorize em-  
15 ployment of civilian personnel in excess of the number au-  
16 thorized for fiscal year 2009 by the classified Schedule of  
17 Authorizations referred to in section 102(a) if the Director  
18 of National Intelligence determines that such action is  
19 necessary to the performance of important intelligence  
20 functions, except that the number of personnel employed  
21 in excess of the number authorized under such section may  
22 not, for any element of the intelligence community, exceed  
23 5 percent of the number of civilian personnel authorized  
24 under such section for such element.

25 (b) TRANSITION TO FULL-TIME EQUIVALENCY.—

1           (1) TREATMENT FOR FISCAL YEAR 2009.—For  
2           fiscal year 2009, the Director of National Intel-  
3           ligence, in consultation with the head of each ele-  
4           ment of the intelligence community, may treat the  
5           personnel ceilings authorized under the classified  
6           Schedule of Authorizations referred to in section  
7           102(a) as full-time equivalents.

8           (2) CONSIDERATION.—In exercising the author-  
9           ity described in paragraph (1), the Director of Na-  
10          tional Intelligence may consider the circumstances  
11          under which civilian employees are employed and ac-  
12          counted for at each element of the intelligence com-  
13          munity in—

14                 (A) a student program, trainee program,  
15                 or similar program;

16                 (B) reserve corps or equivalent status as a  
17                 reemployed annuitant or other employee;

18                 (C) a joint duty rotational assignment; or

19                 (D) other full-time or part-time status.

20          (3) NOTIFICATION TO CONGRESS.—Not later  
21          than 90 days after the date of the enactment of this  
22          Act, the Director of National Intelligence shall notify  
23          the congressional intelligence committees in writing  
24          of—



1 (A) the policies for implementing the au-  
2 thorities described in paragraphs (1) and (2);  
3 and

4 (B) the number of all civilian personnel  
5 employed by, or anticipated to be employed by,  
6 each element of the intelligence community dur-  
7 ing fiscal year 2009 accounted for—

8 (i) by position;

9 (ii) by full-time equivalency; or

10 (iii) by any other method.

11 (4) TREATMENT FOR FISCAL YEAR 2010.—The  
12 Director of National Intelligence shall express the  
13 personnel levels for all civilian employees for each  
14 element of the intelligence community in the con-  
15 gressional budget justifications submitted for fiscal  
16 year 2010 as full-time equivalent positions.

17 (c) AUTHORITY FOR CONVERSION OF ACTIVITIES  
18 PERFORMED BY CONTRACTORS.—

19 (1) IN GENERAL.—In addition to the authority  
20 in subsection (a) and subject to paragraph (2), if the  
21 head of an element of the intelligence community  
22 makes a determination that activities currently being  
23 performed by contractor employees should be per-  
24 formed by employees of such element, the Director  
25 of National Intelligence may authorize for that pur-



1 of September 30, 2009. Personnel serving in such ele-  
2 ments may be permanent employees of the Office of the  
3 Director of National Intelligence or personnel detailed  
4 from other elements of the United States Government.

5 (c) CONSTRUCTION OF AUTHORITIES.—The Director  
6 of National Intelligence may use the authorities described  
7 in subsections (a) and (c) of section 103 for the adjust-  
8 ment of personnel levels within the Intelligence Commu-  
9 nity Management Account.

10 (d) CLASSIFIED AUTHORIZATIONS.—

11 (1) AUTHORIZATION OF APPROPRIATIONS.—In  
12 addition to amounts authorized to be appropriated  
13 for the Intelligence Community Management Ac-  
14 count by subsection (a), there are authorized to be  
15 appropriated for the Community Management Ac-  
16 count for fiscal year 2009 such additional amounts  
17 as are specified in the classified Schedule of Author-  
18 izations referred to in section 102(a). Such addi-  
19 tional amounts for advanced research and develop-  
20 ment shall remain available until September 30,  
21 2010.

22 (2) AUTHORIZATION OF PERSONNEL.—In addi-  
23 tion to the personnel authorized by subsection (b)  
24 for elements of the Intelligence Community Manage-  
25 ment Account as of September 30, 2009, there are

1 authorized such additional personnel for the Com-  
2 munity Management Account as of that date as are  
3 specified in the classified Schedule of Authorizations  
4 referred to in section 102(a).

5 **TITLE II—CENTRAL INTEL-**  
6 **LIGENCE AGENCY RETIRE-**  
7 **MENT AND DISABILITY SYS-**  
8 **TEM**

9 **SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

10 There is authorized to be appropriated for the Cen-  
11 tral Intelligence Agency Retirement and Disability Fund  
12 for fiscal year 2009 the sum of \$279,200,000.

13 **SEC. 202. TECHNICAL MODIFICATION TO MANDATORY RE-**  
14 **TIREMENT PROVISION OF THE CENTRAL IN-**  
15 **TELLIGENCE AGENCY RETIREMENT ACT.**

16 Subparagraph (A) of section 235(b)(1) of the Central  
17 Intelligence Agency Retirement Act (50 U.S.C.  
18 2055(b)(1)) is amended by striking “receiving compensa-  
19 tion under the Senior Intelligence Service pay schedule at  
20 the rate” and inserting “who is at the Senior Intelligence  
21 Service rank”.

1 **TITLE III—GENERAL INTEL-**  
2 **LIGENCE COMMUNITY MAT-**  
3 **TERS**

4 **Subtitle A—Personnel Matters**

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

7 Appropriations authorized by this Act for salary, pay,  
8 retirement, and other benefits for employees of an agency  
9 or department of the United States may be increased by  
10 such additional or supplemental amounts as may be nec-  
11 essary for increases in such compensation or benefits au-  
12 thorized by law.

13 **SEC. 302. ENHANCED FLEXIBILITY IN NONREIMBURSABLE**  
14 **DETAILS TO ELEMENTS OF THE INTEL-**  
15 **LIGENCE COMMUNITY.**

16 Except as provided in section 113 of the National Se-  
17 curity Act of 1947 (50 U.S.C. 404h) and section  
18 904(g)(2) of the Counterintelligence Enhancement Act of  
19 2002 (title IX of Public Law 107–306; 50 U.S.C.  
20 402c(g)(2)) and notwithstanding any other provision of  
21 law, in any fiscal year after fiscal year 2008 an officer  
22 or employee of the United States or member of the Armed  
23 Forces may be detailed to the staff of an element of the  
24 intelligence community funded through the Community  
25 Management Account from another element of the United

1 States Government on a reimbursable or nonreimbursable  
 2 basis, as jointly agreed to by the Director of National In-  
 3 telligence and the head of the detailing element for a pe-  
 4 riod not to exceed 3 years.

5 **SEC. 303. ENHANCEMENT OF AUTHORITY OF THE DIREC-**  
 6 **TOR OF NATIONAL INTELLIGENCE FOR**  
 7 **FLEXIBLE PERSONNEL MANAGEMENT**  
 8 **AMONG THE ELEMENTS OF THE INTEL-**  
 9 **LIGENCE COMMUNITY.**

10 Section 102A of the National Security Act of 1947  
 11 (50 U.S.C. 403–1) is amended by adding at the end the  
 12 following new subsections:

13 “(s) **AUTHORITY TO ESTABLISH POSITIONS IN EX-**  
 14 **CEPTED SERVICE.**—(1) The Director of National Intel-  
 15 ligence may, with the concurrence of the head of the de-  
 16 partment or agency concerned and in coordination with  
 17 the Director of the Office of Personnel Management—

18 “(A) convert competitive service positions, and  
 19 the incumbents of such positions, within an element  
 20 of the intelligence community to excepted service po-  
 21 sitions as the Director of National Intelligence deter-  
 22 mines necessary to carry out the intelligence func-  
 23 tions of such element; and

24 “(B) establish the classification and ranges of  
 25 rates of basic pay for positions so converted, not-

1       withstanding otherwise applicable laws governing the  
2       classification and rates of basic pay for such posi-  
3       tions.

4       “(2)(A) At the request of the Director of National  
5       Intelligence, the head of a department or agency may es-  
6       tablish new positions in the excepted service within an ele-  
7       ment of such department or agency that is part of the  
8       intelligence community if the Director determines that  
9       such positions are necessary to carry out the intelligence  
10      functions of such element.

11      “(B) The Director of National Intelligence may es-  
12      tablish the classification and ranges of rates of basic pay  
13      for any position established under subparagraph (A), not-  
14      withstanding otherwise applicable laws governing the clas-  
15      sification and rates of basic pay for such positions.

16      “(3) The head of the department or agency concerned  
17      is authorized to appoint individuals for service in positions  
18      converted under paragraph (1) or established under para-  
19      graph (2) without regard to the provisions of chapter 33  
20      of title 5, United States Code, governing appointments in  
21      the competitive service, and to fix the compensation of  
22      such individuals within the applicable ranges of rates of  
23      basic pay established by the Director of National Intel-  
24      ligence.

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

5       “(t) PAY AUTHORITY FOR CRITICAL POSITIONS.—(1)  
6 Notwithstanding any pay limitation established under any  
7 other provision of law applicable to employees in elements  
8 of the intelligence community, the Director of National In-  
9 telligence may, in consultation with the Director of the  
10 Office of Personnel Management and the Director of the  
11 Office of Management and Budget, grant authority to fix  
12 the rate of basic pay for 1 or more positions within the  
13 intelligence community at a rate in excess of any applica-  
14 ble limitation, subject to the provisions of this subsection.  
15 The exercise of authority so granted is at the discretion  
16 of the head of the department or agency employing the  
17 individual in a position covered by such authority, subject  
18 to the provisions of this subsection and any conditions es-  
19 tablished by the Director of National Intelligence when  
20 granting such authority.

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

23               “(A) with respect to a position which requires  
24               an extremely high level of expertise and is critical to



1       successful accomplishment of an important mission;  
2       and

3               “(B) to the extent necessary to recruit or retain  
4       an individual exceptionally well qualified for the po-  
5       sition.

6       “(3) A rate of basic pay may not be fixed under this  
7       subsection at a rate greater than the rate payable for level  
8       II of the Executive Schedule under section 5313 of title  
9       5, United States Code, except upon written approval of  
10      the Director of National Intelligence or as otherwise au-  
11      thorized by law.

12      “(4) A rate of basic pay may not be fixed under this  
13      subsection at a rate greater than the rate payable for level  
14      I of the Executive Schedule under section 5312 of title  
15      5, United States Code, except upon written approval of  
16      the President in response to a request by the Director of  
17      National Intelligence or as otherwise authorized by law.

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

21      “(u) EXTENSION OF FLEXIBLE PERSONNEL MAN-  
22      AGEMENT AUTHORITIES.—(1) Notwithstanding any other  
23      provision of law, in order to ensure the equitable treat-  
24      ment of employees across the intelligence community, the  
25      Director of National Intelligence may, with the concur-

1 rence of the head of the department or agency concerned,  
2 or for those matters that fall under the responsibilities of  
3 the Office of Personnel Management under statute or ex-  
4 ecutive order, in coordination with the Director of the Of-  
5 fice of Personnel Management, authorize 1 or more ele-  
6 ments of the intelligence community to adopt compensa-  
7 tion authority, performance management authority, and  
8 scholarship authority that have been authorized for an-  
9 other element of the intelligence community if the Director  
10 of National Intelligence—

11           “(A) determines that the adoption of such au-  
12           thority would improve the management and perform-  
13           ance of the intelligence community; and

14           “(B) submits to the congressional intelligence  
15           committees, not later than 60 days before such au-  
16           thority is to take effect, notice of the adoption of  
17           such authority by such element or elements, includ-  
18           ing the authority to be so adopted, and an estimate  
19           of the costs associated with the adoption of such au-  
20           thority.

21           “(2) To the extent that an existing compensation au-  
22           thority within the intelligence community is limited to a  
23           particular category of employees or a particular situation,  
24           the authority may be adopted in another element of the  
25           intelligence community under this subsection only for em-

1 ployees in an equivalent category or in an equivalent situa-  
2 tion.

3 “(3) In this subsection, the term ‘compensation au-  
4 thority’ means authority involving basic pay (including po-  
5 sition classification), premium pay, awards, bonuses, in-  
6 centives, allowances, differentials, student loan repay-  
7 ments, and special payments, but does not include authori-  
8 ties as follows:

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

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

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

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

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

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

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

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

9           “(2) The head of an element of the intelligence com-  
10          munity to whom the authority in subsection (a) is dele-  
11          gated pursuant to paragraph (1) may further delegate  
12          such authority to senior officials of such element as are  
13          specified in guidelines prescribed by the Director of Na-  
14          tional Intelligence for purposes of this paragraph.”.

15          (b) SUBMISSION OF GUIDELINES TO CONGRESS.—  
16          Not later than 6 months after the date of the enactment  
17          of this Act, the Director of National Intelligence shall pre-  
18          scribe and submit to the congressional intelligence com-  
19          mittees the guidelines referred to in paragraph (2) of sec-  
20          tion 116(b) of the National Security Act of 1947, as added  
21          by subsection (a).

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

3 (a) IN GENERAL.—Title V of the National Security  
4 Act of 1947 (50 U.S.C. 413 et seq.) is amended by insert-  
5 ing after section 506A the following new section:

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

8 “(a) REQUIREMENT TO PROVIDE.—The Director of  
9 National Intelligence shall, in consultation with the head  
10 of the element of the intelligence community concerned,  
11 prepare an annual personnel level assessment for such ele-  
12 ment of the intelligence community that assesses the per-  
13 sonnel levels for each such element for the fiscal year fol-  
14 lowing the fiscal year in which the assessment is sub-  
15 mitted.

16 “(b) SCHEDULE.—Each assessment required by sub-  
17 section (a) shall be submitted to the congressional intel-  
18 ligence committees each year along with the budget sub-  
19 mitted by the President under section 1105 of title 31,  
20 United States Code.

21 “(c) CONTENTS.—Each assessment required by sub-  
22 section (a) submitted during a fiscal year shall contain,  
23 at a minimum, the following information for the element  
24 of the intelligence community concerned:

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

1           “(2) The dollar and percentage increase or de-  
2           crease of such costs as compared to the personnel  
3           costs of the current fiscal year.

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

7           “(4) The number of personnel positions re-  
8           quested for the upcoming fiscal year.

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

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

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

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

22          “(9) A written justification for the requested  
23          personnel and contractor levels.

1           “(10) The number of intelligence collectors and  
2 analysts employed or contracted by each element of  
3 the intelligence community.

4           “(11) A list of all contractors that have been  
5 the subject of an investigation completed by the In-  
6 spector General of any element of the intelligence  
7 community during the preceding fiscal year, or are  
8 or have been the subject of an investigation by such  
9 an Inspector General during the current fiscal year.

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

13                   “(A) internal infrastructure to support the  
14 requested personnel and contractor levels;

15                   “(B) training resources to support the re-  
16 quested personnel levels; and

17                   “(C) funding to support the administrative  
18 and operational activities of the requested per-  
19 sonnel levels.”.

20           (b) CLERICAL AMENDMENT.—The table of contents  
21 in the first section of that Act is amended by inserting  
22 after the item relating to section 506A the following new  
23 item:

“Sec. 506B. Annual personnel levels assessment for the intelligence commu-  
nity.”.





1           “(V) the result of any significant test  
2           and evaluation of such system as of the  
3           date of the submittal of the report, or, if  
4           a significant test and evaluation has not  
5           been conducted, a statement of the reasons  
6           therefor and the results of any other test  
7           and evaluation that has been conducted of  
8           such system;

9           “(VI) the reasons for any change in  
10          acquisition cost, or schedule, for such sys-  
11          tem from the previous report under this  
12          clause, if applicable;

13          “(VII) each major contract related to  
14          such system; and

15          “(VIII) if there is any cost or sched-  
16          ule variance under a contract referred to in  
17          subclause (VII) since the previous report  
18          under this clause, the reasons for such cost  
19          or schedule variance.”.

20          (b) DETERMINATION OF INCREASE IN COSTS.—Sub-  
21          section (q) of section 102A of the National Security Act  
22          of 1947 (50 U.S.C. 403–1) is amended—

23                  (1) by redesignating paragraphs (3) and (4) as  
24          paragraph (4) and (5), respectively; and

1           (2) by inserting after paragraph (2) the fol-  
2           lowing:

3           “(3) Any determination of a percentage increase in  
4 the acquisition costs of a major system for which a report  
5 is filed under paragraph (1)(C)(ii) shall be stated in terms  
6 of constant dollars from the first fiscal year in which funds  
7 are appropriated for such system.”.

8           (c) DEFINITIONS.—Paragraph (5) of such subsection  
9 (q), as redesignated by subsection (b)(1) of this section,  
10 is amended to read as follows:

11           “(5) In this subsection:

12                   “(A) The term ‘acquisition cost’, with respect to  
13 a major system, means the amount equal to the total  
14 cost for development and procurement of, and sys-  
15 tem-specific construction for, such system.

16                   “(B) The term ‘full life-cycle cost’, with respect  
17 to the acquisition of a major system, means all costs  
18 of development, procurement, construction, deploy-  
19 ment, and operation and support for such program,  
20 without regard to funding source or management  
21 control, including costs of development and procure-  
22 ment required to support or utilize such system.

23                   “(C) The term ‘intelligence program’, with re-  
24 spect to the acquisition of a major system, means a  
25 program that—

1           “(i) is carried out to acquire such major  
2           system for an element of the intelligence com-  
3           munity; and

4           “(ii) is funded in whole out of amounts  
5           available for the National Intelligence Program.

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

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

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

19 **SEC. 312. VULNERABILITY ASSESSMENTS OF MAJOR SYS-**  
20 **TEMS.**

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

1 “VULNERABILITY ASSESSMENTS OF MAJOR SYSTEMS

2 “SEC. 506C. (a) INITIAL VULNERABILITY ASSESS-  
3 MENTS.—The Director of National Intelligence shall con-  
4 duct an initial vulnerability assessment for any major sys-  
5 tem and its significant items of supply that is proposed  
6 for inclusion in the National Intelligence Program prior  
7 to completion of Milestone B or an equivalent acquisition  
8 decision. The initial vulnerability assessment of a major  
9 system and its significant items of supply shall, at a min-  
10 imum, use an analysis-based approach to—

11 “(1) identify vulnerabilities;

12 “(2) define exploitation potential;

13 “(3) examine the system’s potential effective-  
14 ness;

15 “(4) determine overall vulnerability; and

16 “(5) make recommendations for risk reduction.

17 “(b) SUBSEQUENT VULNERABILITY ASSESS-  
18 MENTS.—(1) The Director of National Intelligence shall  
19 conduct subsequent vulnerability assessments of each  
20 major system and its significant items of supply within  
21 the National Intelligence Program—

22 “(A) periodically throughout the life span of the  
23 major system;

1           “(B) whenever the Director determines that a  
2           change in circumstances warrants the issuance of a  
3           subsequent vulnerability assessment; or

4           “(C) upon the request of a congressional intel-  
5           ligence committee.

6           “(2) Any subsequent vulnerability assessment of a  
7           major system and its significant items of supply shall, at  
8           a minimum, use an analysis-based approach and, if appli-  
9           cable, a testing-based approach, to monitor the exploi-  
10          tation potential of such system and reexamine the factors  
11          described in paragraphs (1) through (5) of subsection (a).

12          “(c) MAJOR SYSTEM MANAGEMENT.—The Director  
13          of National Intelligence shall give due consideration to the  
14          vulnerability assessments prepared for a given major sys-  
15          tem when developing and determining the annual consoli-  
16          dated National Intelligence Program budget.

17          “(d) CONGRESSIONAL OVERSIGHT.—(1) The Direc-  
18          tor of National Intelligence shall provide to the congres-  
19          sional intelligence committees a copy of each vulnerability  
20          assessment conducted under subsection (a) not later than  
21          10 days after the date of the completion of such assess-  
22          ment.

23          “(2) The Director of National Intelligence shall pro-  
24          vide the congressional intelligence committees with a pro-  
25          posed schedule for subsequent vulnerability assessments of

1 a major system under subsection (b) when providing such  
2 committees with the initial vulnerability assessment under  
3 subsection (a) of such system as required by subsection  
4 (d).

5 “(3) The results of vulnerability assessments con-  
6 ducted under subsection (b) shall be included in the report  
7 to Congress required by section 102A(q).

8 “(e) DEFINITIONS.—In this section:

9 “(1) The term ‘items of supply’—

10 “(A) means any individual part, compo-  
11 nent, subassembly, assembly, or subsystem inte-  
12 gral to a major system, and other property  
13 which may be replaced during the service life of  
14 the major system, including spare parts and re-  
15 plenishment parts; and

16 “(B) does not include packaging or label-  
17 ing associated with shipment or identification of  
18 items.

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

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

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

5           (b) CLERICAL AMENDMENT.—The table of contents  
6           in the first section of the National Security Act of 1947,  
7           as amended by section 305 of this Act, is further amended  
8           by inserting after the item relating to section 506B, as  
9           added by section 305(b), the following:

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

10   **SEC. 313. INTELLIGENCE COMMUNITY BUSINESS SYSTEM**  
11                                   **MODERNIZATION.**

12           (a) INTELLIGENCE COMMUNITY BUSINESS SYSTEM  
13   MODERNIZATION.—

14           (1) IN GENERAL.—Title V of the National Se-  
15           curity Act of 1947 (50 U.S.C. 413 et seq.), as  
16           amended by sections 305 and 312 of this Act, is fur-  
17           ther amended by inserting after section 506C, as  
18           added by section 312(a), the following new section:

19           “INTELLIGENCE COMMUNITY BUSINESS SYSTEMS  
20                                   MODERNIZATION

21           “SEC. 506D. (a) LIMITATION ON OBLIGATION OF  
22   FUNDS.—(1) After April 1, 2009, no funds appropriated  
23   to any element of the intelligence community may be obli-  
24   gated for an intelligence community financial management  
25   or human resources business system modernization de-

1 scribed in paragraph (2), and after April 1, 2010, no  
2 funds appropriated to any element of the intelligence com-  
3 munity may be obligated for any business system mod-  
4 ernization described in paragraph (2) unless—

5           “(A) the approval authority designated by the  
6 Director of National Intelligence under subsection  
7 (c)(2) makes the certification described in paragraph  
8 (3) with respect to the intelligence community busi-  
9 ness system modernization; and

10           “(B) the certification is approved by the appro-  
11 priate authorities within the intelligence community  
12 Strategic Enterprise Management governance struc-  
13 ture identified in subsection (f).

14           “(2) An intelligence community business system mod-  
15 ernization described in this paragraph is an intelligence  
16 community business system modernization that—

17           “(A) will have a total cost in excess of  
18 \$1,000,000; and

19           “(B) will receive more than 50 percent of the  
20 funds for such cost from amounts appropriated for  
21 the National Intelligence Program.

22           “(3) The certification described in this paragraph for  
23 an intelligence community business system modernization  
24 is a certification, made by the approval authority des-



1 ignited by the Director under subsection (c)(2) that the  
2 intelligence community business system modernization—

3 “(A) complies with the enterprise architecture  
4 under subsection (b); or

5 “(B) is necessary—

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

9 “(ii) to prevent a significant adverse effect  
10 on a project that is needed to achieve an essen-  
11 tial capability, taking into consideration the al-  
12 ternative solutions for preventing such adverse  
13 effect.

14 “(4) The obligation of funds for an intelligence com-  
15 munity business system modernization that does not com-  
16 ply with the requirements of this subsection shall be treat-  
17 ed as a violation of section 1341(a)(1)(A) of title 31,  
18 United States Code.

19 “(b) ENTERPRISE ARCHITECTURE FOR INTEL-  
20 LIGENCE COMMUNITY BUSINESS SYSTEMS.—(1) The Di-  
21 rector of National Intelligence shall, acting through the  
22 appropriate authorities within the intelligence community  
23 Strategic Enterprise Management governance structure  
24 identified in subsection (f), develop and implement an en-  
25 terprise architecture to cover all intelligence community

1 business systems, and the functions and activities sup-  
2 ported by such business systems. The enterprise architec-  
3 ture shall be sufficiently defined to effectively guide, con-  
4 strain, and permit implementation of interoperable intel-  
5 ligence community business system solutions, consistent  
6 with applicable policies and procedures established by the  
7 Director of the Office of Management and Budget.

