

One Hundred Tenth Congress
of the
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Thursday,
the third day of January, two thousand and eight*

An Act

To authorize appropriations for fiscal year 2008 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.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Intelligence Authorization Act for Fiscal Year 2008”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.

TITLE I—BUDGET AND PERSONNEL AUTHORIZATIONS

- Sec. 101. Authorization of appropriations.
- Sec. 102. Classified Schedule of Authorizations.
- Sec. 103. Personnel ceiling adjustments.
- Sec. 104. Intelligence Community Management Account.
- Sec. 105. Specific authorization of funds within the National Intelligence Program for which fiscal year 2008 appropriations exceed amounts authorized.

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

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

TITLE III—GENERAL INTELLIGENCE COMMUNITY MATTERS

Subtitle A—Personnel Matters

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

Subtitle B—Acquisition Matters

- Sec. 311. Vulnerability assessments of major systems.
- Sec. 312. Business enterprise architecture and business system modernization for the intelligence community.
- Sec. 313. Reports on the acquisition of major systems.

H. R. 2082—2

Sec. 314. Excessive cost growth of major systems.

Subtitle C—Other Matters

- Sec. 321. Restriction on conduct of intelligence activities.
- Sec. 322. Clarification of definition of intelligence community under the National Security Act of 1947.
- Sec. 323. Modification of availability of funds for different intelligence activities.
- Sec. 324. Protection of certain national security information.
- Sec. 325. Extension of authority to delete information about receipt and disposition of foreign gifts and decorations.
- Sec. 326. Report on compliance with the Detainee Treatment Act of 2005 and related provisions of the Military Commissions Act of 2006.
- Sec. 327. Limitation on interrogation techniques.
- Sec. 328. Limitation on use of funds.
- Sec. 329. Incorporation of reporting requirements.
- Sec. 330. Repeal of certain reporting requirements.

TITLE IV—MATTERS RELATING TO ELEMENTS OF THE INTELLIGENCE COMMUNITY

Subtitle A—Office of the Director of National Intelligence

- Sec. 401. Clarification of limitation on colocation of the Office of the Director of National Intelligence.
- Sec. 402. Membership of the Director of National Intelligence on the Transportation Security Oversight Board.
- Sec. 403. Additional duties of the Director of Science and Technology.
- Sec. 404. Leadership and location of certain offices and officials.
- Sec. 405. Plan to implement recommendations of the data center energy efficiency reports.
- Sec. 406. Comprehensive listing of special access programs.
- Sec. 407. Reports on the nuclear programs of Iran and North Korea.
- Sec. 408. Requirements for accountability reviews by the Director of National Intelligence.
- Sec. 409. Modification of limitation on delegation by the Director of National Intelligence of the protection of intelligence sources and methods.
- Sec. 410. Authorities for intelligence information sharing.
- Sec. 411. Authorities of the Director of National Intelligence for interagency funding.
- Sec. 412. Title of Chief Information Officer of the Intelligence Community.
- Sec. 413. Inspector General of the Intelligence Community.
- Sec. 414. Annual report on foreign language proficiency in the intelligence community.
- Sec. 415. Director of National Intelligence report on retirement benefits for former employees of Air America.
- Sec. 416. Space intelligence.
- Sec. 417. Operational files in the Office of the Director of National Intelligence.
- Sec. 418. Inapplicability of Federal Advisory Committee Act to advisory committees of the Office of the Director of National Intelligence.
- Sec. 419. Applicability of the Privacy Act to the Director of National Intelligence and the Office of the Director of National Intelligence.
- Sec. 420. Repeal of certain authorities relating to the Office of the National Counterintelligence Executive.

Subtitle B—Central Intelligence Agency

- Sec. 431. Review of covert action programs by Inspector General of the Central Intelligence Agency.
- Sec. 432. Inapplicability to Director of the Central Intelligence Agency of requirement for annual report on progress in auditable financial statements.
- Sec. 433. Additional functions and authorities for protective personnel of the Central Intelligence Agency.
- Sec. 434. Technical amendments relating to titles of certain Central Intelligence Agency positions.
- Sec. 435. Clarifying amendments relating to section 105 of the Intelligence Authorization Act for Fiscal Year 2004.

Subtitle C—Defense Intelligence Components

- Sec. 441. Enhancement of National Security Agency training program.
- Sec. 442. Codification of authorities of National Security Agency protective personnel.
- Sec. 443. Inspector general matters.
- Sec. 444. Confirmation of appointment of heads of certain components of the intelligence community.

H. R. 2082—3

- Sec. 445. Clarification of national security missions of National Geospatial-Intelligence Agency for analysis and dissemination of certain intelligence information.
- Sec. 446. Security clearances in the National Geospatial-Intelligence Agency.

Subtitle D—Other Elements

- Sec. 451. Clarification of inclusion of Coast Guard and Drug Enforcement Administration as elements of the intelligence community.

TITLE V—OTHER MATTERS

Subtitle A—General Intelligence Matters

- Sec. 501. Extension of National Commission for the Review of the Research and Development Programs of the United States Intelligence Community.
- Sec. 502. Report on intelligence activities.
- Sec. 503. Aerial reconnaissance platforms.

Subtitle B—Technical Amendments

- Sec. 511. Technical amendments to title 10, United States Code, arising from enactment of the Intelligence Reform and Terrorism Prevention Act of 2004.
- Sec. 512. Technical amendment to the Central Intelligence Agency Act of 1949.
- Sec. 513. Technical amendments relating to the multiyear National Intelligence Program.
- Sec. 514. Technical clarification of certain references to Joint Military Intelligence Program and Tactical Intelligence and Related Activities.
- Sec. 515. Technical amendments to the National Security Act of 1947.
- Sec. 516. Technical amendments to the Intelligence Reform and Terrorism Prevention Act of 2004.
- Sec. 517. Technical amendments to the Executive Schedule.

SEC. 2. DEFINITIONS.

In this Act:

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

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

and

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

(2) ELEMENT OF THE INTELLIGENCE COMMUNITY.—The term “element of the intelligence community” means an element of the intelligence community listed in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

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

TITLE I—BUDGET AND PERSONNEL AUTHORIZATIONS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2008 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

- (1) The Office of the Director of National Intelligence.
- (2) The Central Intelligence Agency.
- (3) The Department of Defense.
- (4) The Defense Intelligence Agency.
- (5) The National Security Agency.

- (6) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
- (7) The Coast Guard.
- (8) The Department of State.
- (9) The Department of the Treasury.
- (10) The Department of Energy.
- (11) The Department of Justice.
- (12) The Federal Bureau of Investigation.
- (13) The Drug Enforcement Administration.
- (14) The National Reconnaissance Office.
- (15) The National Geospatial-Intelligence Agency.
- (16) The Department of Homeland Security.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL LEVELS.—The amounts authorized to be appropriated under section 101 and, subject to section 103, the authorized personnel ceilings as of September 30, 2008, for the conduct of the intelligence activities of the elements listed in paragraphs (1) through (16) of section 101, are those specified in the classified Schedule of Authorizations prepared to accompany the conference report on the bill H.R. 2082 of the One Hundred Tenth Congress.

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

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR INCREASES.—With the approval of the Director of the Office of Management and Budget, the Director of National Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 2008 by the classified Schedule of Authorizations referred to in section 102(a) if the Director of National Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed 3 percent of the number of civilian personnel authorized under such Schedule for such element.

