

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR  
2004

NOVEMBER 19, 2003.—Ordered to be printed

Mr. GOSS, from the committee of conference,  
submitted the following

CONFERENCE REPORT

[To accompany H.R. 2417]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2417), to authorize appropriations for fiscal year 2004 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

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

(a) *SHORT TITLE.*—This Act may be cited as the “Intelligence Authorization Act for Fiscal Year 2004”.

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

*Sec. 1. Short title; table of contents.*

**TITLE I—INTELLIGENCE ACTIVITIES**

*Sec. 101. Authorization of appropriations.*

*Sec. 102. Classified schedule of authorizations.*

*Sec. 103. Personnel ceiling adjustments.*

*Sec. 104. Intelligence Community Management Account.*

*Sec. 105. Office of Intelligence and Analysis of the Department of the Treasury.*

*Sec. 106. Incorporation of reporting requirements.*

- Sec. 107. *Preparation and submittal of reports, reviews, studies, and plans relating to intelligence activities of Department of Defense or Department of Energy.*

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

- Sec. 201. *Authorization of appropriations.*

**TITLE III—GENERAL PROVISIONS**

**Subtitle A—Recurring General Provisions**

- Sec. 301. *Increase in employee compensation and benefits authorized by law.*  
Sec. 302. *Restriction on conduct of intelligence activities.*

**Subtitle B—Intelligence**

- Sec. 311. *Authority of Federal Bureau of Investigation to award personal services contracts.*  
Sec. 312. *Budget treatment of costs of acquisition of major systems by the intelligence community.*  
Sec. 313. *Modification of sunset of application of sanctions laws to intelligence activities.*  
Sec. 314. *Modification of notice and wait requirements on projects to construct or improve intelligence community facilities.*  
Sec. 315. *Extension of deadline for final report of the National Commission for the Review of the Research and Development Programs of the United States Intelligence Community.*  
Sec. 316. *Improvement of information sharing among Federal, State, and local government officials.*  
Sec. 317. *Pilot program on analysis of signals and other intelligence by intelligence analysts of various elements of the intelligence community.*  
Sec. 318. *Pilot program on recruitment and training of intelligence analysts.*  
Sec. 319. *Improvement of equality of employment opportunities in the intelligence community.*  
Sec. 320. *Sense of Congress on recruitment as intelligence community personnel of members of the Armed Forces on their discharge or release from duty.*  
Sec. 321. *External Collection Capabilities and Requirements Review Panel.*

**Subtitle C—Counterintelligence**

- Sec. 341. *Counterintelligence initiatives for the intelligence community.*

**Subtitle D—Reports**

- Sec. 351. *Report on cleared insider threat to classified computer networks.*  
Sec. 352. *Report on security background investigations and security clearance procedures of the Federal Government.*  
Sec. 353. *Report on detail of civilian intelligence personnel among elements of the intelligence community and the Department of Defense.*  
Sec. 354. *Report on modifications of policy and law on classified information to facilitate sharing of information for national security purposes.*  
Sec. 355. *Report on strategic planning.*  
Sec. 356. *Report on United States dependence on computer hardware and software manufactured overseas.*  
Sec. 357. *Report on lessons learned from military operations in Iraq.*  
Sec. 358. *Reports on conventional weapons and ammunition obtained by Iraq in violation of certain United Nations Security Council resolutions.*  
Sec. 359. *Report on operations of Directorate of Information Analysis and Infrastructure Protection and Terrorist Threat Integration Center.*  
Sec. 360. *Report on Terrorist Screening Center.*  
Sec. 361. *Repeal and modification of report requirements relating to intelligence activities.*

**Subtitle E—Other Matters**

- Sec. 371. *Extension of suspension of reorganization of Diplomatic Telecommunications Service Program Office.*  
Sec. 372. *Modifications of authorities on explosive materials.*  
Sec. 373. *Modification of prohibition on the naturalization of certain persons.*  
Sec. 374. *Modification to definition of financial institution in Right to Financial Privacy Act.*  
Sec. 375. *Coordination of Federal Government research on security evaluations.*

Sec. 376. *Treatment of classified information in money laundering cases.*  
 Sec. 377. *Technical amendments.*

**TITLE IV—CENTRAL INTELLIGENCE AGENCY**

Sec. 401. *Amendment to certain Central Intelligence Agency Act of 1949 notification requirements.*  
 Sec. 402. *Protection of certain Central Intelligence Agency personnel from tort liability.*  
 Sec. 403. *Repeal of obsolete limitation on use of funds in central services working capital fund.*  
 Sec. 404. *Purchases by Central Intelligence Agency of products of Federal Prison Industries.*  
 Sec. 405. *Postponement of Central Intelligence Agency compensation reform and other matters.*

**TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE MATTERS**

Sec. 501. *Protection of certain National Security Agency personnel from tort liability.*  
 Sec. 502. *Use of funds for counterdrug and counterterrorism activities for Colombia.*  
 Sec. 503. *Scene visualization technologies.*  
 Sec. 504. *Measurement and signatures intelligence research program.*  
 Sec. 505. *Availability of funds of National Security Agency for national security scholarships.*

**TITLE I—INTELLIGENCE ACTIVITIES**

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

*Funds are hereby authorized to be appropriated for fiscal year 2004 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:*

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

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

*(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 2004, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany the conference report on the bill H.R. 2417 of the One Hundred Eighth Congress.*

*(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for*

*suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.*

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

(a) *AUTHORITY FOR ADJUSTMENTS.*—*With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 2004 under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed 2 percent of the number of civilian personnel authorized under such section for such element.*

(b) *NOTICE TO INTELLIGENCE COMMITTEES.*—*The Director of Central Intelligence shall promptly notify the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives whenever the Director exercises the authority granted by this section.*

**SEC. 104. INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT.**

(a) *AUTHORIZATION OF APPROPRIATIONS.*—*There is authorized to be appropriated for the Intelligence Community Management Account of the Director of Central Intelligence for fiscal year 2004 the sum of \$221,513,000. Within such amount, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for advanced research and development shall remain available until September 30, 2005.*

(b) *AUTHORIZED PERSONNEL LEVELS.*—*The elements within the Intelligence Community Management Account of the Director of Central Intelligence are authorized 310 full-time personnel as of September 30, 2004. Personnel serving in such elements may be permanent employees of the Intelligence Community Management Account or personnel detailed from other elements of the United States Government.*

(c) *CLASSIFIED AUTHORIZATIONS.*—

(1) *AUTHORIZATION OF APPROPRIATIONS.*—*In addition to amounts authorized to be appropriated for the Intelligence Community Management Account by subsection (a), there are also authorized to be appropriated for the Intelligence Community Management Account for fiscal year 2004 such additional amounts as are specified in the classified Schedule of Authorizations referred to in section 102(a). Such additional amounts for research and development shall remain available until September 30, 2005.*

(2) *AUTHORIZATION OF PERSONNEL.*—*In addition to the personnel authorized by subsection (b) for elements of the Intelligence Community Management Account as of September 30, 2004, there are also authorized such additional personnel for such elements as of that date as are specified in the classified Schedule of Authorizations.*

(d) *REIMBURSEMENT.*—*Except as provided in section 113 of the National Security Act of 1947 (50 U.S.C. 404h), during fiscal year 2004 any officer or employee of the United States or a member of the Armed Forces who is detailed to the staff of the Intelligence Community Management Account from another element of the*

*United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.*

*(e) NATIONAL DRUG INTELLIGENCE CENTER.—*

*(1) IN GENERAL.—Of the amount authorized to be appropriated in subsection (a), \$47,142,000 shall be available for the National Drug Intelligence Center. Within such amount, funds provided for research, development, testing, and evaluation purposes shall remain available until September 30, 2005, and funds provided for procurement purposes shall remain available until September 30, 2006.*

*(2) TRANSFER OF FUNDS.—The Director of Central Intelligence shall transfer to the Attorney General funds available for the National Drug Intelligence Center under paragraph (1). The Attorney General shall utilize funds so transferred for the activities of the National Drug Intelligence Center.*

*(3) LIMITATION.—Amounts available for the National Drug Intelligence Center may not be used in contravention of the provisions of section 103(d)(1) of the National Security Act of 1947 (50 U.S.C. 403–3(d)(1)).*

*(4) AUTHORITY.—Notwithstanding any other provision of law, the Attorney General shall retain full authority over the operations of the National Drug Intelligence Center.*

**SEC. 105. OFFICE OF INTELLIGENCE AND ANALYSIS OF THE DEPARTMENT OF THE TREASURY.**

*(a) ESTABLISHMENT OF OFFICE.—(1) Chapter 3 of subtitle I of title 31, United States Code, is amended—*

*(A) by redesignating section 311 as section 312; and*

*(B) by inserting after section 310 the following:*

**“§ 311. Office of Intelligence and Analysis**

*“(a) ESTABLISHMENT.—There is established within the Department of the Treasury, the Office of Intelligence and Analysis (in this section referred to as the ‘Office’), which shall—*

*“(1) be responsible for the receipt, analysis, collation, and dissemination of foreign intelligence and foreign counterintelligence information (within the meaning of section 3 of the National Security Act of 1947 (50 U.S.C. 401a)) related to the operation and responsibilities of the Department of the Treasury; and*

*“(2) have such other related duties and authorities as may be assigned to it by the Secretary, subject to the authority, direction, and control of the Secretary.*

*“(b) ASSISTANT SECRETARY FOR INTELLIGENCE AND ANALYSIS.—The Office shall be headed by an Assistant Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretary shall report directly to the Undersecretary of the Treasury for Enforcement.”.*

*(2) The table of sections at the beginning of chapter 3 of such title is amended by striking the item relating to section 311 and inserting the following new items:*

*“311. Office of Intelligence and Analysis.*

*“312. Continuing in office.”.*

(b) *CONSTRUCTION OF AUTHORITY.*—Nothing in section 311 of title 31, United States Code (as amended by subsection (a)), shall be construed to alter the authorities and responsibilities of the Director of Central Intelligence with respect to the Office of Intelligence and Analysis of the Department of the Treasury as an element of the intelligence community.

(c) *CONSULTATION WITH DCI IN APPOINTMENT OF ASSISTANT SECRETARY.*—Section 106(b)(2) of the National Security Act of 1947 (50 U.S.C. 403–6(b)(2)) is amended by adding at the end the following:

“(E) The Assistant Secretary for Intelligence and Analysis of the Department of the Treasury.”.

(d) *CONFORMING AMENDMENTS.*—

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

(A) in subparagraph (H), by striking “the Department of the Treasury,”;

(B) by redesignating subparagraphs (J) and (K) as subparagraphs (K) and (L), respectively; and

(C) by inserting after subparagraph (I) the following new subparagraph (J):

“(J) the Office of Intelligence and Analysis of the Department of the Treasury,”.

(2) *TITLE 31.*—Section 301(e) of title 31, United States Code, is amended by striking “7” and inserting “8”.

(3) *TITLE 5.*—Section 5315 of title 5, United States Code, is amended in the item relating to Assistant Secretaries of the Treasury by striking “(7)” and inserting “(8)”.

**SEC. 106. INCORPORATION OF REPORTING REQUIREMENTS.**

(a) *IN GENERAL.*—Each requirement to submit a report to the congressional intelligence committees that is included in the joint explanatory statement to accompany the conference report on the bill H.R. 2417 of the One Hundred Eighth Congress, or in the classified annex to this Act, is hereby incorporated into this Act, and is hereby made a requirement in law.

(b) *CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.*—In this section, the term “congressional intelligence committees” means—

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

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

**SEC. 107. PREPARATION AND SUBMITTAL OF REPORTS, REVIEWS, STUDIES, AND PLANS RELATING TO INTELLIGENCE ACTIVITIES OF DEPARTMENT OF DEFENSE OR DEPARTMENT OF ENERGY.**

(a) *CONSULTATION IN PREPARATION.*—(1) The Director of Central Intelligence shall ensure that any report, review, study, or plan required to be prepared or conducted by a provision of this Act, including a provision of the classified Schedule of Authorizations referred to in section 102(a) or the classified annex to this Act, that involves the intelligence or intelligence-related activities of the Department of Defense or the Department of Energy is prepared or conducted in consultation with the Secretary of Defense or the Secretary of Energy, as appropriate.

(2) *The Secretary of Defense or the Secretary of Energy may carry out any consultation required by this subsection through an official of the Department of Defense or the Department of Energy, as the case may be, designated by such Secretary for that purpose.*

(b) *SUBMITTAL.—Any report, review, study, or plan referred to in subsection (a) shall be submitted, in addition to any other committee of Congress specified for submittal in the provision concerned, to the following committees of Congress:*

(1) *The Committees on Armed Services and Appropriations and the Select Committee on Intelligence of the Senate.*

(2) *The Committees on Armed Services and Appropriations and the Permanent Select Committee on Intelligence of the House of Representatives.*

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

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

*There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 2004 the sum of \$226,400,000.*

## **TITLE III—GENERAL PROVISIONS**

### **Subtitle A—Recurring General Provisions**

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

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

#### **SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.**

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

### **Subtitle B—Intelligence**

#### **SEC. 311. AUTHORITY OF FEDERAL BUREAU OF INVESTIGATION TO AWARD PERSONAL SERVICES CONTRACTS.**

(a) *AUTHORITY.—(1) Title III of the National Security Act of 1947 is amended by inserting after section 301 (50 U.S.C. 409a) the following new section:*

*“AUTHORITY OF FEDERAL BUREAU OF INVESTIGATION TO AWARD PERSONAL SERVICES CONTRACTS*

*“SEC. 302. (a) IN GENERAL.—The Director of the Federal Bureau of Investigation may enter into personal services contracts if*

*the personal services to be provided under such contracts directly support the intelligence or counterintelligence missions of the Federal Bureau of Investigation.*

*“(b) INAPPLICABILITY OF CERTAIN REQUIREMENTS.—Contracts under subsection (a) shall not be subject to the annuity offset requirements of sections 8344 and 8468 of title 5, United States Code, the requirements of section 3109 of title 5, United States Code, or any law or regulation requiring competitive contracting.*

*“(c) CONTRACT TO BE APPROPRIATE MEANS OF SECURING SERVICES.—The Chief Contracting Officer of the Federal Bureau of Investigation shall ensure that each personal services contract entered into by the Director under this section is the appropriate means of securing the services to be provided under such contract.”.*

*(2) The table of contents for that Act is amended by inserting after the item relating to section 301 the following new item:*

*“Sec. 302. Authority of Federal Bureau of Investigation to award personal services contracts.”.*

*(b) REPORTS ON EXERCISE OF AUTHORITY.—(1) Not later than one year after the date of the enactment of this Act, and annually thereafter, the Director of the Federal Bureau of Investigation shall submit to the appropriate committees of Congress a report on the exercise of the authority in section 302 of the National Security Act of 1947, as added by subsection (a).*

*(2) Each report under this subsection shall include, for the one-year period ending on the date of such report, the following:*

*(A) The number of contracts entered into during the period.*

*(B) The cost of each such contract.*

*(C) The length of each such contract.*

*(D) The types of services to be provided under each such contract.*

*(E) The availability, if any, of United States Government personnel to perform functions similar to the services to be provided under each such contract.*

*(F) The efforts of the Federal Bureau of Investigation to fill available personnel vacancies, or request additional personnel positions, in areas relating to the intelligence or counterintelligence mission of the Bureau.*

*(3) Each report under this subsection shall be submitted in unclassified form, but may include a classified annex.*

*(4) In this subsection—*

*(A) for purposes of the submittal of the classified annex to any report under this subsection, the term “appropriate committees of Congress” means—*

*(i) the Select Committee on Intelligence of the Senate;*

*and*

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

*(B) for purposes of the submittal of the unclassified portion of any report under this subsection, the term “appropriate committees of Congress” means—*

*(i) the committees specified in subparagraph (A);*

*(ii) the Committees on Appropriations, Governmental Affairs, and the Judiciary of the Senate; and*



(iii) the Committees on Appropriations, Government Reform and Oversight, and the Judiciary of the House of Representatives.

**SEC. 312. BUDGET TREATMENT OF COSTS OF ACQUISITION OF MAJOR SYSTEMS BY THE INTELLIGENCE COMMUNITY.**

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

(1) Funds within the National Foreign Intelligence Program often must be shifted from program to program and from fiscal year to fiscal year to address funding shortfalls caused by significant increases in the costs of acquisition of major systems by the intelligence community.

(2) While some increases in the costs of acquisition of major systems by the intelligence community are unavoidable, the magnitude of growth in the costs of acquisition of many major systems indicates a systemic bias within the intelligence community to underestimate the costs of such acquisition, particularly in the preliminary stages of development and production.

(3) Decisions by Congress to fund the acquisition of major systems by the intelligence community rely significantly upon initial estimates of the affordability of acquiring such major systems and occur within a context in which funds can be allocated for a variety of alternative programs. Thus, substantial increases in costs of acquisition of major systems place significant burdens on the availability of funds for other programs and new proposals within the National Foreign Intelligence Program.

(4) Independent cost estimates, prepared by independent offices, have historically represented a more accurate projection of the costs of acquisition of major systems.