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

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

13                   “(i) comply with all Federal accounting, fi-  
14 nancial management, and reporting require-  
15 ments;

16                   “(ii) routinely produce timely, accurate,  
17 and reliable financial information for manage-  
18 ment purposes;

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

21                   “(iv) provide for the systematic measure-  
22 ment of performance, including the ability to  
23 produce timely, relevant, and reliable cost infor-  
24 mation.

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

4           “(c) RESPONSIBILITIES FOR INTELLIGENCE COMMU-  
5           NITY BUSINESS SYSTEM MODERNIZATION.—(1) The Di-  
6           rector of National Intelligence shall be responsible for re-  
7           view, approval, and oversight of the planning, design, ac-  
8           quisition, deployment, operation, and maintenance of an  
9           intelligence community business system modernization if  
10          more than 50 percent of the cost of the intelligence com-  
11          munity business system modernization is funded by  
12          amounts appropriated for the National Intelligence Pro-  
13          gram.

14          “(2) The Director shall designate 1 or more appro-  
15          priate officials of the intelligence community to be respon-  
16          sible for making certifications with respect to intelligence  
17          community business system modernizations under sub-  
18          section (a)(3).

19          “(d) INTELLIGENCE COMMUNITY BUSINESS SYSTEM  
20          INVESTMENT REVIEW.—(1) The approval authority des-  
21          ignated under subsection (c)(2) shall establish and imple-  
22          ment, not later than March 31, 2009, an investment re-  
23          view process for the review of the planning, design, acqui-  
24          sition, development, deployment, operation, maintenance,  
25          modernization, project cost, benefits, and risks of the in-

1 telligence community business systems for which the ap-  
2 proval authority is responsible.

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

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

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

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

11 “(A) Review and approval by an investment re-  
12 view board (consisting of appropriate representatives  
13 of the intelligence community) of each intelligence  
14 community business system as an investment before  
15 the obligation of funds for such system.

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

19 “(C) Thresholds for levels of review to ensure  
20 appropriate review of intelligence community busi-  
21 ness system investments depending on the scope,  
22 complexity, and cost of the system involved.

23 “(D) Procedures for making certifications in  
24 accordance with the requirements of subsection  
25 (a)(3).

1           “(E) Mechanisms to ensure the consistency of  
2           the investment review process with applicable guid-  
3           ance issued by the Director of National Intelligence  
4           and the appropriate authorities within the intel-  
5           ligence community Strategic Enterprise Management  
6           governance structure identified in subsection (f).

7           “(F) Common decision criteria, including stand-  
8           ards, requirements, and priorities, for purposes of  
9           ensuring the integration of intelligence community  
10          business systems.

11          “(e) BUDGET INFORMATION.—For each fiscal year  
12        after fiscal year 2009, the Director of National Intel-  
13        ligence shall include in the materials the Director submits  
14        to Congress in support of the budget for such fiscal year  
15        that is submitted to Congress under section 1105 of title  
16        31, United States Code, the following information:

17               “(1) An identification of each intelligence com-  
18               munity business system for which funding is pro-  
19               posed in such budget.

20               “(2) An identification of all funds, by appro-  
21               priation, proposed in such budget for each such sys-  
22               tem, including—

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

1           “(B) funds for business systems mod-  
2           ernization identified for each specific appropria-  
3           tion.

4           “(3) For each such system, identification of ap-  
5           proval authority designated for such system under  
6           subsection (c)(2).

7           “(4) The certification, if any, made under sub-  
8           section (a)(3) with respect to each such system.

9           “(f) INTELLIGENCE COMMUNITY STRATEGIC ENTER-  
10          PRISE MANAGEMENT GOVERNANCE BOARD.—

11           “(1) The Director of National Intelligence shall  
12           establish a board within the intelligence community  
13           Strategic Enterprise Management governance struc-  
14           ture (in this subsection referred to as the ‘Board’).

15           “(2) The Board shall—

16           “(A) recommend to the Director policies and  
17           procedures necessary to effectively integrate all busi-  
18           ness activities and any transformation, reform, reor-  
19           ganization, or process improvement initiatives under-  
20           taken within the intelligence community;

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

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

24           “(ii) any plans for an intelligence commu-  
25           nity business systems modernization;

1           “(C) manage cross-domain integration con-  
2           sistent with such enterprise architecture;

3           “(D) be responsible for coordinating initiatives  
4           for intelligence community business system mod-  
5           ernization to maximize benefits and minimize costs  
6           for the intelligence community, and periodically re-  
7           port to the Director on the status of efforts to carry  
8           out an intelligence community business system mod-  
9           ernization;

10          “(E) ensure that funds are obligated for intel-  
11          ligence community business system modernization in  
12          a manner consistent with subsection (a); and

13          “(F) carry out such other duties as the Direc-  
14          tor shall specify.

15          “(g) RELATION TO ANNUAL REGISTRATION RE-  
16          QUIREMENTS.—Nothing in this section shall be construed  
17          to alter the requirements of section 8083 of the Depart-  
18          ment of Defense Appropriations Act, 2005 (Public Law  
19          108–287; 118 Stat. 989), with regard to information tech-  
20          nology systems (as defined in subsection (d) of such sec-  
21          tion).

22          “(h) RELATION TO DEFENSE BUSINESS SYSTEMS  
23          ARCHITECTURE, ACCOUNTABILITY, AND MODERNIZATION  
24          REQUIREMENTS.—An intelligence community business  
25          system that receives more than 50 percent of its funds

1 from amounts available for the National Intelligence Pro-  
2 gram shall be exempt from the requirements of section  
3 2222 of title 10, United States Code.

4 “(i) RELATION TO CLINGER-COHEN ACT.—(1) The  
5 Director of National Intelligence and the Chief Informa-  
6 tion Officer of the Intelligence Community shall fulfill the  
7 executive agency responsibilities in chapter 113 of title 40,  
8 United States Code, for any intelligence community busi-  
9 ness system that receives more than 50 percent of its  
10 funding from amounts appropriated for the National In-  
11 telligence Program.

12 “(2) Any intelligence community business system cov-  
13 ered by paragraph (1) shall be exempt from the require-  
14 ments of such chapter 113 that would otherwise apply to  
15 the executive agency that contains the element of the intel-  
16 ligence community involved.

17 “(j) REPORTS.—Not later than March 15 of each of  
18 the years 2010 through 2014, the Director of National  
19 Intelligence shall submit to the congressional intelligence  
20 committees a report on the compliance of the intelligence  
21 community with the requirements of this section. Each  
22 such report shall—

23 “(1) describe actions taken and proposed for  
24 meeting the requirements of subsection (a), includ-  
25 ing—



1           “(A) specific milestones and actual per-  
2           formance against specified performance meas-  
3           ures, and any revision of such milestones and  
4           performance measures; and

5           “(B) specific actions on the intelligence  
6           community business system modernizations sub-  
7           mitted for certification under such subsection;

8           “(2) identify the number of intelligence commu-  
9           nity business system modernizations that received a  
10          certification described in subsection (a)(3)(B); and

11          “(3) describe specific improvements in business  
12          operations and cost savings resulting from successful  
13          intelligence community business systems moderniza-  
14          tion efforts.

15          “(k) DEFINITIONS.—In this section:

16                 “(1) The term ‘enterprise architecture’ has the  
17                 meaning given that term in section 3601(4) of title  
18                 44, United States Code.

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

23                 “(3) The term ‘intelligence community business  
24                 system’ means an information system, other than a  
25                 national security system, that is operated by, for, or

1 on behalf of the intelligence community, including fi-  
2 nancial systems, mixed systems, financial data feed-  
3 er systems, and the business infrastructure capabili-  
4 ties shared by the systems of the business enterprise  
5 architecture that build upon the core infrastructure  
6 used to support business activities, such as acquisi-  
7 tion, financial management, logistics, strategic plan-  
8 ning and budgeting, installations and environment,  
9 and human resource management.

10 “(4) The term ‘intelligence community business  
11 system modernization’ means—

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

14 “(B) any significant modification or en-  
15 hancement of an existing intelligence commu-  
16 nity business system (other than necessary to  
17 maintain current services).

18 “(5) The term ‘national security system’ has  
19 the meaning given that term in section 3542 of title  
20 44, United States Code.”.

21 (2) CLERICAL AMENDMENT.—The table of con-  
22 tents in the first section of that Act, as amended by  
23 sections 305 and 312 of this Act, is further amended  
24 by inserting after the item relating to section 506C,  
25 as added by section 312(b), the following new item:

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

1 (b) IMPLEMENTATION.—

2 (1) CERTAIN DUTIES.—Not later than 60 days  
3 after the date of the enactment of this Act, the Di-  
4 rector of National Intelligence shall—

5 (A) complete the delegation of responsi-  
6 bility for the review, approval, and oversight of  
7 the planning, design, acquisition, deployment,  
8 operation, maintenance, and modernization of  
9 intelligence community business systems re-  
10 quired by subsection (c) of section 506D of the  
11 National Security Act of 1947 (as added by  
12 subsection (a)); and

13 (B) designate a vice chairman and per-  
14 sonnel to serve on the appropriate Intelligence  
15 Community Strategic Enterprise Management  
16 Governance Board established under subsection  
17 (f) of such section 506D (as so added).

18 (2) ENTERPRISE ARCHITECTURE.—

19 (A) SCHEDULE FOR DEVELOPMENT.—The  
20 Director shall develop the enterprise architec-  
21 ture required by subsection (b) of such section  
22 506D (as so added) by not later than—

23 (i) March 1, 2009 for all intelligence  
24 community financial management and  
25 human resource systems; and

1 (ii) March 1, 2010 for all remaining  
2 intelligence community business systems.

3 (B) REQUIREMENT FOR IMPLEMENTATION  
4 PLAN.—In developing such enterprise architec-  
5 ture, the Director shall develop an implementa-  
6 tion plan for such enterprise architecture that  
7 includes the following:

8 (i) An acquisition strategy for new  
9 systems that are expected to be needed to  
10 complete such enterprise architecture, in-  
11 cluding specific time-phased milestones,  
12 performance metrics, and a statement of  
13 the financial and nonfinancial resource  
14 needs.

15 (ii) An identification of the intel-  
16 ligence community business systems in op-  
17 eration or planned as of December 31,  
18 2007, that will not be a part of such enter-  
19 prise architecture, together with the sched-  
20 ule for the phased termination of the utili-  
21 zation of any such systems.

22 (iii) An identification of the intel-  
23 ligence community business systems in op-  
24 eration or planned as of December 31,  
25 2007, that will be a part of such enterprise

1 architecture, together with a strategy for  
2 modifying such systems to ensure that  
3 such systems comply with such enterprise  
4 architecture.

5 (C) SUBMISSION OF ACQUISITION STRAT-  
6 EGY.—The Director shall submit the acquisition  
7 strategy described in subparagraph (B)(i) to  
8 the congressional intelligence committees not  
9 later than—

10 (i) March 1, 2009 for all intelligence  
11 community financial management and  
12 human resource systems; and

13 (ii) March 1, 2010 for all remaining  
14 intelligence community business systems.

15 **SEC. 314. EXCESSIVE COST GROWTH OF MAJOR SYSTEMS.**

16 (a) NOTIFICATION.—Title V of the National Security  
17 Act of 1947, as amended by sections 305, 312, and 313  
18 of this Act, is further amended by inserting after section  
19 506D, as added by section 313(a), the following new sec-  
20 tion:

21 “EXCESSIVE COST GROWTH OF MAJOR SYSTEMS

22 “SEC. 506E. (a) COST INCREASES OF AT LEAST 25  
23 PERCENT.—(1)(A) On a continuing basis, and separate  
24 from the submission of any report on a major system re-  
25 quired by section 506E of this Act, the program manager  
26 shall determine if the acquisition cost of such major sys-

1 tem has increased by at least 25 percent as compared to  
2 the baseline cost of such major system.

3 “(B) Not later than 10 days after the date that a  
4 program manager determines that an increase described  
5 in subparagraph (A) has occurred, the program manager  
6 shall submit to the Director of National Intelligence notifi-  
7 cation of such increase.

8 “(2)(A) If, after receiving a notification described in  
9 paragraph (1)(B), the Director of National Intelligence  
10 determines that the acquisition cost of a major system has  
11 increased by at least 25 percent, the Director shall submit  
12 to the congressional intelligence committees a written noti-  
13 fication of such determination as described in subpara-  
14 graph (B), a description of the amount of the increase in  
15 the acquisition cost of such major system, and a certifi-  
16 cation as described in subparagraph (C).

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

19 “(i) an updated cost estimate;

20 “(ii) the date on which the determination cov-  
21 ered by such notification was made;

22 “(iii) contract performance assessment informa-  
23 tion with respect to each significant contract or sub-  
24 contract related to such major system, including the  
25 name of the contractor, the phase of the contract at

1 the time of the report, the percentage of work under  
2 the contract that has been completed, any change in  
3 contract cost, the percentage by which the contract  
4 is currently ahead or behind schedule, and a sum-  
5 mary explanation of significant occurrences, such as  
6 cost and schedule variances, and the effect of such  
7 occurrences on future costs and schedules;

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

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

14 “(vi) a statement of the reasons for any in-  
15 creases in the full life-cycle cost of such major sys-  
16 tem;

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

21 “(viii) the completion status of such major sys-  
22 tem expressed as the percentage—

23 “(I) of the total number of years for which  
24 funds have been appropriated for such major  
25 system compared to the number of years for

1           which it is planned that such funds will be ap-  
2           propriated; and

3           “(II) of the amount of funds that have  
4           been appropriated for such major system com-  
5           pared to the total amount of such funds which  
6           it is planned will be appropriated;

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

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

14          “(C) The certification described in this subparagraph  
15          is a written certification made by the Director and sub-  
16          mitted to the congressional intelligence committees that—

17               “(i) the acquisition of such major system is es-  
18               sential to the national security;

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

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



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

4           “(b) COST INCREASES OF AT LEAST 50 PERCENT.—

5           (1)(A) On a continuing basis, and separate from the sub-  
6           mission of any report on a major system required by sec-  
7           tion 506E of this Act, the program manager shall deter-  
8           mine if the acquisition cost of such major system has in-  
9           creased by at least 50 percent as compared to the baseline  
10          cost of such major system.

11          “(B) Not later than 10 days after the date that a  
12          program manager determines that an increase described  
13          in subparagraph (A) has occurred, the program manager  
14          shall submit to the Director of National Intelligence notifi-  
15          cation of such increase.

16          “(2) If, after receiving a notification described in  
17          paragraph (1)(B), the Director of National Intelligence  
18          determines that the acquisition cost of a major system has  
19          increased by at least 50 percent as compared to the base-  
20          line cost of such major system, the Director shall submit  
21          to the congressional intelligence committees a written cer-  
22          tification stating that—

23                  “(A) the acquisition of such major system is es-  
24                  sential to the national security;

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

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

6           “(D) the management structure for the acquisi-  
7 tion of such major system is adequate to manage  
8 and control the full life-cycle cost of such major sys-  
9 tem; and

10           “(E) if milestone decision authority had been  
11 delegated to the program manager, such authority is  
12 revoked and returned to the Director, except with  
13 respect to Department of Defense programs, such  
14 authority is revoked and returned to the Director  
15 and the Secretary of Defense, jointly.

16           “(3) In addition to the certification required by para-  
17 graph (2), the Director of National Intelligence shall sub-  
18 mit to the congressional intelligence committees an up-  
19 dated notification, with current accompanying informa-  
20 tion, as required by subsection (a)(2).

21           “(c) PROHIBITION ON OBLIGATION OF FUNDS.—(1)  
22 If a written certification required under subsection  
23 (a)(2)(A) is not submitted to the congressional intelligence  
24 committees within 60 days of the determination made  
25 under subsection (a)(1), funds appropriated for the acqui-

1 sition of a major system may not be obligated for a major  
2 contract under the program. Such prohibition on the obli-  
3 gation of funds shall cease to apply at the end of the 30-  
4 day period of a continuous session of Congress that begins  
5 on the date on which Congress receives the notification  
6 required under subsection (a)(2)(A).

7       “(2) If a written certification required under sub-  
8 section (b)(2) is not submitted to the congressional intel-  
9 ligence committees within 60 days of the determination  
10 made under subsection (b)(2), funds appropriated for the  
11 acquisition of a major system may not be obligated for  
12 a major contract under the program. Such prohibition on  
13 the obligation of funds for the acquisition of a major sys-  
14 tem shall cease to apply at the end of the 30-day period  
15 of a continuous session of Congress that begins on the  
16 date on which Congress receives the notification required  
17 under subsection (b)(3).

18       “(d) DEFINITIONS.—In this section:

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

23               “(2) The term ‘baseline cost’, with respect to a  
24 major system, means the projected acquisition cost  
25 of such system that is approved by the Director of

1 National Intelligence at Milestone B or an equivalent  
2 acquisition decision for the development, procure-  
3 ment, and construction of such system. The baseline  
4 cost may be in the form of an independent cost esti-  
5 mate.

6 “(3) The term ‘full life-cycle cost’, with respect  
7 to the acquisition of a major system, means all costs  
8 of development, procurement, construction, deploy-  
9 ment, and operation and support for such program,  
10 without regard to funding source or management  
11 control, including costs of development and procure-  
12 ment required to support or utilize such system.

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

15 “(5) The term ‘major system’ has the meaning  
16 given that in section 4 of the Office of Federal Pro-  
17 curement Policy Act (41 U.S.C. 403).

18 “(6) The term ‘Milestone B’ means a decision  
19 to enter into system development, integration, and  
20 demonstration pursuant to guidance prescribed by  
21 the Director of National Intelligence.

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

24 “(A) the head of the element of the intel-  
25 ligence community which is responsible for the

1 budget, cost, schedule, and performance of the  
2 major system; or

3 “(B) in the case of a major system within  
4 the Office of the Director of National Intel-  
5 ligence, the deputy who is responsible for the  
6 budget, cost, schedule, and performance of the  
7 major system.”.

8 (b) CLERICAL AMENDMENT.—The table of contents  
9 in the first section of that Act, as amended by sections  
10 305, 312, and 313 of this Act, is further amended by in-  
11 serting after the items relating to section 506D, as added  
12 by section 313(b), the following new item:

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

13 **SEC. 315. PROHIBITION ON CONFLICTS OF INTEREST IN IN-**  
14 **TELLIGENCE COMMUNITY CONTRACTING.**

15 (a) IN GENERAL.—Title V of the National Security  
16 Act of 1947, as amended by sections 305, 312, 313, and  
17 314 of this Act, is further amended by inserting after sec-  
18 tion 506E, as added by section 314(a), the following new  
19 section:

20 “PROHIBITION ON CONFLICTS OF INTEREST IN  
21 INTELLIGENCE COMMUNITY CONTRACTING

22 “SEC. 506F. (a) PROHIBITION ON CONFLICTS OF IN-  
23 TEREST.—Beginning in fiscal year 2010, a contract for  
24 the provision of advisory and assistance services related  
25 to any major system acquisition with an element of the

1 intelligence community shall not be awarded to an entity  
2 whose business activities include the provision of products  
3 or services related to the same major system acquisition  
4 to any element of the intelligence community.

5 “(b) DEFINITIONS.—In this section:

6 “(1) The term ‘contract for the provision of ad-  
7 visory and assistance services’ means a contract for  
8 activities that could otherwise be considered inher-  
9 ently governmental but are provided by nongovern-  
10 mental sources to support or improve organizational  
11 policy development, decisionmaking, management  
12 and administration, and program or project manage-  
13 ment and administration.

14 “(2) The term ‘entity’ includes any company,  
15 corporation, sole proprietorship, person, or any other  
16 business arrangement, including a parent, affiliate,  
17 or subsidiary thereto.

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

21 (b) CLERICAL AMENDMENT.—The table of contents  
22 in the first section of that Act, as amended by sections  
23 305, 312, 313, and 314 of this Act, is further amended  
24 by inserting after the items relating to section 506E, as  
25 added by section 314(b), the following new item:

“Sec. 506F. Prohibition on conflicts of interest in intelligence community contracting.”.

1 **SEC. 316. FUTURE BUDGET PROJECTIONS.**

2 (a) IN GENERAL.—Title V of the National Security  
3 Act of 1947, as amended by sections 305, 312, 313, 314,  
4 and 315 of this Act, is further amended by inserting after  
5 section 506F, as added by section 315(a), the following  
6 new section:

7 “FUTURE BUDGET PROJECTIONS

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

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

16 “(B) each major system in the National Intel-  
17 ligence Program.

18 “(2)(A) A Future Year Intelligence Plan submitted  
19 under this subsection shall include the year-by-year pro-  
20 posed funding for each center or system referred to in sub-  
21 paragraph (A) or (B) of paragraph (1), for the budget  
22 year in which the Plan is submitted and not less than the  
23 4 subsequent budget years.

1 “(B) A Future Year Intelligence Plan submitted  
2 under subparagraph (B) of paragraph (1) for a major sys-  
3 tem shall include—

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

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

8 “(b) LONG-TERM BUDGET PROJECTIONS.—(1) The  
9 Director of National Intelligence, with the concurrence of  
10 the Director of the Office of Management and Budget,  
11 shall provide to the congressional intelligence committees  
12 a Long-term Budget Projection for each element of the  
13 National Intelligence Program acquiring a major system  
14 that includes the budget for such element for the 10-year  
15 period following the last budget year for which proposed  
16 funding was submitted under subsection (a)(2)(A).

17 “(2) A Long-term Budget Projection submitted  
18 under paragraph (1) shall include, at a minimum, projec-  
19 tions for the appropriate element of the intelligence com-  
20 munity for—

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

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



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

3           “(D) current and planned major system acqui-  
4 sitions for such element; and

5           “(E) any unplanned but necessary next-genera-  
6 tion major system acquisitions for such element.

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

13           “(d) CONTENT OF LONG-TERM BUDGET PROJEC-  
14 TIONS.—(1) Each Long-term Budget Projection sub-  
15 mitted under subsection (b) shall include—

16           “(A) a budget projection based on constrained  
17 budgets, effective cost and schedule execution of cur-  
18 rent or planned major system acquisitions, and mod-  
19 est or no cost-growth for undefined, next-generation  
20 systems; and

21           “(B) a budget projection based on constrained  
22 budgets, modest cost increases in executing current  
23 and planned programs, and more costly next-genera-  
24 tion systems.

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

7       “(e) INCREASE IN FUTURE BUDGET PROJEC-  
8 TIONS.—(1) Not later than 30 days prior to the date that  
9 an element of the intelligence community may proceed to  
10 Milestone A, Milestone B, or an analogous stage of system  
11 development, in the acquisition of a major system in the  
12 National Intelligence Program, the Director of National  
13 Intelligence, with the concurrence of the Director of the  
14 Office of Management and Budget, shall provide a report  
15 on such major system to the congressional intelligence  
16 committees.

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

23       “(B) If an increase is projected under subparagraph  
24 (A), the report required by this subsection shall include  
25 a specific finding, and the reasons therefor, by the Direc-

1 tor of National Intelligence and the Director of the Office  
2 of Management and Budget that such increase is nec-  
3 essary for national security.

4 “(f) DEFINITIONS.—In this section:

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

8 “(2) The term ‘Milestone A’ means a decision  
9 to enter into concept refinement and technology ma-  
10 turity demonstration pursuant to guidance issued by  
11 the Director of National Intelligence.

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

16 (b) CLERICAL AMENDMENT.—The table of contents  
17 in the first section of that Act, as amended by sections  
18 305, 312, 313, 314, and 315 of this Act, is further amend-  
19 ed by inserting after the items relating to section 506F,  
20 as added by section 315(b), the following new item:

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

21 (c) DEFINITION OF MAJOR SYSTEM.—Paragraph (3)  
22 of section 506A(e) of the National Security Act of 1947  
23 (50 U.S.C. 415a–1(e)) is amended to read as follows:

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

4           **Subtitle C—Interrogation and**  
5           **Detention Related Matters**

6           **SEC. 321. LIMITATION ON INTERROGATION TECHNIQUES.**

7           (a) LIMITATION.—No individual in the custody or  
8           under the effective control of personnel of an element of  
9           the intelligence community or instrumentality of an ele-  
10          ment of the intelligence community, regardless of nation-  
11          ality or physical location of such individual or personnel,  
12          shall be subject to any treatment or technique of interro-  
13          gation not authorized by the United States Army Field  
14          Manual on Human Intelligence Collector Operations.