(b) TRANSITION TO FULL-TIME EQUIVALENCY.—

(1) TREATMENT FOR FISCAL YEAR 2008.—For fiscal year 2008, the Director of National Intelligence, in consultation with the head of each element of the intelligence community, may treat the personnel ceilings authorized under the classified Schedule of Authorizations referred to in section 102(a) as full-time equivalents.

(2) CONSIDERATION.—In exercising the authority described in paragraph (1), the Director of National Intelligence may consider the circumstances under which civilian employees are employed and accounted for at each element of the intelligence community in—

- (A) a student program, trainee program, or similar program;

H. R. 2082—5

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

(C) a joint duty rotational assignment; or

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

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

(A) the policies for implementing the authorities described in paragraphs (1) and (2); and

(B) the number of all civilian personnel employed by, or anticipated to be employed by, each element of the intelligence community during fiscal year 2008 accounted for—

(i) by position;

(ii) by full-time equivalency; or

(iii) by any other method.

(4) TREATMENT FOR FISCAL YEAR 2009.—The Director of National Intelligence shall express the personnel levels for all civilian employees for each element of the intelligence community in the congressional budget justifications submitted for fiscal year 2009 as full-time equivalent positions.

(c) AUTHORITY FOR CONVERSION OF ACTIVITIES PERFORMED BY CONTRACTORS.—In addition to the authority in subsection (a), upon a determination by the head of an element of the intelligence community that activities currently being performed by contractor employees should be performed by government employees, the concurrence of the Director of National Intelligence in such determination, and the approval of the Director of the Office of Management and Budget, the Director of National Intelligence may authorize for that purpose employment of additional full-time equivalent personnel in such element of the intelligence community equal to the number that is—

(1) in the case of personnel of Office of the Director of National Intelligence, not more than 5 percent of the number of such personnel authorized for fiscal year 2008 by the classified Schedule of Authorizations referred to in section 102(a); or

(2) except as provided in paragraph (1), not more than 10 percent of the number authorized for fiscal year 2008 by the classified Schedule of Authorizations referred to in section 102(a).

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

SEC. 104. INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Intelligence Community Management Account of the Director of National Intelligence for fiscal year 2008 the sum of \$734,126,000. 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, 2009.

(b) AUTHORIZED PERSONNEL LEVELS.—The elements within the Intelligence Community Management Account of the Director of

National Intelligence are authorized 952 full-time or full-time equivalent personnel as of September 30, 2008. Personnel serving in such elements may be permanent employees of the Office of the Director of National Intelligence or personnel detailed from other elements of the United States Government.

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

(d) CLASSIFIED AUTHORIZATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated for the Intelligence Community Management Account by subsection (a), there are authorized to be appropriated for the Community Management Account for fiscal year 2008 such additional amounts as are specified in the classified Schedule of Authorizations referred to in section 102(a). Such additional amounts for advanced research and development shall remain available until September 30, 2009.

(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, 2008, there are authorized such additional personnel for the Community Management Account as of that date as are specified in the classified Schedule of Authorizations referred to in section 102(a).

(e) NATIONAL DRUG INTELLIGENCE CENTER.—

(1) IN GENERAL.—Of the amount authorized to be appropriated in subsection (a), \$39,000,000 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, 2009, and funds provided for procurement purposes shall remain available until September 30, 2010.

(2) TRANSFER OF FUNDS.—The Director of National 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 for purposes of exercising police, subpoena, or law enforcement powers or internal security functions.

(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. SPECIFIC AUTHORIZATION OF FUNDS WITHIN THE NATIONAL INTELLIGENCE PROGRAM FOR WHICH FISCAL YEAR 2008 APPROPRIATIONS EXCEED AMOUNTS AUTHORIZED.

Funds appropriated for an intelligence or intelligence-related activity within the National Intelligence Program for fiscal year 2008 in excess of the amount specified for such activity in the classified Schedule of Authorizations referred to in section 102(a) shall be deemed to be specifically authorized by Congress for purposes of section 504(a)(3) of the National Security Act of 1947 (50 U.S.C. 414(a)(3)).

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DIS- ABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 2008 the sum of \$262,500,000.

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

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

TITLE III—GENERAL INTELLIGENCE COMMUNITY MATTERS

Subtitle A—Personnel Matters

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

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

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

Except as provided in section 113 of the National Security Act of 1947 (50 U.S.C. 404h) and section 904(g)(2) of the Counterintelligence Enhancement Act of 2002 (title IX of Public Law 107–306; 50 U.S.C. 402c(g)(2)) and notwithstanding any other provision of law, in any fiscal year after fiscal year 2007 an officer or employee of the United States or member of the Armed Forces may be detailed to the staff of an element of the intelligence community funded through the Community Management Account from another element of the United States Government on a reimbursable or nonreimbursable basis, as jointly agreed to by the Director of National Intelligence and the head of the detailing element (or the designees of such officials), for a period not to exceed 2 years.

SEC. 303. MULTI-LEVEL SECURITY CLEARANCES.

(a) IN GENERAL.—Section 102A of the National Security Act of 1947 (50 U.S.C. 403–1) is amended by adding at the end the following new subsection:

“(s) MULTI-LEVEL SECURITY CLEARANCES.—The Director of National Intelligence shall be responsible for ensuring that the elements of the intelligence community adopt a multi-level security clearance approach in order to enable the intelligence community to make more effective and efficient use of persons proficient in

foreign languages or with cultural, linguistic, or other subject matter expertise that is critical to national security.”

(b) IMPLEMENTATION.—The Director of National Intelligence shall issue guidelines to the intelligence community on the implementation of subsection (s) of section 102A of the National Security Act of 1947, as added by subsection (a), not later than 180 days after the date of the enactment of this Act.

SEC. 304. PAY AUTHORITY FOR CRITICAL POSITIONS.

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

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

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

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

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

“(3) A rate of basic pay may not be fixed under this subsection at a rate greater than the rate payable for level II of the Executive Schedule under section 5312 of title 5, United States Code, except upon written approval of the Director of National Intelligence or as otherwise authorized by law.

“(4) A rate of basic pay may not be fixed under this subsection at a rate greater than the rate payable for level I of the Executive Schedule under section 5311 of title 5, United States Code, except upon written approval of the President in response to a request by the Director of National Intelligence or as otherwise authorized by law.

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

SEC. 305. DELEGATION OF AUTHORITY FOR TRAVEL ON COMMON CARRIERS FOR INTELLIGENCE COLLECTION PERSONNEL.

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

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

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

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

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

SEC. 306. ANNUAL PERSONNEL LEVEL ASSESSMENTS FOR THE INTELLIGENCE COMMUNITY.

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

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

“(a) **REQUIREMENT TO PROVIDE.**—The Director of National Intelligence shall, in consultation with the head of the element of the intelligence community concerned, prepare an annual personnel level assessment for such element of the intelligence community that assesses the personnel levels for each such element for the fiscal year following the fiscal year in which the assessment is submitted.

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

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

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

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

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

“(4) The number of personnel positions requested for the upcoming fiscal year.

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

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

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

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

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

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

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

“(12) A list of all contractors that have been the subject of an investigation completed by the Inspector General of any element of the intelligence community during the preceding fiscal year, or are or have been the subject of an investigation by such an Inspector General during the current fiscal year.

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

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

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

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

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

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

SEC. 307. COMPREHENSIVE REPORT ON INTELLIGENCE COMMUNITY CONTRACTORS.