(5) Recognizing the benefits associated with independent cost estimates for the acquisition of major systems, the Secretary of Defense has built upon the statutory requirement in section 2434 of title 10, United States Code, to develop and consider independent cost estimates for the acquisition of such systems by mandating the use of such estimates in budget requests of the Department of Defense.

(6) The mandatory use throughout the intelligence community of independent cost estimates for the acquisition of major systems will assist the President and Congress in the development and funding of budgets which more accurately reflect the requirements and priorities of the United States Government for intelligence and intelligence-related activities.

(b) *BUDGET TREATMENT OF COSTS OF ACQUISITION OF MAJOR SYSTEMS.*—(1) Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.) is amended by inserting after section 506 the following new section:

**“BUDGET TREATMENT OF COSTS OF ACQUISITION OF MAJOR SYSTEMS BY THE INTELLIGENCE COMMUNITY**

**“SEC. 506A. (a) INDEPENDENT COST ESTIMATES.**—(1) The Director of Central Intelligence shall, in consultation with the head of each element of the intelligence community concerned, prepare an independent cost estimate of the full life-cycle cost of development, procurement, and operation of each major system to be acquired by the intelligence community.

“(2) Each independent cost estimate for a major system shall, to the maximum extent practicable, specify the amount required to be appropriated and obligated to develop, procure, and operate the major system in each fiscal year of the proposed period of development, procurement, and operation of the major system.

“(3)(A) In the case of a program of the intelligence community that qualifies as a major system, an independent cost estimate shall be prepared before the submission to Congress of the budget of the President for the first fiscal year in which appropriated funds are anticipated to be obligated for the development or procurement of such major system.

“(B) In the case of a program of the intelligence community for which an independent cost estimate was not previously required to be prepared under this section, including a program for which development or procurement commenced before the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2004, if the aggregate future costs of development or procurement (or any combination of such activities) of the program will exceed \$500,000,000 (in current fiscal year dollars), the program shall qualify as a major system for purposes of this section, and an independent cost estimate for such major system shall be prepared before the submission to Congress of the budget of the President for the first fiscal year thereafter in which appropriated funds are anticipated to be obligated for such major system.

“(4) The independent cost estimate for a major system shall be updated upon—

“(A) the completion of any preliminary design review associated with the major system;

“(B) any significant modification to the anticipated design of the major system; or

“(C) any change in circumstances that renders the current independent cost estimate for the major system inaccurate.

“(5) Any update of an independent cost estimate for a major system under paragraph (4) shall meet all requirements for independent cost estimates under this section, and shall be treated as the most current independent cost estimate for the major system until further updated under that paragraph.

“(b) PREPARATION OF INDEPENDENT COST ESTIMATES.—(1) The Director shall establish within the Office of the Deputy Director of Central Intelligence for Community Management an office which shall be responsible for preparing independent cost estimates, and any updates thereof, under subsection (a), unless a designation is made under paragraph (2).

“(2) In the case of the acquisition of a major system for an element of the intelligence community within the Department of Defense, the Director and the Secretary of Defense shall provide that the independent cost estimate, and any updates thereof, under subsection (a) be prepared by an entity jointly designated by the Director and the Secretary in accordance with section 2434(b)(1)(A) of title 10, United States Code.

“(c) UTILIZATION IN BUDGETS OF PRESIDENT.—(1) If the budget of the President requests appropriations for any fiscal year for the development or procurement of a major system by the intelligence community, the President shall, subject to paragraph (2), request in such budget an amount of appropriations for the development or

procurement, as the case may be, of the major system that is equivalent to the amount of appropriations identified in the most current independent cost estimate for the major system for obligation for each fiscal year for which appropriations are requested for the major system in such budget.

“(2) If the amount of appropriations requested in the budget of the President for the development or procurement of a major system is less than the amount of appropriations identified in the most current independent cost estimate for the major system for obligation for each fiscal year for which appropriations are requested for the major system in such budget, the President shall include in the budget justification materials submitted to Congress in support of such budget—

“(A) an explanation for the difference between the amount of appropriations requested and the amount of appropriations identified in the most current independent cost estimate;

“(B) a description of the importance of the major system to the national security;

“(C) an assessment of the consequences for the funding of all programs of the National Foreign Intelligence Program in future fiscal years if the most current independent cost estimate for the major system is accurate and additional appropriations are required in future fiscal years to ensure the continued development or procurement of the major system, including the consequences of such funding shortfalls on the major system and all other programs of the National Foreign Intelligence Program; and

“(D) such other information on the funding of the major system as the President considers appropriate.

“(d) **INCLUSION OF ESTIMATES IN BUDGET JUSTIFICATION MATERIALS.**—The budget justification materials submitted to Congress in support of the budget of the President shall include the most current independent cost estimate under this section for each major system for which appropriations are requested in such budget for any fiscal year.

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

“(1) The term ‘budget of the President’ means the budget of the President for a fiscal year as submitted to Congress under section 1105(a) of title 31, United States Code.

“(2) The term ‘independent cost estimate’ means a pragmatic and neutral analysis, assessment, and quantification of all costs and risks associated with the acquisition of a major system, which shall be based on programmatic and technical specifications provided by the office within the element of the intelligence community with primary responsibility for the development, procurement, or operation of the major system.

“(3) The term ‘major system’ means any significant program of an element of the intelligence community with projected total development and procurement costs exceeding \$500,000,000 (in current fiscal year dollars), which costs shall include all end-to-end program costs, including costs associated with the development and procurement of the program and any other costs associated with the development and procurement of systems required to support or utilize the program.”

(2) *The table of contents for the National Security Act of 1947 is amended by inserting after the item relating to section 506 the following new item:*

*“Sec. 506A. Budget treatment of costs of acquisition of major systems by the intelligence community.”.*

(c) *EFFECTIVE DATE.*—*The amendments made by subsection (b) shall take effect on the date of the enactment of this Act.*

(d) *LIMITATIONS.*—(1)(A) *For each major system for which funds have been authorized for a fiscal year before fiscal year 2005, or for which funds are sought in the budget of the President for fiscal year 2005, as submitted to Congress pursuant to section 1105(a) of title 31, United States Code, and for which no independent cost estimate has been provided to Congress, no contract, or option to contract, for the procurement or acquisition of such major system may be entered into, or option to contract be exercised, before the date of the enactment of an Act to authorize appropriations for fiscal year 2005 for intelligence and intelligence-related activities of the United States Government.*

(B) *Subparagraph (A) shall not affect any contract for procurement or acquisition that was entered into before the date of the enactment of this Act.*

(2) *Commencing as of the date of the submittal to Congress of the budget of the President for fiscal year 2006 pursuant to section 1105(a) of title 31, United States Code, no funds may be obligated or expended for the development or procurement of a major system until the President has complied with the requirements of section 506A of the National Security Act of 1947 (as added by subsection (b)) with respect to such major system.*

(3) *In this subsection, the terms “independent cost estimate” and “major system” have the meaning given such terms in subsection (e) of section 506A of the National Security Act of 1947 (as so added).*

**SEC. 313. MODIFICATION OF SUNSET OF APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES.**

(a) *MODIFICATION.*—*Section 905 of the National Security Act of 1947 (50 U.S.C. 441d) is repealed.*

(b) *CLERICAL AMENDMENT.*—*The table of contents for that Act is amended by striking the item relating to section 905.*

**SEC. 314. MODIFICATION OF NOTICE AND WAIT REQUIREMENTS ON PROJECTS TO CONSTRUCT OR IMPROVE INTELLIGENCE COMMUNITY FACILITIES.**

(a) *INCREASE OF THRESHOLDS FOR NOTICE.*—*Subsection (a) of section 602 of the Intelligence Authorization Act for Fiscal Year 1995 (Public Law 103–359; 108 Stat. 3432; 50 U.S.C. 403–2b(a)) is amended—*

(1) *by striking “\$750,000” each place it appears and inserting “\$5,000,000”; and*

(2) *by striking “\$500,000” each place it appears and inserting “\$1,000,000”.*

(b) *NOTICE AND WAIT REQUIREMENTS FOR EMERGENCY PROJECTS.*—*Subsection (b)(2) of that section is amended—*

(1) *by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;*

(2) *by inserting “(A)” after “(2) REPORT.—”;*

(3) by striking “21-day period” and inserting “7-day period”; and

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

“(B) Notwithstanding subparagraph (A), a project referred to in paragraph (1) may begin on the date the notification is received by the appropriate committees of Congress under that paragraph if the Director of Central Intelligence and the Secretary of Defense jointly determine that—

“(i) an emergency exists with respect to the national security or the protection of health, safety, or environmental quality; and

“(ii) any delay in the commencement of the project would harm any or all of those interests.”.

**SEC. 315. EXTENSION OF DEADLINE FOR FINAL REPORT OF THE NATIONAL COMMISSION FOR THE REVIEW OF THE RESEARCH AND DEVELOPMENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY.**

(a) *IN GENERAL.*—Subsection (a) of section 1007 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 50 U.S.C. 401 note; 116 Stat. 2442) is amended by striking “September 1, 2003” and inserting “September 1, 2004”.

(b) *EFFECTIVE DATE.*—The amendment made by subsection (a) shall take effect as if included in the enactment of section 1007 of the Intelligence Authorization Act for Fiscal Year 2003.

**SEC. 316. IMPROVEMENT OF INFORMATION SHARING AMONG FEDERAL, STATE, AND LOCAL GOVERNMENT OFFICIALS.**

(a) *TRAINING PROGRAM FOR STATE AND LOCAL OFFICIALS.*—Section 892(c) of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 482) is amended by adding at the end the following new paragraph:

“(3)(A) The Secretary shall establish a program to provide appropriate training to officials described in subparagraph (B) in order to assist such officials in—

“(i) identifying sources of potential terrorist threats through such methods as the Secretary determines appropriate;

“(ii) reporting information relating to such potential terrorist threats to the appropriate Federal agencies in the appropriate form and manner;

“(iii) assuring that all reported information is systematically submitted to and passed on by the Department for use by appropriate Federal agencies; and

“(iv) understanding the mission and roles of the intelligence community to promote more effective information sharing among Federal, State, and local officials and representatives of the private sector to prevent terrorist attacks against the United States.

“(B) The officials referred to in subparagraph (A) are officials of State and local government agencies and representatives of private sector entities with responsibilities relating to the oversight and management of first responders, counterterrorism activities, or critical infrastructure.

“(C) The Secretary shall consult with the Attorney General to ensure that the training program established in subparagraph (A) does not duplicate the training program established

*in section 908 of the USA PATRIOT Act (Public Law 107-56; 28 U.S.C. 509 note).*

*“(D) The Secretary shall carry out this paragraph in consultation with the Director of Central Intelligence and the Attorney General.”.*

*(b) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report that describes the Secretary’s plan for implementing section 892 of the Homeland Security Act of 2002 and includes an estimated date of completion of the implementation.*

**SEC. 317. PILOT PROGRAM ON ANALYSIS OF SIGNALS AND OTHER INTELLIGENCE BY INTELLIGENCE ANALYSTS OF VARIOUS ELEMENTS OF THE INTELLIGENCE COMMUNITY.**

*(a) IN GENERAL.—The Director of Central Intelligence shall, in coordination with the Secretary of Defense, carry out a pilot program to assess the feasibility and advisability of permitting intelligence analysts of various elements of the intelligence community to access and analyze intelligence from the databases of other elements of the intelligence community in order to achieve the objectives set forth in subsection (c).*

*(b) COVERED INTELLIGENCE.—The intelligence to be analyzed under the pilot program under subsection (a) shall include the following:*

- (1) Signals intelligence of the National Security Agency.*
- (2) Such intelligence of other elements of the intelligence community as the Director shall select for purposes of the pilot program.*

*(c) OBJECTIVES.—The objectives set forth in this subsection are as follows:*

- (1) To enhance the capacity of the intelligence community to undertake “all source fusion” analysis in support of the intelligence and intelligence-related missions of the intelligence community.*
- (2) To reduce, to the extent possible, the amount of intelligence collected by the intelligence community that is not assessed, or reviewed, by intelligence analysts.*
- (3) To reduce the burdens imposed on analytical personnel of the elements of the intelligence community by current practices regarding the sharing of intelligence among elements of the intelligence community.*

*(d) COMMENCEMENT.—The Director shall commence the pilot program under subsection (a) not later than December 31, 2003.*

*(e) VARIOUS MECHANISMS REQUIRED.—In carrying out the pilot program under subsection (a), the Director shall develop and utilize various mechanisms to facilitate the access to, and the analysis of, intelligence in the databases of the intelligence community by intelligence analysts of other elements of the intelligence community, including the use of so-called “detailees in place”.*

*(f) SECURITY.—(1) In carrying out the pilot program under subsection (a), the Director shall take appropriate actions to protect against the disclosure and unauthorized use of intelligence in the databases of the elements of the intelligence community which may endanger sources and methods which (as determined by the Director) warrant protection.*

(2) *The actions taken under paragraph (1) shall include the provision of training on the accessing and handling of information in the databases of various elements of the intelligence community and the establishment of limitations on access to information in such databases regarding United States persons.*

(g) **ASSESSMENT.**—*Not later than February 1, 2004, after the commencement under subsection (d) of the pilot program under subsection (a), the Under Secretary of Defense for Intelligence and the Assistant Director of Central Intelligence for Analysis and Production shall jointly carry out an assessment of the progress of the pilot program in meeting the objectives set forth in subsection (c).*

(h) **REPORT.**—(1) *The Director of Central Intelligence shall, in coordination with the Secretary of Defense, submit to the appropriate committees of Congress a report on the assessment carried out under subsection (g).*

(2) *The report shall include—*

(A) *a description of the pilot program under subsection (a);*

(B) *the findings of the Under Secretary and Assistant Director as a result of the assessment;*

(C) *any recommendations regarding the pilot program that the Under Secretary and the Assistant Director jointly consider appropriate in light of the assessment; and*

(D) *any recommendations that the Director and Secretary consider appropriate for purposes of the report.*

(i) **APPROPRIATE COMMITTEES OF CONGRESS DEFINED.**—*In this section, the term “appropriate committees of Congress” means—*

(1) *the Select Committee on Intelligence, the Committee on Armed Services, and the Committee on Appropriations of the Senate; and*

(2) *the Permanent Select Committee on Intelligence, the Committee on Armed Services, and the Committee on Appropriations of the House of Representatives.*

**SEC. 318. PILOT PROGRAM ON RECRUITMENT AND TRAINING OF INTELLIGENCE ANALYSTS.**

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

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

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

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

(1) *establish such requirements relating to the academic training of participants as the Director considers appropriate to*

ensure that participants are prepared for employment as intelligence analysts; and

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

(c) *DURATION.*—The Director shall carry out the pilot program under subsection (a) during fiscal years 2004 through 2006.

(d) *LIMITATION ON NUMBER OF MEMBERS DURING FISCAL YEAR 2004.*—The total number of individuals participating in the pilot program under subsection (a) during fiscal year 2004 may not exceed 150 students.

(e) *RESPONSIBILITY.*—The Director shall carry out the pilot program under subsection (a) through the Assistant Director of Central Intelligence for Analysis and Production.

(f) *REPORTS.*—(1) Not later than 120 days after the date of the enactment of this Act, the Director shall submit to Congress a preliminary report on the pilot program under subsection (a), including a description of the pilot program and the authorities to be utilized in carrying out the pilot program.

(2) Not later than one year after the commencement of the pilot program, the Director shall submit to Congress a report on the pilot program. The report shall include—

(A) a description of the activities under the pilot program, including the number of individuals who participated in the pilot program and the training provided such individuals under the pilot program;

(B) an assessment of the effectiveness of the pilot program in meeting the purpose of the pilot program; and

(C) any recommendations for additional legislative or administrative action that the Director considers appropriate in light of the pilot program.

(g) *FUNDING.*—Of the amounts authorized to be appropriated by this Act, \$4,000,000 shall be available until expended to carry out this section.

**SEC. 319. IMPROVEMENT OF EQUALITY OF EMPLOYMENT OPPORTUNITIES IN THE INTELLIGENCE COMMUNITY.**

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

(1) It is the recommendation of the Joint Inquiry of the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001, that the Intelligence Community should enhance recruitment of a more ethnically and culturally diverse workforce and devise a strategy to capitalize upon the unique cultural and linguistic capabilities of first generation Americans.