15          (b) INSTRUMENTALITY DEFINED.—In this section,  
16          the term “instrumentality”, with respect to an element of  
17          the intelligence community, means a contractor or subcon-  
18          tractor at any tier of the element of the intelligence com-  
19          munity.

20          **SEC. 322. PROHIBITION ON INTERROGATIONS BY CONTRAC-**  
21          **TORS.**

22          The Director of the Central Intelligence Agency may  
23          not permit a contractor or subcontractor to the Central  
24          Intelligence Agency to carry out an interrogation of an  
25          individual. Any interrogation carried out on behalf of the

1 Central Intelligence Agency shall be conducted by an em-  
2 ployee of such Agency.

3 **SEC. 323. NOTIFICATION OF THE INTERNATIONAL COM-**  
4 **MITTEE OF THE RED CROSS.**

5 (a) REQUIREMENT.—No funds authorized to be ap-  
6 propriated by this Act may be used to detain any indi-  
7 vidual who is in the custody or under the effective control  
8 of an element of the intelligence community (as that term  
9 is defined in section 3 of the National Security Act of  
10 1947 (50 U.S.C. 401a)) or an instrumentality of such ele-  
11 ment if the International Committee of the Red Cross is  
12 not provided notification of the detention of such indi-  
13 vidual and access to such individual in a manner con-  
14 sistent with the practices of the Armed Forces.

15 (b) CONSTRUCTION.—Nothing in this section shall be  
16 construed—

17 (1) to create or otherwise imply the authority to  
18 detain; or

19 (2) to limit or otherwise affect any other rights  
20 or obligations which may arise under the Geneva  
21 Conventions or other laws, or to state all of the situ-  
22 ations under which notification to and access for the  
23 International Committee of the Red Cross is re-  
24 quired or allowed.

1           (c) INSTRUMENTALITY DEFINED.—In this section,  
2 the term “instrumentality”, with respect to an element of  
3 the intelligence community, means a contractor or subcon-  
4 tractor at any tier of the element of the intelligence com-  
5 munity.

6 **SEC. 324. REPORT ON COMPLIANCE WITH THE DETAINEE**  
7                           **TREATMENT ACT OF 2005 AND RELATED PRO-**  
8                           **VISIONS OF THE MILITARY COMMISSIONS**  
9                           **ACT OF 2006.**

10          (a) REPORT REQUIRED.—Not later than 45 days  
11 after the date of the enactment of this Act, the Director  
12 of National Intelligence shall submit to the congressional  
13 intelligence committees a comprehensive report on all  
14 measures taken by the Office of the Director of National  
15 Intelligence and by each element, if any, of the intelligence  
16 community with relevant responsibilities to comply with  
17 the provisions of the Detainee Treatment Act of 2005  
18 (title X of division A of Public Law 109–148; 119 Stat.  
19 2739) and related provisions of the Military Commissions  
20 Act of 2006 (Public Law 109–366; 120 Stat. 2600).

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

23               (1) A description of the detention or interroga-  
24 tion methods, if any, that have been determined to  
25 comply with section 1003 of the Detainee Treatment

1 Act of 2005 (42 U.S.C. 2000dd) and section 6 of  
2 the Military Commissions Act of 2006 (120 Stat.  
3 2632) (including the amendments made by such sec-  
4 tion) and, with respect to each such method—

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

7 (B) a statement of the basis for such de-  
8 termination.

9 (2) A description of the detention or interroga-  
10 tion methods, if any, whose use has been discon-  
11 tinued pursuant to the Detainee Treatment Act of  
12 2005 or the Military Commission Act of 2006, and,  
13 with respect to each such method—

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

17 (B) a statement of the basis for such de-  
18 termination.

19 (3) A description of any actions that have been  
20 taken to implement section 1004 of the Detainee  
21 Treatment Act of 2005 (42 U.S.C. 2000dd–1), and,  
22 with respect to each such action—

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

1 (B) a statement of the basis for such ac-  
2 tion.

3 (4) Any other matters that the Director of Na-  
4 tional Intelligence considers necessary to fully and  
5 currently inform the congressional intelligence com-  
6 mittees about the implementation of the Detainee  
7 Treatment Act of 2005 and related provisions of the  
8 Military Commissions Act of 2006.

9 (5) An appendix containing—

10 (A) all guidelines for the application of the  
11 Detainee Treatment Act of 2005 and related  
12 provisions of the Military Commissions Act of  
13 2006 to the detention or interrogation activi-  
14 ties, if any, of any element of the intelligence  
15 community; and

16 (B) any legal justifications of any office of  
17 the Department of Justice related to the inter-  
18 pretation or application of the Detainee Treat-  
19 ment Act of 2005 or related provisions of the  
20 Military Commissions Act of 2006, with respect  
21 to the detention or interrogation activities, of  
22 any element of the intelligence community.

23 (c) FORM.—The report required by subsection (a)  
24 shall be submitted in classified form.



1 (d) SUBMISSION TO THE CONGRESSIONAL ARMED  
2 SERVICES COMMITTEES.—To the extent that the report  
3 required by subsection (a) addresses an element of the in-  
4 telligence community within the Department of Defense,  
5 that portion of the report, and any associated material  
6 that is necessary to make that portion understandable,  
7 shall also be submitted by the Director of National Intel-  
8 ligence to the congressional armed services committees.

9 (e) CONGRESSIONAL ARMED SERVICES COMMITTEE  
10 DEFINED.—In this section, the term “congressional  
11 armed services committees” means—

12 (1) the Committee on Armed Services of the  
13 Senate; and

14 (2) the Committee on Armed Services of the  
15 House of Representatives.

## 16 **Subtitle D—Reporting** 17 **Requirements**

### 18 **SEC. 331. REPORT ON USE OF CONTRACTORS BY ELEMENTS** 19 **OF THE INTELLIGENCE COMMUNITY.**

20 Not later than 180 days after the date of the enact-  
21 ment of this Act, the Director of National Intelligence  
22 shall submit to the congressional intelligence committees  
23 a report that describes—

24 (1) any activity that is being conducted by 1 or  
25 more contractors on behalf of an element of the in-

1 intelligence community that the Director believes  
2 should only be conducted by employees of an agency  
3 or department of the United States;

4 (2) an estimate of the number of contractors  
5 conducting each such activity; and

6 (3) the plan of the Director, if any, to have  
7 each such activity be conducted by employees of an  
8 agency or department of the United States.

9 **SEC. 332. IMPROVEMENT OF NOTIFICATION OF CONGRESS**

10 **REGARDING INTELLIGENCE ACTIVITIES OF**  
11 **THE UNITED STATES.**

12 (a) NOTICE ON INFORMATION NOT DISCLOSED.—

13 (1) IN GENERAL.—Section 502 of the National  
14 Security Act of 1947 (50 U.S.C. 413a) is amend-  
15 ed—

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

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

20 “(b) NOTICE ON INFORMATION NOT DISCLOSED.—

21 (1) If the Director of National Intelligence or the head  
22 of a department, agency, or other entity of the United  
23 States Government does not provide information required  
24 by subsection (a) in full or to all the members of the con-  
25 gressional intelligence committees and requests that such

1 information not be so provided, the Director shall, in a  
2 timely fashion, provide written notification to all the mem-  
3 bers of such committees of the determination not to pro-  
4 vide such information in full or to all members of such  
5 committees. Such notice shall include a statement of the  
6 reasons for such determination and description that pro-  
7 vides the main features of the intelligence activities cov-  
8 ered by such determination.

9 “(2) Nothing in this subsection shall be construed as  
10 authorizing less than full and current disclosure to all the  
11 members of the congressional intelligence committees of  
12 any information necessary to keep all such members fully  
13 and currently informed on all intelligence activities de-  
14 scribed in subsection (a).”; and

15 (C) by inserting after subsection (d), as re-  
16 designated by subparagraph (A) of this section,  
17 the following:

18 “(e) CONGRESSIONAL INTELLIGENCE COMMITTEES  
19 DEFINED.—In this section the term ‘congressional intel-  
20 ligence committees’ means the Select Committee on Intel-  
21 ligence of the Senate and the Permanent Select Committee  
22 on Intelligence of the House of Representatives.”.

23 (2) CONFORMING AMENDMENT.—Subsection (d)  
24 of such section, as redesignated by paragraph (1)(A)

1 of this subsection, is amended by striking “sub-  
2 section (b)” and inserting “subsections (b) and (c)”.

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

4 (1) FORM AND CONTENT OF CERTAIN RE-  
5 PORTS.—Subsection (b) of section 503 of such Act  
6 (50 U.S.C. 413b) is amended—

7 (A) by redesignating paragraphs (1) and

8 (2) as subparagraphs (A) and (B), respectively;

9 (B) by inserting “(1)” after “(b)”; and

10 (C) by adding at the end the following:

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

15 “(A) A concise statement of any facts per-  
16 tinent to such covert action.

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

19 (2) NOTICE ON INFORMATION NOT DIS-  
20 CLOSED.—Subsection (c) of such section is amended  
21 by adding at the end the following:

22 “(5)(A) If the Director of National Intelligence or the  
23 head of a department, agency, or other entity of the  
24 United States Government does not provide information  
25 required by subsection (b) in full or to all the members

1 of the congressional intelligence committees, and requests  
2 that such information not be so provided, the Director  
3 shall, in a timely fashion, notify such committees of the  
4 determination not to provide such information in full or  
5 to all members of such committees.

6 “(B) A notice required by subparagraph (A) shall be  
7 submitted in writing in a classified form and include—

8 “(i) a statement of the reasons that such infor-  
9 mation will not be provided in full or to all the mem-  
10 bers of the congressional intelligence committees;  
11 and

12 “(ii) a description of the main features of the  
13 covert action described in subsection (b) for which  
14 such information will not be provided.

15 “(C) Each member of the congressional intelligence  
16 committees shall have unrestricted access to each notice  
17 required by subparagraph (A).”.

18 (3) MODIFICATION OF NATURE OF CHANGE OF  
19 COVERT ACTION TRIGGERING NOTICE REQUIRE-  
20 MENTS.—Subsection (d) of such section is amended  
21 by striking “significant” the first place that term  
22 appears.

23 (4) CONGRESSIONAL INTELLIGENCE COMMIT-  
24 TEES DEFINED.—Such section is further amended  
25 by adding at the end the following:



1           (1) Improving cooperation between the Federal  
2 Bureau of Intelligence and the Office of the Director  
3 of National Intelligence.

4           (2) Improving the Federal Bureau of Investiga-  
5 tion National Intelligence Program budget structure.

6           (3) Improving intelligence enabling information  
7 technology.

8           (4) Advancing the analytic culture of the Fed-  
9 eral Bureau of Investigation.

10          (5) Improving the intelligence training cur-  
11 riculum.

12          (6) Regionalization of the Federal Bureau of  
13 Investigation intelligence program.

14          (7) Improving the Federal Bureau of Investiga-  
15 tion's Weapons of Mass Destruction Directorate.

16          (8) Improving the national security workforce  
17 management at the Federal Bureau of Investigation.

18          (9) Improving the headquarters staffing of Na-  
19 tional Security Programs of the Federal Bureau of  
20 Investigation.

21          (c) REPORT.—On a semiannual basis during the 5-  
22 year period beginning on the date of the enactment of this  
23 Act, the Director of National Intelligence shall submit to  
24 the congressional intelligence committees a consolidated  
25 report on the progress of the Federal Bureau of Investiga-

1 tion in carrying out items in paragraphs (1) through (9)  
2 of subsection (b), including an assessment of the metrics,  
3 timetables, and corrective actions referred to in such sub-  
4 section and a description of the activities being carried out  
5 to ensure the Federal Bureau of Investigation is improv-  
6 ing its performance.

7 **SEC. 334. INCORPORATION OF REPORTING REQUIRE-**  
8 **MENTS.**

9 Each requirement to submit a report to the congres-  
10 sional intelligence committees that is included in the clas-  
11 sified annex to this Act is hereby incorporated into this  
12 Act and is hereby made a requirement in law.

13 **SEC. 335. REPEAL OF CERTAIN REPORTING REQUIRE-**  
14 **MENTS.**

15 (a) ANNUAL REPORT ON INTELLIGENCE.—

16 (1) REPEAL.—Section 109 of the National Se-  
17 curity Act of 1947 (50 U.S.C. 404d) is repealed.

18 (2) CLERICAL AMENDMENT.—The table of con-  
19 tents in the first section of the National Security  
20 Act of 1947 is amended by striking the item relating  
21 to section 109.

22 (b) ANNUAL AND SPECIAL REPORTS ON INTEL-  
23 LIGENCE SHARING WITH THE UNITED NATIONS.—Sec-  
24 tion 112 of the National Security Act of 1947 (50 U.S.C.  
25 404g) is amended—



1 (1) by striking subsection (b); and

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

4 (c) ANNUAL CERTIFICATION ON COUNTERINTEL-  
5 LIGENCE INITIATIVES.—Section 1102(b) of the National  
6 Security Act of 1947 (50 U.S.C. 442a(b)) is amended—

7 (1) by striking “(1)”; and

8 (2) by striking paragraph (2).

9 (d) REPORT AND CERTIFICATION UNDER TERRORIST  
10 IDENTIFICATION CLASSIFICATION SYSTEM.—Section 343  
11 of the Intelligence Authorization Act for Fiscal Year 2003  
12 (50 U.S.C. 404n–2) is amended—

13 (1) by striking subsection (d); and

14 (2) by redesignating subsections (e), (f), (g),  
15 and (h) as subsections (d), (e), (f), and (g), respec-  
16 tively.

17 (e) ANNUAL REPORT ON COUNTERDRUG INTEL-  
18 LIGENCE MATTERS.—Section 826 of the Intelligence Au-  
19 thorization Act for Fiscal Year 2003 (Public Law 107–  
20 306; 116 Stat. 2429; 21 U.S.C. 873 note) is repealed.

21 (f) BIENNIAL REPORT ON THE SAFETY AND SECU-  
22 RITY OF RUSSIAN NUCLEAR FACILITIES AND NUCLEAR  
23 MILITARY FORCES.—

24 (1) IN GENERAL.—Section 114 of the National  
25 Security Act of 1947 (40 U.S.C. 404i) is amended—

1 (A) in the heading, by striking “ANNUAL”;

2 and

3 (B) in subsection (a)—

4 (i) in the heading, by striking “AN-  
5 NUAL” and inserting “BIENNIAL”;

6 (ii) by striking “an annual” and in-  
7 serting “a biennial”; and

8 (iii) by striking “each” and inserting  
9 “every other”.

10 (2) CLERICAL AMENDMENT.—The table of con-  
11 tents in the first section of that Act is amended by  
12 striking the item relating to section 114 and insert-  
13 ing the following:

“Sec. 114. Additional reports for the Director of National Intelligence.”.

14 (g) ANNUAL REVIEW OF DISSEMINATION LISTS.—  
15 Section 1102 of the National Security Act of 1947 (50  
16 U.S.C. 442a) is amended—

17 (1) by striking subsection (b); and

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

20 (h) BIENNIAL REPORT ON ESPIONAGE BY THE PEO-  
21 PLE’S REPUBLIC OF CHINA.—

22 (1) IN GENERAL.—Section 3151 of the Na-  
23 tional Defense Authorization Act for Fiscal Year  
24 2000 (42 U.S.C. 7383e) is amended—

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

3 (B) in subsection (a)—

4 (i) in the heading, by striking “AN-  
5 NUAL” and inserting “BIENNIAL”; and

6 (ii) by striking “an annual” and in-  
7 serting “a biennial”

8 (2) CLERICAL AMENDMENT.—The table of con-  
9 tents in subsection (b) of section 2 of that Act (Pub-  
10 lic Law 106–65; 113 Stat. 512) is amended by strik-  
11 ing the item relating to section 3151 and inserting  
12 the following:

“Sec. 3151. Report by the President on espionage by the People’s Republic of  
China.”.

13 (i) BIENNIAL REPORT ON DISMANTLING OF STRA-  
14 TEGIC NUCLEAR WARHEADS.—

15 (1) IN GENERAL.—Section 1033 of the Na-  
16 tional Defense Authorization Act for Fiscal Year  
17 2004 (Public Law 108–136; 22 U.S.C. 5959 note)  
18 is amended—

19 (A) in the heading by striking “ANNUAL”  
20 and inserting “BIENNIAL”;

21 (B) in subsection (a)—

22 (i) in the heading, by striking “AN-  
23 NUAL” and inserting “BIENNIAL”;

1 (ii) by striking “each” and inserting  
2 “every other”;

3 (iii) by striking “prior fiscal year”  
4 and inserting “prior 2 fiscal years”; and

5 (iv) by striking “the fiscal year cov-  
6 ered by the budget” and inserting “the fol-  
7 lowing 2 fiscal years”;

8 (C) in subsection (b), by striking “The an-  
9 nual report” and inserting “Each report sub-  
10 mitted”;

11 (D) in subsection (c), by striking “an an-  
12 nual” and inserting “a”; and

13 (E) in subsection (e), by striking “an-  
14 nual”.

15 (2) CLERICAL AMENDMENT.—The table of con-  
16 tents in subsection (b) of section 2 of that Act (Pub-  
17 lic Law 108–136; 117 Stat. 1392) is amended by  
18 striking the item relating to section 1033 and insert-  
19 ing the following:

“Sec. 1033. Biennial report concerning dismantling of strategic nuclear war-  
heads.”.

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

23 (1) in paragraph (1)—

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

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

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

## 8 **Subtitle E—Other Matters**

### 9 **SEC. 341. RESTRICTION ON CONDUCT OF INTELLIGENCE** 10 **ACTIVITIES.**

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

### 15 **SEC. 342. CLARIFICATION OF DEFINITION OF INTEL-** 16 **LIGENCE COMMUNITY UNDER THE NATIONAL** 17 **SECURITY ACT OF 1947.**

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

### 21 **SEC. 343. MODIFICATION OF AVAILABILITY OF FUNDS FOR** 22 **DIFFERENT INTELLIGENCE ACTIVITIES.**

23 Subparagraph (B) of section 504(a)(3) of the Na-  
24 tional Security Act of 1947 (50 U.S.C. 414(a)(3)) is  
25 amended to read as follows:

1           “(B) the use of such funds for such activity  
2           supports an emergent need, improves program effec-  
3           tiveness, or increases efficiency; and”.

4 **SEC. 344. ADDITIONAL LIMITATION ON AVAILABILITY OF**  
5 **FUNDS FOR INTELLIGENCE AND INTEL-**  
6 **LIGENCE-RELATED ACTIVITIES.**

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

9           (1) in subsection (a), by inserting “the congress-  
10          sional intelligence committees have been fully and  
11          currently informed of such activity and if” after  
12          “only if”;

13          (2) by redesignating subsections (b), (c), (d),  
14          and (e) as subsections (c), (d), (e), and (f), respec-  
15          tively; and

16          (3) by inserting after subsection (a) the fol-  
17          lowing:

18          “(b) In any case in which notice to the congressional  
19          intelligence committees of an intelligence or intelligence-  
20          related activity is covered by section 502(b), or in which  
21          notice to the congressional intelligence committees on a  
22          covert action is covered by section 503(c)(5), the congress-  
23          sional intelligence committees shall be treated as being  
24          fully and currently informed on such activity or covert ac-  
25          tion, as the case may be, for purposes of subsection (a)

1 if the requirements of such section 502(b) or 503(c)(5),  
 2 as applicable, have been met.”.

3 **SEC. 345. LIMITATION ON REPROGRAMMINGS AND TRANS-**  
 4 **FERS OF FUNDS.**

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

8 (1) in subparagraph (B), as amended by section  
 9 343 by striking “and” at the end;

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

12 (3) by adding at the end the following new sub-  
 13 paragraph:

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

17 (b) PROCEDURES.—Such section is further amend-  
 18 ed—

19 (1) by redesignating subsections (e) and (f), as  
 20 redesignated by section 344(2) as subsections (f)  
 21 and (g), respectively; and

22 (2) by inserting after subsection (c) the fol-  
 23 lowing new subsection (d):

24 “(d)(1) Except as provided in paragraph (2), if fol-  
 25 lowing a notice of intent to make funds available for a

1 different activity under subsection (a)(3)(C) one of the  
2 congressional intelligence committees submits to the ele-  
3 ment of the intelligence community that will carry out  
4 such activity a request for additional information on such  
5 activity, such funds may not be made available for such  
6 activity under subsection (a)(3) until such date, up to 90  
7 days after the date of such request, as specified by such  
8 congressional intelligence committee.

9       “(2) The President may waive the requirements of  
10 paragraph (1) and make funds available for an element  
11 of the intelligence community to carry out a different ac-  
12 tivity under subsection (a)(3) if the President submits to  
13 the congressional intelligence committees a certification  
14 providing that—

15               “(A) the use of such funds for such activity is  
16 necessary to fulfill an urgent operational require-  
17 ment, excluding a cost overrun on the acquisition of  
18 a major system, of an element of the intelligence  
19 community; and

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



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

4 (1) by redesignating paragraph (3) as para-  
5 graph (5);

6 (2) by redesignating paragraphs (1) and (2) as  
7 paragraphs (3) and (1), respectively;

8 (3) by striking “and” at the end of paragraph  
9 (1), as redesignated by paragraph (2) of this sub-  
10 section;

11 (4) by inserting after paragraph (1), as so re-  
12 designated, the following:

13 “(2) the term ‘congressional intelligence com-  
14 mittees’ means the Select Committee on Intelligence  
15 of the Senate and the Permanent Select Committee  
16 on Intelligence of the House of Representatives;”  
17 and

18 (5) by inserting after paragraph (3), as redesign-  
19 nated by paragraph (2) of this subsection, the fol-  
20 lowing:

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

1 **SEC. 346. AVAILABILITY TO PUBLIC OF CERTAIN INTEL-**  
2 **LIGENCE FUNDING INFORMATION.**

3 Subsection (b) of section 601 of the Implementing  
4 Recommendations of the 9/11 Commission Act of 2007  
5 (50 U.S.C. 415c) is amended by striking “2009” and in-  
6 serting “2010”.

7 **SEC. 347. INCREASE IN PENALTIES FOR DISCLOSURE OF**  
8 **UNDERCOVER INTELLIGENCE OFFICERS AND**  
9 **AGENTS.**

10 (a) **DISCLOSURE OF AGENT AFTER ACCESS TO IN-**  
11 **FORMATION IDENTIFYING AGENT.**—Subsection (a) of sec-  
12 tion 601 of the National Security Act of 1947 (50 U.S.C.  
13 421) is amended by striking “ten years” and inserting “15  
14 years”.

15 (b) **DISCLOSURE OF AGENT AFTER ACCESS TO CLAS-**  
16 **SIFIED INFORMATION.**—Subsection (b) of such section is  
17 amended by striking “five years” and inserting “10  
18 years”.

19 **SEC. 348. AUTHORITY TO DESIGNATE UNDERCOVER OPER-**  
20 **ATIONS TO COLLECT FOREIGN INTEL-**  
21 **LIGENCE OR COUNTERINTELLIGENCE.**

22 Paragraph (1) of section 102(b) of the Department  
23 of Justice and Related Agencies Appropriations Act, 1993  
24 (Public Law 102–395; 28 U.S.C. 533 note) is amended  
25 in the flush text following subparagraph (D) by striking  
26 “(or, if designated by the Director, the Assistant Director,

1 Intelligence Division) and the Attorney General (or, if des-  
2 ignated by the Attorney General, the Assistant Attorney  
3 General for National Security)” and inserting “(or a des-  
4 ignee of the Director who is in a position not lower than  
5 Deputy Assistant Director in the National Security  
6 Branch or a similar successor position) and the Attorney  
7 General (or a designee of the Attorney General who is in  
8 the National Security Division in a position not lower than  
9 Deputy Assistant Attorney General or a similar successor  
10 position)”.