(a) REQUIREMENT FOR REPORT.—Not later than March 31, 2008, the Director of National Intelligence shall submit to the congressional intelligence committees a report describing the personal services activities performed by contractors across the intelligence community, the impact of such contractors on the intelligence community workforce, plans for conversion of contractor employment into government employment, and the accountability mechanisms that govern the performance of such contractors.

(b) CONTENT.—

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

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

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

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

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

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

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

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

(H) a description of positions that will be converted from contractor employment to government employment under the authority described in section 103(c) of this Act and the justification for such conversion;

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

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

(K) an identification of best practices of accountability mechanisms within services contracts.

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

(A) Intelligence collection.

(B) Intelligence analysis.

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

SEC. 308. REPORT ON PROPOSED PAY FOR PERFORMANCE INTELLIGENCE COMMUNITY PERSONNEL MANAGEMENT SYSTEM.

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

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

(1) an implementation time line which includes target dates for completion of—

(A) the development of performance appraisal plans;

(B) establishment of oversight and appeal mechanisms;

(C) deployment of information technology systems;

(D) management training;

(E) employee training;

(F) compensation transition; and

- (G) full operational capacity;
- (2) an estimated budget for the implementation of the performance-based compensation system;
- (3) an evaluation plan to monitor the implementation of the performance-based compensation system and to improve and modify such system;
- (4) written standards for measuring the performance of employees;
- (5) a description of the performance-based compensation system, including budget oversight mechanisms to ensure sufficient funds to pay employees for bonuses;
- (6) a description of internal and external accountability mechanisms to ensure the fair treatment of employees;
- (7) a plan for initial and ongoing training for senior executives, managers, and employees;
- (8) a description of the role of any advisory committee or other mechanism designed to gather the input of employees relating to the creation and implementation of the system;
- (9) an assessment of the impact of the performance-based compensation system on women, minorities, persons with disabilities, and veterans; and
- (10) an assessment of the consistency of the plan described in subsection (a) for such element with the plans of the Director of National Intelligence for a performance-based compensation system for the intelligence community.

SEC. 309. REPORT ON PLANS TO INCREASE DIVERSITY WITHIN THE INTELLIGENCE COMMUNITY.

(a) **REQUIREMENT FOR REPORT.**—Not later than March 31, 2008, the Director of National Intelligence, in coordination with the heads of the elements of the intelligence community, shall submit to the congressional intelligence committees a report on the plans of each element to increase diversity within the intelligence community.

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

- (1) specific implementation plans for each such element designed to achieve the goals articulated in the strategic plan of the Director of National Intelligence on equal employment opportunity and diversity;
- (2) specific plans and initiatives for each such element to increase recruiting and hiring of diverse candidates;
- (3) specific plans and initiatives for each such element to improve retention of diverse Federal employees at the junior, midgrade, senior, and management levels;
- (4) a description of specific diversity awareness training and education programs for senior officials and managers of each such element; and
- (5) a description of performance metrics to measure the success of carrying out the plans, initiatives, and programs described in paragraphs (1) through (4).

Subtitle B—Acquisition Matters

SEC. 311. VULNERABILITY ASSESSMENTS OF MAJOR SYSTEMS.

(a) IN GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by section 306 of this Act, is further amended by inserting after section 506B, as added by section 306(a), the following new section:

“VULNERABILITY ASSESSMENTS OF MAJOR SYSTEMS

“SEC. 506C. (a) INITIAL VULNERABILITY ASSESSMENTS.—The Director of National Intelligence shall conduct an initial vulnerability assessment for any major system and its significant items of supply that is proposed for inclusion in the National Intelligence Program prior to completion of Milestone B or an equivalent acquisition decision. The initial vulnerability assessment of a major system and its significant items of supply shall, at a minimum, use an analysis-based approach to—

- “(1) identify vulnerabilities;
- “(2) define exploitation potential;
- “(3) examine the system’s potential effectiveness;
- “(4) determine overall vulnerability; and
- “(5) make recommendations for risk reduction.

“(b) SUBSEQUENT VULNERABILITY ASSESSMENTS.—(1) The Director of National Intelligence shall conduct subsequent vulnerability assessments of each major system and its significant items of supply within the National Intelligence Program—

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

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

“(C) upon the request of a congressional intelligence committee.

“(2) Any subsequent vulnerability assessment of a major system and its significant items of supply shall, at a minimum, use an analysis-based approach and, if applicable, a testing-based approach, to monitor the exploitation potential of such system and reexamine the factors described in paragraphs (1) through (5) of subsection (a).

“(c) MAJOR SYSTEM MANAGEMENT.—The Director of National Intelligence shall give due consideration to the vulnerability assessments prepared for a given major system when developing and determining the annual consolidated National Intelligence Program budget.

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

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

“(e) DEFINITIONS.—In this section:

“(1) The term ‘items of supply’—

“(A) means any individual part, component, sub-assembly, assembly, or subsystem integral to a major system, and other property which may be replaced during the service life of the major system, including spare parts and replenishment parts; and

“(B) does not include packaging or labeling associated with shipment or identification of items.

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

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

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

(b) CLERICAL AMENDMENT.—The table of contents in the first section of the National Security Act of 1947, as amended by section 306 of this Act, is further amended by inserting after the item relating to section 506B, as added by section 306(b), the following:

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

SEC. 312. BUSINESS ENTERPRISE ARCHITECTURE AND BUSINESS SYSTEM MODERNIZATION FOR THE INTELLIGENCE COMMUNITY.

(a) BUSINESS ENTERPRISE ARCHITECTURE AND BUSINESS SYSTEM MODERNIZATION.—

(1) IN GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by sections 306 and 311 of this Act, is further amended by inserting after section 506C, as added by section 311(a), the following new section:

“INTELLIGENCE COMMUNITY BUSINESS SYSTEMS, ARCHITECTURE,
ACCOUNTABILITY, AND MODERNIZATION

“SEC. 506D. (a) LIMITATION ON OBLIGATION OF FUNDS FOR INTELLIGENCE COMMUNITY BUSINESS SYSTEM MODERNIZATION.—(1) After April 1, 2008, no funds appropriated to any element of the intelligence community may be obligated for an intelligence community business system modernization described in paragraph (2) unless—

“(A) the approval authority designated by the Director of National Intelligence under subsection (c)(2) makes the certification described in paragraph (3) with respect to the intelligence community business system modernization; and

“(B) the certification is approved by the Intelligence Community Business Systems Management Committee established under subsection (f).

“(2) An intelligence community business system modernization described in this paragraph is an intelligence community business system modernization that—

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

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

“(3) The certification described in this paragraph for an intelligence community business system modernization is a certification, made by the approval authority designated by the Director under subsection (c)(2) to the Intelligence Community Business Systems Management Committee, that the intelligence community business system modernization—

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

“(B) is necessary—

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

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

“(4) The obligation of funds for an intelligence community business system modernization that does not comply with the requirements of this subsection shall be treated as a violation of section 1341(a)(1)(A) of title 31, United States Code.

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

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

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

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

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

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

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

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

“(c) RESPONSIBILITIES FOR INTELLIGENCE COMMUNITY BUSINESS SYSTEM MODERNIZATION.—(1) The Director of National Intelligence shall be responsible for review, approval, and oversight of the planning, design, acquisition, deployment, operation, and maintenance of an intelligence community business system modernization if more than 50 percent of the cost of the intelligence community business system modernization is funded by amounts appropriated for the National Intelligence Program.