(2) The Intelligence Community could greatly benefit from an increased number of employees who are proficient in foreign languages and knowledgeable of world cultures, especially in foreign languages that are critical to the national security interests of the United States. Particular emphasis should be given to the recruitment of United States citizens whose linguistic capabilities are acutely required for the improvement of the over-



*all intelligence collection and analysis effort of the United States Government.*

*(3) The Intelligence Community has a significantly lower percentage of women and minorities than the total workforce of the Federal government and the total civilian labor force.*

*(4) Women and minorities continue to be under-represented in senior grade levels, and in core mission areas, of the intelligence community.*

*(b) PILOT PROJECT TO PROMOTE EQUALITY OF EMPLOYMENT OPPORTUNITIES FOR WOMEN AND MINORITIES THROUGHOUT THE INTELLIGENCE COMMUNITY USING INNOVATIVE METHODOLOGIES.—The Director of Central Intelligence shall carry out a pilot project under this section to test and evaluate alternative, innovative methods to promote equality of employment opportunities in the intelligence community for women, minorities, and individuals with diverse ethnic and cultural backgrounds, skills, language proficiency, and expertise.*

*(c) METHODS.—In carrying out the pilot project, the Director shall employ methods to increase diversity of officers and employees in the intelligence community.*

*(d) DURATION OF PROJECT.—The Director shall carry out the project under this section for a 3-year period.*

*(e) REPORT.—Not later than 2 years after the date the Director implements the pilot project under this section, the Director shall submit to Congress a report on the project. The report shall include—*

- (1) an assessment of the effectiveness of the project; and*
- (2) recommendations on the continuation of the project, as well as recommendations for improving the effectiveness of the project in meeting the goals of promoting equality of employment opportunities in the intelligence community for women, minorities, and individuals with diverse ethnic and cultural backgrounds, skills, language proficiency, and expertise.*

*(f) DIVERSITY PLAN.—(1) Not later than February 15, 2004, the Director of Central Intelligence shall submit to Congress a report which describes the plan of the Director, entitled the “DCI Diversity Strategic Plan”, and any subsequent revision to that plan, to increase diversity of officers and employees in the intelligence community, including the short- and long-term goals of the plan. The report shall also provide a detailed description of the progress that has been made by each element of the intelligence community in implementing the plan.*

*(2) In implementing the plan, the Director shall incorporate innovative methods for recruitment and hiring that the Director has determined to be effective from the pilot project carried out under this section.*

*(g) INTELLIGENCE COMMUNITY DEFINED.—In this section, the term “intelligence community” has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401(4)).*

**SEC. 320. SENSE OF CONGRESS ON RECRUITMENT AS INTELLIGENCE COMMUNITY PERSONNEL OF MEMBERS OF THE ARMED FORCES ON THEIR DISCHARGE OR RELEASE FROM DUTY.**

*It is the sense of Congress that the elements of the intelligence community should, in the course of their civilian recruitment efforts in the United States, endeavor to recruit as personnel of the intel-*

ligence community citizens and, as appropriate, nationals of the United States who are members of the Armed Forces who participated in Operation Enduring Freedom, Operation Iraqi Freedom, and other campaigns undertaken abroad upon the separation, discharge, or release of such individuals from the Armed Forces.

**SEC. 321. EXTERNAL COLLECTION CAPABILITIES AND REQUIREMENTS REVIEW PANEL.**

The President may establish an External Collection Capabilities and Requirements Review Panel as specified in the classified annex to this Act.

## **Subtitle C—Counterintelligence**

**SEC. 341. COUNTERINTELLIGENCE INITIATIVES FOR THE INTELLIGENCE COMMUNITY.**

(a) *IN GENERAL.*—(1) Title XI of the National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

**“COUNTERINTELLIGENCE INITIATIVES**

**“SEC. 1102. (a) INSPECTION PROCESS.**—(1) In order to protect intelligence sources and methods from unauthorized disclosure, the Director of Central Intelligence shall establish and implement an inspection process for all agencies and departments of the United States that handle classified information relating to the national security of the United States intended to assure that those agencies and departments maintain effective operational security practices and programs directed against counterintelligence activities.

“(2) The Director shall carry out the process through the Office of the National Counterintelligence Executive.

**“(b) ANNUAL REVIEW OF DISSEMINATION LISTS.**—(1) The Director of Central Intelligence shall establish and implement a process for all elements of the intelligence community to review, on an annual basis, individuals included on distribution lists for access to classified information. Such process shall ensure that only individuals who have a particularized ‘need to know’ (as determined by the Director) are continued on such distribution lists.

“(2) Not later than October 15 of each year, the Director shall certify to the congressional intelligence committees that the review required under paragraph (1) has been conducted in all elements of the intelligence community during the preceding fiscal year.

**“(c) COMPLETION OF FINANCIAL DISCLOSURE STATEMENTS REQUIRED FOR ACCESS TO CERTAIN CLASSIFIED INFORMATION.**—(1) The Director of Central Intelligence shall establish and implement a process by which each head of an element of the intelligence community directs that all employees of that element, in order to be granted access to classified information referred to in subsection (a) of section 1.3 of Executive Order No. 12968 (August 2, 1995; 60 F.R. 40245; 50 U.S.C. 435 note), submit financial disclosure forms as required under subsection (b) of such section.

“(2) The Director shall carry out paragraph (1) through the Office of the National Counterintelligence Executive.

**“(d) ARRANGEMENTS TO HANDLE SENSITIVE INFORMATION.**—The Director of Central Intelligence shall establish, for all elements

of the intelligence community, programs and procedures by which sensitive classified information relating to human intelligence is safeguarded against unauthorized disclosure by employees of those elements.”

(2) The table of contents contained in the first section of such Act is amended in the items relating to title XI by adding at the end the following new item:

“Sec. 1102. Counterintelligence initiatives.”

(b) **INTELLIGENCE AND NATIONAL SECURITY ASPECTS OF ESPIONAGE PROSECUTIONS.**—The Attorney General, acting through the Office of Intelligence Policy and Review of the Department of Justice, and in consultation with the Director of Central Intelligence, acting through the Office of the National Counterintelligence Executive, shall establish policies and procedures to assist the Attorney General in the consideration of intelligence and national security-related equities in the development of charging documents and related pleadings in espionage prosecutions.

## **Subtitle D—Reports**

### **SEC. 351. REPORT ON CLEARED INSIDER THREAT TO CLASSIFIED COMPUTER NETWORKS.**

(a) **REPORT REQUIRED.**—The Director of Central Intelligence and the Secretary of Defense shall jointly submit to the appropriate committees of Congress a report on the risks to the national security of the United States of the current computer security practices of the elements of the intelligence community and of the Department of Defense.

(b) **ASSESSMENTS.**—The report under subsection (a) shall include an assessment of the following:

(1) The vulnerability of the computers and computer systems of the elements of the intelligence community, and of the Department of Defense, to various threats from foreign governments, international terrorist organizations, and organized crime, including information warfare (IW), Information Operations (IO), Computer Network Exploitation (CNE), and Computer Network Attack (CNA).

(2) The risks of providing users of local area networks (LANs) or wide-area networks (WANs) of computers that include classified information with capabilities for electronic mail, upload and download, or removable storage media without also deploying comprehensive computer firewalls, accountability procedures, or other appropriate security controls.

(3) Any other matters that the Director and the Secretary jointly consider appropriate for purposes of the report.

(c) **INFORMATION ON ACCESS TO NETWORKS.**—The report under subsection (a) shall also include information as follows:

(1) An estimate of the number of access points on each classified computer or computer system of an element of the intelligence community or the Department of Defense that permit unsupervised uploading or downloading of classified information, set forth by level of classification.

(2) *An estimate of the number of individuals utilizing such computers or computer systems who have access to input-output devices on such computers or computer systems.*

(3) *A description of the policies and procedures governing the security of the access points referred to in paragraph (1), and an assessment of the adequacy of such policies and procedures.*

(4) *An assessment of the viability of utilizing other technologies (including so-called "thin client servers") to achieve enhanced security of such computers and computer systems through more rigorous control of access to such computers and computer systems.*

(d) *RECOMMENDATIONS.—The report under subsection (a) shall also include such recommendations for modifications or improvements of the current computer security practices of the elements of the intelligence community, and of the Department of Defense, as the Director and the Secretary jointly consider appropriate as a result of the assessments under subsection (b) and the information under subsection (c).*

(e) *SUBMITTAL DATE.—The report under subsection (a) shall be submitted not later than February 15, 2004.*

(f) *FORM.—The report under subsection (a) may be submitted in classified or unclassified form, at the election of the Director.*

(g) *DEFINITIONS.—In this section:*

(1) *The term "appropriate committees of Congress" means—*  
 (A) *the Select Committee on Intelligence and the Committee on Armed Services of the Senate; and*

(B) *the Permanent Select Committee on Intelligence and the Committee on Armed Services of the House of Representatives.*

(2) *The term "elements of the intelligence community" means the elements of the intelligence community set forth in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).*

**SEC. 352. REPORT ON SECURITY BACKGROUND INVESTIGATIONS AND SECURITY CLEARANCE PROCEDURES OF THE FEDERAL GOVERNMENT.**

(a) *REPORT REQUIRED.—The Director of Central Intelligence, the Secretary of Defense, the Attorney General, the Director of the Office of Personnel Management, and the heads of other appropriate Federal departments and agencies (as determined by the President) shall jointly submit to the appropriate committees of Congress a report on the utility and effectiveness of the current security background investigations and security clearance procedures of the Federal Government in meeting the purposes of such investigations and procedures.*

(b) *PARTICULAR REPORT MATTERS.—The report shall address in particular the following:*

(1) *A comparison of the costs and benefits of conducting background investigations for Secret clearance with the costs and benefits of conducting full field background investigations.*

(2) *The standards governing the revocation of security clearances.*

(c) *RECOMMENDATIONS.—The report under subsection (a) shall include such recommendations for modifications or improvements of*

*the current security background investigations or security clearance procedures of the Federal Government as are considered appropriate as a result of the preparation of the report under that subsection.*

*(d) SUBMITTAL DATE.—The report under subsection (a) shall be submitted not later than February 15, 2004.*

*(e) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term “appropriate committees of Congress” means—*

*(1) the Select Committee on Intelligence and the Committees on Armed Services and the Judiciary of the Senate; and*

*(2) the Permanent Select Committee on Intelligence and the Committees on Armed Services and the Judiciary of the House of Representatives.*

**SEC. 353. REPORT ON DETAIL OF CIVILIAN INTELLIGENCE PERSONNEL AMONG ELEMENTS OF THE INTELLIGENCE COMMUNITY AND THE DEPARTMENT OF DEFENSE.**

*(a) REPORT REQUIRED.—The Director of Central Intelligence shall, in consultation with the heads of the elements of the intelligence community, submit to the appropriate committees of Congress a report on means of improving the detail or transfer of civilian intelligence personnel between and among the various elements of the intelligence community for the purpose of enhancing the flexibility and effectiveness of the intelligence community in responding to changes in requirements for the collection, analysis, and dissemination of intelligence.*

*(b) REPORT ELEMENTS.—The report under subsection (a) shall—*

*(1) set forth a variety of proposals on means of improving the detail or transfer of civilian intelligence personnel as described in that subsection;*

*(2) identify the proposal or proposals determined by the heads of the elements of the intelligence community most likely to meet the purpose described in that subsection; and*

*(3) include such recommendations for such legislative or administrative action as the heads of the elements of the intelligence community consider appropriate to implement the proposal or proposals identified under paragraph (2).*

*(c) SUBMITTAL DATE.—The report under subsection (a) shall be submitted not later than February 15, 2004.*

*(d) DEFINITIONS.—In this section:*

*(1) The term “appropriate committees of Congress” means—*

*(A) the Select Committee on Intelligence and the Committees on Armed Services, Governmental Affairs, and the Judiciary of the Senate; and*

*(B) the Permanent Select Committee on Intelligence and the Committees on Armed Services, Government Reform, and the Judiciary of the House of Representatives.*

*(2) The term “elements of the intelligence community” means the elements of the intelligence community set forth in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).*

*(3) The term “heads of the elements of the intelligence community” includes the Secretary of Defense with respect to each element of the intelligence community within the Department of Defense or the military departments.*

**SEC. 354. REPORT ON MODIFICATIONS OF POLICY AND LAW ON CLASSIFIED INFORMATION TO FACILITATE SHARING OF INFORMATION FOR NATIONAL SECURITY PURPOSES.**

(a) *REPORT.*—Not later than four months after the date of the enactment of this Act, the President shall submit to the appropriate committees of Congress a report that—

(1) identifies impediments in current policy and regulations to the sharing of classified information horizontally across and among Federal departments and agencies, and vertically between the Federal Government and agencies of State and local governments and the private sector, for national security purposes, including homeland security; and

(2) proposes appropriate modifications of policy, law, and regulations to eliminate such impediments in order to facilitate such sharing of classified information for national security purposes, including homeland security.

(b) *CONSIDERATIONS.*—In preparing the report under subsection (a), the President shall—

(1) consider the extent to which the reliance on a document-based approach to the protection of classified information impedes the sharing of classified information; and

(2) consider the extent to which the utilization of a database-based approach, or other electronic approach, to the protection of classified information might facilitate the sharing of classified information.

(c) *COORDINATION WITH OTHER INFORMATION SHARING ACTIVITIES.*—In preparing the report under subsection (a), the President shall, to the maximum extent practicable, take into account actions being undertaken under the Homeland Security Information Sharing Act (subtitle I of title VIII of Public Law 107–296; 116 Stat. 2252; 6 U.S.C. 481 et seq.).

(d) *APPROPRIATE COMMITTEES OF CONGRESS DEFINED.*—In this section, the term “appropriate committees of Congress” means—

(1) the Select Committee on Intelligence and the Committees on Armed Services, Governmental Affairs, and the Judiciary of the Senate; and

(2) the Permanent Select Committee on Intelligence, the Select Committee on Homeland Security, and the Committees on Armed Services and the Judiciary of the House of Representatives.

**SEC. 355. REPORT ON STRATEGIC PLANNING.**

(a) *REPORT.*—Not later than February 15, 2004, the Secretary of Defense and the Director of Central Intelligence shall jointly submit to the appropriate committees of Congress a report that assesses progress in the following:

(1) The development by the Department of Defense and the intelligence community of a comprehensive and uniform analytical capability to assess the utility and advisability of various sensor and platform architectures and capabilities for the collection of intelligence.

(2) The improvement of coordination between the Department and the intelligence community on strategic and budgetary planning.

(b) *FORM.*—The report under subsection (a) may be submitted in classified form.

(c) *APPROPRIATE COMMITTEES OF CONGRESS DEFINED.*—In this section, the term “appropriate committees of Congress” means—

(1) the Select Committee on Intelligence and the Committee on Armed Services of the Senate; and

(2) the Permanent Select Committee on Intelligence and the Committee on Armed Services of the House of Representatives.

**SEC. 356. REPORT ON UNITED STATES DEPENDENCE ON COMPUTER HARDWARE AND SOFTWARE MANUFACTURED OVERSEAS.**

(a) *REPORT.*—Not later than February 15, 2004, the Director of Central Intelligence shall submit to the appropriate committees of Congress a report on the extent of United States dependence on computer hardware or software that is manufactured overseas.

(b) *ELEMENTS.*—The report under subsection (a) shall address the following:

(1) The extent to which the United States currently depends on computer hardware or software that is manufactured overseas.

(2) The extent to which United States dependence, if any, on such computer hardware or software is increasing.

(3) The vulnerabilities of the national security and economy of the United States as a result of United States dependence, if any, on such computer hardware or software.

(4) Any other matters relating to United States dependence, if any, on such computer hardware or software that the Director considers appropriate.

(c) *CONSULTATION WITH PRIVATE SECTOR.*—(1) In preparing the report under subsection (a), the Director may consult, and is encouraged to consult, with appropriate persons and entities in the computer hardware or software industry and with other appropriate persons and entities in the private sector.

(2) Consultations of the Director with persons or entities under paragraph (1) shall not be treated as the activities of an advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).

(d) *FORM.*—(1) The report under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

(2) The report may be in the form of a National Intelligence Estimate.

(e) *APPROPRIATE COMMITTEES OF CONGRESS DEFINED.*—In this section, the term “appropriate committees of Congress” means—

(1) the Select Committee on Intelligence and the Committee on Armed Services of the Senate; and

(2) the Permanent Select Committee on Intelligence and the Committee on Armed Services of the House of Representatives.

**SEC. 357. REPORT ON LESSONS LEARNED FROM MILITARY OPERATIONS IN IRAQ.**

(a) *REPORT.*—As soon as possible, but not later than one year after the date of the enactment of this Act, the Director of Central Intelligence shall submit to the appropriate committees of Congress a report on the intelligence lessons learned as a result of Operation Iraqi Freedom, including lessons relating to the following:

(1) The tasking, collection, processing, exploitation, analysis, and dissemination of intelligence.

(2) The accuracy, timeliness, and objectivity of intelligence analysis.