11 **SEC. 349. LANGUAGE AND INTELLIGENCE ANALYST TRAIN-**  
12 **ING PROGRAM.**

13 (a) IN GENERAL.—Section 922 of the Ronald W.  
14 Reagan National Defense Authorization Act for Fiscal  
15 Year 2005 (Public Law 108–375; 50 U.S.C. 402 note) is  
16 amended to read as follows:

17 **“SEC. 922. LANGUAGE AND INTELLIGENCE ANALYST TRAIN-**  
18 **ING PROGRAM.**

19 “(a) DEFINITIONS.—In this section:

20 “(1) DIRECTOR.—The term ‘Director’ means  
21 the Director of National Intelligence.

22 “(2) INSTITUTION OF HIGHER EDUCATION.—  
23 The term ‘institution of higher education’ has the  
24 meaning given that term in section 101 of the High-  
25 er Education Act of 1965 (20 U.S.C. 1001).

1           “(3) PROGRAM.—The term ‘program’ means  
2           the grant program to promote language and intel-  
3           ligence analysis training authorized by subsection  
4           (b).

5           “(b) AUTHORITY.—The Director is authorized to  
6           carry out a grant program to promote language and intel-  
7           ligence analysis, as described in this section.

8           “(c) PURPOSE.—The purpose of the program shall be  
9           to increase the number of individuals qualified for an  
10          entry-level language analyst or intelligence analyst posi-  
11          tion within an element of the intelligence community by  
12          providing—

13               “(1) grants to qualified institutions of higher  
14               education, as described in subsection (d); and

15               “(2) grants to qualified individuals, as de-  
16               scribed in subsection (e).

17          “(d) GRANTS TO INSTITUTIONS OF HIGHER EDU-  
18          CATION.—(1) The Director is authorized to provide a  
19          grant through the program to an institution of higher edu-  
20          cation to develop a course of study to prepare students  
21          of such institution for an entry-level language analyst or  
22          intelligence analyst position within an element of the intel-  
23          ligence community.

24               “(2) An institution of higher education seeking a  
25          grant under this subsection shall submit an application de-

1 scribing the proposed use of the grant at such time and  
2 in such manner as the Director may require.

3 “(3) The Director shall award a grant to an institu-  
4 tion of higher education under this subsection—

5 “(A) on the basis of the ability of such institu-  
6 tion to use the grant to prepare students for an  
7 entry-level language analyst or intelligence analyst  
8 position within an element of the intelligence com-  
9 munity upon completion of study at such institution;  
10 and

11 “(B) in a manner that provides for geo-  
12 graphical diversity among the institutions of higher  
13 education that receive such grants.

14 “(4) An institution of higher education that receives  
15 a grant under this subsection shall submit to the Director  
16 regular reports regarding the use of such grant, includ-  
17 ing—

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

21 “(B) a description of the results and accom-  
22 plishments related to such course of study; and

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

1       “(5) The Director is authorized to provide an institu-  
2 tion of higher education that receives a grant under this  
3 section with advice and counsel related to the use of such  
4 grant.

5       “(e) GRANTS TO INDIVIDUALS.—(1) The Director is  
6 authorized to provide a grant through the program to an  
7 individual to assist such individual in pursuing a course  
8 of study—

9           “(A) identified by the Director as meeting a  
10 current or emerging mission requirement of an ele-  
11 ment of the intelligence community; and

12           “(B) that will prepare such individual for an  
13 entry-level language analyst or intelligence analyst  
14 position within an element of the intelligence com-  
15 munity.

16       “(2) The Director is authorized to provide a  
17 grant described in paragraph (1) to an individual for  
18 the following purposes:

19           “(A) To provide a monthly stipend for  
20 each month that the individual is pursuing a  
21 course of study described in paragraph (1).

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

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

4           “(D) To pay the individual’s expenses for  
5           travel that is requested by an element of the in-  
6           telligence community related to the program.

7           “(3)(A) The Director shall select individuals to re-  
8           ceive grants under this subsection using such procedures  
9           as the Director determines are appropriate.

10          “(B) An individual seeking a grant under this sub-  
11          section shall submit an application describing the proposed  
12          use of the grant at such time and in such manner as the  
13          Director may require.

14          “(C) The total number of individuals receiving grants  
15          under this subsection at any 1 time may not exceed 400.

16          “(D) The Director is authorized to screen and qualify  
17          each individual selected to receive a grant under this sub-  
18          section for the appropriate security clearance without re-  
19          gard to the date that the employment relationship between  
20          the individual and the element of the intelligence commu-  
21          nity is formed.

22          “(4) An individual who receives a grant under this  
23          subsection shall enter into an agreement to perform, upon  
24          such individual’s completion of a course of study described  
25          in paragraph (1), 1 year of service within an element of

1 the intelligence community, as approved by the Director,  
2 for each academic year for which such individual received  
3 grant funds under this subsection.

4 “(5) If an individual who receives a grant under this  
5 subsection—

6 “(A) fails to complete a course of study de-  
7 scribed in paragraph (1) or the individual’s partici-  
8 pation in the program is terminated prior to the  
9 completion of such course of study, either by the Di-  
10 rector for misconduct or voluntarily by the indi-  
11 vidual, the individual shall reimburse the United  
12 States for the amount of such grant (excluding the  
13 individual’s stipend, pay, and allowances); or

14 “(B) fails to complete the service requirement  
15 with an element of the intelligence community de-  
16 scribed in paragraph (4) after completion of such  
17 course of study or if the individual’s employment  
18 with such element of the intelligence community is  
19 terminated either by the head of such element for  
20 misconduct or voluntarily by the individual prior to  
21 the individual’s completion of such service require-  
22 ment, the individual shall—

23 “(i) reimburse the United States for full  
24 amount of such grant (excluding the individ-  
25 ual’s stipend, pay, and allowances) if the indi-



1           vidual did not complete any portion of such  
2           service requirement; or

3                   “(ii) reimburse the United States for the  
4           percentage of the total amount of such grant  
5           (excluding the individual’s stipend, pay, and al-  
6           lowances) that is equal to the percentage of the  
7           period of such service requirement that the in-  
8           dividual did not serve.

9           “(6)(A) If an individual incurs an obligation to reim-  
10          burse the United States under subparagraph (A) or (B)  
11          of paragraph (5), the head of the element of the intel-  
12          ligence community that employed or intended to employ  
13          such individual shall notify the Director of such obligation.

14                   “(B) Except as provided in subparagraph (D), an ob-  
15          ligation to reimburse the United States incurred under  
16          such subparagraph (A) or (B), including interest due on  
17          such obligation, is for all purposes a debt owing the United  
18          States.

19                   “(C) A discharge in bankruptcy under title 11,  
20          United States Code, shall not release an individual from  
21          an obligation to reimburse the United States incurred  
22          under such subparagraph (A) or (B) if the final decree  
23          of the discharge in bankruptcy is issued within 5 years  
24          after the last day of the period of the service requirement  
25          described in subparagraph (4).

1       “(D) The Director may release an individual from  
2 part or all of the individual’s obligation to reimburse the  
3 United States incurred under such subparagraph (A) or  
4 (B) if the Director determines that equity or the interests  
5 of the United States require such a release.

6       “(f) MANAGEMENT.—In carrying out the program,  
7 the Director shall—

8               “(1) be responsible for the oversight of the pro-  
9 gram and the development of policy guidance and  
10 implementing procedures for the program;

11               “(2) solicit participation of institutions of high-  
12 er education in the program through appropriate  
13 means; and

14               “(3) provide each individual who participates in  
15 the program under subsection (e) information on op-  
16 portunities available for employment within an ele-  
17 ment of the intelligence community.

18       “(g) PENALTIES FOR FRAUD.—An institution of  
19 higher education or the officers of such institution or an  
20 individual who receives a grant under the program as a  
21 result of fraud in any aspect of the grant process may  
22 be subject to criminal or civil penalties in accordance with  
23 applicable Federal law.

24       “(h) CONSTRUCTION.—Unless mutually agreed to by  
25 all parties, nothing in this section may be construed to

1 amend, modify, or abrogate any agreement, contract, or  
2 employment relationship that was in effect on the day  
3 prior to the date of enactment of the Intelligence Author-  
4 ization Act for Fiscal Year 2009.

5 “(i) EFFECT OF OTHER LAW.—The Director shall  
6 administer the program pursuant to the provisions of  
7 chapter 63 of title 31, United States Code and chapter  
8 75 of such title, except that the Comptroller General of  
9 the United States shall have no authority, duty, or respon-  
10 sibility in matters related to this program.”.

11 (b) CLERICAL AMENDMENT.—The table of contents  
12 in section 2(b) of the Ronald W. Reagan National Defense  
13 Authorization Act for Fiscal Year 2005 is amended by  
14 striking the item relating to section 922 and inserting the  
15 following:

“Sec. 922. Language and intelligence analyst training program.”.

16 **SEC. 350. EXTENSION OF AUTHORITY TO DELETE INFORMA-**  
17 **TION ABOUT RECEIPT AND DISPOSITION OF**  
18 **FOREIGN GIFTS AND DECORATIONS.**

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

21 “(4)(A) In transmitting such listings for an element  
22 of the intelligence community, the head of such element  
23 may delete the information described in subparagraph (A)  
24 or (C) of paragraph (2) or in subparagraph (A) or (C)  
25 of paragraph (3) if the head of such element certifies in

1 writing to the Secretary of State that the publication of  
2 such information could adversely affect United States in-  
3 telligence sources or methods.

4 “(B) Any information not provided to the Secretary  
5 of State pursuant to the authority in subparagraph (A)  
6 shall be transmitted to the Director of National Intel-  
7 ligence who shall keep a record of such information.

8 “(C) In this paragraph, the term ‘intelligence com-  
9 munity’ has the meaning given that term in section 3(4)  
10 of the National Security Act of 1947 (50 U.S.C.  
11 401a(4)).”.

12 **SEC. 351. EXTENSION OF NATIONAL COMMISSION FOR THE**  
13 **REVIEW OF THE RESEARCH AND DEVELOP-**  
14 **MENT PROGRAMS OF THE UNITED STATES IN-**  
15 **TELLIGENCE COMMUNITY.**

16 (a) EXTENSION.—

17 (1) IN GENERAL.—Subsection (a) of section  
18 1007 of the Intelligence Authorization Act for Fiscal  
19 Year 2003 (Public Law 107–306; 116 Stat. 2442)  
20 is amended by striking “September 1, 2004” and in-  
21 serting “December 31, 2009”.

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

1 (3) COMMISSION MEMBERSHIP.—

2 (A) IN GENERAL.—The membership of the  
3 National Commission for the Review of the Re-  
4 search and Development Programs of the  
5 United States Intelligence Community estab-  
6 lished under subsection (a) of section 1002 of  
7 such Act (Public Law 107–306; 116 Stat.  
8 2438) (referred to in this section as the “Com-  
9 mission”) shall be considered vacant and new  
10 members shall be appointed in accordance with  
11 such section 1002, as amended by subpara-  
12 graph (B).

13 (B) TECHNICAL AMENDMENT.—Paragraph  
14 (1) of subsection (b) of such section 1002 is  
15 amended by striking “The Deputy Director of  
16 Central Intelligence for Community Manage-  
17 ment.” and inserting “The Principal Deputy  
18 Director of National Intelligence.”.

19 (b) FUNDING.—

20 (1) IN GENERAL.—Of the amounts authorized  
21 to be appropriated by this Act for the Intelligence  
22 Community Management Account, the Director of  
23 National Intelligence shall make \$2,000,000 avail-  
24 able to the Commission to carry out title X of the

1 Intelligence Authorization Act for Fiscal Year 2003  
2 (Public Law 107–306; 116 Stat. 2437).

3 (2) AVAILABILITY.—Amounts made available to  
4 the Commission pursuant to paragraph (1) shall re-  
5 main available until expended.

6 **SEC. 352. CLARIFYING AMENDMENTS RELATING TO SEC-**  
7 **TION 105 OF THE INTELLIGENCE AUTHORIZA-**  
8 **TION ACT FOR FISCAL YEAR 2004.**

9 Section 105(b) of the Intelligence Authorization Act  
10 for Fiscal Year 2004 (Public Law 108–177; 117 Stat.  
11 2603; 31 U.S.C. 311 note) is amended—

12 (1) by striking “Director of Central Intel-  
13 ligence” and inserting “Director of National Intel-  
14 ligence”; and

15 (2) by inserting “or in section 313 of such  
16 title,” after “subsection (a)),”.

17 **TITLE IV—MATTERS RELATING**  
18 **TO ELEMENTS OF THE INTEL-**  
19 **LIGENCE COMMUNITY**  
20 **Subtitle A—Office of the Director**  
21 **of National Intelligence**

22 **SEC. 401. ACCOUNTABILITY REVIEWS BY THE DIRECTOR OF**  
23 **NATIONAL INTELLIGENCE.**

24 (a) RESPONSIBILITY OF THE DIRECTOR OF NA-  
25 TIONAL INTELLIGENCE.—Subsection (b) of section 102 of

1 the National Security Act of 1947 (50 U.S.C. 403) is  
2 amended—

3 (1) in paragraph (2), by striking “and” at the  
4 end;

5 (2) in paragraph (3)—

6 (A) by striking “2004,” and inserting  
7 “2004 (Public Law 108–458; 50 U.S.C. 403  
8 note),”; and

9 (B) by striking the period at the end and  
10 inserting a semicolon and “and”; and

11 (3) by adding after paragraph (3), the following  
12 new paragraph:

13 “(4) conduct accountability reviews of elements  
14 of the intelligence community and the personnel of  
15 such elements, if appropriate.”.

16 (b) TASKING AND OTHER AUTHORITIES.—Sub-  
17 section (f) of section 102A of such Act (50 U.S.C. 403–  
18 1) is amended—

19 (1) by redesignating paragraphs (7) and (8), as  
20 paragraphs (8) and (9), respectively; and

21 (2) by inserting after paragraph (6), the fol-  
22 lowing new paragraph:

23 “(7)(A) The Director of National Intelligence shall,  
24 if the Director determines it is necessary, or may, if re-  
25 quested by a congressional intelligence committee, conduct

1 an accountability review of an element of the intelligence  
2 community or the personnel of such element in relation  
3 to a failure or deficiency within the intelligence commu-  
4 nity.

5 “(B) The Director of National Intelligence, in con-  
6 sultation with the Attorney General, shall establish guide-  
7 lines and procedures for conducting an accountability re-  
8 view under subparagraph (A).

9 “(C)(i) The Director of National Intelligence shall  
10 provide the findings of an accountability review conducted  
11 under subparagraph (A) and the Director’s recommenda-  
12 tions for corrective or punitive action, if any, to the head  
13 of the applicable element of the intelligence community.  
14 Such recommendations may include a recommendation for  
15 dismissal of personnel.

16 “(ii) If the head of such element does not implement  
17 a recommendation made by the Director under clause (i),  
18 the head of such element shall submit to the congressional  
19 intelligence committees a notice of the determination not  
20 to implement the recommendation, including the reasons  
21 for the determination.

22 “(D) The requirements of this paragraph shall not  
23 limit any authority of the Director of National Intelligence  
24 under subsection (m) or with respect to supervision of the  
25 Central Intelligence Agency.”.



1 **SEC. 402. AUTHORITIES FOR INTELLIGENCE INFORMATION**  
2 **SHARING.**

3 (a) **AUTHORITIES FOR INTERAGENCY FUNDING.**—  
4 Section 102A(g)(1) of the National Security Act of 1947  
5 (50 U.S.C. 403–1(g)(1)) is amended—

6 (1) in subparagraph (E), by striking “and” at  
7 the end;

8 (2) in subparagraph (F), by striking the period  
9 and inserting a semicolon; and

10 (3) by adding at the end the following new sub-  
11 paragraphs:

12 “(G) in carrying out this subsection, without re-  
13 gard to any other provision of law (other than this  
14 Act and the National Security Intelligence Reform  
15 Act of 2004 (title I of Public Law 108–458; 118  
16 Stat. 3643)), expend funds and make funds available  
17 to other departments or agencies of the United  
18 States for, and direct the development and fielding  
19 of, systems of common concern related to the collec-  
20 tion, processing, analysis, exploitation, and dissemi-  
21 nation of intelligence information; and

22 “(H) for purposes of addressing critical gaps in  
23 intelligence information sharing or access capabili-  
24 ties, have the authority to transfer funds appro-  
25 priated for a program within the National Intel-  
26 ligence Program to a program funded by appropria-

1 tions not within the National Intelligence Program,  
2 consistent with paragraphs (3) through (7) of sub-  
3 section (d).”.

4 (b) AUTHORITIES OF HEADS OF OTHER DEPART-  
5 MENTS AND AGENCIES.—Notwithstanding any other pro-  
6 vision of law, the head of any department or agency of  
7 the United States is authorized to receive and utilize funds  
8 made available to the department or agency by the Direc-  
9 tor of National Intelligence pursuant to section  
10 102A(g)(1) of the National Security Act of 1947 (50  
11 U.S.C. 403–1(g)(1)), as amended by subsection (a), and  
12 receive and utilize any system referred to in such section  
13 that is made available to the department or agency.

14 (c) REPORTS.—

15 (1) REQUIREMENT FOR REPORTS.—Not later  
16 than February 1 of each of the fiscal years 2010  
17 through 2013, the Director of National Intelligence  
18 shall submit to the congressional intelligence com-  
19 mittees a report detailing the distribution of funds  
20 and systems during the preceding fiscal year pursu-  
21 ant to subparagraph (G) or (H) of section  
22 102A(g)(1) of the National Security Act of 1947 (50  
23 U.S.C. 403–1(g)(1)), as added by subsection (a).

24 (2) CONTENT.—Each such report shall in-  
25 clude—

1 (A) a listing of the agencies or depart-  
 2 ments to which such funds or systems were dis-  
 3 tributed;

4 (B) a description of the purpose for which  
 5 such funds or systems were distributed; and

6 (C) a description of the expenditure of  
 7 such funds, and the development, fielding, and  
 8 use of such systems by the receiving agency or  
 9 department.

10 **SEC. 403. MODIFICATION OF LIMITATION ON DELEGATION**  
 11 **BY THE DIRECTOR OF NATIONAL INTEL-**  
 12 **LIGENCE OF THE PROTECTION OF INTEL-**  
 13 **LIGENCE SOURCES AND METHODS.**

14 Section 102A(i)(3) of the National Security Act of  
 15 1947 (50 U.S.C. 403–1(i)(3)) is amended by inserting “or  
 16 the Chief Information Officer of the Intelligence Commu-  
 17 nity” before the period at the end.

18 **SEC. 404. AUTHORITIES OF THE DIRECTOR OF NATIONAL**  
 19 **INTELLIGENCE FOR INTERAGENCY FUNDING.**

20 (a) IN GENERAL.—Section 102A of the National Se-  
 21 curity Act of 1947 (50 U.S.C. 403–1), as amended by sec-  
 22 tion 303 of this Act, is further amended by adding at the  
 23 end the following new subsection:

24 “(u) AUTHORITIES FOR INTERAGENCY FUNDING.—  
 25 (1) Notwithstanding section 1346 of title 31, United

1 States Code, or any other provision of law prohibiting the  
2 interagency financing of activities described in subpara-  
3 graph (A) or (B), upon the request of the Director of Na-  
4 tional Intelligence, any element of the intelligence commu-  
5 nity may use appropriated funds to support or participate  
6 in the interagency activities of the following:

7           “(A) National intelligence centers established  
8           by the Director under section 119B.

9           “(B) Boards, commissions, councils, commit-  
10          tees, and similar groups that are established—

11                   “(i) for a term of not more than 2 years;

12                   and

13                   “(ii) by the Director.

14          “(2) No provision of law enacted after the date of  
15 the enactment of the Intelligence Authorization Act for  
16 Fiscal Year 2009 shall be construed to limit or supersede  
17 the authority in paragraph (1) unless such provision  
18 makes specific reference to the authority in that para-  
19 graph.”.

20          (b) REPORTS.—Not later than February 1 of each  
21 of the fiscal years 2010 through 2013, the Director of Na-  
22 tional Intelligence shall submit to the congressional intel-  
23 ligence committees a report detailing the exercise of any  
24 authority pursuant to subsection (u) of section 102A of  
25 the National Security Act of 1947 (50 U.S.C. 403–1), as

1 amended by subsection (a), during the preceding fiscal  
2 year.

3 **SEC. 405. CLARIFICATION OF LIMITATION ON COLOCATION**  
4 **OF THE OFFICE OF THE DIRECTOR OF NA-**  
5 **TIONAL INTELLIGENCE.**

6 Section 103(e) of the National Security Act of 1947  
7 (50 U.S.C. 403–3(e)) is amended—

8 (1) by striking “WITH” and inserting “OF  
9 HEADQUARTERS WITH HEADQUARTERS OF”;

10 (2) by inserting “the headquarters of” before  
11 “the Office”; and

12 (3) by inserting “the headquarters of” before  
13 “any other element”.

14 **SEC. 406. TITLE OF CHIEF INFORMATION OFFICER OF THE**  
15 **INTELLIGENCE COMMUNITY.**

16 (a) CHIEF INFORMATION OFFICER OF THE INTEL-  
17 LIGENCE COMMUNITY.—Section 103G of the National Se-  
18 curity Act of 1947 (50 U.S.C. 403–3g) is amended—

19 (1) in the heading, by adding “OF THE INTEL-  
20 LIGENCE COMMUNITY” after “OFFICER”;

21 (2) in subsection (a), by inserting “of the Intel-  
22 ligence Community” after “Chief Information Offi-  
23 cer”;

1 (3) in subsection (b), by inserting “of the Intel-  
 2 ligence Community” after “Chief Information Offi-  
 3 cer”;

4 (4) in subsection (c), by inserting “of the Intel-  
 5 ligence Community” after “Chief Information Offi-  
 6 cer”; and

7 (5) in subsection (d), by inserting “of the Intel-  
 8 ligence Community” after “Chief Information Offi-  
 9 cer” the first place it appears.

10 (b) TABLE OF CONTENTS.—The table of contents for  
 11 such Act is amended by striking the item relating to sec-  
 12 tion 103G and inserting the following:

“Sec. 103G. Chief Information Officer of the Intelligence Community.”.

13 **SEC. 407. INSPECTOR GENERAL OF THE INTELLIGENCE**  
 14 **COMMUNITY.**

15 (a) ESTABLISHMENT.—

16 (1) IN GENERAL.—Title I of the National Secu-  
 17 rity Act of 1947 (50 U.S.C. 402 et seq.) is amended  
 18 by inserting after section 103G the following new  
 19 section:

20 “INSPECTOR GENERAL OF THE INTELLIGENCE  
 21 COMMUNITY

22 “SEC. 103H. (a) OFFICE OF INSPECTOR GENERAL  
 23 OF INTELLIGENCE COMMUNITY.—There is within the Of-  
 24 fice of the Director of National Intelligence an Office of  
 25 the Inspector General of the Intelligence Community.

1       “(b) PURPOSE.—The purpose of the Office of the In-  
2   specter General of the Intelligence Community is to—

3               “(1) create an objective and effective office, ap-  
4   propriately accountable to Congress, to initiate and  
5   conduct independently investigations, inspections,  
6   and audits on matters within the responsibility and  
7   authority of the Director of National Intelligence;

8               “(2) recommend policies designed—

9                       “(A) to promote economy, efficiency, and  
10   effectiveness in the administration and imple-  
11   mentation of matters within the responsibility  
12   and authority of the Director of National Intel-  
13   ligence; and

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

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

19                      “(A) problems and deficiencies relating to  
20   matters within the responsibility and authority  
21   of the Director of National Intelligence; and

22                      “(B) the necessity for, and the progress of,  
23   corrective actions; and

1           “(4) in the manner prescribed by this section,  
2           ensure that the congressional intelligence committees  
3           are kept similarly informed of—

4                   “(A) significant problems and deficiencies  
5                   relating to matters within the responsibility and  
6                   authority of the Director of National Intel-  
7                   ligence; and

8                   “(B) the necessity for, and the progress of,  
9                   corrective actions.