“(2) The Director shall designate 1 or more appropriate officials of the intelligence community to be responsible for making certifications with respect to intelligence community business system modernizations under subsection (a)(3).

“(d) INTELLIGENCE COMMUNITY BUSINESS SYSTEM INVESTMENT REVIEW.—(1) The approval authority designated under subsection (c)(2) shall establish and implement, not later than March 31, 2008, an investment review process for the review of the planning, design, acquisition, development, deployment, operation, maintenance, modernization, project cost, benefits, and risks of the intelligence community business systems for which the approval authority is responsible.

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

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

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

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

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

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

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

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

“(E) Mechanisms to ensure the consistency of the investment review process with applicable guidance issued by the Director of National Intelligence and the Intelligence Community Business Systems Management Committee established under subsection (f).

“(F) Common decision criteria, including standards, requirements, and priorities, for purposes of ensuring the integration of intelligence community business systems.

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

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

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

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

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

“(3) For each such system, identification of approval authority designated for such system under subsection (c)(2).

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

“(f) INTELLIGENCE COMMUNITY BUSINESS SYSTEMS MANAGEMENT COMMITTEE.—(1) The Director of National Intelligence shall establish an Intelligence Community Business Systems Management Committee (in this subsection referred to as the ‘Committee’).

“(2) The Committee shall—

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

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

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

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

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

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

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

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

“(g) RELATION TO ANNUAL REGISTRATION REQUIREMENTS.—Nothing in this section shall be construed to alter the requirements of section 8083 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 989), with regard to information technology systems (as defined in subsection (d) of such section).

“(h) RELATION TO DEFENSE BUSINESS SYSTEMS ARCHITECTURE, ACCOUNTABILITY, AND MODERNIZATION REQUIREMENTS.—An intelligence community business system that receives more than 50 percent of its funds from amounts available for the National Intelligence Program shall be exempt from the requirements of section 2222 of title 10, United States Code.

“(i) RELATION TO CLINGER-COHEN ACT.—(1) The Director of National Intelligence and the Chief Information Officer of the Intelligence Community shall fulfill the executive agency responsibilities in chapter 113 of title 40, United States Code, for any intelligence community business system that receives more than 50 percent of its funding from amounts appropriated for the National Intelligence Program.

“(2) Any intelligence community business system covered by paragraph (1) shall be exempt from the requirements of such chapter 113 that would otherwise apply to the executive agency that contains the element of the intelligence community involved.

“(j) REPORTS.—Not later than March 15 of each of the years 2009 through 2014, the Director of National Intelligence shall submit to the congressional intelligence committees a report on the compliance of the intelligence community with the requirements of this section. Each such report shall—

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

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

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

“(2) identify the number of intelligence community business system modernizations that received a certification described in subsection (a)(3)(B); and

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

“(k) DEFINITIONS.—In this section:

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

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

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

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

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

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

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

(2) CLERICAL AMENDMENT.—The table of contents in the first section of that Act, as amended by sections 306 and 311 of this Act, is further amended by inserting after the item relating to section 506C, as added by section 311(b), the following new item:

“Sec. 506D. Intelligence community business systems, architecture, accountability, and modernization.”.

(b) IMPLEMENTATION.—

(1) CERTAIN DUTIES.—Not later than 60 days after the date of the enactment of this Act, the Director of National Intelligence shall—

(A) complete the delegation of responsibility for the review, approval, and oversight of the planning, design, acquisition, deployment, operation, maintenance, and modernization of intelligence community business systems

required by subsection (c) of section 506D of the National Security Act of 1947 (as added by subsection (a)); and

(B) designate a vice chairman and personnel to serve on the Intelligence Community Business System Management Committee established under subsection (f) of such section 506D (as so added).

(2) ENTERPRISE ARCHITECTURE.—

(A) SCHEDULE FOR DEVELOPMENT.—The Director shall develop the enterprise architecture required by subsection (b) of such section 506D (as so added) by not later than September 1, 2008.

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

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

(ii) An identification of the intelligence community business systems in operation or planned as of December 31, 2006, that will not be a part of such enterprise architecture, together with the schedule for the phased termination of the utilization of any such systems.

(iii) An identification of the intelligence community business systems in operation or planned as of December 31, 2006, that will be a part of such enterprise architecture, together with a strategy for modifying such systems to ensure that such systems comply with such enterprise architecture.

(C) SUBMISSION OF ACQUISITION STRATEGY.—The Director shall submit the acquisition strategy described in subparagraph (B)(i) to the congressional intelligence committees not later than March 1, 2008.

SEC. 313. REPORTS ON THE ACQUISITION OF MAJOR SYSTEMS.

(a) IN GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by sections 306, 311, and 312 of this Act, is further amended by inserting after section 506D, as added by section 312(a)(1), the following new section:

“REPORTS ON THE ACQUISITION OF MAJOR SYSTEMS

“SEC. 506E. (a) ANNUAL REPORTS REQUIRED.—(1) The Director of National Intelligence shall submit to the congressional intelligence committees each year, at the same time the budget of the President for the fiscal year beginning in such year is submitted to Congress pursuant to section 1105 of title 31, United States Code, a separate report on each acquisition of a major system by an element of the intelligence community.

“(2) Each report under this section shall be known as a ‘Report on the Acquisition of Major Systems’.

“(b) ELEMENTS.—Each report under this section shall include, for the acquisition of a major system, information on the following:

“(1) The current total acquisition cost for such system, and the history of such cost from the date the system was

first included in a report under this section to the end of the calendar quarter immediately proceeding the submittal of the report under this section.

“(2) The current development schedule for the system, including an estimate of annual development costs until development is completed.

“(3) The planned procurement schedule for the system, including the best estimate of the Director of National Intelligence of the annual costs and units to be procured until procurement is completed.

“(4) A full life-cycle cost analysis for such system.

“(5) The result of any significant test and evaluation of such major system as of the date of the submittal of such report, or, if a significant test and evaluation has not been conducted, a statement of the reasons therefor and the results of any other test and evaluation that has been conducted of such system.

“(6) The reasons for any change in acquisition cost, or schedule, for such system from the previous report under this section, if applicable.

“(7) The major contracts or subcontracts related to the major system.

“(8) If there is any cost or schedule variance under a contract referred to in paragraph (7) since the previous report under this section, the reasons for such cost or schedule variance.

“(c) DETERMINATION OF INCREASE IN COSTS.—Any determination of a percentage increase in the acquisition costs of a major system for which a report is filed under this section shall be stated in terms of constant dollars from the first fiscal year in which funds are appropriated for such contract.

“(d) DEFINITIONS.—In this section:

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

“(2) The term ‘full life-cycle cost’, with respect to the acquisition of a major system, means all costs of development, procurement, construction, deployment, and operation and support for such program, without regard to funding source or management control, including costs of development and procurement required to support or utilize such system.

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

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

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

(b) CLERICAL AMENDMENT.—The table of contents in the first section of that Act, as amended by sections 306, 311, and 312 of this Act, is further amended by inserting after the item relating

to section 506D, as added by section 312(a)(2), the following new item:

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

SEC. 314. EXCESSIVE COST GROWTH OF MAJOR SYSTEMS.