(3) *The intelligence support available to policymakers and members of the Armed Forces in combat.*

(4) *The coordination of intelligence activities and operations with military operations.*

(5) *The strengths and limitations of intelligence systems and equipment.*

(6) *Such other matters as the Director considers appropriate.*

(b) *RECOMMENDATIONS.*—*The report under subsection (a) shall include such recommendations on improvement in the matters described in subsection (a) as the Director considers appropriate.*

(c) *APPROPRIATE COMMITTEES OF CONGRESS DEFINED.*—*In this section, the term “appropriate committees of Congress” means—*

(1) *the Permanent Select Committee on Intelligence and the Committee on Armed Services of the House of Representatives; and*

(2) *the Select Committee on Intelligence and the Committee on Armed Services of the Senate.*

**SEC. 358. REPORTS ON CONVENTIONAL WEAPONS AND AMMUNITION OBTAINED BY IRAQ IN VIOLATION OF CERTAIN UNITED NATIONS SECURITY COUNCIL RESOLUTIONS.**

(a) *PRELIMINARY REPORT.*—*Not later than 90 days after the date of the enactment of this Act, the Director of the Defense Intelligence Agency shall, after such consultation with the Secretary of State and the Attorney General as the Director considers appropriate, submit to the appropriate committees of Congress a preliminary report on all information obtained by the Department of Defense and the intelligence community on the conventional weapons and ammunition obtained by Iraq in violation of applicable resolutions of the United Nations Security Council adopted since the invasion of Kuwait by Iraq in August 1990.*

(b) *FINAL REPORT.*—(1) *Not later than one year after the date of the enactment of this Act, the Director shall submit to the appropriate committees of Congress a final report on the information described in subsection (a).*

(2) *The final report under paragraph (1) shall include such updates of the preliminary report under subsection (a) as the Director considers appropriate.*

(c) *ELEMENTS.*—*Each report under this section shall set forth, to the extent practicable, with respect to each shipment of weapons or ammunition addressed in such report the following:*

(1) *The country of origin.*

(2) *Any country of transshipment.*

(d) *FORM.*—*Each report under this section shall be submitted in unclassified form, but may include a classified annex.*

(e) *APPROPRIATE COMMITTEES OF CONGRESS DEFINED.*—*In this section, the term “appropriate committees of Congress” means—*

(1) *the Select Committee on Intelligence and the Committees on Armed Services and Foreign Relations of the Senate; and*

(2) *the Permanent Select Committee on Intelligence and the Committees on Armed Services and International Relations of the House of Representatives.*



**SEC. 359. REPORT ON OPERATIONS OF DIRECTORATE OF INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION AND TERRORIST THREAT INTEGRATION CENTER.**

(a) *REPORT REQUIRED.*—The President shall submit to the appropriate committees of Congress a report on the operations of the Directorate of Information Analysis and Infrastructure Protection of the Department of Homeland Security and the Terrorist Threat Integration Center. The report shall include the following:

(1) An assessment of the operations of the Directorate and the Center, including the capabilities of each—

(A) to meet personnel requirements, including requirements to employ qualified analysts, and the status of efforts to employ qualified analysts;

(B) to share intelligence information with the other elements of the intelligence community, including the sharing of intelligence information through secure information technology connections between the Directorate, the Center, and the other elements of the intelligence community;

(C) to disseminate intelligence information, or analyses of intelligence information, to other departments and agencies of the Federal Government and, as appropriate, to State and local governments;

(D) to coordinate with State and local counterterrorism and law enforcement officials;

(E) to receive information from Federal, State, and local officials, and private sector entities, relating to the respective responsibilities and authorities of the Directorate and the Center; and

(F) to access information, including intelligence and law enforcement information, from the departments and agencies of the Federal Government, including the ability of the Directorate to access, in a timely and efficient manner, all information authorized by section 202 of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 122).

(2) An assessment of the ability of the Center to fulfill the responsibilities assigned to it by the President given its structure, authorities, current assets, and capabilities.

(3) An assessment of the ability of the Directorate to fulfill the responsibilities set forth in section 201 of the Homeland Security Act of 2002 (6 U.S.C. 121) given its current assets and capabilities.

(4) A plan of action (including appropriate milestones, funding, and sources of funding) for bringing the Center to its full operational capacity as called for in the Information on the State of the Union given by the President to Congress under section 3 of Article II of the Constitution of the United States in 2003.

(5) A delineation of the responsibilities and duties of the Directorate and of the responsibilities and duties of the Center.

(6) A delineation and summary of the areas in which the responsibilities and duties of the Directorate, the Center, and other elements of the Federal Government overlap.

(7) An assessment of whether the areas of overlap, if any, delineated under paragraph (6) represent an inefficient utilization of resources.

(8) *A description of the policies and procedures to ensure that the Directorate and the Center comply with the Constitution and applicable statutes, Executive orders, and regulations of the United States.*

(9) *The practical impact, if any, of the operations of the Center on individual liberties and privacy.*

(10) *Such information as the President considers appropriate to explain the basis for the establishment and operation of the Center as a “joint venture” of participating agencies rather than as an element of the Directorate reporting directly to the Secretary of Homeland Security through the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection.*

(b) **SUBMITTAL DATE.**—*The report required by this section shall be submitted not later than May 1, 2004.*

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

(d) **APPROPRIATE COMMITTEES OF CONGRESS DEFINED.**—*In this section, the term “appropriate committees of Congress” means—*

(1) *the Select Committee on Intelligence and the Committees on Governmental Affairs, the Judiciary, and Appropriations of the Senate; and*

(2) *the Permanent Select Committee on Intelligence, the Select Committee on Homeland Security, and the Committees on the Judiciary and Appropriations of the House of Representatives.*

**SEC. 360. REPORT ON TERRORIST SCREENING CENTER.**

(a) **REPORT.**—*Not later than September 16, 2004, the President shall submit to Congress a report on the establishment and operation of the Terrorist Screening Center, established on September 16, 2003, by Homeland Security Presidential Directive 6, including the matters described in subsection (b).*

(b) **COVERED MATTERS.**—*The matters referred to in subsection (a) are the following:*

(1) *An analysis of the operations of the Terrorist Screening Center to ensure that the Terrorist Screening Center does not violate the Constitution, or any statute, Executive Order, or regulation of the United States.*

(2) *A description of the architecture of the database system of the Terrorist Screening Center, including the number of databases maintained, operated, or administered by the Terrorist Screening Center, and the extent to which these databases have been integrated.*

(3) *A determination of whether data from all watch lists detailed in the April 2003 report of the Comptroller General of the United States, entitled “Information Technology: Terrorist Watch Lists should be Consolidated to promote Better Integration and Sharing,” have been incorporated into the Terrorist Screening Center database system.*

(4) *A determination of whether there remain any relevant databases that are not yet part of the Terrorist Screening Center database system.*

(5) *A schedule that specifies the dates on which each Federal watch list database identified in the report referred to in paragraph (3), or determined under paragraph (4) to be not yet*

part of the Terrorist Screening Center database system, were, or will be, integrated into the Terrorist Screening Center database system.

(6) A description of the protocols in effect to ensure the protection of classified and sensitive information contained in the Terrorist Screening Center database system.

(7) A description of—

(A) the process by which databases in the Terrorist Screening Center database system are reviewed for accuracy and timeliness of data and the frequency of updates of such reviews; and

(B) the mechanism used to ensure that data within a particular database is synchronized and replicated throughout the database system of the Terrorist Screening Center.

(8) A description of the extent to which the Terrorist Screening Center makes information available to the private sector and critical infrastructure components, and the criteria for determining which private sector and critical infrastructure components receive that information.

(9) The number of individuals listed in the Terrorist Screening Center database system.

(10) The estimated operating budget of, and sources of funding for, the Terrorist Screening Center for each of fiscal years 2004, 2005, and 2006.

(11) An assessment of the impact of the Terrorist Screening Center on current law enforcement systems.

(12) The practical impact, if any, of the operations of the Terrorist Screening Center on individual liberties and privacy.

(13) Such recommendations as the President considers appropriate for modifications of law or policy to ensure the continuing operation of the Terrorist Screening Center.

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

**SEC. 361. REPEAL AND MODIFICATION OF REPORT REQUIREMENTS RELATING TO INTELLIGENCE ACTIVITIES.**

(a) **ANNUAL EVALUATION OF PERFORMANCE AND RESPONSIVENESS OF INTELLIGENCE COMMUNITY.**—Section 105 of the National Security Act of 1947 (50 U.S.C. 403–5) is amended by striking subsection (d).

(b) **PERIODIC REPORTS ON DISCLOSURE OF INTELLIGENCE INFORMATION TO UNITED NATIONS.**—Section 112(b) of the National Security Act of 1947 (50 U.S.C. 404g(b)(1)) is amended—

(1) in the subsection caption, by striking “PERIODIC” and inserting “ANNUAL”;

(2) in paragraph (1), by striking “semiannually” and inserting “annually”; and

(3) in paragraph (3), by striking “periodic” and inserting “the annual”.

(c) **ANNUAL REPORT ON INTELLIGENCE COMMUNITY COOPERATION WITH COUNTERDRUG ACTIVITIES.**—Section 114 of the National Security Act of 1947 (50 U.S.C. 404i) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsections (b) through (f) as subsections (a) through (e), respectively.

(d) ANNUAL REPORT ON COVERT LEASES.—Section 114 of the National Security Act of 1947, as amended by this section, is further amended—

(1) by striking subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

(e) ANNUAL REPORT ON CERTAIN FOREIGN COMPANIES INVOLVED IN PROLIFERATION OF WEAPONS OF MASS DESTRUCTION.—Section 827 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2430; 50 U.S.C. 404n–3) is repealed.

(f) ANNUAL REPORT ON INTELLIGENCE ACTIVITIES OF PEOPLE'S REPUBLIC OF CHINA.—Section 308 of the Intelligence Authorization Act for Fiscal Year 1998 (Public Law 105–107; 111 Stat. 2253; 50 U.S.C. 402a note) is repealed.

(g) ANNUAL REPORT ON COORDINATION OF COUNTERINTELLIGENCE MATTERS WITH FBI.—Section 811(c) of the Counterintelligence and Security Enhancements Act of 1994 (title VIII of Public Law 103–359; 50 U.S.C. 402a(c)) is amended—

(1) by striking paragraph (6); and

(2) by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(h) ANNUAL REPORT ON POSTEMPLOYMENT ASSISTANCE FOR TERMINATED INTELLIGENCE EMPLOYEES.—Section 1611 of title 10, United States Code, is amended by striking subsection (e).

(i) ANNUAL REPORT ON ACTIVITIES OF FBI PERSONNEL OUTSIDE THE UNITED STATES.—Section 540C of title 28, United States Code, is repealed.

(j) ANNUAL REPORT ON EXCEPTIONS TO CONSUMER DISCLOSURE REQUIREMENTS FOR NATIONAL SECURITY INVESTIGATIONS.—Section 604(b)(4) of the Fair Credit Reporting Act (15 U.S.C. 1681b(b)(4)) is amended—

(1) by striking subparagraphs (D) and (E); and

(2) by redesignating subparagraph (F) as subparagraph (D).

(k) REPORTS ON ACQUISITION OF TECHNOLOGY RELATING TO WEAPONS OF MASS DESTRUCTION AND ADVANCED CONVENTIONAL MUNITIONS.—Subsection (b)(1) of section 721 of the Intelligence Authorization Act for Fiscal Year 1997 (Public Law 104–293; 50 U.S.C. 2366) is amended by striking “a semiannual” and inserting “an annual”.

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

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking subparagraphs (A), (C), (G), (I), (J), and (L);

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

(iii) by inserting after subparagraph (A), as so redesignated, the following new subparagraph (B):

“(B) The annual report on intelligence provided to the United Nations required by section 112(b)(1).”; and

- (iv) by inserting after subparagraph (D), as so redesignated, the following new subparagraph (E):
- “(E) The annual report on the acquisition of technology relating to weapons of mass destruction and advanced conventional munitions required by section 721 of the Intelligence Authorization Act for Fiscal Year 1997 (Public Law 104-293; 50 U.S.C. 2366).”; and
- (B) in paragraph (2)—
- (i) in subparagraph (A), by striking “section 114(b)” and inserting “section 114(a)”;
- (ii) in subparagraph (B), by striking “section 114(d)” and inserting “section 114(c)”;
- (iii) by striking subparagraphs (C), (E), and (F); and
- (iv) by redesignating subparagraphs (D) and (G) as subparagraphs (C) and (D), respectively; and
- (2) in subsection (b)—
- (A) by striking paragraphs (1) and (4); and
- (B) by redesignating paragraphs (2), (3), (5), (6), (7), and (8) as paragraphs (1), (2), (3), (4), (5), and (6), respectively.
- (m) CLERICAL AMENDMENTS.—
- (1) NATIONAL SECURITY ACT OF 1947.—The table of contents for the National Security Act of 1947 is amended by striking the item relating to section 603.
- (2) TITLE 28, UNITED STATES CODE.—The table of sections at the beginning of chapter 33 of title 28, United States Code, is amended by striking the item relating to section 540C.
- (n) EFFECTIVE DATE.—The amendments made by this section shall take effect on December 31, 2003.

## **Subtitle E—Other Matters**

### **SEC. 371. EXTENSION OF SUSPENSION OF REORGANIZATION OF DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.**

Section 311 of the Intelligence Authorization Act for Fiscal Year 2002 (Public Law 107-108; 22 U.S.C. 7301 note) is amended—

(1) in the heading, by striking “**TWO-YEAR**” before “**SUSPENSION OF REORGANIZATION**”; and

(2) in the text, by striking “ending on October 1, 2003” and inserting “ending on the date that is 60 days after the appropriate congressional committees of jurisdiction (as defined in section 324(d) of that Act (22 U.S.C. 7304(d)) are notified jointly by the Secretary of State (or the Secretary’s designee) and the Director of the Office of Management and Budget (or the Director’s designee) that the operational framework for the office has been terminated”.

### **SEC. 372. MODIFICATIONS OF AUTHORITIES ON EXPLOSIVE MATERIALS.**

(a) CLARIFICATION OF ALIENS AUTHORIZED TO DISTRIBUTE EXPLOSIVE MATERIALS.—Section 842(d)(7) of title 18, United States Code, is amended—

- (1) in subparagraph (A), by striking “or” at the end;
- (2) in subparagraph (B)—

(A) by inserting “or” at the end of clause (i); and

(B) by striking clauses (iii) and (iv); and

(3) by adding the following new subparagraphs:

“(C) is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force, as determined by the Attorney General in consultation with the Secretary of Defense, who is present in the United States under military orders for training or other military purpose authorized by the United States and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of the authorized military purpose; or

“(D) is lawfully present in the United States in cooperation with the Director of Central Intelligence, and the shipment, transportation, receipt, or possession of the explosive materials is in furtherance of such cooperation.”

(b) **CLARIFICATION OF ALIENS AUTHORIZED TO POSSESS OR RECEIVE EXPLOSIVE MATERIALS.**—Section 842(i)(5) of title 18, United States Code, is amended—

(1) in subparagraph (A), by striking “or” at the end;

(2) in subparagraph (B)—

(A) by inserting “or” at the end of clause (i); and

(B) by striking clauses (iii) and (iv); and

(3) by adding the following new subparagraphs:

“(C) is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force, as determined by the Attorney General in consultation with the Secretary of Defense, who is present in the United States under military orders for training or other military purpose authorized by the United States and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of the authorized military purpose; or

“(D) is lawfully present in the United States in cooperation with the Director of Central Intelligence, and the shipment, transportation, receipt, or possession of the explosive materials is in furtherance of such cooperation.”

**SEC. 373. MODIFICATION OF PROHIBITION ON THE NATURALIZATION OF CERTAIN PERSONS.**

Section 313(e)(4) of the Immigration and Nationality Act (8 U.S.C. 1424(e)(4)) is amended—

(1) by inserting “when Department of Defense activities are relevant to the determination” after “Secretary of Defense”; and

(2) by inserting “and the Secretary of Homeland Security” after “Attorney General”.