10          “(c) INSPECTOR GENERAL OF INTELLIGENCE COM-  
11          MUNITY.—(1) There is an Inspector General of the Intel-  
12          ligence Community, who shall be the head of the Office  
13          of the Inspector General of the Intelligence Community,  
14          who shall be appointed by the President, by and with the  
15          advice and consent of the Senate.

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

18                   “(A) without regard to political affiliation;

19                   “(B) solely on the basis of integrity, compliance  
20                   with the security standards of the intelligence com-  
21                   munity, and prior experience in the field of intel-  
22                   ligence or national security; and

23                   “(C) on the basis of demonstrated ability in ac-  
24                   counting, financial analysis, law, management anal-  
25                   ysis, public administration, or auditing.



1       “(3) The Inspector General shall report directly to  
2 and be under the general supervision of the Director of  
3 National Intelligence.

4       “(4) The Inspector General may be removed from of-  
5 fice only by the President. The President shall imme-  
6 diately communicate in writing to the congressional intel-  
7 ligence committees the reasons for the removal of any indi-  
8 vidual from the position of Inspector General.

9       “(d) DUTIES AND RESPONSIBILITIES.—Subject to  
10 subsections (g) and (h), it shall be the duty and responsi-  
11 bility of the Inspector General of the Intelligence Commu-  
12 nity—

13               “(1) to provide policy direction for, and to plan,  
14       conduct, supervise, and coordinate independently,  
15       the investigations, inspections, and audits relating to  
16       matters within the responsibility and authority of  
17       the Director of National Intelligence to ensure they  
18       are conducted efficiently and in accordance with ap-  
19       plicable law and regulations;

20               “(2) to keep the Director of National Intel-  
21       ligence fully and currently informed concerning vio-  
22       lations of law and regulations, violations of civil lib-  
23       erties and privacy, fraud and other serious problems,  
24       abuses, and deficiencies that may occur in matters  
25       within the responsibility and authority of the Direc-

1 tor, and to report the progress made in imple-  
2 menting corrective action;

3 “(3) to take due regard for the protection of in-  
4 telligence sources and methods in the preparation of  
5 all reports issued by the Inspector General, and, to  
6 the extent consistent with the purpose and objective  
7 of such reports, take such measures as may be ap-  
8 propriate to minimize the disclosure of intelligence  
9 sources and methods described in such reports; and

10 “(4) in the execution of the duties and respon-  
11 sibilities under this section, to comply with generally  
12 accepted government auditing standards.

13 “(e) LIMITATIONS ON ACTIVITIES.—(1) The Director  
14 of National Intelligence may prohibit the Inspector Gen-  
15 eral of the Intelligence Community from initiating, car-  
16 rying out, or completing any investigation, inspection, or  
17 audit if the Director determines that such prohibition is  
18 necessary to protect vital national security interests of the  
19 United States.

20 “(2) If the Director exercises the authority under  
21 paragraph (1), the Director shall submit an appropriately  
22 classified statement of the reasons for the exercise of such  
23 authority within 7 days to the congressional intelligence  
24 committees.

1       “(3) The Director shall advise the Inspector General  
2 at the time a report under paragraph (2) is submitted,  
3 and, to the extent consistent with the protection of intel-  
4 ligence sources and methods, provide the Inspector Gen-  
5 eral with a copy of such report.

6       “(4) The Inspector General may submit to the con-  
7 gressional intelligence committees any comments on a re-  
8 port of which the Inspector General has notice under para-  
9 graph (3) that the Inspector General considers appro-  
10 priate.

11       “(f) AUTHORITIES.—(1) The Inspector General of  
12 the Intelligence Community shall have direct and prompt  
13 access to the Director of National Intelligence when nec-  
14 essary for any purpose pertaining to the performance of  
15 the duties of the Inspector General.

16       “(2)(A) The Inspector General shall have access to  
17 any employee, or any employee of a contractor, of any ele-  
18 ment of the intelligence community whose testimony is  
19 needed for the performance of the duties of the Inspector  
20 General.

21       “(B) The Inspector General shall have direct access  
22 to all records, reports, audits, reviews, documents, papers,  
23 recommendations, or other material which relate to the  
24 programs and operations with respect to which the Inspec-  
25 tor General has responsibilities under this section.

1       “(C) The level of classification or compartmentation  
2 of information shall not, in and of itself, provide a suffi-  
3 cient rationale for denying the Inspector General access  
4 to any materials under subparagraph (B).

5       “(D) Failure on the part of any employee, or any em-  
6 ployee of a contractor, of any element of the intelligence  
7 community to cooperate with the Inspector General shall  
8 be grounds for appropriate administrative actions by the  
9 Director or, on the recommendation of the Director, other  
10 appropriate officials of the intelligence community, includ-  
11 ing loss of employment or the termination of an existing  
12 contractual relationship.

13       “(3) The Inspector General is authorized to receive  
14 and investigate complaints or information from any person  
15 concerning the existence of an activity constituting a viola-  
16 tion of laws, rules, or regulations, or mismanagement,  
17 gross waste of funds, abuse of authority, or a substantial  
18 and specific danger to the public health and safety. Once  
19 such complaint or information has been received from an  
20 employee of the Federal Government—

21               “(A) the Inspector General shall not disclose  
22 the identity of the employee without the consent of  
23 the employee, unless the Inspector General deter-  
24 mines that such disclosure is unavoidable during the  
25 course of the investigation or the disclosure is made

1 to an official of the Department of Justice respon-  
2 sible for determining whether a prosecution should  
3 be undertaken; and

4 “(B) no action constituting a reprisal, or threat  
5 of reprisal, for making such complaint may be taken  
6 by any employee in a position to take such actions,  
7 unless the complaint was made or the information  
8 was disclosed with the knowledge that it was false  
9 or with willful disregard for its truth or falsity.

10 “(4) The Inspector General shall have authority to  
11 administer to or take from any person an oath, affirma-  
12 tion, or affidavit, whenever necessary in the performance  
13 of the duties of the Inspector General, which oath, affir-  
14 mation, or affidavit when administered or taken by or be-  
15 fore an employee of the Office of the Inspector General  
16 of the Intelligence Community designated by the Inspector  
17 General shall have the same force and effect as if adminis-  
18 tered or taken by, or before, an officer having a seal.

19 “(5)(A) Except as provided in subparagraph (B), the  
20 Inspector General is authorized to require by subpoena the  
21 production of all information, documents, reports, an-  
22 swers, records, accounts, papers, and other data and docu-  
23 mentary evidence necessary in the performance of the du-  
24 ties and responsibilities of the Inspector General.

1           “(B) In the case of departments, agencies, and other  
2 elements of the United States Government, the Inspector  
3 General shall obtain information, documents, reports, an-  
4 swers, records, accounts, papers, and other data and evi-  
5 dence for the purpose specified in subparagraph (A) using  
6 procedures other than by subpoenas.

7           “(C) The Inspector General may not issue a subpoena  
8 for, or on behalf of, any other element of the intelligence  
9 community, including the Office of the Director of Na-  
10 tional Intelligence.

11           “(D) In the case of contumacy or refusal to obey a  
12 subpoena issued under this paragraph, the subpoena shall  
13 be enforceable by order of any appropriate district court  
14 of the United States.

15           “(g) COORDINATION AMONG INSPECTORS GENERAL  
16 OF INTELLIGENCE COMMUNITY.—(1)(A) In the event of  
17 a matter within the jurisdiction of the Inspector General  
18 of the Intelligence Community that may be subject to an  
19 investigation, inspection, or audit by both the Inspector  
20 General of the Intelligence Community and an Inspector  
21 General, whether statutory or administrative, with over-  
22 sight responsibility for an element or elements of the intel-  
23 ligence community, the Inspector General of the Intel-  
24 ligence Community and such other Inspector or Inspectors  
25 General shall expeditiously resolve the question of which

1 Inspector General shall conduct such investigation, inspec-  
2 tion, or audit.

3       “(B) In attempting to resolve a question under sub-  
4 paragraph (A), the Inspectors General concerned may re-  
5 quest the assistance of the Intelligence Community Inspec-  
6 tors General Forum established under subparagraph (C).  
7 In the event of a dispute between an Inspector General  
8 within an agency or department of the United States Gov-  
9 ernment and the Inspector General of the Intelligence  
10 Community that has not been resolved with the assistance  
11 of the Forum, the Inspectors General shall submit the  
12 question to the Director of National Intelligence and the  
13 head of the agency or department for resolution.

14       “(C) There is established the Intelligence Community  
15 Inspectors General Forum which shall consist of all statu-  
16 tory or administrative Inspectors General with oversight  
17 responsibility for an element or elements of the intelligence  
18 community. The Inspector General of the Intelligence  
19 Community shall serve as the chair of the Forum. The  
20 Forum shall have no administrative authority over any In-  
21 spector General, but shall serve as a mechanism for in-  
22 forming its members of the work of individual members  
23 of the Forum that may be of common interest and dis-  
24 cussing questions about jurisdiction or access to employ-  
25 ees, employees of a contractor, records, audits, reviews,

1 documents, recommendations, or other materials that may  
2 involve or be of assistance to more than 1 of its members.

3 “(2) The Inspector General conducting an investiga-  
4 tion, inspection, or audit covered by paragraph (1) shall  
5 submit the results of such investigation, inspection, or  
6 audit to any other Inspector General, including the Inspec-  
7 tor General of the Intelligence Community, with jurisdic-  
8 tion to conduct such investigation, inspection, or audit  
9 who did not conduct such investigation, inspection, or  
10 audit.

11 “(h) STAFF AND OTHER SUPPORT.—(1) The Inspec-  
12 tor General of the Intelligence Community shall be pro-  
13 vided with appropriate and adequate office space at cen-  
14 tral and field office locations, together with such equip-  
15 ment, office supplies, maintenance services, and commu-  
16 nications facilities and services as may be necessary for  
17 the operation of such offices.

18 “(2)(A) Subject to applicable law and the policies of  
19 the Director of National Intelligence, the Inspector Gen-  
20 eral shall select, appoint, and employ such officers and em-  
21 ployees as may be necessary to carry out the functions  
22 of the Inspector General. The Inspector General shall en-  
23 sure that any officer or employee so selected, appointed,  
24 or employed has security clearances appropriate for the  
25 assigned duties of such officer or employee.



1       “(B) In making selections under subparagraph (A),  
2 the Inspector General shall ensure that such officers and  
3 employees have the requisite training and experience to  
4 enable the Inspector General to carry out the duties of  
5 the Inspector General effectively.

6       “(C) In meeting the requirements of this paragraph,  
7 the Inspector General shall create within the Office of the  
8 Inspector General of the Intelligence Community a career  
9 cadre of sufficient size to provide appropriate continuity  
10 and objectivity needed for the effective performance of the  
11 duties of the Inspector General.

12       “(3)(A) Subject to the concurrence of the Director,  
13 the Inspector General may request such information or as-  
14 sistance as may be necessary for carrying out the duties  
15 and responsibilities of the Inspector General from any de-  
16 partment, agency, or other element of the United States  
17 Government.

18       “(B) Upon request of the Inspector General for infor-  
19 mation or assistance under subparagraph (A), the head  
20 of the department, agency, or element concerned shall, in-  
21 sofar as is practicable and not in contravention of any ex-  
22 isting statutory restriction or regulation of the depart-  
23 ment, agency, or element, furnish to the Inspector Gen-  
24 eral, or to an authorized designee, such information or as-  
25 sistance.

1       “(C) The Inspector General of the Intelligence Com-  
2 munity may, upon reasonable notice to the head of any  
3 element of the intelligence community, conduct, as author-  
4 ized by this section, an investigation, inspection, or audit  
5 of such element and may enter into any place occupied  
6 by such element for purposes of the performance of the  
7 duties of the Inspector General.

8       “(i) REPORTS.—(1)(A) The Inspector General of the  
9 Intelligence Community shall, not later than January 31  
10 and July 31 of each year, prepare and submit to the Di-  
11 rector of National Intelligence a classified, and, as appro-  
12 priate, unclassified semiannual report summarizing the ac-  
13 tivities of the Office of the Inspector General of the Intel-  
14 ligence Community during the immediately preceding 6-  
15 month period ending December 31 (of the preceding year)  
16 and June 30, respectively. The Inspector General of the  
17 Intelligence Community shall provide any portion of the  
18 report involving a component of a department of the  
19 United States Government to the head of that department  
20 simultaneously with submission of the report to the Direc-  
21 tor of National Intelligence.

22       “(B) Each report under this paragraph shall include,  
23 at a minimum, the following:

24               “(i) A list of the title or subject of each inves-  
25 tigation, inspection, or audit conducted during the

1 period covered by such report, including a summary  
2 of the progress of each particular investigation, in-  
3 spection, or audit since the preceding report of the  
4 Inspector General under this paragraph.

5 “(ii) A description of significant problems,  
6 abuses, and deficiencies relating to the administra-  
7 tion and implementation of programs and operations  
8 of the intelligence community, and in the relation-  
9 ships between elements of the intelligence commu-  
10 nity, identified by the Inspector General during the  
11 period covered by such report.

12 “(iii) A description of the recommendations for  
13 corrective or disciplinary action made by the Inspec-  
14 tor General during the period covered by such report  
15 with respect to significant problems, abuses, or defi-  
16 ciencies identified in clause (ii).

17 “(iv) A statement whether or not corrective or  
18 disciplinary action has been completed on each sig-  
19 nificant recommendation described in previous semi-  
20 annual reports, and, in a case where corrective ac-  
21 tion has been completed, a description of such cor-  
22 rective action.

23 “(v) A certification whether or not the Inspec-  
24 tor General has had full and direct access to all in-

1 formation relevant to the performance of the func-  
2 tions of the Inspector General.

3 “(vi) A description of the exercise of the sub-  
4 poena authority under subsection (f)(5) by the In-  
5 spector General during the period covered by such  
6 report.

7 “(vii) Such recommendations as the Inspector  
8 General considers appropriate for legislation to pro-  
9 mote economy, efficiency, and effectiveness in the  
10 administration and implementation of matters within  
11 the responsibility and authority of the Director of  
12 National Intelligence, and to detect and eliminate  
13 fraud and abuse in such matters.

14 “(C) Not later than the 30 days after the date of  
15 receipt of a report under subparagraph (A), the Director  
16 shall transmit the report to the congressional intelligence  
17 committees together with any comments the Director con-  
18 siders appropriate. The Director shall transmit to the  
19 committees of the Senate and of the House of Representa-  
20 tives with jurisdiction over a department of the United  
21 States Government any portion of the report involving a  
22 component of such department simultaneously with sub-  
23 mission of the report to the congressional intelligence com-  
24 mittees.

1       “(2)(A) The Inspector General shall report imme-  
2 diately to the Director whenever the Inspector General be-  
3 comes aware of particularly serious or flagrant problems,  
4 abuses, or deficiencies relating to matters within the re-  
5 sponsibility and authority of the Director of National In-  
6 telligence.

7       “(B) The Director shall transmit to the congressional  
8 intelligence committees each report under subparagraph  
9 (A) within 7 calendar days of receipt of such report, to-  
10 gether with such comments as the Director considers ap-  
11 propriate. The Director shall transmit to the committees  
12 of the Senate and of the House of Representatives with  
13 jurisdiction over a department of the United States Gov-  
14 ernment any portion of each report under subparagraph  
15 (A) that involves a problem, abuse, or deficiency related  
16 to a component of such department simultaneously with  
17 transmission of the report to the congressional intelligence  
18 committees.

19       “(3) In the event that—

20               “(A) the Inspector General is unable to resolve  
21 any differences with the Director affecting the exe-  
22 cution of the duties or responsibilities of the Inspec-  
23 tor General;

24               “(B) an investigation, inspection, or audit car-  
25 ried out by the Inspector General focuses on any

1 current or former intelligence community official  
2 who—

3 “(i) holds or held a position in an element  
4 of the intelligence community that is subject to  
5 appointment by the President, whether or not  
6 by and with the advice and consent of the Sen-  
7 ate, including such a position held on an acting  
8 basis;

9 “(ii) holds or held a position in an element  
10 of the intelligence community, including a posi-  
11 tion held on an acting basis, that is appointed  
12 by the Director of National Intelligence; or

13 “(iii) holds or held a position as head of an  
14 element of the intelligence community or a posi-  
15 tion covered by subsection (b) or (c) of section  
16 106;

17 “(C) a matter requires a report by the Inspec-  
18 tor General to the Department of Justice on possible  
19 criminal conduct by a current or former official de-  
20 scribed in subparagraph (B);

21 “(D) the Inspector General receives notice from  
22 the Department of Justice declining or approving  
23 prosecution of possible criminal conduct of any cur-  
24 rent or former official described in subparagraph  
25 (B); or

1           “(E) the Inspector General, after exhausting all  
2           possible alternatives, is unable to obtain significant  
3           documentary information in the course of an inves-  
4           tigation, inspection, or audit,  
5           the Inspector General shall immediately notify and submit  
6           a report on such matter to the congressional intelligence  
7           committees.

8           “(4) Pursuant to title V, the Director shall submit  
9           to the congressional intelligence committees any report or  
10          findings and recommendations of an investigation, inspec-  
11          tion, or audit conducted by the office which has been re-  
12          quested by the Chairman or Vice Chairman or Ranking  
13          Minority Member of either committee.

14          “(5)(A) An employee of an element of the intelligence  
15          community, an employee assigned or detailed to an ele-  
16          ment of the intelligence community, or an employee of a  
17          contractor to the intelligence community who intends to  
18          report to Congress a complaint or information with respect  
19          to an urgent concern may report such complaint or infor-  
20          mation to the Inspector General.

21          “(B) Not later than the end of the 14-calendar day  
22          period beginning on the date of receipt from an employee  
23          of a complaint or information under subparagraph (A),  
24          the Inspector General shall determine whether the com-  
25          plaint or information appears credible. Upon making such

1 a determination, the Inspector General shall transmit to  
2 the Director a notice of that determination, together with  
3 the complaint or information.

4 “(C) Upon receipt of a transmittal from the Inspector  
5 General under subparagraph (B), the Director shall, with-  
6 in 7 calendar days of such receipt, forward such trans-  
7 mittal to the congressional intelligence committees, to-  
8 gether with any comments the Director considers appro-  
9 priate.

10 “(D)(i) If the Inspector General does not find cred-  
11 ible under subparagraph (B) a complaint or information  
12 submitted under subparagraph (A), or does not transmit  
13 the complaint or information to the Director in accurate  
14 form under subparagraph (B), the employee (subject to  
15 clause (ii)) may submit the complaint or information to  
16 Congress by contacting either or both of the congressional  
17 intelligence committees directly.

18 “(ii) An employee may contact the intelligence com-  
19 mittees directly as described in clause (i) only if the em-  
20 ployee—

21 “(I) before making such a contact, furnishes to  
22 the Director, through the Inspector General, a state-  
23 ment of the employee’s complaint or information and  
24 notice of the employee’s intent to contact the con-  
25 gressional intelligence committees directly; and



1           “(II) obtains and follows from the Director,  
2           through the Inspector General, direction on how to  
3           contact the intelligence committees in accordance  
4           with appropriate security practices.

5           “(iii) A member or employee of 1 of the congressional  
6           intelligence committees who receives a complaint or infor-  
7           mation under clause (i) does so in that member or employ-  
8           ee’s official capacity as a member or employee of such  
9           committee.

10          “(E) The Inspector General shall notify an employee  
11          who reports a complaint or information to the Inspector  
12          General under this paragraph of each action taken under  
13          this paragraph with respect to the complaint or informa-  
14          tion. Such notice shall be provided not later than 3 days  
15          after any such action is taken.

16          “(F) An action taken by the Director or the Inspector  
17          General under this paragraph shall not be subject to judi-  
18          cial review.

19          “(G) In this paragraph, the term ‘urgent concern’  
20          means any of the following:

21                 “(i) A serious or flagrant problem, abuse, viola-  
22                 tion of law or Executive order, or deficiency relating  
23                 to the funding, administration, or operation of an in-  
24                 telligence activity involving classified information,

1 but does not include differences of opinions con-  
2 cerning public policy matters.

3 “(ii) A false statement to Congress, or a willful  
4 withholding from Congress, on an issue of material  
5 fact relating to the funding, administration, or oper-  
6 ation of an intelligence activity.

7 “(iii) An action, including a personnel action  
8 described in section 2302(a)(2)(A) of title 5, United  
9 States Code, constituting reprisal or threat of re-  
10 prisal prohibited under subsection (f)(3)(B) of this  
11 section in response to an employee’s reporting an ur-  
12 gent concern in accordance with this paragraph.

13 “(H) In support of this paragraph, Congress makes  
14 the findings set forth in paragraphs (1) through (6) of  
15 section 701(b) of the Intelligence Community Whistle-  
16 blower Protection Act of 1998 (title VII of Public Law  
17 105–272; 5 U.S.C. App. 8H note).

18 “(6) In accordance with section 535 of title 28,  
19 United States Code, the Inspector General shall report to  
20 the Attorney General any information, allegation, or com-  
21 plaint received by the Inspector General relating to viola-  
22 tions of Federal criminal law that involves a program or  
23 operation of an element of the intelligence community, or  
24 in the relationships between the elements of the intel-  
25 ligence community, consistent with such guidelines as may

1 be issued by the Attorney General pursuant to subsection  
2 (b)(2) of such section. A copy of each such report shall  
3 be furnished to the Director.

4 “(j) SEPARATE BUDGET ACCOUNT.—The Director of  
5 National Intelligence shall, in accordance with procedures  
6 to be issued by the Director in consultation with the con-  
7 gressional intelligence committees, include in the National  
8 Intelligence Program budget a separate account for the  
9 Office of Inspector General of the Intelligence Community.

10 “(k) CONSTRUCTION OF DUTIES REGARDING ELE-  
11 MENTS OF INTELLIGENCE COMMUNITY.—Except as re-  
12 solved pursuant to subsection (g), the performance by the  
13 Inspector General of the Intelligence Community of any  
14 duty, responsibility, or function regarding an element of  
15 the intelligence community shall not be construed to mod-  
16 ify or effect the duties and responsibilities of any other  
17 Inspector General, whether statutory or administrative,  
18 having duties and responsibilities relating to such ele-  
19 ment.”.

20 (2) CLERICAL AMENDMENT.—The table of con-  
21 tents in the first section of the National Security  
22 Act of 1947 is amended by inserting after the item  
23 relating to section 103G the following new item:

“Sec. 103H. Inspector General of the Intelligence Community.”.

1 (b) REPEAL OF SUPERSEDED AUTHORITY TO ES-  
 2 TABLISH POSITION.—Section 8K of the Inspector General  
 3 Act of 1978 (5 U.S.C. App.) is repealed.

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

7 “Inspector General of the Intelligence Commu-  
 8 nity.”.

9 **SEC. 408. CHIEF FINANCIAL OFFICER OF THE INTEL-  
 10 LIGENCE COMMUNITY.**

11 (a) ESTABLISHMENT.—Title I of the National Secu-  
 12 rity Act of 1947 (50 U.S.C. 402 et seq.), as amended by  
 13 section 407 of this Act, is further amended by inserting  
 14 after section 103H, as added by section 407, the following  
 15 new section:

16 “CHIEF FINANCIAL OFFICER OF THE INTELLIGENCE  
 17 COMMUNITY

18 “SEC. 103I. (a) CHIEF FINANCIAL OFFICER OF THE  
 19 INTELLIGENCE COMMUNITY.—To assist the Director of  
 20 National Intelligence in carrying out the responsibilities  
 21 of the Director under this Act and other applicable provi-  
 22 sions of law, there shall be within the Office of the Direc-  
 23 tor of National Intelligence a Chief Financial Officer of  
 24 the Intelligence Community who shall be appointed by the  
 25 Director.