(a) NOTIFICATION.—Title V of the National Security Act of 1947, as amended by sections 306, 311, 312, and 313 of this Act, is further amended by inserting after section 506E, as added by section 313(a), the following new section:

“EXCESSIVE COST GROWTH OF MAJOR SYSTEMS

“SEC. 506F. (a) COST INCREASES OF AT LEAST 25 PERCENT.—
(1)(A) On a continuing basis, and separate from the submission of any report on a major system required by section 506E of this Act, the program manager shall determine if the acquisition cost of such major system has increased by at least 25 percent as compared to the baseline cost of such major system.

“(B) Not later than 10 days after the date that a program manager determines that an increase described in subparagraph (A) has occurred, the program manager shall submit to the Director of National Intelligence notification of such increase.

“(2)(A) If, after receiving a notification described in paragraph (1)(B), the Director of National Intelligence determines that the acquisition cost of a major system has increased by at least 25 percent, the Director shall submit to the congressional intelligence committees a written notification of such determination as described in subparagraph (B), a description of the amount of the increase in the acquisition cost of such major system, and a certification as described in subparagraph (C).

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

“(i) an updated cost estimate;

“(ii) the date on which the determination covered by such notification was made;

“(iii) contract performance assessment information with respect to each significant contract or sub-contract related to such major system, including the name of the contractor, the phase of the contract at the time of the report, the percentage of work under the contract that has been completed, any change in contract cost, the percentage by which the contract is currently ahead or behind schedule, and a summary explanation of significant occurrences, such as cost and schedule variances, and the effect of such occurrences on future costs and schedules;

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

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

“(vi) a statement of the reasons for any increases in the full life-cycle cost of such major system;

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

“(viii) the completion status of such major system expressed as the percentage—

“(I) of the total number of years for which funds have been appropriated for such major system compared to the number of years for which it is planned that such funds will be appropriated; and

“(II) of the amount of funds that have been appropriated for such major system compared to the total amount of such funds which it is planned will be appropriated;

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

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

“(C) The certification described in this subparagraph is a written certification made by the Director and submitted to the congressional intelligence committees that—

“(i) the acquisition of such major system is essential to the national security;

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

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

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

“(b) COST INCREASES OF AT LEAST 50 PERCENT.—(1)(A) On a continuing basis, and separate from the submission of any report on a major system required by section 506E of this Act, the program manager shall determine if the acquisition cost of such major system has increased by at least 50 percent as compared to the baseline cost of such major system.

“(B) Not later than 10 days after the date that a program manager determines that an increase described in subparagraph (A) has occurred, the program manager shall submit to the Director of National Intelligence notification of such increase.

“(2) If, after receiving a notification described in paragraph (1)(B), the Director of National Intelligence determines that the acquisition cost of a major system has increased by at least 50 percent as compared to the baseline cost of such major system, the Director shall submit to the congressional intelligence committees a written certification stating that—

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

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

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

“(D) the management structure for the acquisition of such major system is adequate to manage and control the full life-cycle cost of such major system.

“(3) In addition to the certification required by paragraph (2), the Director of National Intelligence shall submit to the congressional intelligence committees an updated notification, with current accompanying information, as required by subsection (a)(2).

“(c) PROHIBITION ON OBLIGATION OF FUNDS.—(1) If a written certification required under subsection (a)(2)(A) is not submitted to the congressional intelligence committees within 60 days of the determination made under subsection (a)(1), funds appropriated for the acquisition of a major system may not be obligated for a major contract under the program. Such prohibition on the obligation of funds shall cease to apply at the end of the 30-day period of a continuous session of Congress that begins on the date on which Congress receives the notification required under subsection (a)(2)(A).

“(2) If a written certification required under subsection (b)(2) is not submitted to the congressional intelligence committees within 60 days of the determination made under subsection (b)(2), funds appropriated for the acquisition of a major system may not be obligated for a major contract under the program. Such prohibition on the obligation of funds for the acquisition of a major system shall cease to apply at the end of the 30-day period of a continuous session of Congress that begins on the date on which Congress receives the notification required under subsection (b)(3).

“(d) DEFINITIONS.—In this section:

“(1) The term ‘acquisition cost’ has the meaning given that term in section 506E(d).

“(2) The term ‘baseline cost’, with respect to a major system, means the projected acquisition cost of such system that is approved by the Director of National Intelligence at Milestone B or an equivalent acquisition decision for the development, procurement, and construction of such system. The baseline cost may be in the form of an independent cost estimate.

“(3) The term ‘full life-cycle cost’ has the meaning given that term in section 506E(d).

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

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

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

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

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

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

(b) CLERICAL AMENDMENT.—The table of contents in the first section of that Act, as amended by sections 304, 311, 312, and 313 of this Act, is further amended by inserting after the items relating to section 506E, as added by section 313(b), the following new item:

Subtitle C—Other Matters

SEC. 321. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

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

SEC. 322. CLARIFICATION OF DEFINITION OF INTELLIGENCE COMMUNITY UNDER THE NATIONAL SECURITY ACT OF 1947.

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

SEC. 323. MODIFICATION OF AVAILABILITY OF FUNDS FOR DIFFERENT INTELLIGENCE ACTIVITIES.

Subparagraph (B) of section 504(a)(3) of the National Security Act of 1947 (50 U.S.C. 414(a)(3)) is amended to read as follows:

“(B) the use of such funds for such activity supports an emergent need, improves program effectiveness, or increases efficiency; and”.

SEC. 324. PROTECTION OF CERTAIN NATIONAL SECURITY INFORMATION.

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

(1) DISCLOSURE OF AGENT AFTER ACCESS TO INFORMATION IDENTIFYING AGENT.—Subsection (a) of section 601 of the National Security Act of 1947 (50 U.S.C. 421) is amended by striking “ten years” and inserting “15 years”.

(2) DISCLOSURE OF AGENT AFTER ACCESS TO CLASSIFIED INFORMATION.—Subsection (b) of such section is amended by striking “five years” and inserting “10 years”.

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

SEC. 325. EXTENSION OF AUTHORITY TO DELETE INFORMATION ABOUT RECEIPT AND DISPOSITION OF FOREIGN GIFTS AND DECORATIONS.

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

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

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

“(C) In this paragraph, the term ‘element of the intelligence community’ means an element of the intelligence community listed in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).”.

SEC. 326. REPORT ON COMPLIANCE WITH THE DETAINEE TREATMENT ACT OF 2005 AND RELATED PROVISIONS OF THE MILITARY COMMISSIONS ACT OF 2006.

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

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

(1) A description of the detention or interrogation methods, if any, that have been determined to comply with section 1003 of the Detainee Treatment Act of 2005 (119 Stat. 2739; 42 U.S.C. 2000dd) and section 6 of the Military Commissions Act of 2006 (120 Stat. 2632; 18 U.S.C. 2441 note) (including the amendments made by such section 6), and, with respect to each such method—

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

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

(2) A description of the detention or interrogation methods, if any, whose use has been discontinued pursuant to the Detainee Treatment Act of 2005 or the Military Commission Act of 2006, and, with respect to each such method—

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

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

(3) A description of any actions that have been taken to implement section 1004 of the Detainee Treatment Act of 2005 (119 Stat. 2740; 42 U.S.C. 2000dd–1), and, with respect to each such action—

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

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

(4) Any other matters that the Director considers necessary to fully and currently inform the congressional intelligence committees about the implementation of the Detainee Treatment Act of 2005 and related provisions of the Military Commissions Act of 2006.