**SEC. 374. MODIFICATION TO DEFINITION OF FINANCIAL INSTITUTION IN RIGHT TO FINANCIAL PRIVACY ACT.**

(a) **MODIFICATION OF DEFINITION.**—Section 1114 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414) is amended by adding at the end the following:

“(d) For purposes of this section, and sections 1115 and 1117 insofar as they relate to the operation of this section, the term ‘financial institution’ has the same meaning as in subsections (a)(2) and (c)(1) of section 5312 of title 31, United States Code, except that, for purposes of this section, such term shall include only such a financial institution any part of which is located inside any State or territory of the United States, the District of Columbia, Puerto Rico,

*Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the United States Virgin Islands.”.*

*(b) CROSS REFERENCE MODIFICATION.—Section 1101(1) of such Act (12 U.S.C. 3401(1)) is amended by inserting “, except as provided in section 1114,” before “means any office”.*

**SEC. 375. COORDINATION OF FEDERAL GOVERNMENT RESEARCH ON SECURITY EVALUATIONS.**

*(a) WORKSHOPS FOR COORDINATION OF RESEARCH.—The National Science Foundation and the Office of Science and Technology Policy shall jointly sponsor not less than two workshops on the coordination of Federal Government research on the use of behavioral, psychological, and physiological assessments of individuals in the conduct of security evaluations.*

*(b) DEADLINE FOR COMPLETION OF ACTIVITIES.—The activities of the workshops sponsored under subsection (a) shall be completed not later than March 1, 2004.*

*(c) PURPOSES.—The purposes of the workshops sponsored under subsection (a) are as follows:*

*(1) To provide a forum for cataloging and coordinating federally funded research activities relating to the development of new techniques in the behavioral, psychological, or physiological assessment of individuals to be used in security evaluations.*

*(2) To develop a research agenda for the Federal Government on behavioral, psychological, and physiological assessments of individuals, including an identification of the research most likely to advance the understanding of the use of such assessments of individuals in security evaluations.*

*(3) To distinguish between short-term and long-term areas of research on behavioral, psychological, and physiological assessments of individuals in order to maximize the utility of short-term and long-term research on such assessments.*

*(4) To identify the Federal agencies best suited to support research on behavioral, psychological, and physiological assessments of individuals.*

*(5) To develop recommendations for coordinating future federally funded research for the development, improvement, or enhancement of security evaluations.*

*(d) ADVISORY GROUP.—(1) In order to assist the National Science Foundation and the Office of Science and Technology Policy in carrying out the activities of the workshops sponsored under subsection (a), there is hereby established an interagency advisory group with respect to such workshops.*

*(2) The advisory group shall be composed of the following:*

*(A) A representative of the Social, Behavioral, and Economic Directorate of the National Science Foundation.*

*(B) A representative of the Office of Science and Technology Policy.*

*(C) The Secretary of Defense, or a designee of the Secretary.*

*(D) The Secretary of State, or a designee of the Secretary.*

*(E) The Attorney General, or a designee of the Attorney General.*

*(F) The Secretary of Energy, or a designee of the Secretary.*

*(G) The Secretary of Homeland Security, or a designee of the Secretary.*

(H) *The Director of Central Intelligence, or a designee of the Director.*

(I) *The Director of the Federal Bureau of Investigation, or a designee of the Director.*

(J) *The National Counterintelligence Executive, or a designee of the National Counterintelligence Executive.*

(K) *Any other official assigned to the advisory group by the President for purposes of this section.*

(3) *The members of the advisory group under subparagraphs (A) and (B) of paragraph (2) shall jointly head the advisory group.*

(4) *The advisory group shall provide the Foundation and the Office such information, advice, and assistance with respect to the workshops sponsored under subsection (a) as the advisory group considers appropriate.*

(5) *The advisory group shall not be treated as an advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).*

(e) **FOIA EXEMPTION.**—*All files of the National Science Foundation and the Office of Science and Technology Policy for purposes of administering this section, including any files of a Federal, State, or local department or agency or of a private sector entity provided to or utilized by a workshop or advisory group under this section, shall be exempt from the provisions of section 552 of title 5, United States Code, that require publication, disclosure, search, or review in connection therewith.*

(f) **REPORT.**—*Not later than March 1, 2004, the National Science Foundation and the Office of Science and Technology Policy shall jointly submit to Congress a report on the results of activities of the workshops sponsored under subsection (a), including the findings and recommendations of the Foundation and the Office as a result of such activities.*

(g) **FUNDING.**—(1) *Of the amount authorized to be appropriated for the Intelligence Community Management Account by section 104(a), \$500,000 shall be available to the National Science Foundation and the Office of Science and Technology Policy to carry out this section.*

(2) *The amount authorized to be appropriated by paragraph (1) shall remain available until expended.*

**SEC. 376. TREATMENT OF CLASSIFIED INFORMATION IN MONEY LAUNDERING CASES.**

*Section 5318A of title 31, United States Code, is amended by adding at the end the following:*

*“(f) CLASSIFIED INFORMATION.—In any judicial review of a finding of the existence of a primary money laundering concern, or of the requirement for 1 or more special measures with respect to a primary money laundering concern, made under this section, if the designation or imposition, or both, were based on classified information (as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.)), such information may be submitted by the Secretary to the reviewing court ex parte and in camera. This subsection does not confer or imply any right to judicial review of any finding made or any requirement imposed under this section.”.*



**SEC. 377. TECHNICAL AMENDMENTS.**

(a) NATIONAL SECURITY ACT OF 1947.—Section 112(d)(1) of the National Security Act of 1947 (50 U.S.C. 404g(d)(1)) is amended by striking “section 103(c)(6)” and inserting “section 103(c)(7)”.

(b) CENTRAL INTELLIGENCE AGENCY ACT OF 1949.—(1) Section 5(a)(1) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f(a)(1)) is amended by striking “(c)(6)” each place it appears and inserting “(c)(7)”.

(2) Section 6 of that Act (50 U.S.C. 403g) is amended by striking “section 103(c)(6) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(6))” and inserting “section 103(c)(7) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(7))”.

(3) Section 15 of that Act (50 U.S.C. 403o) is amended—

(A) in subsection (a)(1), by striking “special policemen of the General Services Administration perform under the first section of the Act entitled ‘An Act to authorize the Federal Works Administrator or officials of the Federal Works Agency duly authorized by him to appoint special policemen for duty upon Federal property under the jurisdiction of the Federal Works Agency, and for other purposes’ (40 U.S.C. 318),” and inserting “officers and agents of the Department of Homeland Security, as provided in section 1315(b)(2) of title 40, United States Code,”; and

(B) in subsection (b), by striking “the fourth section of the Act referred to in subsection (a) of this section (40 U.S.C. 318c)” and inserting “section 1315(c)(2) of title 40, United States Code”.

(c) NATIONAL SECURITY AGENCY ACT OF 1959.—Section 11 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended—

(1) in subsection (a)(1), by striking “special policemen of the General Services Administration perform under the first section of the Act entitled ‘An Act to authorize the Federal Works Administrator or officials of the Federal Works Agency duly authorized by him to appoint special policeman for duty upon Federal property under the jurisdiction of the Federal Works Agency, and for other purposes’ (40 U.S.C. 318)” and inserting “officers and agents of the Department of Homeland Security, as provided in section 1315(b)(2) of title 40, United States Code,”; and

(2) in subsection (b), by striking “the fourth section of the Act referred to in subsection (a) (40 U.S.C. 318c)” and inserting “section 1315(c)(2) of title 40, United States Code”.

(d) INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2003.—Section 343 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2399; 50 U.S.C. 404n–2) is amended—

(1) in subsection (c), by striking “section 103(c)(6) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(6))” and inserting “section 103(c)(7) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(7))”; and

(2) in subsection (e)(2), by striking “section 103(c)(6)” and inserting “section 103(c)(7)”.

(e) FEDERAL INFORMATION SECURITY MANAGEMENT ACT OF 2002.—Section 3535(b)(1) of title 44, United States Code, as added

by section 1001(b)(1) of the Homeland Security Act of 2002 (Public Law 107-296), and section 3545(b)(1) of title 44, United States Code, as added by section 301(b)(1) of the E-Government Act of 2002 (Public Law 107-347), are each amended by inserting “or any other law” after “1978”.

(f) PUBLIC LAW 107-173.—Section 201(c)(3)(F) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107-173; 116 Stat. 548; 8 U.S.C. 1721(c)(3)(F)) is amended by striking “section 103(c)(6) of the National Security Act of 1947 (50 U.S.C. 403-3(c)(6))” and inserting “section 103(c)(7) of the National Security Act of 1947 (50 U.S.C. 403-3(c)(7))”.

## **TITLE IV—CENTRAL INTELLIGENCE AGENCY**

### **SEC. 401. AMENDMENT TO CERTAIN CENTRAL INTELLIGENCE AGENCY ACT OF 1949 NOTIFICATION REQUIREMENTS.**

Section 4(b)(5) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403e(b)(5)) is amended by inserting “, other than regulations under paragraph (1),” after “Regulations”.

### **SEC. 402. PROTECTION OF CERTAIN CENTRAL INTELLIGENCE AGENCY PERSONNEL FROM TORT LIABILITY.**

Section 15 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403o) is amended by adding at the end the following new subsection:

“(d)(1) Notwithstanding any other provision of law, any Agency personnel designated by the Director under subsection (a), or designated by the Director under section 5(a)(4) to carry firearms for the protection of current or former Agency personnel and their immediate families, defectors and their immediate families, and other persons in the United States under Agency auspices, shall be considered for purposes of chapter 171 of title 28, United States Code, or any other provision of law relating to tort liability, to be acting within the scope of their office or employment when such Agency personnel take reasonable action, which may include the use of force, to—

“(A) protect an individual in the presence of such Agency personnel from a crime of violence;

“(B) provide immediate assistance to an individual who has suffered or who is threatened with bodily harm; or

“(C) prevent the escape of any individual whom such Agency personnel reasonably believe to have committed a crime of violence in the presence of such Agency personnel.

“(2) Paragraph (1) shall not affect the authorities of the Attorney General under section 2679 of title 28, United States Code.

“(3) In this subsection, the term ‘crime of violence’ has the meaning given that term in section 16 of title 18, United States Code.”.

### **SEC. 403. REPEAL OF OBSOLETE LIMITATION ON USE OF FUNDS IN CENTRAL SERVICES WORKING CAPITAL FUND.**

Section 21(f)(2) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403u(f)(2)) is amended—

(1) in subparagraph (A), by striking “(A) Subject to subparagraph (B), the Director” and inserting “The Director”; and

(2) by striking subparagraph (B).

**SEC. 404. PURCHASES BY CENTRAL INTELLIGENCE AGENCY OF PRODUCTS OF FEDERAL PRISON INDUSTRIES.**

Notwithstanding section 4124 of title 18, United States Code, purchases by the Central Intelligence Agency from Federal Prison Industries shall be made only if the Director of Central Intelligence determines that the product or service to be purchased from Federal Prison Industries best meets the needs of the Agency.

**SEC. 405. POSTPONEMENT OF CENTRAL INTELLIGENCE AGENCY COMPENSATION REFORM AND OTHER MATTERS.**

(a) **POSTPONEMENT OF COMPENSATION REFORM PLAN.**—Section 402(a)(2) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2403; 50 U.S.C. 403–4 note) is amended by striking “February 1, 2004,” and all that follows through the end and inserting “the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2005.”

(b) **CONTRIBUTION BY CIA EMPLOYEES OF CERTAIN BONUS PAY TO THRIFT SAVINGS PLAN.**—

(1) **CIVIL SERVICE RETIREMENT SYSTEM PARTICIPANTS.**—Section 8351(d) of title 5, United States Code, is amended—

(A) by inserting “(1)” after “(d)”; and

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

“(2)(A) Only those employees of the Central Intelligence Agency participating in the pilot project required by section 402(b) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 50 U.S.C. 403–4 note) and making contributions to the Thrift Savings Fund out of basic pay may also contribute (by direct transfer to the Fund) any part of bonus pay received by the employee as part of the pilot project.

“(B) Contributions under this paragraph are subject to section 8432(d) of this title.”

(2) **FEDERAL EMPLOYEES’ RETIREMENT SYSTEM PARTICIPANTS.**—Section 8432 of title 5, United States Code, is amended by adding at the end the following new subsection:

“(k)(1) Only those employees of the Central Intelligence Agency participating in the pilot project required by section 402(b) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 50 U.S.C. 403–4 note) and making contributions to the Thrift Savings Fund out of basic pay may also contribute (by direct transfer to the Fund) any part of bonus pay received by the employee as part of the pilot project.

“(2) Contributions under this subsection are subject to subsection (d).

“(3) For purposes of subsection (c), basic pay of an employee of the Central Intelligence Agency participating in the pilot project referred to in paragraph (1) shall include bonus pay received by the employee as part of the pilot project.”

(c) **REPORT.**—(1) The Director of Central Intelligence shall submit to the congressional intelligence committees a report on the amount of compensation (including basic pay, bonuses, and employer contributions to the Thrift Savings Plan) of each employee of the Central Intelligence Agency participating in the pilot project required by section 402(b) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2403; 50 U.S.C. 403–4 note), and on the amount that each such employee would

have received had such employee received compensation under the existing system of compensation used by the Agency.

(2) The report required by paragraph (1) shall be submitted together with the report required by paragraph (3) of such section 402(b).

(3) In this subsection, the term “congressional intelligence committees” has the meaning given that term in section 402(d) of the Intelligence Authorization Act for Fiscal Year 2003.

## **TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE MATTERS**

### **SEC. 501. PROTECTION OF CERTAIN NATIONAL SECURITY AGENCY PERSONNEL FROM TORT LIABILITY.**

Section 11 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by adding at the end the following new subsection:

“(d)(1) Notwithstanding any other provision of law, agency personnel designated by the Director of the National Security Agency under subsection (a) shall be considered for purposes of chapter 171 of title 28, United States Code, or any other provision of law relating to tort liability, to be acting within the scope of their office or employment when such agency personnel take reasonable action, which may include the use of force, to—

“(A) protect an individual in the presence of such agency personnel from a crime of violence;

“(B) provide immediate assistance to an individual who has suffered or who is threatened with bodily harm; or

“(C) prevent the escape of any individual whom such agency personnel reasonably believe to have committed a crime of violence in the presence of such agency personnel.

“(2) Paragraph (1) shall not affect the authorities of the Attorney General under section 2679 of title 28, United States Code.

“(3) In this subsection, the term ‘crime of violence’ has the meaning given that term in section 16 of title 18, United States Code.”.

### **SEC. 502. USE OF FUNDS FOR COUNTERDRUG AND COUNTERTERRORISM ACTIVITIES FOR COLOMBIA.**

(a) **AUTHORITY.**—Funds designated for intelligence or intelligence-related purposes for assistance to the Government of Colombia for counterdrug activities for fiscal year 2004, and any unobligated funds available to any element of the intelligence community for such activities for a prior fiscal year, shall be available—

(1) to support a unified campaign by the Government of Colombia against narcotics trafficking and against activities by organizations designated as terrorist organizations (such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC)); and

(2) to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations.

(b) *APPLICABILITY OF CERTAIN LAWS AND LIMITATIONS.*—The use of funds pursuant to the authority in subsection (a) shall be subject to the following:

(1) Sections 556, 567, and 568 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2160, 2165, and 2166).

(2) Section 8077 of the Department of Defense Appropriations Act, 2004 (Public Law 108–87; 117 Stat. 1090).

(3) The numerical limitations on the number of United States military personnel and United States individual civilian contractors in section 3204(b)(1) of the Emergency Supplemental Act, 2000 (division B of Public Law 106–246; 114 Stat. 575), as amended by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (115 Stat. 2131).

(c) *LIMITATION ON PARTICIPATION OF UNITED STATES PERSONNEL.*—No United States Armed Forces personnel or United States civilian contractor employed by the United States Armed Forces will participate in any combat operation in connection with assistance made available under this section, except for the purpose of acting in self defense or during the course of search and rescue operations for United States citizens.

**SEC. 503. SCENE VISUALIZATION TECHNOLOGIES.**

Of the amount authorized to be appropriated by this Act, \$2,500,000 shall be available for the National Geospatial-Intelligence Agency (NGA) for scene visualization technologies.

**SEC. 504. MEASUREMENT AND SIGNATURES INTELLIGENCE RESEARCH PROGRAM.**

(a) *RESEARCH PROGRAM.*—(1) The Secretary of Defense and the Director of Central Intelligence shall jointly carry out a program to incorporate the results of basic research on sensors into the measurement and signatures intelligence systems of the United States, to the extent the results of such research are applicable to such systems.

(2) In carrying out paragraph (1), the Secretary of Defense and the Director of Central Intelligence shall act through the Director of the Defense Intelligence Agency’s Directorate for MASINT and Technical Collection (hereinafter in this section referred to as the “Director”).

(b) *PROGRAM COMPONENTS.*—The program under subsection (a) shall review and assess basic research on sensors and technologies conducted both by the United States Government and by non-governmental entities. In carrying out the program, the Director shall protect intellectual property rights, maintain organizational flexibility, and establish research projects, funding levels, and potential benefits in an equitable manner through the Directorate.

(c) *ADVISORY PANEL.*—(1) The Director shall establish an advisory panel to assist the Director in carrying out the program under subsection (a).

(2) The advisory panel shall be headed by the Director who shall determine the selection, review, and assessment of the research projects under the program.

(3)(A) The Director shall appoint as members of the advisory panel representatives of each entity of the MASINT community, and

may appoint as such members representatives of national laboratories, universities, and private sector entities.

(B) For purposes of this subsection the term “MASINT community” means academic, professional, industrial, and government entities that are committed towards the advancement of the sciences in measurement and signatures intelligence.

(C) The term for a member of the advisory panel shall be established by the Director, but may not exceed a period of 5 consecutive years.

(D) Members of the advisory panel may not receive additional pay, allowances, or benefits by reason of their service on the advisory panel, but may receive per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(4) The Director may accept contributions from non-governmental participants on the advisory panel to defray the expenses of the advisory panel.

(5) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the activities of the advisory panel established under this subsection.

(d) FOIA EXEMPTION.—All files in the possession of the Defense Intelligence Agency for purposes of administering the program under this section, including any files of a Federal, State, or local department or agency or of a private sector entity provided to or utilized by the program, shall be exempt from the provisions of section 552 of title 5, United States Code, that require publication, disclosure, search, or review in connection therewith.

**SEC. 505. AVAILABILITY OF FUNDS OF NATIONAL SECURITY AGENCY FOR NATIONAL SECURITY SCHOLARSHIPS.**

(a) AVAILABILITY OF FUNDS.—Any funds authorized to be appropriated for the National Security Agency for a fiscal year after fiscal year 2003 may be made available to the Independent College Fund of Maryland (also known as the “I-Fund”) for the purpose of the establishment and provision of national security scholarships to the extent such funds are specifically authorized for that purpose.