1       “(b) DUTIES AND RESPONSIBILITIES.—Subject to  
2 the direction of the Director of National Intelligence, the  
3 Chief Financial Officer of the Intelligence Community  
4 shall—

5           “(1) serve as the principal advisor to the Direc-  
6 tor of National Intelligence and the Principal Dep-  
7 uty Director of National Intelligence on the manage-  
8 ment and allocation of intelligence community budg-  
9 etary resources;

10          “(2) establish and oversee a comprehensive and  
11 integrated strategic process for resource manage-  
12 ment within the intelligence community;

13          “(3) ensure that the strategic plan of the Direc-  
14 tor of National Intelligence—

15           “(A) is based on budgetary constraints as  
16 specified in the Future Year Intelligence Plans  
17 and Long-term Budget Projections required by  
18 this Act; and

19           “(B) contains specific goals and objectives  
20 to support a performance-based budget;

21          “(4) ensure that—

22           “(A) current and future major system ac-  
23 quisitions have validated national requirements  
24 for meeting the strategic plan of the Director;  
25 and

1           “(B) such requirements are prioritized  
2           based on budgetary constraints, as specified in  
3           the Future Year Intelligence Plans and the  
4           Long-term Intelligence Projections required by  
5           this Act;

6           “(5) prior to the obligation or expenditure of  
7           funds for the acquisition of any major system pursu-  
8           ant to a Milestone A or Milestone B decision, deter-  
9           mine that such acquisition complies with the require-  
10          ments of paragraph (4);

11          “(6) ensure that the architectures of the Direc-  
12          tor are based on budgetary constraints as specified  
13          in the Future Year Intelligence Plans and the Long-  
14          term Budget Projections required by this Act;

15          “(7) coordinate or approve representations  
16          made to Congress by the intelligence community re-  
17          garding National Intelligence Program budgetary re-  
18          sources;

19          “(8) preside, or assist in presiding, over any  
20          mission requirements, acquisition, or architectural  
21          board formed within or by the Office of the Director  
22          of National Intelligence; and

23          “(9) perform such other duties as may be pre-  
24          scribed by the Director of National Intelligence or  
25          specified by law.

1       “(c) OTHER LAW.—The Chief Financial Officer of  
2 the Intelligence Community shall serve as the Chief Finan-  
3 cial Officer of the intelligence community and, to the ex-  
4 tent applicable, shall have the duties, responsibilities, and  
5 authorities specified in the Chief Financial Officers Act  
6 of 1990 (Public Law 101–576; 104 Stat. 2823) and the  
7 amendments made by that Act.

8       “(d) PROHIBITION ON SIMULTANEOUS SERVICE AS  
9 OTHER CHIEF FINANCIAL OFFICER.—An individual serv-  
10 ing in the position of Chief Financial Officer of the Intel-  
11 ligence Community may not, while so serving, serve as the  
12 chief financial officer of any other department or agency,  
13 or component thereof, of the United States Government.

14       “(e) DEFINITIONS.—In this section:

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

18               “(2) The term ‘Milestone A’ means a decision  
19 to enter into concept refinement and technology ma-  
20 turity demonstration pursuant to guidance issued by  
21 the Director of National Intelligence.

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

1 (b) CLERICAL AMENDMENT.—The table of contents  
 2 in the first section of the National Security Act of 1947,  
 3 as amended by section 407, is further amended by insert-  
 4 ing after the item relating to section 103H, as added by  
 5 section 407(a)(2) the following new item:

“Sec. 103I. Chief Financial Officer of the Intelligence Community.”.

6 **SEC. 409. LEADERSHIP AND LOCATION OF CERTAIN OF-**  
 7 **FICES AND OFFICIALS.**

8 (a) NATIONAL COUNTER PROLIFERATION CEN-  
 9 TER.—Section 119A(a) of the National Security Act of  
 10 1947 (50 U.S.C. 404o–1(a)) is amended—

11 (1) by striking “(a) ESTABLISHMENT.—Not  
 12 later than 18 months after the date of the enact-  
 13 ment of the National Security Intelligence Reform  
 14 Act of 2004, the” and inserting the following:

15 “(a) IN GENERAL.—

16 “(1) ESTABLISHMENT.—The”; and

17 (2) by adding at the end the following new  
 18 paragraphs:

19 “(2) DIRECTOR.—The head of the National  
 20 Counter Proliferation Center shall be the Director of  
 21 the National Counter Proliferation Center, who shall  
 22 be appointed by the Director of National Intel-  
 23 ligence.



1           “(3) LOCATION.—The National Counter Pro-  
2           liferation Center shall be located within the Office of  
3           the Director of National Intelligence.”.

4           (b) OFFICERS.—Section 103(c) of that Act (50  
5 U.S.C. 403–3(c)) is amended—

6           (1) by redesignating paragraph (9) as para-  
7           graph (13); and

8           (2) by inserting after paragraph (8) the fol-  
9           lowing new paragraphs:

10           “(9) The Chief Information Officer of the Intel-  
11           ligence Community.

12           “(10) The Inspector General of the Intelligence  
13           Community.

14           “(11) The Director of the National  
15           Counterterrorism Center.

16           “(12) The Director of the National Counter  
17           Proliferation Center.

18           “(13) Chief Financial Officer of the Intelligence  
19           Community.”.

20 **SEC. 410. NATIONAL SPACE INTELLIGENCE OFFICE.**

21           (a) ESTABLISHMENT.—

22           (1) IN GENERAL.—Title I of the National Secu-  
23           rity Act of 1947 (50 U.S.C. 401 et seq.) is amended  
24           by adding at the end the following new section:

1           “NATIONAL SPACE INTELLIGENCE OFFICE

2           “SEC. 119C. (a) ESTABLISHMENT.—There is estab-  
3 lished within the Office of the Director of National Intel-  
4 ligence a National Space Intelligence Office.

5           “(b) DIRECTOR OF NATIONAL SPACE INTELLIGENCE  
6 OFFICE.—The National Intelligence Officer for Science  
7 and Technology, or a successor position designated by the  
8 Director of National Intelligence, shall act as the Director  
9 of the National Space Intelligence Office.

10          “(c) MISSIONS.—The National Space Intelligence Of-  
11 fice shall have the following missions:

12           “(1) To coordinate and provide policy direction  
13 for the management of space-related intelligence as-  
14 sets.

15           “(2) To prioritize collection activities consistent  
16 with the National Intelligence Collection Priorities  
17 framework, or a successor framework or other docu-  
18 ment designated by the Director of National Intel-  
19 ligence.

20           “(3) To provide policy direction for programs  
21 designed to ensure a sufficient cadre of government  
22 and nongovernment personnel in fields relating to  
23 space intelligence, including programs to support  
24 education, recruitment, hiring, training, and reten-  
25 tion of qualified personnel.

1           “(4) To evaluate independent analytic assess-  
2           ments of threats to classified United States space in-  
3           telligence systems throughout all phases of the devel-  
4           opment, acquisition, and operation of such systems.

5           “(d) ACCESS TO INFORMATION.—The Director of  
6 National Intelligence shall ensure that the National Space  
7 Intelligence Office has access to all national intelligence  
8 information (as appropriate), and such other information  
9 (as appropriate and practical), necessary for the Office to  
10 carry out the missions of the Office under subsection (c).

11           “(e) SEPARATE BUDGET ACCOUNT.—The Director of  
12 National Intelligence shall include in the National Intel-  
13 ligence Program budget a separate line item for the Na-  
14 tional Space Intelligence Office.”.

15           (2) CLERICAL AMENDMENT.—The table of con-  
16           tents in the first section of the National Security  
17           Act of 1947 is amended by inserting after the item  
18           relating to section 119B the following new item:

“Sec. 119C. National Space Intelligence Office.”.

19           (b) REPORT ON ORGANIZATION OF OFFICE.—

20           (1) REPORT REQUIRED.—Not later than 180  
21           days after the date of the enactment of this Act, the  
22           Director of the National Space Intelligence Office  
23           shall submit to the Select Committee on Intelligence  
24           of the Senate and the Permanent Select Committee  
25           on Intelligence of the House of Representatives a re-

1 port on the organizational structure of the National  
2 Space Intelligence Office established by section 119C  
3 of the National Security Act of 1947 (as added by  
4 subsection (a)).

5 (2) ELEMENTS.—The report required by para-  
6 graph (1) shall include the following:

7 (A) The proposed organizational structure  
8 of the National Space Intelligence Office.

9 (B) An identification of key participants in  
10 the Office.

11 (C) A strategic plan for the Office during  
12 the 5-year period beginning on the date of the  
13 report.

14 **SEC. 411. OPERATIONAL FILES IN THE OFFICE OF THE DI-**  
15 **RECTOR OF NATIONAL INTELLIGENCE.**

16 (a) IN GENERAL.—Title VII of the National Security  
17 Act of 1947 (50 U.S.C. 431 et seq.) is amended by adding  
18 at the end the following new section:

19 “OPERATIONAL FILES IN THE OFFICE OF THE DIRECTOR  
20 OF NATIONAL INTELLIGENCE

21 “SEC. 706. (a) RECORDS FROM EXEMPTED OPER-  
22 ATIONAL FILES.—(1) Any record disseminated or other-  
23 wise provided to an element of the Office of the Director  
24 of National Intelligence from the exempted operational  
25 files of elements of the intelligence community designated  
26 in accordance with this title, and any operational files cre-

1 ated by the Office of the Director of National Intelligence  
2 that incorporate such record in accordance with subpara-  
3 graph (A)(ii), shall be exempted from the provisions of  
4 section 552 of title 5, United States Code, that require  
5 search, review, publication, or disclosure in connection  
6 therewith, in any instance in which—

7           “(A)(i) such record is shared within the Office  
8           of the Director of National Intelligence and not dis-  
9           seminated by that Office beyond that Office; or

10           “(ii) such record is incorporated into new  
11           records created by personnel of the Office of the Di-  
12           rector of National Intelligence and maintained in  
13           operational files of the Office of the Director of Na-  
14           tional Intelligence and such record is not dissemi-  
15           nated by that Office beyond that Office; and

16           “(B) the operational files from which such  
17           record has been obtained continue to remain des-  
18           ignated as operational files exempted from section  
19           552 of title 5, United States Code.

20           “(2) The operational files of the Office of the Direc-  
21           tor of National Intelligence referred to in paragraph  
22           (1)(A)(ii) shall be substantially similar in nature to the  
23           originating operational files from which the record was  
24           disseminated or provided, as such files are defined in this  
25           title.

1       “(3) Records disseminated or otherwise provided to  
2 the Office of the Director of National Intelligence from  
3 other elements of the intelligence community that are not  
4 protected by paragraph (1), and that are authorized to  
5 be disseminated beyond the Office of the Director of Na-  
6 tional Intelligence, shall remain subject to search and re-  
7 view under section 552 of title 5, United States Code, but  
8 may continue to be exempted from the publication and dis-  
9 closure provisions of that section by the originating agency  
10 to the extent that such section permits.

11       “(4) Notwithstanding any other provision of this title,  
12 records in the exempted operational files of the Central  
13 Intelligence Agency, the National Geospatial-Intelligence  
14 Agency, the National Reconnaissance Office, the National  
15 Security Agency, or the Defense Intelligence Agency shall  
16 not be subject to the search and review provisions of sec-  
17 tion 552 of title 5, United States Code, solely because they  
18 have been disseminated to an element or elements of the  
19 Office of the Director of National Intelligence, or ref-  
20 erenced in operational files of the Office of the Director  
21 of National Intelligence and that are not disseminated be-  
22 yond the Office of the Director of National Intelligence.

23       “(5) Notwithstanding any other provision of this title,  
24 the incorporation of records from the operational files of  
25 the Central Intelligence Agency, the National Geospatial-

1 Intelligence Agency, the National Reconnaissance Office,  
2 the National Security Agency, or the Defense Intelligence  
3 Agency, into operational files of the Office of the Director  
4 of National Intelligence shall not subject that record or  
5 the operational files of the Central Intelligence Agency,  
6 the National Geospatial-Intelligence Agency, the National  
7 Reconnaissance Office, the National Security Agency or  
8 the Defense Intelligence Agency to the search and review  
9 provisions of section 552 of title 5, United States Code.

10       “(b) OTHER RECORDS.—(1) Files in the Office of the  
11 Director of National Intelligence that are not exempted  
12 under subsection (a) of this section which contain informa-  
13 tion derived or disseminated from exempted operational  
14 files shall be subject to search and review under section  
15 552 of title 5, United States Code.

16       “(2) The inclusion of information from exempted  
17 operational files in files of the Office of the Director of  
18 National Intelligence that are not exempted under sub-  
19 section (a) shall not affect the exemption of the originating  
20 operational files from search, review, publication, or dis-  
21 closure.

22       “(3) Records from exempted operational files of the  
23 Office of the Director of National Intelligence which have  
24 been disseminated to and referenced in files that are not  
25 exempted under subsection (a), and which have been re-

1 turned to exempted operational files of the Office of the  
2 Director of National Intelligence for sole retention, shall  
3 be subject to search and review.

4 “(c) SEARCH AND REVIEW FOR CERTAIN PUR-  
5 POSES.—Notwithstanding subsection (a), exempted oper-  
6 ational files shall continue to be subject to search and re-  
7 view for information concerning any of the following:

8 “(1) United States citizens or aliens lawfully  
9 admitted for permanent residence who have re-  
10 quested information on themselves pursuant to the  
11 provisions of section 552 or 552a of title 5, United  
12 States Code.

13 “(2) Any special activity the existence of which  
14 is not exempt from disclosure under the provisions  
15 of section 552 of title 5, United States Code.

16 “(3) The specific subject matter of an investiga-  
17 tion by any of the following for any impropriety, or  
18 violation of law, Executive order, or Presidential di-  
19 rective, in the conduct of an intelligence activity:

20 “(A) The Select Committee on Intelligence  
21 of the Senate.

22 “(B) The Permanent Select Committee on  
23 Intelligence of the House of Representatives.

24 “(C) The Intelligence Oversight Board.

25 “(D) The Department of Justice.



1           “(E) The Office of the Director of Na-  
2           tional Intelligence.

3           “(F) The Office of the Inspector General  
4           of the Intelligence Community.

5           “(d) DECENNIAL REVIEW OF EXEMPTED OPER-  
6           ATIONAL FILES.—(1) Not less than once every 10 years,  
7           the Director of National Intelligence shall review the oper-  
8           ational files exempted under subsection (a) to determine  
9           whether such files, or any portion of such files, may be  
10          removed from the category of exempted files.

11          “(2) The review required by paragraph (1) shall in-  
12          clude consideration of the historical value or other public  
13          interest in the subject matter of the particular category  
14          of files or portions thereof and the potential for declas-  
15          sifying a significant part of the information contained  
16          therein.

17          “(3) A complainant that alleges that the Director of  
18          National Intelligence has improperly withheld records be-  
19          cause of failure to comply with this subsection may seek  
20          judicial review in the district court of the United States  
21          of the district in which any of the parties reside, or in  
22          the District of Columbia. In such a proceeding, the court’s  
23          review shall be limited to determining the following:

24                  “(A) Whether the Director has conducted the  
25          review required by paragraph (1) before the expira-

1       tion of the 10-year period beginning on the date of  
2       the enactment of the Intelligence Authorization Act  
3       for Fiscal Year 2009 or before the expiration of the  
4       10-year period beginning on the date of the most re-  
5       cent review.

6               “(B) Whether the Director of National Intel-  
7       ligence, in fact, considered the criteria set forth in  
8       paragraph (2) in conducting the required review.

9               “(e) SUPERSEDURE OF OTHER LAWS.—The provi-  
10      sions of this section may not be superseded except by a  
11      provision of law that is enacted after the date of the enact-  
12      ment of this section and that specifically cites and repeals  
13      or modifies such provisions.

14              “(f) APPLICABILITY.—The Director of National In-  
15      telligence will publish a regulation listing the specific ele-  
16      ments within the Office of the Director of National Intel-  
17      ligence whose records can be exempted from search and  
18      review under this section.

19              “(g) ALLEGATION; IMPROPER WITHHOLDING OF  
20      RECORDS; JUDICIAL REVIEW.—(1) Except as provided in  
21      paragraph (2), whenever any person who has requested  
22      agency records under section 552 of title 5, United States  
23      Code, alleges that the Office of the Director of National  
24      Intelligence has withheld records improperly because of  
25      failure to comply with any provision of this section, judi-

1 cial review shall be available under the terms set forth in  
2 section 552(a)(4)(B) of title 5, United States Code.

3 “(2) Judicial review shall not be available in the man-  
4 ner provided for under paragraph (1) as follows:

5 “(A) In any case in which information specifi-  
6 cally authorized under criteria established by an Ex-  
7 ecutive order to be kept secret in the interests of na-  
8 tional defense or foreign relations is filed with, or  
9 produced for, the court by the Office of the Director  
10 of National Intelligence, such information shall be  
11 examined ex parte, in camera by the court.

12 “(B) The court shall determine, to the fullest  
13 extent practicable, the issues of fact based on sworn  
14 written submissions of the parties.

15 “(C) When a complainant alleges that re-  
16 quested records are improperly withheld because of  
17 improper placement solely in exempted operational  
18 files, the complainant shall support such allegation  
19 with a sworn written submission based upon per-  
20 sonal knowledge or otherwise admissible evidence.

21 “(D)(i) When a complainant alleges that re-  
22 quested records were improperly withheld because of  
23 improper exemption of operational files, the Office of  
24 the Director of National Intelligence shall meet its  
25 burden under section 552(a)(4)(B) of title 5, United

1 States Code, by demonstrating to the court by sworn  
2 written submission that exempted operational files  
3 likely to contain responsive records currently meet  
4 the criteria set forth in subsection (a).

5 “(ii) The court may not order the Office of the  
6 Director of National Intelligence to review the con-  
7 tent of any exempted operational file or files in order  
8 to make the demonstration required under clause (i),  
9 unless the complainant disputes the Office’s showing  
10 with a sworn written submission based on personal  
11 knowledge or otherwise admissible evidence.

12 “(E) In proceedings under subparagraph (C) or  
13 (D), a party may not obtain discovery pursuant to  
14 rules 26 through 36 of the Federal Rules of Civil  
15 Procedure, except that requests for admissions may  
16 be made pursuant to rules 26 and 36.

17 “(F) If the court finds under this subsection  
18 that the Office of the Director of National Intel-  
19 ligence has improperly withheld requested records  
20 because of failure to comply with any provision of  
21 this section, the court shall order the Office to  
22 search and review the appropriate exempted oper-  
23 ational file or files for the requested records and  
24 make such records, or portions thereof, available in  
25 accordance with the provisions of section 552 of title

1 5, United States Code, and such order shall be the  
2 exclusive remedy for failure to comply with this sec-  
3 tion.

4 “(G) If at any time following the filing of a  
5 complaint pursuant to this paragraph the Office of  
6 the Director of National Intelligence agrees to  
7 search the appropriate exempted operational file or  
8 files for the requested records, the court shall dis-  
9 miss the claim based upon such complaint.”.

10 (b) CLERICAL AMENDMENT.—The table of contents  
11 in the first section of the National Security Act of 1947  
12 is amended by inserting after the item relating to section  
13 705 the following new item:

“Sec. 706. Operational files in the Office of the Director of National Intel-  
ligence.”.

14 **SEC. 412. MEMBERSHIP OF THE DIRECTOR OF NATIONAL**  
15 **INTELLIGENCE ON THE TRANSPORTATION**  
16 **SECURITY OVERSIGHT BOARD.**

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

19 “(F) The Director of National Intelligence,  
20 or the Director’s designee.”.

1 **SEC. 413. DIRECTOR OF NATIONAL INTELLIGENCE REPORT**  
2 **ON RETIREMENT BENEFITS FOR FORMER EM-**  
3 **PLOYEES OF AIR AMERICA.**

4 (a) IN GENERAL.—Not later than 120 days after the  
5 date of the enactment of this Act, the Director of National  
6 Intelligence shall submit to Congress a report on the ad-  
7 visability of providing Federal retirement benefits to  
8 United States citizens for the service of such individuals  
9 before 1977 as employees of Air America or an associated  
10 company while such company was owned or controlled by  
11 the United States Government and operated or managed  
12 by the Central Intelligence Agency.

13 (b) REPORT ELEMENTS.—

14 (1) IN GENERAL.—The report required by sub-  
15 section (a) shall include the following:

16 (A) The history of Air America and associ-  
17 ated companies before 1977, including a de-  
18 scription of—

19 (i) the relationship between such com-  
20 panies and the Central Intelligence Agency  
21 and other elements of the United States  
22 Government;

23 (ii) the workforce of such companies;

24 (iii) the missions performed by such  
25 companies and their employees for the  
26 United States; and

1 (iv) the casualties suffered by employ-  
2 ees of such companies in the course of  
3 their employment with such companies.

4 (B) A description of the retirement bene-  
5 fits contracted for or promised to the employees  
6 of such companies before 1977, the contribu-  
7 tions made by such employees for such benefits,  
8 the retirement benefits actually paid such em-  
9 ployees, the entitlement of such employees to  
10 the payment of future retirement benefits, and  
11 the likelihood that former employees of such  
12 companies will receive any future retirement  
13 benefits.

14 (C) An assessment of the difference be-  
15 tween—

16 (i) the retirement benefits that former  
17 employees of such companies have received  
18 or will receive by virtue of their employ-  
19 ment with such companies; and

20 (ii) the retirement benefits that such  
21 employees would have received and in the  
22 future receive if such employees had been,  
23 or would now be, treated as employees of  
24 the United States whose services while in  
25 the employ of such companies had been or

1           would now be credited as Federal service  
2           for the purpose of Federal retirement ben-  
3           efits.

4           (D) Any recommendations regarding the  
5           advisability of legislative action to treat employ-  
6           ment at such companies as Federal service for  
7           the purpose of Federal retirement benefits in  
8           light of the relationship between such compa-  
9           nies and the United States Government and the  
10          services and sacrifices of such employees to and  
11          for the United States, and if legislative action  
12          is considered advisable, a proposal for such ac-  
13          tion and an assessment of its costs.

14          (2) OTHER CONTENT.—The Director of Na-  
15          tional Intelligence shall include in the report any  
16          views of the Director of the Central Intelligence  
17          Agency on the matters covered by the report that  
18          the Director of the Central Intelligence Agency con-  
19          siders appropriate.

20          (c) ASSISTANCE OF COMPTROLLER GENERAL.—The  
21          Comptroller General of the United States shall, upon the  
22          request of the Director of National Intelligence and in a  
23          manner consistent with the protection of classified infor-  
24          mation, assist the Director in the preparation of the report  
25          required by subsection (a).



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

4 (e) DEFINITIONS.—In this section:

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

7 (2) ASSOCIATED COMPANY.—The term “associ-  
 8 ated company” means any company associated with  
 9 or subsidiary to Air America, including Air Asia  
 10 Company Limited and the Pacific Division of South-  
 11 ern Air Transport, Incorporated.

12 **SEC. 414. REPEAL OF CERTAIN AUTHORITIES RELATING TO**  
 13 **THE OFFICE OF THE NATIONAL COUNTER-**  
 14 **INTELLIGENCE EXECUTIVE.**

15 (a) REPEAL OF CERTAIN AUTHORITIES.—Section  
 16 904 of the Counterintelligence Enhancement Act of 2002  
 17 (title IX of Public Law 107–306; 50 U.S.C. 402e) is  
 18 amended—

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

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

23 (3) in subsection (f), as redesignated by para-  
 24 graph (2), by striking paragraphs (3) and (4).

1 (b) CONFORMING AMENDMENTS.—Such section 904  
2 is further amended—

3 (1) in subsection (d), as redesignated by sub-  
4 section (a)(2) of this section, by striking “subsection  
5 (f)” each place it appears in paragraphs (1) and (2)  
6 and inserting “subsection (e)”; and

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

8 (A) in paragraph (1), by striking “sub-  
9 section (e)(1)” and inserting “subsection  
10 (d)(1)”; and

11 (B) in paragraph (2), by striking “sub-  
12 section (e)(2)” and inserting “subsection  
13 (d)(2)”.