(5) An appendix containing—

(A) all guidelines for the application of the Detainee Treatment Act of 2005 and related provisions of the Military Commissions Act of 2006 to the detention or interrogation activities, if any, of any element of the intelligence community; and

(B) the legal justifications of any office of the Department of Justice about the meaning or application of the

Detainee Treatment Act of 2005 or related provisions of the Military Commissions Act of 2006 with respect to the detention or interrogation activities, if any, of any element of the intelligence community.

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

(d) SUBMISSION TO THE CONGRESSIONAL ARMED SERVICES COMMITTEES.—To the extent that the report required by subsection (a) addresses an element of the intelligence community within the Department of Defense, that portion of the report, and any associated material that is necessary to make that portion understandable, shall also be submitted by the Director of National Intelligence to the congressional armed services committees.

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

- (1) the Committee on Armed Services of the Senate; and
- (2) the Committee on Armed Services of the House of Representatives.

SEC. 327. LIMITATION ON INTERROGATION TECHNIQUES.

(a) LIMITATION.—No individual in the custody or under the effective control of an element of the intelligence community or instrumentality thereof, regardless of nationality or physical location, shall be subject to any treatment or technique of interrogation not authorized by the United States Army Field Manual on Human Intelligence Collector Operations.

(b) INSTRUMENTALITY DEFINED.—In this section, the term “instrumentality”, with respect to an element of the intelligence community, means a contractor or subcontractor at any tier of the element of the intelligence community.

SEC. 328. LIMITATION ON USE OF FUNDS.

Not more than 30 percent of the funds authorized to be appropriated for the Expenditure Center referred to on page 157 of Volume VI, Book 1 of the Fiscal Year 2008 - Fiscal Year 2009 Congressional Budget Justification, National Intelligence Program, may be obligated or expended until each member of the congressional intelligence committees has been fully and currently informed with respect to intelligence regarding a facility in Syria subject to reported military action by the State of Israel on September 6, 2007, including intelligence relating to any agent or citizen of North Korea, Iran, or any other foreign country present at the facility, and any intelligence provided to the Federal Government by a foreign country regarding the facility (as available).

SEC. 329. INCORPORATION OF REPORTING REQUIREMENTS.

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

SEC. 330. REPEAL OF CERTAIN REPORTING REQUIREMENTS.

(a) ANNUAL REPORT ON INTELLIGENCE.—

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

(2) CLERICAL AMENDMENT.—The table of contents in the first section of the National Security Act of 1947 is amended by striking the item relating to section 109.

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

(1) by striking subsection (b); and

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

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

(1) by striking “(1)”; and

(2) by striking paragraph (2).

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

(1) by striking subsection (d); and

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

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

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

(1) in paragraph (1)—

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

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

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

TITLE IV—MATTERS RELATING TO ELEMENTS OF THE INTELLIGENCE COMMUNITY

Subtitle A—Office of the Director of National Intelligence

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

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

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

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

(3) by striking “any other element” and inserting “the headquarters of any other element”.

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

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

“(F) The Director of National Intelligence, or the Director’s designee.”.

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

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

(1) in subsection (c)—

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

(B) in paragraph (4), by striking “and” at the end;

and

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

“(5) assist the Director in establishing goals for basic, applied, and advanced research to meet the technology needs of the intelligence community and to be executed by elements of the intelligence community by—

“(A) systematically identifying, assessing, and prioritizing the most significant intelligence challenges that require technical solutions; and

“(B) examining options to enhance the responsiveness of research programs;

“(6) submit to Congress an annual report on the science and technology strategy of the Director; and”;

(2) in paragraph (3) of subsection (d)—

(A) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively;

(B) in subparagraph (B), as so redesignated, by inserting “and prioritize” after “coordinate”; and

(C) by inserting before subparagraph (B), as so redesignated, the following new subparagraph:

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

SEC. 404. LEADERSHIP AND LOCATION OF CERTAIN OFFICES AND OFFICIALS.

(a) NATIONAL COUNTER PROLIFERATION CENTER.—Section 119A(a) of the National Security Act of 1947 (50 U.S.C. 404o–1(a)) is amended—

(1) by striking “(a) ESTABLISHMENT.—Not later than 18 months after the date of the enactment of the National Security Intelligence Reform Act of 2004, the” and inserting the following:

“(a) IN GENERAL.—

“(1) ESTABLISHMENT.—The”; and

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

“(2) DIRECTOR.—The head of the National Counter Proliferation Center shall be the Director of the National Counter Proliferation Center, who shall be appointed by the Director of National Intelligence.

“(3) LOCATION.—The National Counter Proliferation Center shall be located within the Office of the Director of National Intelligence.”.

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

(1) by redesignating paragraph (9) as paragraph (13); and
(2) by inserting after paragraph (8) the following new paragraphs:

“(9) The Chief Information Officer of the Intelligence Community.

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

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

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

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

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

(b) REPORT.—

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

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

SEC. 406. COMPREHENSIVE LISTING OF SPECIAL ACCESS PROGRAMS.

Not later than February 1, 2008, the Director of National Intelligence shall submit to the congressional intelligence committees a classified comprehensive listing of all special access programs under the National Intelligence Program (as defined in section 3(6) of the National Security Act of 1947 (50 U.S.C. 401a(6))). Such listing may be submitted in a form or forms consistent with the protection of national security.

SEC. 407. REPORTS ON THE NUCLEAR PROGRAMS OF IRAN AND NORTH KOREA.

(a) REQUIREMENT FOR REPORTS.—Not less frequently than once during fiscal year 2008 and twice during fiscal year 2009, the Director of National Intelligence shall submit to the congressional intelligence committees a report on the intentions and capabilities of the Islamic Republic of Iran and the Democratic People’s Republic of Korea, with regard to the nuclear programs of each such country.

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

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

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

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

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

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

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

SEC. 408. REQUIREMENTS FOR ACCOUNTABILITY REVIEWS BY THE DIRECTOR OF NATIONAL INTELLIGENCE.

(a) RESPONSIBILITY OF THE DIRECTOR OF NATIONAL INTELLIGENCE.—Subsection (b) of section 102 of the National Security Act of 1947 (50 U.S.C. 403) is amended—

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

(2) in paragraph (3)—

(A) by striking “2004,” and inserting “2004 (50 U.S.C. 403 note),”; and

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

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

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

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

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

(2) by inserting after paragraph (6), the following new paragraph:

“(7)(A) The Director of National Intelligence shall, if the Director determines it is necessary, or may, if requested by a congressional intelligence committee, conduct accountability reviews of elements of the intelligence community or the personnel of such elements in relation to significant failures or deficiencies within the intelligence community.

“(B) The Director of National Intelligence, in consultation with the Attorney General, shall establish guidelines and procedures for conducting accountability reviews under subparagraph (A).

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

SEC. 409. MODIFICATION OF LIMITATION ON DELEGATION BY THE DIRECTOR OF NATIONAL INTELLIGENCE OF THE PROTECTION OF INTELLIGENCE SOURCES AND METHODS.

Section 102A(i)(3) of the National Security Act of 1947 (50 U.S.C. 403–1(i)(3)) is amended by inserting before the period the

following: “or the Chief Information Officer of the Intelligence Community”.

SEC. 410. AUTHORITIES FOR INTELLIGENCE INFORMATION SHARING.