(b) MECHANISMS OF AVAILABILITY.—Funds may be made available to the Independent College Fund of Maryland under subsection (a) by grant, contract, cooperative agreement, or such other appropriate mechanisms as the Director of the National Security Agency considers appropriate.

And the Senate agree to the same.

From the Permanent Select Committee on Intelligence, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

PORTER J. GOSS,  
DOUG BEREUTER,  
SHERWOOD BOEHLERT,  
JIM GIBBONS,  
RAY LAHOOD,  
RANDY "DUKE" CUNNINGHAM,  
PETE HOEKSTRA,  
RICHARD BURR,  
TERRY EVERETT,  
ELTON GALLEGLY,  
MAC COLLINS,  
JANE HARMAN,  
ALCEE L. HASTINGS,  
SILVESTRE REYES,  
LEONARD L. BOSWELL,  
COLLIN C. PETERSON,  
BUD CRAMER,  
ANNA G. ESHOO,  
RUSH HOLT,  
C.A. DUTCH RUPPERSBERGER.

From the Committee on Armed Services, for consideration of defense tactical intelligence and related activities:

DUNCAN HUNTER,  
CURT WELDON,

*Managers on the Part of the House.*

From the Select Committee on Intelligence:

PAT ROBERTS,  
ORRIN HATCH,  
MIKE DEWINE,  
CHRISTOPHER S. BOND,  
TRENT LOTT,  
OLYMPIA SNOWE,  
CHUCK HAGEL,  
SAXBY CHAMBLISS,  
JOHN WARNER,  
JAY ROCKEFELLER,  
CARL LEVIN,  
DIANNE FEINSTEIN,  
RON WYDEN,  
DICK DURBIN,  
EVAN BAYH,  
JOHN EDWARDS,  
BARBARA A. MIKULSKI.

From the Committee on Armed Services:

WAYNE ALLARD,  
BILL NELSON.

*Managers on the Part of the Senate.*





## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the Senate and House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2417), to authorize appropriations for fiscal year 2004 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, submit the following joint statement to the Senate and House in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The managers agree that the congressionally directed actions described in the House bill, the Senate amendment, the respective committee reports, and classified annexes accompanying H.R. 2417 and S. 1025, should be undertaken to the extent that such congressionally directed actions are not amended, altered, substituted, or otherwise specifically addressed in either this joint Explanatory Statement or in the classified annex to the conference report on the bill H.R. 2417.

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the Conferees, and minor drafting and clarifying changes.

### TITLE I—INTELLIGENCE ACTIVITIES

#### *Sec. 101. Authorization of appropriations*

Section 101 of the conference report lists the departments, agencies, and other elements of the United States Government for whose intelligence and intelligence-related activities the Act authorizes appropriations for fiscal year 2004. The list illustrates the oversight and legislative jurisdiction exercised by the Intelligence Committees in both Houses. It also reflects the primary jurisdiction of the Senate Select Committee on Intelligence over all presidential nominations within the intelligence elements of all departments, agencies, and other entities of the United States Government. The managers note that this conference report marks the first appearance of the Department of Homeland Security in an intelligence authorization bill. This reflects the jurisdiction of the Intelligence Committees in both Houses over the intelligence activities and components of that Department as established by Congress in the

“Homeland Security Act of 2002” (P.L. 107–296), and as designated by the President in Executive Order 13284 (January 23, 2003). The Conferees have also included the Department of Justice (DoJ) in this section to better reflect the fact that Intelligence Committee jurisdiction of both Houses extends to the intelligence activities and components of DoJ, including, particularly, the Office of Intelligence Policy and Review, which directly supports numerous National Foreign Intelligence Program (NFIP) activities across the Intelligence Community. Section 101 is identical to Section 101 of the House bill.

*Sec. 102. Classified schedule of authorizations*

Section 102 of the conference report makes clear that the details of the amounts authorized to be appropriated for intelligence and intelligence-related activities and applicable personnel ceilings covered under this Title for fiscal year 2004 are contained in a classified Schedule of Authorizations. The classified Schedule of Authorizations is incorporated into the Act by this section. The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The classified annex provides details of the Schedule. Section 102 is identical to Section 102 of the House bill.

*Sec. 103. Personnel ceiling adjustments*

Section 103 of the conference report authorizes the Director of Central Intelligence (DCI), with the approval of the Director of the Office of Management and Budget, in fiscal year 2004, to authorize employment of civilian personnel in excess of the personnel ceilings applicable to the components of the Intelligence Community under Section 102 by an amount not to exceed two percent of the total of the ceilings applicable under Section 102. The DCI may exercise this authority only if necessary to the performance of important intelligence functions. Any exercise of this authority must be reported to the Intelligence Committees of the Congress.

The Conferees emphasize that the authority conferred by Section 103 is not intended to permit wholesale increases in personnel strength in any intelligence component. Rather, the section provides the DCI with flexibility to adjust personnel levels temporarily for contingencies and for overages caused by an imbalance between hiring new employees and attrition of current employees. The Conferees do not expect the DCI to allow heads of intelligence components to plan to exceed levels set in the Schedule of Authorizations except for the satisfaction of clearly identified hiring needs that are consistent with the authorization of personnel strengths in this bill. In no case is this authority to be used to provide for positions denied by this bill. Section 103 of the House bill and Section 103 of the Senate amendment are identical.

*Sec. 104. Intelligence Community Management Account*

Section 104 of the conference report authorizes appropriations for the Intelligence Community Management Account (CMA) of the DCI and sets the personnel end-strength for the Intelligence Community Management Staff for fiscal year 2004.

Subsection (a) authorizes appropriations of \$221,513,000 for fiscal year 2004 for the activities of the CMA of the DCI.

Subsection (b) authorizes 310 full-time personnel for the Intelligence Community Management Staff for fiscal year 2004 and provides that such personnel may be permanent employees of the Staff or detailed from various elements of the United States Government.

Subsection (c) authorizes additional appropriations and personnel for the CMA as specified in the classified Schedule of Authorizations and permits additional amounts to remain available for research and development through September 30, 2005. Subsection (c) of the House bill provided only for one-year research and development funds. The House recedes to the Senate.

Subsection (d) requires that, except as provided in Section 113 of the National Security Act of 1947, during fiscal year 2004, personnel from another element of the United States Government be detailed to an element of the CMA on a reimbursable basis, or for temporary situations of less than one year on a non-reimbursable basis.

Subsection (e) authorizes \$47,142,000 of the amount authorized in subsection (a) to be made available for the National Drug Intelligence Center (NDIC). Subsection (e) requires the DCI to transfer these funds to the Attorney General to be used for NDIC activities under the authority of the Attorney General and subject to Section 103(d)(1) of the National Security Act.

Although a DoJ organization, the NDIC is authorized and funded entirely through NFIP funds. The Conferees expect NDIC to be better integrated into the Intelligence Community, particularly with respect to counter-narcotics activities and strategic planning.

*Sec. 105. Office of Intelligence and Analysis of the Department of the Treasury*

Section 105 is similar to Section 105 of the House bill. The Senate amendment had no similar provision. The Senate recedes with slight modifications. Section 105 authorizes the establishment of an Office of Intelligence and Analysis within the Department of the Treasury (Treasury) to be headed by a presidentially appointed and Senate-confirmed Assistant Secretary. Subsection (c) requires that the Secretary of the Treasury consult with the DCI before recommending to the President an individual to be nominated to the position.

As a result of the findings of the "Joint Inquiry into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001" (Joint Inquiry), the Conferees seek to ensure that there is full, appropriate, and timely sharing of information and analysis within the U.S. Government concerning financial networks associated with international terrorism. Since the September 11, 2001, terrorist attacks, the U.S. Government has blocked the assets of over 260 individuals and groups supporting terrorist causes. It has also frozen approximately \$120 million in terrorist-related assets.

Currently, there is no single Executive Branch office tasked by statute with ensuring that all elements of the intelligence and law

enforcement communities cooperate and coordinate in the identification and the targeting of terrorist financial assets. Moreover, coordination on terrorist financing issues within Treasury, and between Treasury and the Intelligence Community, while improving, is currently uneven and disjointed. The Conferees are convinced that Treasury must be more effective in articulating the counterterrorist financing mission. Treasury must also implement the mission requirements from an intelligence sharing and operational perspective more effectively.

The managers recognize that the staffs of the Office of Foreign Assets Control (OFAC) and the Financial Crimes Enforcement Network (FinCEN) possess unique analytical capabilities regarding terrorist financial targets and that this resource should be leveraged across the Intelligence Community. Treasury's access to Intelligence Community information, however, must be enhanced if it is to fulfill this mission. Treasury's analytical products need to be more effectively coordinated with, and disseminated throughout, the Intelligence Community. The Conferees note that the Chairman of the House Committee on Financial Services has provided valuable input on the language of Section 105.

The Conferees seek to establish a new office to accomplish this requirement within Treasury. The Conferees are hopeful that the creation of this new office will streamline and centralize the U.S. Government's capabilities to track terrorist financing networks across the globe. The Conferees further expect that the new office will be treated as a full partner in the Intelligence Community, receiving all intelligence, law enforcement, and other information necessary for it to carry out its important task.

The Conferees also insist that the requirements of the "Intelligence Authorization Act for Fiscal Year 2003" (FY 03 Act) (P.L. 107-306) are met. Section 341 of the FY 03 Act requires that the DCI establish a Foreign Terrorist Asset Tracking Center (FTAT-C) within the Central Intelligence Agency (CIA). Establishment of a Treasury Bureau of Intelligence and Analysis should markedly strengthen FTAT-C's analytic capacity. Section 342 of the FY 03 Act also directed that the Secretary of the Treasury submit semi-annual reports concerning U.S. Government operations against terrorist financial networks. The first Section 342 report was due on February 1, 2003, but was not completed until May 12, 2003. The Conferees expect that the establishment of the Office of Intelligence and Analysis within Treasury will make future Section 342 reports more timely and informative with respect to U.S. Government progress against terrorist-related financial targets.

*Sec. 106. Incorporation of reporting requirements*

Section 106 is similar to Section 105 of the Senate amendment. The House bill had no similar provision. The House recedes to the Senate position. Section 106 incorporates into the Act by reference each requirement to submit a report contained in the joint explanatory statement to accompany the conference report or in the associated classified annex to this Conference Report.

*Sec. 107. Preparation and submittal of reports, reviews, studies, and plans relating to intelligence activities of Department of Defense or Department of Energy*

Section 107 is identical to Section 106 of the Senate amendment. The House bill had no similar provision. The House recedes.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

*Sec. 201. Authorization of appropriations*

Section 201 authorizes appropriations of \$226,400,000 for the Central Intelligence Agency Retirement and Disability Fund. Section 201 of the House bill and Section 201 of the Senate amendment are identical.

TITLE III—GENERAL PROVISIONS

Subtitle A—Recurring General Provisions

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

Section 301 is identical to Section 301 of the Senate amendment and Section 301 of the House bill.

*Sec. 302. Restriction on conduct of intelligence activities*

Section 302 is identical to Section 302 of the Senate amendment and Section 302 of the House bill.

Subtitle B—Intelligence

*Sec. 311. Authority of Federal Bureau of Investigation to award personal services contracts*

Section 311 would grant the Federal Bureau of Investigation (FBI) specific statutory authority to enter into personal services contracts for the procurement of services that are only in direct support of an intelligence or counterintelligence mission. The Conferees expect that such services will be used, among other things, to provide the FBI with needed expertise in asset validation, counterterrorism investigations, counterespionage activities, counterintelligence damage assessments, counterintelligence training, and related technical support. The Conferees anticipate that this authority will be used as a contracting mechanism when other contracting mechanisms are insufficient to meet the national security requirements of the FBI. The Conferees also note that this provision does not modify existing restrictions on the use of contractors to perform “inherently governmental functions.” This authority should not be used by the FBI to avoid or forestall the currently aggressive efforts to recruit and hire qualified staff employees to fill personnel vacancies.

The Conferees believe that this authority is consistent with the public’s desire that the FBI operate with greater flexibility with respect to its national security mission following the September 11th attacks. The Conferees believe, however, that the FBI should use the increased flexibility afforded under this section carefully. The

FBI should implement this section in a manner that strictly reflects the unique nature of the authorization. The Conferees require that before a contract can be entered into, the Chief Contracting Officer must determine that a personal service contract is “the appropriate means of securing” the needed services. Additionally, the Conferees expect that the Director of the FBI will ensure that the authority granted by this section is exercised in a prudent manner and with appropriate oversight.

Neither the House bill nor the Senate amendment contained a similar provision. This provision is similar to the authority afforded to certain Department of Defense elements in Section 841 of the Conference Report accompanying the “Defense Authorization Act for Fiscal Year 2004.” The Conferees agreed to include this section, however, after learning that the increased pace and amount of work in the post-September 11th environment has created a need for this authority for the FBI. The Conferees believe there exists an operational imperative for the FBI to enter into personal services contracts to support its counterterrorism, counterespionage, and counterintelligence missions.

The Conferees note that the Chairman of the House Committee on the Judiciary has indicated that although he would prefer that this provision be carried in the “Department of Justice Appropriations Authorization Act, Fiscal Years 2004–2006” (H.R. 3036), he has “no substantive objection” to the provision. Additionally, the Chairman of the House Committee on Government Reform has submitted a letter in support of including this provision in this Conference Report.

Congress, through the statutory annual reporting requirement contained in this section, and through its general oversight authority, will monitor the FBI’s use of this authority closely and will not hesitate to revise the authority if exercised irresponsibly or otherwise abused.

The Conferees expect that the unclassified report to all specified congressional committees will be substantially the same, except that intelligence source and methods information should be included only in a classified annex provided to the Intelligence Committees.

*Sec. 312. Budget treatment of costs of acquisition of major systems by the intelligence community*

Section 312 was added to the Senate amendment on the Senate floor. As amended by the Conferees, the House recedes to this provision.

The Conferees are concerned about the cost growth of major Intelligence Community acquisitions, which result in a reshuffling of the NFIP on an almost annual basis to address consequential budget shortfalls.

Funding requests submitted in the President’s budget generally reflect an estimate that has been prepared by the same Intelligence Community component that is responsible for the acquisition and operation of the system. The magnitude and consistency of the growth of recent acquisitions indicates a systemic bias on the part of Intelligence Community components to underestimate the funding required for major acquisitions. Because of “perceived af-

fordability,” more acquisitions are started, and as a result, the NFIP is burdened with more content than available resources can support.

In contrast, the Secretary of Defense has implemented a successful program requiring the development of independent cost estimates for major acquisitions. The Secretary has mandated the use of such estimates in the Department of Defense budget requests. Section 2434 of Title 10, United States Code, provides that “The Secretary of Defense may not approve the system development and demonstration, or production and deployment, of a major defense acquisition program unless an independent estimate of the full life-cycle cost of the program and a manpower estimate for the program [has] been considered by the Secretary.” Further, Title 10 requires that the independent estimate be prepared “by an office or other entity that is not under the supervision, direction, or control of the military department, Defense Agency, or other component of the Department of Defense that is directly responsible for carrying out the development or acquisition of the program. \* \* \*”

The Conferees note, with approval, that the DCI has already established an organization within the Office of the Deputy Director of Central Intelligence for Community Management to provide an independent cost analysis capability. This is a significant development because, historically, independent cost estimates have represented a much more accurate projection of the costs of major acquisitions. The budget submitted to Congress, however, has typically reflected the Intelligence Community operational component’s cost estimate, which in general has been significantly lower than a corresponding independent estimate.

Section 312 formalizes the process for developing independent cost estimates for major Intelligence Community acquisitions.

The Conferees have included at subsection (d) a restriction on the use of appropriated funds with respect to major acquisitions for which independent cost estimates have not been prepared, or for which the requirements of Section 312 have not been followed.

DoJ raised an objection to a subsection in the Senate-passed bill requiring that the President’s budget request for the development or procurement of a major intelligence system must be an amount equivalent to the most current independent cost estimate. DoJ noted that such a requirement would violate the Recommendations Clause of the Constitution (Article II, Section 3), which provides that the President shall recommend to Congress such legislative measures as he deems necessary.

To address DoJ’s Recommendations Clause objection, the Conferees modified the provision. The provision included in this Conference Report now only requires that the President provide additional information to the Congress if the budget request is less than the amount set forth in the most current independent cost estimate for the program. This additional information, which is required to be included in the budget justification materials submitted to Congress, would (1) explain the difference between the amount requested and the independent cost estimate; (2) describe the importance of the system to national security; (3) provide an assessment of the impact on funding intelligence programs if the

independent cost estimate is accurate; and (4) provide any other information the President considers appropriate.

The Intelligence Committees received a DoJ letter regarding the modified provision on the eve of conference. The letter expresses DoJ's judgment that, as modified, the provision does not present any Recommendations Clause concern. DoJ, however, maintains a reservation with respect to the requirement in the modified provision that the budget justification explain the difference between the President's budget request and the independent cost estimate. The Conferees have considered DoJ's position and are satisfied that Section 312, as modified, represents an appropriate accommodation of the interests at stake. The provision respects the President's authority given by the Recommendations Clause and is consistent with Congress's powers and authority under Article I of the Constitution to obtain information from the Executive Branch necessary for the consideration of legislation, particularly legislation regarding budgetary matters.