14 **SEC. 415. APPLICABILITY OF THE PRIVACY ACT TO THE DI-**  
15 **RECTOR OF NATIONAL INTELLIGENCE AND**  
16 **THE OFFICE OF THE DIRECTOR OF NATIONAL**  
17 **INTELLIGENCE.**

18 Subsection (j) of section 552a of title 5, United  
19 States Code, is amended—

20 (1) in paragraph (1), by striking “or”;

21 (2) by redesignating paragraph (2) as para-  
22 graph (3); and

23 (3) by inserting after paragraph (1) the fol-  
24 lowing new paragraph:

1           “(2) maintained by the Office of the Director of  
2           National Intelligence; or”.

3 **SEC. 416. INAPPLICABILITY OF FEDERAL ADVISORY COM-**  
4           **MITTEE ACT TO ADVISORY COMMITTEES OF**  
5           **THE OFFICE OF THE DIRECTOR OF NATIONAL**  
6           **INTELLIGENCE.**

7           Section 4(b) of the Federal Advisory Committee Act  
8 (5 U.S.C. App.) is amended—

9           (1) in paragraph (1), by striking “or”;

10           (2) in paragraph (2), by striking the period and  
11           inserting “; or”; and

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

14           “(3) the Office of the Director of National In-  
15           telligence.”.

16           **Subtitle B—Central Intelligence**  
17           **Agency**

18 **SEC. 421. INAPPLICABILITY TO DIRECTOR OF THE CEN-**  
19           **TRAL INTELLIGENCE AGENCY OF REQUIRE-**  
20           **MENT FOR ANNUAL REPORT ON PROGRESS**  
21           **IN AUDITABLE FINANCIAL STATEMENTS.**

22           Section 114A of the National Security Act of 1947  
23 (50 U.S.C. 404i-1) is amended by striking “the Director  
24 of the Central Intelligence Agency,”.

1 **SEC. 422. ADDITIONAL FUNCTIONS AND AUTHORITIES FOR**  
2 **PROTECTIVE PERSONNEL OF THE CENTRAL**  
3 **INTELLIGENCE AGENCY.**

4 (a) IN GENERAL.—Section 5(a)(4) of the Central In-  
5 telligence Agency Act of 1949 (50 U.S.C. 403f(a)(4)) is  
6 amended—

7 (1) by inserting “(A)” after “(4)”;

8 (2) in subparagraph (A), as so designated—

9 (A) by striking “and the protection” and  
10 inserting “the protection”; and

11 (B) by striking the semicolon and inserting  
12 “, and the protection of the Director of Na-  
13 tional Intelligence and such personnel of the Of-  
14 fice of the Director of National Intelligence as  
15 the Director of National Intelligence may des-  
16 ignate; and”;

17 (3) by adding at the end the following new sub-  
18 paragraph:

19 “(B) Authorize personnel engaged in the per-  
20 formance of protective functions authorized pursuant  
21 to subparagraph (A), when engaged in, and in fur-  
22 therance of, the performance of such functions, to  
23 make arrests without warrant for any offense  
24 against the United States committed in the presence  
25 of such personnel, or for any felony cognizable under  
26 the laws of the United States, if such personnel have

1 reasonable grounds to believe that the person to be  
2 arrested has committed or is committing such fel-  
3 ony, except that any authority pursuant to this sub-  
4 paragraph may be exercised only in accordance with  
5 guidelines approved by the Director and the Attor-  
6 ney General and such personnel may not exercise  
7 any authority for the service of civil process or for  
8 the investigation of criminal offenses;”.

9 (b) REQUIREMENT TO REPORT.—As soon as possible  
10 after the date of an exercise of authority under subpara-  
11 graph (B) of section 5(a)(4) of the Central Intelligence  
12 Agency Act of 1949 (50 U.S.C. 403f(a)(4)), as added by  
13 subsection (a)(3), and not later than 10 days after such  
14 date, the Director of the Central Intelligence Agency shall  
15 submit to the congressional intelligence committees a re-  
16 port describing such exercise of authority.

17 **SEC. 423. TECHNICAL AMENDMENTS RELATING TO TITLES**  
18 **OF CERTAIN CENTRAL INTELLIGENCE AGEN-**  
19 **CY POSITIONS.**

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

23 (1) in subclause (I), by striking “Executive Di-  
24 rector” and inserting “Associate Deputy Director”;

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

4 (3) in subclause (III), by striking “Deputy Di-  
5 rector for Intelligence” and inserting “Director of  
6 Intelligence”;

7 (4) in subclause (IV), by striking “Deputy Di-  
8 rector for Administration” and inserting “Director  
9 of Support”; and

10 (5) in subclause (V), by striking “Deputy Di-  
11 rector for Science and Technology” and inserting  
12 “Director of Science and Technology”.

## 13 **Subtitle C—Defense Intelligence** 14 **Components**

### 15 **SEC. 431. ENHANCEMENT OF NATIONAL SECURITY AGENCY** 16 **TRAINING PROGRAM.**

17 Subsection (e) of section 16 of the National Security  
18 Agency Act of 1959 (50 U.S.C. 402 note) is amended by  
19 striking “(1) When an employee” and all that follows  
20 through “(2) Agency efforts” and inserting “Agency ef-  
21 forts”.

1 **SEC. 432. CODIFICATION OF AUTHORITIES OF NATIONAL**  
2 **SECURITY AGENCY PROTECTIVE PER-**  
3 **SONNEL.**

4 The National Security Agency Act of 1959 (50  
5 U.S.C. 402 note) is amended by adding at the end the  
6 following new section:

7 “SEC. 21. (a) The Director of the National Security  
8 Agency is authorized to designate personnel of the Na-  
9 tional Security Agency to perform protective functions for  
10 the Director and for any personnel of the Agency des-  
11 ignated by the Director.

12 “(b)(1) In the performance of protective functions  
13 under this section, personnel of the Agency designated to  
14 perform protective functions pursuant to subsection (a)  
15 are authorized, when engaged in, and in furtherance of,  
16 the performance of such functions, to make arrests with-  
17 out a warrant for—

18 “(A) any offense against the United States  
19 committed in the presence of such personnel; or

20 “(B) any felony cognizable under the laws of  
21 the United States if such personnel have reasonable  
22 grounds to believe that the person to be arrested has  
23 committed or is committing such felony.

24 “(2) The authority in paragraph (1) may be exercised  
25 only in accordance with guidelines approved by the Direc-  
26 tor and the Attorney General.

1       “(3) Personnel of the Agency designated to perform  
2 protective functions pursuant to subsection (a) shall not  
3 exercise any authority for the service of civil process or  
4 the investigation of criminal offenses.

5       “(c) Nothing in this section shall be construed to im-  
6 pair or otherwise affect any authority under any other pro-  
7 vision of law relating to the performance of protective  
8 functions.

9       “(d) As soon as possible after the date of an exercise  
10 of authority under this section and not later than 10 days  
11 after such date, the Director shall submit to the congres-  
12 sional intelligence committees a report describing such ex-  
13 ercise of authority.

14       “(e) In this section, the term ‘congressional intel-  
15 ligence committees’ means—

16               “(1) the Select Committee on Intelligence of the  
17 Senate; and

18               “(2) the Permanent Select Committee on Intel-  
19 ligence of the House of Representatives.”.

20 **SEC. 433. INSPECTOR GENERAL MATTERS.**

21       (a) COVERAGE UNDER INSPECTOR GENERAL ACT OF  
22 1978.—Subsection (a)(2) of section 8G of the Inspector  
23 General Act of 1978 (5 U.S.C. App. 8G) is amended—



1           (1) by inserting “the Defense Intelligence Agen-  
2           cy,” after “the Corporation for Public Broad-  
3           casting,”;

4           (2) by inserting “the National Geospatial-Intel-  
5           ligence Agency,” after “the National Endowment for  
6           the Humanities,”; and

7           (3) by inserting “the National Reconnaissance  
8           Office, the National Security Agency,” after “the  
9           National Labor Relations Board,”.

10          (b) CERTAIN DESIGNATIONS UNDER INSPECTOR  
11 GENERAL ACT OF 1978.—Subsection (a) of section 8H  
12 of the Inspector General Act of 1978 (5 U.S.C. App. 8H)  
13 is amended by adding at the end the following new para-  
14 graph:

15          “(3) The Inspectors General of the Defense Intel-  
16 ligence Agency, the National Geospatial-Intelligence Agen-  
17 cy, the National Reconnaissance Office, and the National  
18 Security Agency shall be designees of the Inspector Gen-  
19 eral of the Department of Defense for purposes of this  
20 section.”.

21          (c) POWER OF HEADS OF ELEMENTS OVER INVES-  
22 TIGATIONS.—Subsection (d) of section 8G of the Inspector  
23 General Act of 1978 (5 U.S.C. App. 8G)—

24           (1) by inserting “(1)” after “(d)”;

1           (2) in the second sentence of paragraph (1), as  
2           designated by paragraph (1) of this subsection, by  
3           striking “The head” and inserting “Except as pro-  
4           vided in paragraph (2), the head”; and

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

7           “(2)(A) The Secretary of Defense, in consultation  
8           with the Director of National Intelligence, may prohibit  
9           the Inspector General of an element of the intelligence  
10          community specified in subparagraph (D) from initiating,  
11          carrying out, or completing any audit or investigation if  
12          the Secretary determines that the prohibition is necessary  
13          to protect vital national security interests of the United  
14          States.

15          “(B) If the Secretary exercises the authority under  
16          subparagraph (A), the Secretary shall submit to the com-  
17          mittees of Congress specified in subparagraph (E) an ap-  
18          propriately classified statement of the reasons for the ex-  
19          ercise of the authority not later than 7 days after the exer-  
20          cise of the authority.

21          “(C) At the same time the Secretary submits under  
22          subparagraph (B) a statement on the exercise of the au-  
23          thority in subparagraph (A) to the committees of Congress  
24          specified in subparagraph (E), the Secretary shall notify  
25          the Inspector General of such element of the submittal of

1 such statement and, to the extent consistent with the pro-  
2 tection of intelligence sources and methods, provide the  
3 Inspector General with a copy of such statement. The In-  
4 spector General may submit to such committees of Con-  
5 gress any comments on a notice or statement received by  
6 the Inspector General under this subparagraph that the  
7 Inspector General considers appropriate.

8 “(D) The elements of the intelligence community  
9 specified in this subparagraph are as follows:

10 “(i) The Defense Intelligence Agency.

11 “(ii) The National Geospatial-Intelligence Agen-  
12 cy.

13 “(iii) The National Reconnaissance Office.

14 “(iv) The National Security Agency.

15 “(E) The committees of Congress specified in this  
16 subparagraph are—

17 “(i) the Committee on Armed Services and the  
18 Select Committee on Intelligence of the Senate; and

19 “(ii) the Committee on Armed Services and the  
20 Permanent Select Committee on Intelligence of the  
21 House of Representatives.”.

1 **SEC. 434. CONFIRMATION OF APPOINTMENT OF HEADS OF**  
2 **CERTAIN COMPONENTS OF THE INTEL-**  
3 **LIGENCE COMMUNITY.**

4 (a) DIRECTOR OF NATIONAL SECURITY AGENCY.—

5 The National Security Agency Act of 1959 (50 U.S.C. 402  
6 note) is amended by inserting after the first section the  
7 following new section:

8 “SEC. 2. (a) There is a Director of the National Secu-  
9 rity Agency.

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

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

17 (b) DIRECTOR OF NATIONAL GEOSPATIAL-INTEL-  
18 LIGENCE AGENCY.—Section 441(b) of title 10, United  
19 States Code, is amended—

20 (1) by redesignating paragraphs (2) and (3) as  
21 paragraphs (3) and (4), respectively; and

22 (2) by inserting after paragraph (1) the fol-  
23 lowing new paragraph (2):

24 “(2) The Director of the National Geospatial-Intel-  
25 ligence Agency shall be appointed by the President, by and  
26 with the advice and consent of the Senate.”.

1           (c) DIRECTOR OF NATIONAL RECONNAISSANCE OF-  
2 FICE.—The Director of the National Reconnaissance Of-  
3 fice shall be appointed by the President, by and with the  
4 advice and consent of the Senate.

5           (d) POSITIONS OF IMPORTANCE AND RESPONSI-  
6 BILITY.—

7           (1) DESIGNATION OF POSITIONS.—The Presi-  
8 dent may designate any of the positions referred to  
9 in paragraph (2) as positions of importance and re-  
10 sponsibility under section 601 of title 10, United  
11 States Code.

12           (2) COVERED POSITIONS.—The positions re-  
13 ferred to in this paragraph are as follows:

14           (A) The Director of the National Security  
15 Agency.

16           (B) The Director of the National  
17 Geospatial-Intelligence Agency.

18           (C) The Director of the National Recon-  
19 naissance Office.

20           (e) EFFECTIVE DATE AND APPLICABILITY.—

21           (1) IN GENERAL.—The amendments made by  
22 subsections (a) and (b), and subsection (c), shall  
23 take effect on the date of the enactment of this Act  
24 and shall apply upon the earlier of—

1 (A) the date of the nomination by the  
2 President of an individual to serve in the posi-  
3 tion concerned, except that the individual serv-  
4 ing in such position as of the date of the enact-  
5 ment of this Act may continue to perform such  
6 duties after such date of nomination and until  
7 the individual appointed to such position, by  
8 and with the advice and consent of the Senate,  
9 assumes the duties of such position; or

10 (B) the date of the cessation of the per-  
11 formance of the duties of such position by the  
12 individual performing such duties as of the date  
13 of the enactment of this Act.

14 (2) POSITIONS OF IMPORTANCE AND RESPONSI-  
15 BILITY.—Subsection (d) shall take effect on the date  
16 of the enactment of this Act.

17 **SEC. 435. CLARIFICATION OF NATIONAL SECURITY MIS-**  
18 **SIONS OF NATIONAL GEOSPATIAL-INTEL-**  
19 **LIGENCE AGENCY FOR ANALYSIS AND DIS-**  
20 **SEMINATION OF CERTAIN INTELLIGENCE IN-**  
21 **FORMATION.**

22 Section 442(a) of title 10, United States Code, is  
23 amended—

24 (1) by redesignating paragraph (2) as para-  
25 graph (3);

1           (2) by inserting after paragraph (1) the fol-  
2           lowing new paragraph (2):

3           “(2)(A) As directed by the Director of National Intel-  
4           ligence, the National Geospatial-Intelligence Agency shall  
5           also develop a system to facilitate the analysis, dissemina-  
6           tion, and incorporation of likenesses, videos, and presen-  
7           tations produced by ground-based platforms, including  
8           handheld or clandestine photography taken by or on behalf  
9           of human intelligence collection organizations or available  
10          as open-source information, into the National System for  
11          Geospatial Intelligence.

12          “(B) The authority provided by this paragraph does  
13          not include authority for the National Geospatial-Intel-  
14          ligence Agency to manage tasking of handheld or clandes-  
15          tine photography taken by or on behalf of human intel-  
16          ligence collection organizations.”; and

17          (3) in paragraph (3), as so redesignated, by  
18          striking “paragraph (1)” and inserting “paragraphs  
19          (1) and (2)”.

1           **Subtitle D—Other Elements**

2   **SEC. 441. CLARIFICATION OF INCLUSION OF COAST GUARD**  
 3                   **AND DRUG ENFORCEMENT ADMINISTRATION**  
 4                   **AS ELEMENTS OF THE INTELLIGENCE COM-**  
 5                   **MUNITY.**

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

8                   (1) in subparagraph (H)—

9                           (A) by inserting “the Coast Guard,” after  
 10                           “the Marine Corps,”; and

11                           (B) by inserting “the Drug Enforcement  
 12                           Administration,” after “the Federal Bureau of  
 13                           Investigation,”; and

14                   (2) in subparagraph (K), by striking “, includ-  
 15                   ing the Office of Intelligence of the Coast Guard”.

16   **TITLE           V—FOREIGN           INTEL-**  
 17           **LIGENCE AND INFORMATION**  
 18           **COMMISSION**

19   **SEC. 501. SHORT TITLE.**

20           This title may be cited as the “Foreign Intelligence  
 21 and Information Commission Act”.

22   **SEC. 502. DEFINITIONS.**

23           In this title:

24                   (1) 2005 NATIONAL INTELLIGENCE STRAT-  
 25                   EGY.—The term “2005 National Intelligence Strat-



1       egy” means the National Intelligence Strategy of the  
2       United States of America released by the Director of  
3       National Intelligence on October 26, 2005.

4               (2) 2006 ANNUAL REPORT OF THE UNITED  
5       STATES INTELLIGENCE COMMUNITY AND 2006 AN-  
6       NUAL REPORT.—The terms “2006 Annual Report of  
7       the United States Intelligence Community” and  
8       “2006 Annual Report” mean the 2006 Annual Re-  
9       port of the United States Intelligence Community  
10      released by the Director of National Intelligence in  
11      February 2007.

12              (3) COMMISSION.—The term “Commission”  
13      means the Foreign Intelligence and Information  
14      Commission established in section 504(a).

15              (4) CONGRESSIONAL INTELLIGENCE COMMIT-  
16      TEES.—The term “congressional intelligence com-  
17      mittees” means—

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

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

22              (5) FOREIGN INTELLIGENCE, INTELLIGENCE,  
23      INTELLIGENCE COMMUNITY.—The terms “foreign  
24      intelligence”, “intelligence”, and “intelligence com-  
25      munity” have the meaning given those terms in sec-

1 tion 3 of the National Security Act of 1947 (50  
2 U.S.C. 401a).

3 (6) INFORMATION.—The term “information”  
4 includes information of relevance to the foreign pol-  
5 icy of the United States collected and conveyed  
6 through diplomatic reporting and other reporting by  
7 personnel of the Government of the United States  
8 who are not employed by an element of the intel-  
9 ligence community, including public and open-source  
10 information.

11 (7) STRATEGIC PLAN OF THE DEPARTMENT OF  
12 STATE.—The term “Strategic Plan of the Depart-  
13 ment of State” means the Strategic Plan for Fiscal  
14 Years 2007–2012 of the Department of State and  
15 the United States Agency for International Develop-  
16 ment revised on May 2, 2007.

17 **SEC. 503. FINDINGS.**

18 Congress makes the following findings:

19 (1) Accurate, timely, and comprehensive foreign  
20 intelligence and information are critical to the na-  
21 tional security of United States and the furtherance  
22 of the foreign policy goals of the United States.

23 (2) It is in the national security and foreign  
24 policy interests of the United States to ensure the  
25 global deployment of personnel of the Government of

1 the United States who are responsible for collecting,  
2 reporting, and analyzing foreign intelligence and in-  
3 formation, including specifically personnel from the  
4 intelligence community and the Department of  
5 State, as well as other elements of the Government  
6 of the United States, and that adequate resources  
7 are committed to effect such collection, reporting,  
8 and analysis.

9 (3) The National Security Strategy of the  
10 United States of America issued on March 16, 2006  
11 summarized the National Security Strategy of the  
12 United States of America issued on September 17,  
13 2002 and provided that “defeating terrorism re-  
14 quires a long-term strategy and a break with old  
15 patterns”.

16 (4) The National Security Strategy of the  
17 United States of America issued on March 16, 2006  
18 asserts that “our diplomats must be able to step  
19 outside their traditional role to become more in-  
20 volved with the challenges within other societies,  
21 helping them directly, channeling assistance, and  
22 learning from their experience”.

23 (5) The 2005 National Intelligence Strategy  
24 and the 2006 Annual Report of the United States  
25 Intelligence Community identified 5 major missions

1 of the intelligence community to support the na-  
2 tional security requirements of the United States,  
3 the first 2 of which, defeating terrorism and pre-  
4 venting and countering the spread of weapons of  
5 mass destruction, are global and transnational in na-  
6 ture.

7 (6) The third major mission identified by the  
8 2005 National Intelligence Strategy and the 2006  
9 Annual Report, bolstering the growth of democracy  
10 and sustaining peaceful democratic states, requires a  
11 global commitment of intelligence resources.

12 (7) The 2005 National Intelligence Strategy  
13 and the 2006 Annual Report identify as a major  
14 mission the need to “anticipate developments of  
15 strategic concern and identify opportunities as well  
16 as vulnerabilities for decision makers”.

17 (8) The 2006 Annual Report provides the fol-  
18 lowing:

19 (A) “In a world in which developments in  
20 distant reaches of the globe can quickly affect  
21 American citizens and interests at home and  
22 abroad, the Intelligence Community must alert  
23 policy makers to problems before they escalate  
24 and provide insights into their causes and ef-  
25 fects. Analysis must do more than just describe

1 what is happening and why; it must identify a  
2 range of opportunities for (and likely con-  
3 sequences of) diplomatic, military, law enforce-  
4 ment, economic, financial, or homeland security  
5 action. To support policymakers, the Intel-  
6 ligence Community should develop, sustain, and  
7 maintain access to expertise on every region,  
8 every transnational security issue, and every  
9 threat to the American people.”.

10 (B) “[I]ntelligence collectors and analysts  
11 provide a great deal of information to help pol-  
12 icymakers understand the spread of free institu-  
13 tions and the perils they often face.”.

14 (C) “We still need to re-balance, integrate,  
15 and optimize collection capabilities to meet cur-  
16 rent and future customer and analytic prior-  
17 ities. Collection is ... what gives the [Intel-  
18 ligence Community] its ‘competitive advantage’  
19 in protecting the United States and its inter-  
20 ests.”.

21 (D) “One challenge to improving the cov-  
22 erage of emerging and strategic issues across  
23 the Intelligence Community has been the diver-  
24 sion of resources to current crisis support ...”.

1 (E) “Collection against terrorists in places  
2 like Iraq and Afghanistan took a substantial  
3 share of the [Intelligence Community’s] re-  
4 sources and efforts in FY 2006.”.

5 (F) “With so many [Intelligence Commu-  
6 nity] resources dedicated to the War on Terror  
7 and WMD programs in closed regimes, the [In-  
8 telligence] Community’s collection efforts still  
9 have to devote significant attention to potential  
10 or emerging threats of strategic consequence.”.

11 (9) On January 23, 2007, the Deputy Director  
12 of National Intelligence for Collection testified to the  
13 Select Committee on Intelligence of the Senate that  
14 there is a “need to get the Intelligence Community  
15 back to what I grew up calling global reach”, stating  
16 that “we don’t have that today”. She further testi-  
17 fied that “our challenge is ... with [Congress’s] help  
18 [to get back] to a place where we can do global  
19 reach, and pay attention to places that we are not”.

20 (10) On February 14, 2008, the Director of  
21 National Intelligence testified to the Select Com-  
22 mittee on Intelligence of the Senate that “certainly  
23 current crisis support takes a disproportionate  
24 share” of intelligence resources over emerging and  
25 strategic issues.

1           (11) The Strategic Plan of the Department of  
2 State—

3           (A) provides that “National security starts  
4 overseas, and our mission is to create conditions  
5 abroad that serve and protect American citizens  
6 and interests.”;

7           (B) provides as a strategic goal that “Our  
8 diplomatic and development activities will re-  
9 duce the threat or impact of violent conflict by  
10 developing early warning. . .capability.”; and

11           (C) establishes that the Department of  
12 State will “emphasize regional solutions to re-  
13 gional problems and sustainable, long-term  
14 strategies to address complex challenges”.

15 **SEC. 504. ESTABLISHMENT AND FUNCTIONS OF THE COM-**  
16 **MISSION.**

17           (a) ESTABLISHMENT.—There is established in the  
18 legislative branch a Foreign Intelligence and Information  
19 Commission.