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

(1) in subparagraph (E), by striking “and” at the end;
(2) in subparagraph (F), by striking the period and inserting a semicolon; and

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

“(G) in carrying out this subsection, without regard to any other provision of law (other than this Act and the National Security Intelligence Reform Act of 2004 (title I of Public Law 108–458; 118 Stat. 3643)), expend funds and make funds available to other departments or agencies of the United States for, and direct the development and fielding of, systems of common concern related to the collection, processing, analysis, exploitation, and dissemination of intelligence information; and

“(H) for purposes of addressing critical gaps in intelligence information sharing or access capabilities, have the authority to transfer funds appropriated for a program within the National Intelligence Program to a program funded by appropriations not within the National Intelligence Program, consistent with paragraphs (3) through (7) of subsection (d).”.

(b) **AUTHORITIES OF HEADS OF OTHER DEPARTMENTS AND AGENCIES.**—Notwithstanding any other provision of law, the head of any department or agency of the United States is authorized to receive and utilize funds made available to the department or agency by the Director of National Intelligence pursuant to section 102A(g)(1) of the National Security Act of 1947 (50 U.S.C. 403–1(g)(1)), as amended by subsection (a), and receive and utilize any system referred to in such section that is made available to the department or agency.

(c) **REPORTS.**—

(1) **REQUIREMENT FOR REPORTS.**—Not later than February 1 of each of the fiscal years 2009 through 2012, the Director of National Intelligence shall submit to the congressional intelligence committees a report detailing the distribution of funds and systems during the preceding fiscal year pursuant to subparagraph (G) or (H) of section 102A(g)(1) of the National Security Act of 1947 (50 U.S.C. 403–1(g)(1)), as added by subsection (a).

(2) **CONTENT.**—Each such report shall include—

(A) a listing of the agencies or departments to which such funds or systems were distributed;

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

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

SEC. 411. AUTHORITIES OF THE DIRECTOR OF NATIONAL INTELLIGENCE FOR INTERAGENCY FUNDING.

(a) **IN GENERAL.**—Section 102A of the National Security Act of 1947 (50 U.S.C. 403–1), as amended by sections 303 and 304 of this Act, is further amended by adding at the end the following new subsection:

“(u) **AUTHORITIES FOR INTERAGENCY FUNDING.**—(1) Notwithstanding section 1346 of title 31, United States Code, or any other provision of law prohibiting the interagency financing of activities described in subparagraph (A) or (B), upon the request of the Director of National Intelligence, any element of the intelligence community may use appropriated funds to support or participate in the interagency activities of the following:

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

“(B) Boards, commissions, councils, committees, and similar groups that are established—

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

“(ii) by the Director.

“(2) No provision of law enacted after the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2008 shall be construed to limit or supersede the authority in paragraph (1) unless such provision makes specific reference to the authority in that paragraph.”.

(b) **REPORTS.**—Not later than February 1 of each of the fiscal years 2009 through 2012, the Director of National Intelligence shall submit to the congressional intelligence committees a report detailing the exercise of any authority pursuant to subsection (u) of section 102A of the National Security Act of 1947 (50 U.S.C. 403–1), as amended by subsection (a), during the preceding fiscal year.

SEC. 412. TITLE OF CHIEF INFORMATION OFFICER OF THE INTELLIGENCE COMMUNITY.

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

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

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

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

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

SEC. 413. INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY.

(a) **ESTABLISHMENT.**—

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

“INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY

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

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

“(1) create an objective and effective office, appropriately accountable to Congress, to initiate and conduct independently investigations, inspections, and audits on matters within the

responsibility and authority of the Director of National Intelligence;

“(2) recommend policies designed—

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

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

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

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

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

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

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

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

“(c) INSPECTOR GENERAL OF INTELLIGENCE COMMUNITY.—(1)

There is an Inspector General of the Intelligence Community, who shall be the head of the Office of the Inspector General of the Intelligence Community, who shall be appointed by the President, by and with the advice and consent of the Senate.

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

“(A) without regard to political affiliation;

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

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

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

“(4) The Inspector General may be removed from office only by the President. The President shall immediately communicate in writing to the congressional intelligence committees the reasons for the removal of any individual from the position of Inspector General.

“(d) DUTIES AND RESPONSIBILITIES.—Subject to subsections (g) and (h), it shall be the duty and responsibility of the Inspector General of the Intelligence Community—

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

“(2) to keep the Director of National Intelligence fully and currently informed concerning violations of law and regulations, violations of civil liberties and privacy, fraud and other serious

problems, abuses, and deficiencies that may occur in matters within the responsibility and authority of the Director, and to report the progress made in implementing corrective action;

“(3) to take due regard for the protection of intelligence sources and methods in the preparation of all reports issued by the Inspector General, and, to the extent consistent with the purpose and objective of such reports, take such measures as may be appropriate to minimize the disclosure of intelligence sources and methods described in such reports; and

“(4) in the execution of the duties and responsibilities under this section, to comply with generally accepted government auditing standards.

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

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

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

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

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

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

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

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

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

“(3) The Inspector General is authorized to receive and investigate complaints or information from any person concerning the existence of an activity constituting a violation of laws, rules, or

regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety. Once such complaint or information has been received from an employee of the Federal Government—

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

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

“(4) The Inspector General shall have authority to administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of the duties of the Inspector General, which oath, affirmation, or affidavit when administered or taken by or before an employee of the Office of the Inspector General of the Intelligence Community designated by the Inspector General shall have the same force and effect as if administered or taken by, or before, an officer having a seal.

“(5)(A) Except as provided in subparagraph (B), the Inspector General is authorized to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the duties and responsibilities of the Inspector General.

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

“(C) The Inspector General may not issue a subpoena for, or on behalf of, any other element of the intelligence community, including the Office of the Director of National Intelligence.

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

“(g) COORDINATION AMONG INSPECTORS GENERAL OF INTELLIGENCE COMMUNITY.—(1)(A) In the event of a matter within the jurisdiction of the Inspector General of the Intelligence Community that may be subject to an investigation, inspection, or audit by both the Inspector General of the Intelligence Community and an Inspector General, whether statutory or administrative, with oversight responsibility for an element or elements of the intelligence community, the Inspector General of the Intelligence Community and such other Inspector or Inspectors General shall expeditiously resolve the question of which Inspector General shall conduct such investigation, inspection, or audit.

“(B) In attempting to resolve a question under subparagraph (A), the Inspectors General concerned may request the assistance of the Intelligence Community Inspectors General Forum established under subparagraph (C). In the event of a dispute between

an Inspector General within an agency or department of the United States Government and the Inspector General of the Intelligence Community that has not been resolved with the assistance of the Forum, the Inspectors General shall submit the question to the Director of National Intelligence and the head of the agency or department for resolution.

“(C) There is established the Intelligence Community Inspectors General Forum which shall consist of all statutory or administrative Inspectors General with oversight responsibility for an element or elements of the intelligence community. The Inspector General of the Intelligence Community shall serve as the chair of the Forum. The Forum shall have no administrative authority over any Inspector General, but shall serve as a mechanism for informing its members of the work of individual members of the Forum that may be of common interest and discussing questions about jurisdiction or access to employees, employees of a contractor, records, audits, reviews, documents, recommendations, or other materials that may involve or be of assistance to more than 1 of its members.

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

“(h) STAFF AND OTHER SUPPORT.—(1) The Inspector General of the Intelligence Community shall be provided with appropriate and adequate office space at central and field office locations, together with such equipment, office supplies, maintenance services, and communications facilities and services as may be necessary for the operation of such offices.