*Sec. 313. Modification of sunset of application of sanctions laws to intelligence activities*

Neither the House bill nor the Senate amendment included a similar provision. The Conferees have included, at Section 313, a provision to strike Section 905 of the National Security Act of 1947 (50 U.S.C. 441d). This action revives Title IX of the National Security Act, which has been dormant since January 6, 2000.

*Sec. 314. Modification of notice and wait requirements on projects to construct or improve intelligence community facilities*

Section 314 was similar to versions passed as House Section 311 and Senate amendment Section 312. The House recedes with minor amendments.

Section 314 amends congressional notification requirements for certain unprogrammed construction and improvement projects based on the cost of the project. These adjustments take into account higher construction costs.

Section 314 would also allow the DCI and the Secretary of Defense together, or the DCI alone with respect to a project primarily for the CIA, to initiate certain unprogrammed construction and improvement projects seven days after notifying Congress. Currently there is a 21-day notification period. In emergencies, these projects can be commenced without prior notice. Use of this emergency authority is expected to be rare.

*Sec. 315. Extension of deadline for final report of the National Commission for the Review of the Research and Development Programs of the United States Intelligence Community*

The House bill and the Senate amendment contained similar provisions. The House recedes with minor amendments.

*Sec. 316. Improvement of information sharing among Federal, State, and local government officials*

The House bill contained a similar provision. The Senate amendment had no such provision. The Senate recedes with amendments.



Section 316 authorizes the Secretary of Homeland Security, in consultation with the DCI and the Attorney General, to implement a program to improve the sharing of intelligence collected by the Federal government with State and local officials. This program is intended to complement implementation of the “Homeland Security Information Sharing Act” (P.L. 107–296, Title VIII, Subtitle I).

The program should be designed to encourage State and local officials, and certain private sector representatives, to share with each other and with appropriate Federal officials lawfully collected information vital to the prevention of terrorist attacks against the United States. The training provided to officials and representatives should help these individuals to identify sources of potential threats, to report information related to potential threats to the appropriate agencies in the appropriate form and manner, and to assure that reported information is systematically submitted to the Department of Homeland Security and disseminated to all appropriate Federal departments and agencies. A report on the status of implementation of Section 892 of the “Homeland Security Act of 2002” (Public Law 107–296) is also required under this section. The project grants no new authorities to any department or agency for the collection of information.

*Sec. 317. Pilot program on analysis of signals and other intelligence by intelligence analysts of various elements of the intelligence community*

This Section is similar to Section 313 of the Senate amendment. The House bill had no such provision. The House recedes with minor amendments.

*Sec. 318. Pilot program on recruitment and training of intelligence analysts*

This section is similar to Section 314 of the Senate amendment. The House recedes with amendments. Upon enactment, the pilot program will be known as the Pat Roberts Intelligence Scholars Program.

*Sec. 319. Improvement of equality of employment opportunities in the intelligence community*

Section 319 is similar to Section 337 of the House bill. The Senate amendment had no similar provision. The Senate recedes with minor amendments. The provision is intended to develop programs that will enhance ethnic and cultural diversity throughout the Intelligence Community through the recruitment of individuals with diverse ethnic and cultural backgrounds, skill sets, and language proficiency.

*Sec. 320. Sense of Congress on recruitment as intelligence community personnel of members of the Armed Forces on their discharge or release from duty*

Section 320 was added by the Conferees. Neither the House bill nor the Senate amendment contained a similar provision. With Section 320, the Conferees encourage the Intelligence Community to recruit among American armed forces veterans of Operation Enduring Freedom, Operation Iraqi Freedom, and other military serv-

ice to take advantage of the unique national security, military, and technical experience of such personnel, and to try to keep the experience from being lost to the U.S. Government upon their discharge or release from active duty.

*Sec. 321. External Collection Capabilities and Requirements Review Panel*

Section 321 was added by the Conferees. The provision permits the President to establish an External Capabilities and Requirements Review Panel as specified in the Classified Annex.

Subtitle C—Counterintelligence

*Sec. 341. Counterintelligence initiatives for the intelligence community*

Section 341 contains several counterintelligence reforms included in Section 321 of the House-passed bill. The Senate amendment contained no such provision. The Senate recedes with amendments.

In addition to the statutory requirements added by Section 341, the Conferees direct the National Counterintelligence Executive (NCIX) to consult with all components of the Intelligence Community on the status of current policies and procedures for conducting investigative reviews of production, marking, handling, storage, and communication of classified information, as well as training on related security matters to protect intelligence sources and methods. Not later than April 1, 2004, NCIX shall provide a written report to the intelligence committees with an assessment of the adequacy of Intelligence Community components' investigation of their handling of classified information and the adequacy of training on related security matters. In this report, NCIX shall include proposed uniform policies and procedures for all Intelligence Community components to conduct annual inspections of each agency's handling of classified information, to include, as appropriate, prohibitions on employees' bringing items such as cameras, document scanners, and personal electronic devices into Intelligence Community facilities. After NCIX has reported to Congress uniform policies and procedures for the conduct of annual inspections of the handling of classified information, NCIX may carry out its responsibility to implement an inspection process by delegating to Intelligence Community components the task of carrying out the inspections. NCIX shall closely monitor, and report to the intelligence committees on, the performance of those inspections.

As passed by the House, the counterintelligence reforms required by this section would have required the Attorney General, acting through the FBI Director, to establish an FBI Office of Counterintelligence to investigate potential espionage activities within the FBI. The Conferees understand that the FBI has recently established such an office. Because of this development, the Conferees agreed to drop the statutory requirement for such an office. The Conferees reaffirm their commitment to a fully empowered Office of Counterintelligence and expect to be provided periodic reports on the resource needs and operations of the office.

Subsection (b) of Section 341 of the conference report would require the Attorney General, acting through DoJ's Office of Intelligence Policy and Review, in consultation with the DCI, acting through the Office of the NCIX, to establish written policies and procedures to assist the Attorney General's consideration of intelligence and national security equities in the development of indictments and related pleadings in espionage prosecutions. The Conferees note, however, that DoJ should and does consult closely with the Intelligence Community on all aspects of espionage investigations, not just in the development of indictments and related pleadings.

The Conferees also note that although the decision as to whether and whom to prosecute is ultimately and properly left to the discretion of the Attorney General there are significant and strategic intelligence equities at stake in these types of cases. The Conferees believe it is unwise for operational and prosecutorial decisions to proceed without close consultation at every stage. The Conferees are cognizant of the coordination that already occurs with respect to the disclosure of classified information in the presentation of such cases. DoJ and the other elements of the Intelligence Community are commended for this.

The Conferees believe, however, that the Attorney General should have the benefit of the perspective of counterintelligence professionals before making his decision on how much previously classified or sensitive information should be included in a charging document or in other pleadings. The Conferees note that the United States could lose its ability to learn more about the extent to which a spy has given away our national security secrets because so much information is contained in these types of documents. The Conferees highlight the Robert Hanssen case as an example. The Conferees recognize that there may be tactical or legal requirements for including some such information. The Conferees are concerned that some charging documents or pleadings include information that goes beyond that required by either criteria. The Conferees do not seek to vitiate any prerogatives of the Attorney General in determining whom to charge criminally, or how a matter should be charged. The NCIX is not required to concur in the Attorney General's decisions in these matters. The Conferees simply seek to improve the process by which the Attorney General makes these decisions when it involves a counterintelligence or an espionage matter. When the Attorney General makes a decision to include information beyond that meeting the minimum requirements of the Constitution for purposes of charging an individual, the Conferees merely seek to provide the Attorney General with as much insight as possible on the effects of those decisions on national security.

In addition to the statutory modifications in Section 341, the Conferees recommend that the Executive Branch move expeditiously to implement further counterintelligence reforms. In particular, the Conferees have serious concerns with several aspects of the handling of the Hanssen espionage case and other investigations.

The NCIX damage assessment in the Hanssen matter also included a reference to the effect of Section 8318 of Title 5, United

States Code, with respect to a spy's cooperation with the U.S. Government. The Conferees are interested whether an amendment to this section should be made so that both the spouse and the individual whose action caused the forfeiture of an annuity, or retired pay, under 5 U.S.C. 8312 and 8313 must cooperate fully with the U.S. Government in any lawful investigation or damage assessment in order to maintain the spouse's eligibility for benefits. The Conferees direct the DCI and the Attorney General, jointly, to provide to the House and Senate Intelligence Committees, no later than February 1, 2004, a written assessment of their views on this particular question and how such an amendment would assist their respective organizations.

#### Subtitle D—Reports

*Sec. 351. Report on cleared insider threat to classified computer networks*

Section 351 is similar to Section 331 of the Senate amendment. The House bill had no similar provision. The House recedes, with minor amendments.

*Sec. 352. Report on security background investigations and security clearance procedures of the Federal Government*

Section 352 is similar to Section 332 of the Senate amendment. The House bill had no similar provision. The House recedes with amendments.

*Sec. 353. Report on detail of civilian intelligence personnel among elements of the intelligence community and the Department of Defense*

Section 353 is similar to Section 333 of the Senate amendment. The House bill had no similar provision. The House recedes.

*Sec. 354. Report on modifications of policy and law on classified information to facilitate sharing of information for national security purposes*

Section 354 is similar to Section 334 of the Senate amendment. The House bill had no similar provision. The House recedes with minor amendments.

*Sec. 355. Report on strategic planning*

Section 355 is similar to Section 335 of the Senate amendment. The House bill had no similar provision. The House recedes with minor amendments.

*Sec. 356. Report on United States dependence on computer hardware and software manufactured overseas*

Section 356 is similar to Section 336 of the Senate amendment. The House bill had no similar provision. The House recedes with minor amendments.

*Sec. 357. Report on lessons learned from military operations in Iraq*

Section 357 represents a combination of Section 337 of the Senate amendment and Section 344 of the House bill. The Senate re-

cedes with minor amendments. The Conferees also expect that the House and Senate Intelligence Committees will receive in writing from the DCI in a timely fashion any and all status reports and updates concerning the activities of the Iraq Survey Group on a regular, periodic basis.

*Sec. 358. Reports on conventional weapons and ammunition obtained by Iraq in violation of certain United Nations Security Council resolutions*

Section 358 is similar to Section 338 of the Senate amendment. The House had no similar provision. The House recedes with minor amendments.

*Sec. 359. Report on operations of Directorate of Information Analysis and Infrastructure Protection and Terrorist Threat Integration Center*

Section 359 is similar to Section 340 of the Senate amendment. The House bill had no similar provision. The House recedes with amendments.

*Sec. 360. Report on Terrorist Screening Center*

Section 360 is similar to Section 345 of the House bill. The Senate amendment had no similar provision. The Senate recedes with amendments.

*Sec. 361. Repeal and modification of report requirements relating to intelligence activities*

Section 361 is similar to both Section 339 of the Senate amendment and Section 342 of the House bill. Each House recedes in part, with minor amendments.

#### Subtitle E—Other Matters

*Sec. 371. Extension of suspension of reorganization of Diplomatic Telecommunications Service Program Office*

Section 371 is identical to Section 351 of the Senate amendment and Section 331 of the House bill.

*Sec. 372. Modifications of authorities on explosive materials*

Section 372 is identical to Section 352 of the Senate amendment. It is similar to Section 332 of the House bill. The House recedes.

*Sec. 373. Modification of prohibition of the naturalization of certain persons*

Section 373 is identical to Section 353 of the Senate amendment and to Section 333 of the House bill.

*Sec. 374. Modification to definition of financial institution in Right to Financial Privacy Act*

Section 374 is similar to both Section 354 of the Senate amendment and to Section 334 of the House bill. Section 374 of the Conference Report expands the definition of “financial institution” for purposes of section 1114 of the Right to Financial Privacy Act (12

U.S.C. 3414 (RFPA)). It provides enhanced authority for authorized Intelligence Community collection activities designed to prevent, deter, and disrupt terrorism and espionage directed against the U.S. and to enhance foreign intelligence efforts.

The Conferees believe this new definition is necessary for effective counterintelligence, foreign intelligence, and international terrorism operations of the United States. Section 1114 currently permits U.S. Government authorities engaged in counterintelligence or foreign intelligence activities to use "National Security Letters," approved by a senior government official, to obtain certain financial records from defined "financial institutions." The definition of "financial institution" in the RFPA has been essentially unmodified since the RFPA became law in 1978. This amendment updates the definition to include those entities that today provide financial services to individuals, but would not be covered by the current definition. Financial records maintained by these entities are not currently covered by the RFPA and, thus, are not accessible by intelligence elements of the United States Government using this authority. In order to expand the definition of "financial institution" for purposes only of section 1114, this subsection adopts, in part, the definition of "financial institution" found in section 5312(a)(2) of Title 31, United States Code. It is important to highlight that this definition also is consistent with the definition used in section 804(5) of the Counterintelligence and Security Enhancements Act of 1994 (50 U.S.C. 438).

The Conferees intend that this authority be used for accessing records and information from financial institutions for counterintelligence, foreign intelligence, and international terrorism investigations. The Conferees note, with approval, the significant actions of the U.S. Government in tracking terrorist finances. The Conferees believe that the authority granted by this section will enhance the Government's efforts in this regard. This provision allows the U.S. Government to have, through use of "National Security Letters," greater access to a larger universe of information that goes beyond traditional financial records, but is nonetheless crucial in tracking terrorist finances or espionage activities. The Conferees understand that this authority should be used for accessing records and information for the purposes of identifying an individual's financial relationship with the specified financial institutions.

Section 3414(a)(5)(C) of the RFPA requires the Attorney General to "fully inform" the Congressional Intelligence Committees semiannually concerning all requests made pursuant to the provision. To date, the Attorney General has limited these reports to statistical information. The Conferees accordingly request that the Attorney General, pursuant to his responsibility to "fully inform" the House and Senate Intelligence Committees, include in his next semiannual report to these particular committees information about the process and standards for approving National Security Letters. The Conferees also request that the next semiannual report include a description of issues (if any) concerning the scope of such letters, or financial institution compliance with such letters, that have arisen in Federal and State judicial, administrative, and regulatory settings, or otherwise.

The Conferees have amended the provision that appeared in both the House bill and Senate amendment to ensure that all financial institutions covered by the amended National Security Letters provision are also protected by the cost reimbursement and immunity provisions of the Act (12 U.S.C. 3415, 3417). With those amendments, the House recedes.

*Sec. 375. Coordination of Federal Government research on security evaluations*

Section 375 is similar to Section 355 of the Senate amendment. The House bill had no similar provision. The House recedes with amendments to ensure that classified information considered during the research initiative is protected from unauthorized disclosure.

*Sec. 376. Treatment of classified information in money laundering cases*

Section 376 is identical to Section 357 of the Senate amendment. The House bill had no similar provision. The House recedes.

Section 376 amends section 5318A of title 31, United States Code. That section, which was added in Section 311 of P.L. 107-56 (Oct. 26, 2001), permits the Secretary of the Treasury to take targeted action against countries, institutions, transactions, or types of accounts the Secretary of the Treasury finds to be of “primary money-laundering concern.” The new amendment will permit the Secretary of the Treasury, in a judicial review proceeding, to submit any classified information on which such a finding, or related action, is based to the court *ex parte* and *in camera*. This permission parallels the authority granted to the Secretary to submit classified information to a reviewing court in connection with any proceedings under the International Emergency Economic Powers Act. In administering a proceeding in which classified information is submitted to a court under this provision, the Conferees intend that a court will fashion procedures, necessary to assure a moving party due process of law, that resemble those already required in similar situations in which the government, or another party, seeks to base a claim or defense on classified information.

*Sec. 377. Technical amendments*

Section 377 is similar to Section 356 of the Senate amendment and to Section 343 of the House bill. The Senate recedes with amendments, including the addition of a technical amendment to the “Federal Information Security Management Act of 2002” (P.L. 107-296 and P.L. 107-347) which was included in the Senate amendment as Section 404.

#### TITLE IV—CENTRAL INTELLIGENCE AGENCY

*Sec. 401. Amendment to certain Central Intelligence Agency Act of 1949 notification requirements*

Section 401 is identical to Section 401 of the Senate amendment. The House had no similar provision. The House recedes.

*Sec. 402. Protection of certain Central Intelligence Agency personnel from tort liability*

Section 402 is similar to Section 402 of the Senate amendment and Section 401 of the House bill. The House recedes with minor amendments. The Conferees note that this protection against tort liability extends only to officials of the Central Intelligence Agency who are Agency personnel designated by the Director under Section 15(a) of the “Central Intelligence Agency Act of 1949” (CIA Act) (50 U.S.C. 403o), or designated by the Director under Section 5(a)(4) of the CIA Act (50 U.S.C. 403f) to carry firearms for the protection of current or former Agency personnel and their immediate families, defectors, and their immediate families, and other persons in the United States under Agency auspices.