20           (b) FUNCTIONS.—The Commission shall—

21           (1)(A) evaluate all global strategies of the Gov-  
22 ernment of the United States to collect foreign intel-  
23 ligence and information, including public and open  
24 source information, based on current and projected  
25 national security and foreign policy priorities; and

1 (B) provide recommendations to improve the  
2 process for formulating such collection strategies;

3 (2)(A) evaluate the extent to which the Govern-  
4 ment of the United States coordinates foreign intel-  
5 ligence and information collection and analysis strat-  
6 egies across agencies and clandestine, diplomatic,  
7 military, and open source channels; and

8 (B) provide recommendations to improve that  
9 coordination;

10 (3)(A) evaluate the extent to which the Govern-  
11 ment of the United States directs human and budg-  
12 etary resources toward foreign intelligence and infor-  
13 mation collection and analysis across all agencies  
14 and through the interagency process based on collec-  
15 tion and analysis requirements; and

16 (B) provide recommendations to ensure that  
17 adequate resources are provided to meet such re-  
18 quirements;

19 (4)(A) evaluate the extent to which country  
20 missions participate in the interagency strategies  
21 and budget allocations for foreign intelligence and  
22 information collection, analysis, and reporting; and

23 (B) provide recommendations for the relevant  
24 role of country missions;



1           (5)(A) evaluate the extent to which major mis-  
2           sions identified in the 2005 National Intelligence  
3           Strategy and the 2006 Annual Report of the United  
4           States Intelligence Community, specifically related to  
5           global and transnational issues, have been supported  
6           with human and budgetary resources; and

7           (B) provide recommendations for directing re-  
8           sources to such missions;

9           (6)(A) evaluate the extent to which the require-  
10          ment, stated in 2005 National Intelligence Strategy  
11          and the 2006 Annual Report, to provide policy mak-  
12          ers with intelligence and information to anticipate  
13          crises before they occur and respond accordingly has  
14          been supported with sustained human and budgetary  
15          resources, particularly in countries and regions tra-  
16          ditionally underserved by the intelligence community;  
17          and

18          (B) provide recommendations for directing re-  
19          sources to such requirement;

20          (7)(A) evaluate the extent to which require-  
21          ments to collect foreign intelligence and information  
22          to anticipate crises or emerging threats have been  
23          met through existing collection and analytical capa-  
24          bilities; and

1 (B) provide recommendations for improving the  
2 prepositioning of foreign intelligence and information  
3 collection and analytical capabilities to meet such re-  
4 quirements;

5 (8)(A) evaluate—

6 (i) the extent to which foreign intelligence  
7 and information collection, including diplomatic  
8 reporting and public and open source informa-  
9 tion and analytical resources, have been dis-  
10 proportionately directed toward current crises,  
11 rather than toward predictive analysis; and

12 (ii) the impact of the allocation of re-  
13 sources on finished intelligence production and  
14 diplomatic reporting; and

15 (B) provide recommendations for improving col-  
16 lection, reporting, and analysis of intelligence and  
17 information in accordance with the need for pre-  
18 dictive analysis, finished intelligence production, and  
19 diplomatic reporting on emerging and strategic  
20 issues and on current crises;

21 (9)(A) evaluate all existing strategic plans for  
22 the collection, reporting, and analysis of information  
23 obtained through diplomatic reporting by the De-  
24 partment of State and other agencies and depart-  
25 ments of the United States that are not elements of

1 the intelligence community and the extent to which  
2 human and budgetary resources have supported such  
3 plans; and

4 (B) provide recommendations to improve proc-  
5 esses for establishing such strategies;

6 (10)(A) evaluate the extent to which out-of-cap-  
7 ital embassy posts of personnel of the Department  
8 of State and other agencies and departments of the  
9 United States contribute to information collection  
10 objectives; and

11 (B) provide recommendations for improving col-  
12 lection, analysis, and reporting capabilities of such  
13 posts or if such posts do not exist, provide an assess-  
14 ment of whether there is a need for the creation of  
15 such posts;

16 (11)(A) evaluate the extent to which the re-  
17 quirement, stated in the Strategic Plan of the De-  
18 partment of State, to provide policy makers informa-  
19 tion to anticipate crises before they occur and re-  
20 spond accordingly, has been supported with sus-  
21 tained human and budgetary resources, particularly  
22 in countries and regions traditionally underserved by  
23 the Department of State staff and posts; and

24 (B) provide recommendations for directing re-  
25 sources to such requirements;

1           (12)(A) evaluate the extent to which the ele-  
2           ments of the intelligence community, the Depart-  
3           ment of State, and other agencies and departments  
4           of the United States have promoted and developed  
5           language, cultural training, and other qualifications  
6           for effective collection of foreign intelligence and in-  
7           formation in countries and regions to which the re-  
8           sources of the intelligence community and the posi-  
9           tioning of country mission personnel have tradition-  
10          ally been limited; and

11           (B) provide recommendations for improving  
12          such language and other qualifications;

13           (13)(A) evaluate the capabilities of the Govern-  
14          ment of the United States to collect and report on  
15          foreign intelligence and information, including public  
16          and open source information, and conduct analysis  
17          with regard to ungoverned and undergoverned coun-  
18          tries and regions, terrorist safe havens, civil and re-  
19          gional conflicts, arms trafficking, stability, corrup-  
20          tion, radicalization and marginalization of specific  
21          groups and human rights and governance concerns;  
22          and

23           (B) provide recommendations to improve collec-  
24          tion, reporting, and analysis with regard to such

1 countries and regions and the issues described in  
2 subparagraph (A);

3 (14)(A) identify any regional and thematic gaps  
4 in foreign intelligence and information collection,  
5 analysis, and reporting; and

6 (B) provide recommendations to overcome such  
7 gaps, including gaps related to the allocation of  
8 human and budgetary resources and processes for  
9 collection, reporting, and analysis of such intel-  
10 ligence and information;

11 (15)(A) identify impediments to directing  
12 human and budgetary resources toward collection,  
13 analysis, and reporting gaps, including the reasons  
14 for, and consequences of, such impediments; and

15 (B) provide recommendations for overcoming  
16 such impediments;

17 (16)(A) evaluate policies of the elements of the  
18 intelligence community, the Department of State  
19 and other agencies and departments of the United  
20 States to ensure sustained deployment of qualified  
21 personnel in remote or hardship areas of strategic  
22 significance; and

23 (B) provide recommendations for improving  
24 such policies; and

1           (17)(A) evaluate processes and mechanisms for  
2 reporting of information from country missions to  
3 policy makers and human and budgetary resources  
4 directed toward such reporting; and

5           (B) provide recommendations to improve such  
6 reporting.

7 **SEC. 505. MEMBERS AND STAFF OF THE COMMISSION.**

8 (a) MEMBERS OF THE COMMISSION.—

9           (1) APPOINTMENT.—The Commission shall be  
10 composed of 14 members as follows:

11           (A) Three members appointed by the ma-  
12 jority leader of the Senate.

13           (B) Three members appointed by the mi-  
14 nority leader of the Senate.

15           (C) Three members appointed by the  
16 Speaker of the House of Representatives.

17           (D) Three members appointed by the mi-  
18 nority leader of the House of Representatives.

19           (E) One nonvoting member appointed by  
20 the Director of National Intelligence.

21           (F) One nonvoting member appointed by  
22 the Secretary of State.

23 (2) SELECTION.—

24           (A) IN GENERAL.—Members of the Com-  
25 mission shall be individuals who—

1 (i) are private citizens; and

2 (ii) have—

3 (I) knowledge and experience in  
4 foreign information and intelligence  
5 collection, analysis, and reporting, in-  
6 cluding clandestine collection and clas-  
7 sified analysis, diplomatic reporting  
8 and analysis, and collection of public  
9 and open source information;

10 (II) knowledge and experience in  
11 issues related to the national security  
12 and foreign policy of the United  
13 States gained by serving as a senior  
14 official of the Department of State, a  
15 member of the Foreign Service, or an  
16 employee or officer of an appropriate  
17 agency or department of the United  
18 States or an independent organization  
19 with expertise in the field of inter-  
20 national affairs; or

21 (III) knowledge and experience  
22 with foreign policy decision making.

23 (B) DIVERSITY OF EXPERIENCE.—The in-  
24 dividuals appointed to the Commission should  
25 be selected with a view to establishing diversity

1 of experience with regard to various geographic  
2 regions, functions, and issues.

3 (3) TIME OF APPOINTMENT.—The appoint-  
4 ments under subsection (a) shall be made not later  
5 than 60 days after the date of the enactment of this  
6 Act.

7 (4) TERM OF APPOINTMENT.—Members shall  
8 be appointed for the life of the Commission.

9 (5) VACANCIES.—Any vacancy of the Commis-  
10 sion shall not affect the powers of the Commission  
11 and shall be filled in the manner in which the origi-  
12 nal appointment was made.

13 (6) CHAIR.—The members of the Commission  
14 shall designate 1 of the voting members to serve as  
15 the chair of the Commission.

16 (7) QUORUM.—Eight members of the Commis-  
17 sion shall constitute a quorum for purposes of  
18 transacting the business of the Commission.

19 (8) MEETINGS.—The Commission shall meet at  
20 the call of the chair and shall meet regularly, not  
21 less than once every 3 months, during the life of the  
22 Commission.

23 (b) STAFF.—

24 (1) IN GENERAL.—The chair of the Commission  
25 may, without regard to the civil service laws and



1 regulations, appoint and terminate an executive di-  
2 rector and, in consultation with the executive direc-  
3 tor, appoint and terminate such other additional per-  
4 sonnel as may be necessary to enable the Commis-  
5 sion to perform its duties. In addition to the execu-  
6 tive director and 1 full-time support staff for the ex-  
7 ecutive director, there shall be additional staff with  
8 relevant intelligence and foreign policy experience to  
9 help support the Commission's work.

10 (2) SELECTION OF THE EXECUTIVE DIREC-  
11 TOR.—The executive director shall be selected with  
12 the approval of a majority of the members of the  
13 Commission.

14 (3) COMPENSATION.—

15 (A) EXECUTIVE DIRECTOR.—The executive  
16 director shall be compensated at the rate pay-  
17 able for level IV of the Executive Schedule  
18 under section 5315 of title 5, United States  
19 Code.

20 (B) STAFF.—The chair of the Commission  
21 may fix the compensation of other staff of the  
22 Commission without regard to the provisions of  
23 chapter 51 and subchapter III of chapter 53 of  
24 title 5, United States Code, relating to classi-  
25 fication of positions and General Schedule pay

1 rates, except that the rate of pay for such per-  
2 sonnel may not exceed the rate payable for level  
3 IV of the Executive Schedule under section  
4 5315 of such title.

5 (c) EXPERTS AND CONSULTANTS.—This Commission  
6 is authorized to procure temporary or intermittent services  
7 of experts and consultants as necessary to the extent au-  
8 thorized by section 3109 of title 5, United States Code,  
9 at rates not to exceed the maximum annual rate of basic  
10 pay payable under section 5376 of such title.

11 (d) STAFF AND SERVICES OF OTHER AGENCIES OR  
12 DEPARTMENT OF THE UNITED STATES.—Upon the re-  
13 quest of the Commission, the head of any agency or de-  
14 partment of the United States may detail, on a reimburs-  
15 able or nonreimbursable basis, any of the personnel of that  
16 department or agency to the Commission to assist it in  
17 carrying out this Act. The detail of any such personnel  
18 shall be without interruption or loss of civil service or For-  
19 eign Service status or privilege.

20 (e) SECURITY CLEARANCE.—The appropriate agen-  
21 cies or departments of the United States shall cooperate  
22 with the Commission in expeditiously providing to the  
23 members and staff of the Commission appropriate security  
24 clearances to the extent possible pursuant to existing pro-  
25 cedures and requirements.

1 **SEC. 506. POWERS AND DUTIES OF THE COMMISSION.**

2 (a) IN GENERAL.—

3 (1) HEARINGS AND EVIDENCE.—The Commis-  
4 sion may, for the purpose of carrying out this Act—

5 (A) hold hearings, sit and act at times and  
6 places in the United States and in countries in  
7 which the United States has a diplomatic pres-  
8 ence, take testimony, and receive evidence as  
9 the Commission considers advisable to carry out  
10 this Act; and

11 (B) subject to subsection (b)(1), require,  
12 by subpoena or otherwise, the attendance and  
13 testimony of such witnesses and the production  
14 of such books, records, correspondence, memo-  
15 randa, papers, and documents, as the Commis-  
16 sion considers necessary.

17 (b) SUBPOENAS.—

18 (1) ISSUANCE.—

19 (A) IN GENERAL.—A subpoena may be  
20 issued under this section only—

21 (i) by the agreement of the chair of  
22 the Commission; and

23 (ii) by the affirmative vote of 6 mem-  
24 bers of the Commission.

25 (B) SIGNATURE.—Subject to subparagraph

26 (A), subpoenas issued under this section may be

1 issued under the signature of the chair or any  
2 member designated by a majority of the Com-  
3 mission and may be served by any person des-  
4 ignated by the chair or by a member designated  
5 by a majority of the Commission.

6 (2) ENFORCEMENT.—

7 (A) IN GENERAL.—In the case of contu-  
8 macy or failure to obey a subpoena issued  
9 under this section, the United States district  
10 court for the judicial district in which the sub-  
11 poenaed person resides, is served, or may be  
12 found, or where the subpoena is returnable,  
13 may issue an order requiring such person to ap-  
14 pear at any designated place to testify or to  
15 produce documentary or other evidence. Any  
16 failure to obey the order of the court may be  
17 punished by the court as a contempt of that  
18 court.

19 (B) ADDITIONAL ENFORCEMENT.—In the  
20 case of any failure of any witness to comply  
21 with any subpoena or to testify when sum-  
22 moned under authority of this section, the Com-  
23 mission may, by majority vote, certify a state-  
24 ment of fact constituting such failure to the ap-  
25 propriate United States attorney, who may

1 bring the matter before the grand jury for its  
2 action, under the same statutory authority and  
3 procedures as if the United States attorney had  
4 received a certification under sections 102  
5 through 104 of the Revised Statutes of the  
6 United States (2 U.S.C. 192 through 194).

7 (c) INFORMATION FROM FEDERAL AGENCIES.—The  
8 Commission may secure directly from any agency or de-  
9 partment of the United States such information as the  
10 Commission considers necessary to carry out this Act.  
11 Upon request of the chair of the Commission, the head  
12 of such agency or department shall furnish such informa-  
13 tion to the Commission, subject to applicable law.

14 (d) POSTAL SERVICES.—The Commission may use  
15 the United States mails in the same manner and under  
16 the same conditions as other departments and agencies of  
17 the United States.

18 (e) ADMINISTRATIVE SUPPORT.—The Administrator  
19 of General Services shall provide to the Commission on  
20 a reimbursable basis (or, in the discretion of the Adminis-  
21 trator, on a nonreimbursable basis) such administrative  
22 support services as the Commission may request to carry  
23 out this Act.

24 (f) ADMINISTRATIVE PROCEDURES.—The Commis-  
25 sion may adopt such rules and regulations, relating to ad-

1 ministrative procedure, as may be reasonably necessary to  
2 enable it to carry out this Act.

3 (g) TRAVEL.—

4 (1) IN GENERAL.—The members and staff of  
5 the Commission may, with the approval of the Com-  
6 mission, conduct such travel as is necessary to carry  
7 out this Act.

8 (2) EXPENSES.—Members of the Commission  
9 shall serve without pay but shall be allowed travel  
10 expenses, including per diem in lieu of subsistence,  
11 at rates authorized for employees of agencies under  
12 subchapter I of chapter 57 of title 5, United States  
13 Code, while away from their homes or regular places  
14 of business in the performance of services for the  
15 Commission.

16 (h) GIFTS.—No member of the Commission may re-  
17 ceive a gift or benefit by reason of such member's service  
18 on the Commission.

19 **SEC. 507. REPORT OF THE COMMISSION.**

20 (a) IN GENERAL.—

21 (1) INTERIM REPORT.—Not later than 18  
22 months after the members of the Commission are  
23 appointed under section 505(a), the Commission  
24 shall submit an interim report to the congressional  
25 intelligence committees setting forth the preliminary

1 findings and recommendations of the Commission  
2 described in section 504(b).

3 (2) FINAL REPORT.—Not later than 6 months  
4 after the submission of the report required by para-  
5 graph (1), the Commission shall submit a final re-  
6 port setting forth the final findings and rec-  
7 ommendations of the Commission described in sec-  
8 tion 504(b) to the following:

9 (A) The President.

10 (B) The Director of National Intelligence.

11 (C) The Secretary of State.

12 (D) The congressional intelligence commit-  
13 tees.

14 (b) INDIVIDUAL OR DISSENTING VIEWS.—Each  
15 member of the Commission may include that member's  
16 dissenting views in a report required by paragraph (1) or  
17 (2) of subsection (a).

18 (c) FORM OF REPORT.—The reports required by  
19 paragraphs (1) and (2) of subsection (a), including any  
20 finding or recommendation of such report, shall be sub-  
21 mitted in both an unclassified and a classified form.

22 **SEC. 508. TERMINATION.**

23 The Commission shall terminate 60 days after the  
24 submission of the report required by section 507(a)(2).

1 **SEC. 509. NONAPPLICABILITY OF FEDERAL ADVISORY COM-**  
 2 **MITTEE ACT.**

3 The Federal Advisory Committee Act (5 U.S.C. App.)  
 4 shall not apply to the Commission.

5 **SEC. 510. FUNDING.**

6 (a) **TRANSFER FROM THE NATIONAL INTELLIGENCE**  
 7 **PROGRAM.**—Of the amounts available for the National In-  
 8 telligence Program for fiscal year 2009, \$5,000,000 shall  
 9 be available for transfer to the Commission to carry out  
 10 this title.

11 (b) **AVAILABILITY.**—The amounts made available to  
 12 the Commission pursuant to subsection (a) shall remain  
 13 available until the termination of the Commission.

14 **TITLE VI—TECHNICAL**  
 15 **AMENDMENTS**

16 **SEC. 601. TECHNICAL AMENDMENT TO THE CENTRAL IN-**  
 17 **TELLIGENCE AGENCY ACT OF 1949.**

18 Section 5(a)(1) of the Central Intelligence Agency  
 19 Act of 1949 (50 U.S.C. 403f(a)(1)) is amended by striking  
 20 “authorized under paragraphs (2) and (3) of section  
 21 102(a), subsections (c)(7) and (d) of section 103, sub-  
 22 sections (a) and (g) of section 104, and section 303 of  
 23 the National Security Act of 1947 (50 U.S.C. 403(a)(2),  
 24 (3), 403–3(c)(7), (d), 403–4(a), (g), and 405)” and insert-  
 25 ing “authorized under section 104A of the National Secu-  
 26 rity Act of 1947 (50 U.S.C. 403–4a).”.



1 **SEC. 602. TECHNICAL AMENDMENTS RELATING TO THE**  
2 **MULTIYEAR NATIONAL INTELLIGENCE PRO-**  
3 **GRAM.**

4 (a) IN GENERAL.—Subsection (a) of section 1403 of  
5 the National Defense Authorization Act for Fiscal Year  
6 1991 (50 U.S.C. 404b) is amended—

7 (1) in the heading, by striking “FOREIGN”; and

8 (2) by striking “foreign” each place it appears.

9 (b) RESPONSIBILITY OF DIRECTOR OF NATIONAL IN-  
10 TELLIGENCE.—That section is further amended—

11 (1) in subsections (a) and (c), by striking “Di-  
12 rector of Central Intelligence” and inserting “Direc-  
13 tor of National Intelligence”; and

14 (2) in subsection (b), by inserting “of National  
15 Intelligence” after “Director”.

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

18 **“SEC. 1403. MULTIYEAR NATIONAL INTELLIGENCE PRO-**  
19 **GRAM.”.**

20 **SEC. 603. TECHNICAL CLARIFICATION OF CERTAIN REF-**  
21 **ERENCES TO JOINT MILITARY INTELLIGENCE**  
22 **PROGRAM AND TACTICAL INTELLIGENCE**  
23 **AND RELATED ACTIVITIES.**

24 Section 102A of the National Security Act of 1947  
25 (50 U.S.C. 403–1) is amended—

1           (1) in subsection (c)(3)(A), by striking “annual  
2 budgets for the Joint Military Intelligence Program  
3 and for Tactical Intelligence and Related Activities”  
4 and inserting “annual budget for the Military Intel-  
5 ligence Program or any successor program or pro-  
6 grams”; and

7           (2) in subsection (d)(1)(B), by striking “Joint  
8 Military Intelligence Program” and inserting “Mili-  
9 tary Intelligence Program or any successor program  
10 or programs”.

11 **SEC. 604. TECHNICAL AMENDMENTS TO THE NATIONAL SE-**  
12 **CURITY ACT OF 1947.**

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

15           (1) In section 102A (50 U.S.C. 403–1)—

16               (A) in subsection (d)—

17                   (i) in paragraph (3), by striking “sub-  
18 paragraph (A)” in the matter preceding  
19 subparagraph (A) and inserting “para-  
20 graph (1)(A)”;

21                   (ii) in paragraph (5)(A), by striking  
22 “or personnel” in the matter preceding  
23 clause (i); and

24                   (iii) in paragraph (5)(B), by striking  
25 “or agency involved” in the second sen-

1           tence and inserting “involved or the Direc-  
2           tor of the Central Intelligence Agency (in  
3           the case of the Central Intelligence Agen-  
4           cy)”;

5           (B) in subsection (l)(2)(B), by striking  
6           “section” and inserting “paragraph”; and

7           (C) in subsection (n), by inserting “AND  
8           OTHER” after “ACQUISITION”.

9           (2) In section 119(c)(2)(B) (50 U.S.C.  
10          404o(c)(2)(B)), by striking “subsection (h)” and in-  
11          serting “subsection (i)”.

12          (3) In section 705(e)(2)(D)(i) (50 U.S.C.  
13          432c(e)(2)(D)(i)), by striking “responsible” and in-  
14          serting “responsive”.

15 **SEC. 605. TECHNICAL AMENDMENTS TO THE INTEL-**  
16 **LIGENCE REFORM AND TERRORISM PREVEN-**  
17 **TION ACT OF 2004.**

18          (a) AMENDMENTS TO NATIONAL SECURITY INTEL-  
19          LIGENCE REFORM ACT OF 2004.—The National Security  
20          Intelligence Reform Act of 2004 (title I of Public Law  
21          108–458; 118 Stat. 3643) is amended as follows:

22          (1) In section 1016(e)(10)(B) (6 U.S.C.  
23          485(e)(10)(B)), by striking “Attorney General” the  
24          second place it appears and inserting “Department  
25          of Justice”.

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

2 (3) In section 1072(b), in the subsection head-  
3 ing by inserting “AGENCY” after “INTELLIGENCE”.

4 (b) OTHER AMENDMENTS TO INTELLIGENCE RE-  
5 FORM AND TERRORISM PREVENTION ACT OF 2004.—The  
6 Intelligence Reform and Terrorism Prevention Act of  
7 2004 (Public Law 108–458; 118 Stat. 3638) is amended  
8 as follows:

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

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

12 (B) in subsection (e)(2), by striking “the  
13 National Intelligence Director in a manner con-  
14 sistent with section 112(e)” and inserting “the  
15 Director of National Intelligence in a manner  
16 consistent with applicable law”; and

17 (C) in subsection (f), by striking “shall,”  
18 in the matter preceding paragraph (1) and in-  
19 serting “shall”.

20 (2) In section 2006 (28 U.S.C. 509 note)—

21 (A) in paragraph (2), by striking “the  
22 Federal” and inserting “Federal”; and

23 (B) in paragraph (3), by striking “the spe-  
24 cific” and inserting “specific”.

1 **SEC. 606. TECHNICAL AMENDMENTS TO THE EXECUTIVE**  
2 **SCHEDULE.**

3 (a) EXECUTIVE SCHEDULE LEVEL II.—Section 5313  
4 of title 5, United States Code, is amended by striking the  
5 item relating to the Director of Central Intelligence and  
6 inserting the following new item:

7 “Director of the Central Intelligence Agency.”.

8 (b) EXECUTIVE SCHEDULE LEVEL III.—Section  
9 5314 of title 5, United States Code, is amended by strik-  
10 ing the item relating to the Deputy Directors of Central  
11 Intelligence and inserting the following new item:

12 “Deputy Director of the Central Intelligence Agen-  
13 cy.”.

14 (c) EXECUTIVE SCHEDULE LEVEL IV.—Section  
15 5315 of title 5, United States Code, is amended by strik-  
16 ing the item relating to the General Counsel of the Office  
17 of the National Intelligence Director and inserting the fol-  
18 lowing new item:

19 “General Counsel of the Office of the Director of Na-  
20 tional Intelligence.”.

Calendar No. 730

110<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 2996**

[Report No. 110-333]

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## **A BILL**

To authorize appropriations for fiscal year 2009 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

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MAY 8, 2008

Read twice and placed on the calendar