*Sec. 403. Repeal of obsolete limitation on use of funds in central services working capital fund*

Section 403 is identical to Section 403 of the Senate amendment and to Section 402 of the House bill.

*Sec. 404. Purchases by the Central Intelligence Agency of products of Federal Prison Industries*

Section 404 is an amended version of Section 335 contained in the House bill. The Conferees modified the provision to better reflect actual Central Intelligence Agency procurement practices, which already conform to the goals envisioned by Section 335 of the House bill. The Senate amendment had no similar provision. The Senate recedes, with amendments as noted.

*Sec. 405. Postponement of Central Intelligence Agency compensation reform and other matters*

Section 405 contains language that is similar to Section 405 of the Senate amendment. The House bill had no similar provision. Section 405 includes certain statutory limitations and reporting requirements designed to address misgivings regarding the Central Intelligence Agency Compensation Reform program. The Conferees have concerns regarding the efforts of the DCI to revise and reform the compensation structure of the Central Intelligence Agency. The DCI’s Compensation Reform program also has engendered anxiety among employees due to the perceived impact the system may have on retirement benefits and compensation, in general.

Subsection (b) of Section 405 addresses the potential for decreases in employee retirement benefits. The provision permits those CIA employees designated by the DCI for participation in the congressionally-directed Compensation Reform pilot program to contribute to Thrift Savings Plan accounts any part of their pay which they receive from bonus monies under the program.

Generally, under current law, Federal employees can only contribute “basic pay” to their Thrift Savings Plans, not bonus monies. As a result, the Conferees note that pilot program participants have not been contributing bonus monies to their Thrift Savings Plans. Under the CIA’s Compensation Reform pilot program, however, participating employees will likely receive a higher percentage of their yearly compensation as performance bonuses. Treating these performance bonuses as “basic pay” will permit these employ-



ees to take full advantage of their ability to contribute to their Thrift Savings Plans, consistent with existing limitations on the amount of contributions to certain retirement accounts. The Conferees acknowledge that while this provision will not compensate employees for the potential reduction in their Federal annuities due to possible decreases in basic pay under the Compensation Reform pilot program, it will encourage increased utilization of Thrift Savings Plans and, thus, partially offset any retirement annuity reductions.

The Conferees are cognizant of, and generally supportive of, the desire of the Administration to move to a compensation structure across government that rewards top performers (i.e., “pay-for-performance”). The Conferees are encouraged by the fact that the CIA has sought input and guidance from the Office of Personnel Management and Office of Management and Budget with respect to any restructuring of CIA’s compensation system. Prior to any Agency-wide implementation of Compensation Reform, the pilot program must first be completed, and the Conferees direct that the results of the pilot be provided to the Intelligence Committees in a written report within 45 days of the conclusion of the pilot program, as required by Section 402(b)(3) of the FY 03 Act. The House and Senate Intelligence Committees will scrutinize closely the written report on the pilot program. The Committees must have an opportunity to weigh fully the costs and benefits associated with this particular Compensation Reform plan.

To ensure that the Intelligence Committees have a full opportunity to conduct this important review and carefully consider the results of the pilot program, the Conferees have included a provision that delays implementation of Compensation Reform across the Agency until after enactment of the “Intelligence Authorization Act for Fiscal Year 2005.” Implementation of the program before the Intelligence Committees have rigorously reviewed the results of the pilot, would frustrate the intent of Congress in establishing the pilot program and requiring a report on its results. The Conferees note that this provision restricts implementation of the program across the CIA until the specified date. This is anticipated to be a delay of a little less than a year, at the most.

The Conferees note, however, that ultimate acceptance (or specific statutory restrictions on implementation) of this Compensation Reform proposal certainly remains an open question. The answer to this question will very much depend on the information provided to the Intelligence Committees during the interim period, as well as the willingness of the DCI and Senior CIA managers to constructively and cooperatively engage in discussions with the Intelligence Committees on this Compensation Reform proposal. The Conferees note with approval the DCI’s continued expression of his willingness to consult and cooperate with Congress in its ongoing review of this proposal. The Conferees take him at his word. As noted, the Conferees support generally the concept that the CIA compensation system needs to be reformed. The question is whether this is the right system to be adopted.

The Conferees also have added two additional reporting requirements to ensure the House and Senate Intelligence Commit-

tees are fully advised of the effects that Compensation Reform will have on employees.

The first report will compare amounts that each employee participating in the pilot program would have earned under the pre-existing compensation structure at the CIA with amounts actually earned under the pilot program.

Second, the Conferees direct the DCI to conduct a blind survey utilizing an independent, external human resource or personnel consulting organization. This survey shall be completed not later than March 31, 2004. The purpose for the survey is (1) to gauge the level of concern among all CIA employees (both within the pilot program and throughout the CIA) with the Compensation Reform program as currently proposed and (2) to ascertain how many employees currently under the pilot program, having the benefit of their participation in such program, would choose to "opt out" of the program if they were to be given that option. The Conferees direct that all of the questions to be presented in the survey shall be provided in full, and in writing, to the Committees before the survey is taken. Moreover, the Conferees direct that the results of the survey shall be provided in full, and in writing, to the Intelligence Committees within 30 days of the survey's completion.

The Conferees further note that the DCI has indicated his intention to keep employees currently assigned to the pilot program within that program until such time as Compensation Reform is permitted to be implemented across the CIA or its implementation Agency-wide is otherwise restricted by Congress.

The Conferees believe that it would be appropriate for the DCI to permit employees who have been compensated under the pilot program to "opt out" of the system at the end of the pilot program's first year, if they desire to do so. Additionally, the Conferees believe that it would be appropriate for the DCI to provide supplemental compensation or benefits necessary to ensure that those employees who might "opt out" of the pilot program and who actually lost compensation, or experienced a reduction in other benefits because of their directed participation in the pilot program, are "made whole" by receiving an amount of compensation and benefits equivalent to what they would have received under CIA's pre-existing compensation structure.

The Conferees have not directed by statute or otherwise that the DCI provide the "opt out" or "make whole" options to those affected employees. The Conferees do, however, believe these options would be a fair method of reimbursing those employees who may have been subjected to adverse financial circumstances based on their directed participation in the pilot program. The Conferees commit the decision to institute such measures solely to the DCI's discretion.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE  
MATTERS

*Sec. 501. Protection of certain National Security Agency personnel from tort liability*

Section 501 is similar to Section 502 of the Senate amendment and to Section 504 of the House bill. The House recedes with amendments.

*Sec. 502. Use of funds for counterdrug and counterterrorism activities for Colombia*

Section 502 is similar to both Section 503 of the Senate amendment and to Section 501 of the House bill. The House recedes with amendments.

The Conferees believe that Colombian President Alvaro Uribe's approach to ending Colombia's long running terrorist insurgency and reducing narcotics production and trafficking is the best chance for that country to overcome the legacy of violence it has endured for decades. President Uribe's steadfastness in pursuing these goals takes on even greater significance when observed in the light of the sheer brutality of terrorist attacks perpetrated on innocent Colombians by narco-terrorists. Terrorist attacks on his inauguration ceremonies in Bogota make manifest the fact that Uribe himself remains a target of terrorist violence.

Section 502 allows funds available for intelligence and intelligence-related activities to be used to support a unified campaign against drug traffickers and terrorist organizations. The Administration has chosen to pursue a policy in Colombia that recognizes the inseparable nature of these two threats. The Conferees endorse this approach. This section is an indication of the confidence the Conferees place in President's Uribe's aggressive pursuit of the twin goals of ending the insurgency and battling drug trafficking.

*Sec. 503. Scene visualization technologies*

Section 503 is identical to Section 504 of the Senate amendment. There was no similar provision in the House bill. The House recedes.

*Sec. 504. Measurement and signatures intelligence research program*

Section 504 is similar to Section 505 of the House bill. There is no similar provision in the Senate amendment. The Senate recedes with amendments, including amendments to ensure that classified information considered during the research initiative is protected from unauthorized disclosure.

*Sec. 505. Availability of funds of National Security Agency for national security scholarships*

Section 505 has no counterpart in the Senate amendment or in the House bill. It is a provision adopted by the Managers during the conference.

## OTHER MATTERS

*Reaffirming the functional definition of covert action*

The Conferees have taken note of the text on covert action contained in the classified annex to S. 1025, as reported on May 8, 2003, by the Senate Select Committee on Intelligence (annex text). The Conferees intend the following language to substitute for the annex text:

The Conferees attach critical importance to the requirements for covert action approval and notification in the National Security Act of 1947 (Act). In addition to the information and oversight value of mandatory notification, fulfilling these notification requirements fosters great confidence in Executive Branch covert action programs.

The Administration has amply and repeatedly demonstrated its commitment to adhere to the approval and notification requirements of the National Security Act. Neither the Administration nor the Conferees have sought or agreed to modify, amend, or reinterpret the scope of the Act, or approval and notification requirements under the Act. The Conferees expect all departments and agencies of the U.S. Government to continue to comply fully with the Act and its legislative history.

*Manned airborne reconnaissance aircraft replacement*

Recent military operations in Iraq and Afghanistan, along with broader requirements to support the global war on terrorism, and standing global reconnaissance requirements have placed enormous operational tempo demands on manned airborne reconnaissance platforms operated by the U.S. Army, Navy, and Air Force. The limited number of these assets and the large number of requirements placed on them have led to their designation as “high demand/low density” assets that have to be intensively managed by the Department of Defense (DOD) to ensure their most productive, efficient use. While many of these airborne reconnaissance platforms were initially developed for service-specific reconnaissance requirements, they have evolved over time into a patchwork airborne reconnaissance architecture that is not optimized to support national and combatant commanders’ intelligence requirements.

Congress established the position of Under Secretary of Defense for Intelligence (USD(I)) in the National Defense Authorization Act for Fiscal Year 2003 (P.L. 107–314). A clear intent of that action was to create a position and an organization in DOD that would better assess service and Defense-wide intelligence requirements and better develop, coordinate and integrate current and projected DOD intelligence capabilities in support of service, joint, and national intelligence collection requirements. The Conferees expect the USD(I) to move expeditiously to establish requirements for the development of a fully integrated manned and unmanned airborne reconnaissance architecture for the future, with adequate capabilities and availability to meet projected requirements, minimize unnecessary duplication of effort, and maximize operational efficiency.

Some of these platforms, such as the Navy's EP-3E and the Army's RC-12 Guardrail, are nearing the end of their expected service lives and are in urgent need of replacement. The Conferees are concerned that while the need to recapitalize manned airborne reconnaissance platforms in a coordinated, integrated fashion is well known within the DOD, only the Army has established a formal program for replacing its legacy manned airborne signals intelligence reconnaissance platforms by the competitive development and production of the Aerial Common Sensor (ACS).

The Conferees are aware that the Navy is interested in taking advantage of the work done by the Army on ACS, and is considering the adoption of an ACS-based solution for replacement of the EP-3E. The Conferees applaud the Navy efforts to establish a joint program with the Army, but are concerned that a thorough analysis of options has not yet been conducted. While the Navy did commission an initial analysis of options, the Conferees feel a more rigorous, thorough analysis is warranted for such an important program.

The Conferees direct the Secretary of Defense to conduct a thorough analysis of options to replace the EP-3E mission capability. The analysis should be conducted as expeditiously as possible in order to avoid delaying an EP-3E replacement. The Conferees expect that the analysis should evaluate: (1) all reasonable alternatives, including all manned and unmanned replacement alternatives, such as the RC-135 Rivet Joint, Global Hawk unmanned aerial vehicle, and the ACS; (2) the consistency of the cost methodology; and, (3) a solution that maximizes signals intelligence capability, low life-cycle costs, and increases interoperability. In order to ensure the Navy makes a well-founded acquisition decision, the Conferees direct the Secretary of the Navy not to proceed with the acquisition of an EP-3E replacement until this analysis is complete and the Defense Acquisition Board approval has been granted. The Navy should use additional funding that may be available to expedite the study, analysis, and decision making processes.

The Conferees are also concerned that the Air Force has not moved more aggressively to analyze program alternatives for replacing or modernizing the RC-135, which will also be required in future years. The Conferees believe that, when it is time to replace the RC-135 platform, DOD could avail itself of more modern platforms that use state of the art technology in aircraft and intelligence collection systems, emphasize lower operating costs, and take full advantage of robust communications capabilities to reduce platform size, weight, and operational costs.

The Conferees direct the Secretary of Defense to conduct a formal Analysis of Alternatives (AOA) for replacement or modernization of the RC-135 mission. The AOA shall consider all manned and unmanned replacement alternatives, including high altitude, long endurance unmanned aerial vehicles, an ACS-based option, and more cutting edge technologies such as high altitude aerobodies. The AOA should also specifically address the option of forming a joint program with Army, Navy, and Air Force participation.

The Conferees expect these analyses will be coordinated with the Under Secretary of Defense for Acquisition, Technology and Lo-

gistics and the USD(I), and will be a consistent part of the comprehensive effort by the USD(I), in consultation, as appropriate, with the DCI, to establish requirements for the development of a fully integrated manned and unmanned airborne reconnaissance architecture that makes appropriate use of reach-back technology.

*Development of sophisticated analytic tools*

Following the terrorist attacks of September 11, 2001, the Intelligence Committees have repeatedly emphasized the importance of developing sophisticated new analytic tools to ensure the rapid processing and analysis of foreign intelligence information, as well as increased collaboration among the diverse national security elements of the Federal government. The potential value of such tools for “connecting the dots” is clear. The Conferees recognize, however, that advanced analytic tools, if misused, could impact the privacy of U.S. persons. Efforts by the Defense Department and other agencies to develop these tools have come under intense scrutiny for this reason. To address reservations concerning possible encroachments on individual liberties, the Fiscal Year 2003 and Fiscal Year 2004 Department of Defense Appropriations Acts (P.L. 108–7 (Division M) and P.L. 108–87, respectively) contained limitations on the development and use of certain “data-mining” activities.

In Section 8131 of the Department of Defense Appropriations Act for Fiscal Year 2004, and in its accompanying classified annex, the Defense Advanced Research Projects Agency’s Terrorist Information Awareness program was terminated and requested funds were expressly provided to the National Foreign Intelligence Program (NFIP) to develop “[p]rocessing, analysis, and collaboration tools for counterterrorism foreign intelligence.” Section 8131 prohibited “deployment and implementation” of these tools except for

- (1) Lawful military operations of the United States conducted outside the United States; or
- (2) Lawful foreign intelligence activities conducted wholly overseas, or wholly against nonUnited States citizens.

The Conferees do not interpret the restriction contained in Section 8131 as a restriction on the development of analytic tools for “processing, analysis, and collaboration tools for counterterrorism foreign intelligence.” Instead, the Conferees recognize this language as a restriction on “deployment and implementation.”

In the Classified Annex accompanying this Act, the Conferees have specifically authorized the use of the funds appropriated to the NFIP to continue development of advanced processing, analysis, and collaboration tools. The Conferees direct that any experiments or efforts to test these tools should be conducted only against U.S. Government databases containing foreign intelligence information lawfully collected, analyzed, retained, or disseminated under existing statutes, regulations, Executive orders, or Attorney General guidelines governing such activities, including all applicable restrictions concerning the collection, analysis, retention, or dissemination of U.S. person information. The Conferees encourage active participation in these developmental efforts by all elements of the Intelligence Community.

The Conferees are convinced, however, that an analysis of the policies and procedures necessary to safeguard individual liberties and privacy should occur concurrently with the development of these analytic tools, not as an afterthought. The Conferees recognize that current restrictions on the conduct of intelligence and law enforcement activities, as well as the protections afforded U.S. persons under applicable laws, regulations, and Executive orders, can be applied to these new tools. The Administration should also consider whether new policies and procedures are necessary to ensure privacy protections when these advanced information technology tools are utilized in intelligence and law enforcement activities. This examination should include diverse opinion and expertise and should be conducted with as much transparency as possible, recognizing the importance of protecting intelligence sources and methods.

The Conferees direct that the Attorney General and the DCI jointly provide an unclassified report, with a classified annex, as necessary, to the Intelligence Committees regarding the application of the Constitution, laws, regulations, Executive orders, and guidelines of the United States to the use of these advanced analytic tools by the Intelligence Community. This report should specifically address existing protections for the collection, analysis, retention, and dissemination of U.S. person information. Although the Conferees have not authorized the development, testing, or deployment of these advanced analytic tools against databases which contain information other than foreign intelligence information, including private sector databases, the report should address the application of existing laws or policies to searches of such databases, whether publicly or privately held, as well as any proposed modifications to laws or policies that may be necessary in the future to ensure appropriate protections for U.S. persons. The report should include an analysis of law, regulation, and policy that takes into account potential technological advances that will protect privacy interests, such as selective revelation technologies, enhanced access controls and audit trails, and techniques to "anonymize" U.S. person information. The Conferees believe that the Attorney General and DCI should seek input from experts in law, technology, public policy, and national security when drafting this report. This report should be provided to the Intelligence Committees no later than one year after enactment of this Act.

From the Permanent Select Committee on Intelligence, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

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