“(2)(A) Subject to applicable law and the policies of the Director of National Intelligence, the Inspector General shall select, appoint, and employ such officers and employees as may be necessary to carry out the functions of the Inspector General. The Inspector General shall ensure that any officer or employee so selected, appointed, or employed has security clearances appropriate for the assigned duties of such officer or employee.

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

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

“(3)(A) Subject to the concurrence of the Director, the Inspector General may request such information or assistance as may be necessary for carrying out the duties and responsibilities of the Inspector General from any department, agency, or other element of the United States Government.

“(B) Upon request of the Inspector General for information or assistance under subparagraph (A), the head of the department, agency, or element concerned shall, insofar as is practicable and

not in contravention of any existing statutory restriction or regulation of the department, agency, or element, furnish to the Inspector General, or to an authorized designee, such information or assistance.

“(C) The Inspector General of the Intelligence Community may, upon reasonable notice to the head of any element of the intelligence community, conduct, as authorized by this section, an investigation, inspection, or audit of such element and may enter into any place occupied by such element for purposes of the performance of the duties of the Inspector General.

“(i) REPORTS.—(1)(A) The Inspector General of the Intelligence Community shall, not later than January 31 and July 31 of each year, prepare and submit to the Director of National Intelligence a classified, and, as appropriate, unclassified semiannual report summarizing the activities of the Office of the Inspector General of the Intelligence Community during the immediately preceding 6-month period ending December 31 (of the preceding year) and June 30, respectively. The Inspector General of the Intelligence Community shall provide any portion of the report involving a component of a department of the United States Government to the head of that department simultaneously with submission of the report to the Director of National Intelligence.

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

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

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

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

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

“(v) A certification whether or not the Inspector General has had full and direct access to all information relevant to the performance of the functions of the Inspector General.

“(vi) A description of the exercise of the subpoena authority under subsection (f)(5) by the Inspector General during the period covered by such report.

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

“(C) Not later than the 30 days after the date of receipt of a report under subparagraph (A), the Director shall transmit the report to the congressional intelligence committees together with any comments the Director considers appropriate. The Director shall transmit to the committees of the Senate and of the House of Representatives with jurisdiction over a department of the United States Government any portion of the report involving a component of such department simultaneously with submission of the report to the congressional intelligence committees.

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

“(B) The Director shall transmit to the congressional intelligence committees each report under subparagraph (A) within 7 calendar days of receipt of such report, together with such comments as the Director considers appropriate. The Director shall transmit to the committees of the Senate and of the House of Representatives with jurisdiction over a department of the United States Government any portion of each report under subparagraph (A) that involves a problem, abuse, or deficiency related to a component of such department simultaneously with transmission of the report to the congressional intelligence committees.

“(3) In the event that—

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

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

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

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

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

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

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

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

the Inspector General shall immediately notify and submit a report on such matter to the congressional intelligence committees.

“(4) Pursuant to title V, the Director shall submit to the congressional intelligence committees any report or findings and recommendations of an investigation, inspection, or audit conducted by the office which has been requested by the Chairman or Vice Chairman or Ranking Minority Member of either committee.

“(5)(A) An employee of an element of the intelligence community, an employee assigned or detailed to an element of the intelligence community, or an employee of a contractor to the intelligence community who intends to report to Congress a complaint or information with respect to an urgent concern may report such complaint or information to the Inspector General.

“(B) Not later than the end of the 14-calendar day period beginning on the date of receipt from an employee of a complaint or information under subparagraph (A), the Inspector General shall determine whether the complaint or information appears credible. Upon making such a determination, the Inspector General shall transmit to the Director a notice of that determination, together with the complaint or information.

“(C) Upon receipt of a transmittal from the Inspector General under subparagraph (B), the Director shall, within 7 calendar days of such receipt, forward such transmittal to the congressional intelligence committees, together with any comments the Director considers appropriate.

“(D)(i) If the Inspector General does not find credible under subparagraph (B) a complaint or information submitted under subparagraph (A), or does not transmit the complaint or information to the Director in accurate form under subparagraph (B), the employee (subject to clause (ii)) may submit the complaint or information to Congress by contacting either or both of the congressional intelligence committees directly.

“(ii) An employee may contact the intelligence committees directly as described in clause (i) only if the employee—

“(I) before making such a contact, furnishes to the Director, through the Inspector General, a statement of the employee’s complaint or information and notice of the employee’s intent to contact the congressional intelligence committees directly; and

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

“(iii) A member or employee of 1 of the congressional intelligence committees who receives a complaint or information under clause (i) does so in that member or employee’s official capacity as a member or employee of such committee.

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

“(F) An action taken by the Director or the Inspector General under this paragraph shall not be subject to judicial review.

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

“(i) A serious or flagrant problem, abuse, violation of law or Executive order, or deficiency relating to the funding, administration, or operation of an intelligence activity involving

classified information, but does not include differences of opinions concerning public policy matters.

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

“(iii) An action, including a personnel action described in section 2302(a)(2)(A) of title 5, United States Code, constituting reprisal or threat of reprisal prohibited under subsection (f)(3)(B) of this section in response to an employee’s reporting an urgent concern in accordance with this paragraph.

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

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

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

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

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

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

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

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

“Inspector General of the Intelligence Community.”.

SEC. 414. ANNUAL REPORT ON FOREIGN LANGUAGE PROFICIENCY IN THE INTELLIGENCE COMMUNITY.

(a) REPORT.—

(1) IN GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by title III of this

Act, is further amended by adding at the end the following new section:

“REPORT ON FOREIGN LANGUAGE PROFICIENCY IN THE INTELLIGENCE COMMUNITY

“SEC. 508. Not later than February 1 of each year, the Director of National Intelligence shall submit to the congressional intelligence committees a report on the proficiency in foreign languages and, if appropriate, in foreign dialects of each element of the intelligence community, including—

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

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

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

“(A) military personnel; and

“(B) civilian personnel;

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

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

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

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

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

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

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

“(B) the number of personnel of such element that are serving in a position that—

“(i) requires proficiency in the foreign language or dialect to perform the primary duty of the position; and

“(ii) does not require proficiency in the foreign language or dialect to perform the primary duty of the position;

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

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

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

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

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

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

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

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

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

(2) REPORT DATE.—Section 507(a)(1) of such Act (50 U.S.C. 415b(a)(1)), as amended by section 328(f) of this Act, is further amended by adding at the end the following new subparagraph:

“(M) The annual report on foreign language proficiency in the intelligence community required by section 508.”.

(b) CONFORMING AMENDMENT.—The table of contents in the first section of such Act is further amended by inserting after the item relating to section 507 the following new item:

“Sec. 508. Report on foreign language proficiency in the intelligence community.”.

SEC. 415. DIRECTOR OF NATIONAL INTELLIGENCE REPORT ON RETIREMENT BENEFITS FOR FORMER EMPLOYEES OF AIR AMERICA.

(a) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to Congress a report on the advisability of providing Federal retirement benefits to United States citizens for the service of such individuals before 1977 as employees of Air America or an associated company while such company was owned or controlled by the United States Government and operated or managed by the Central Intelligence Agency.

(b) REPORT ELEMENTS.—

(1) IN GENERAL.—The report required by subsection (a) shall include the following:

(A) The history of Air America and associated companies before 1977, including a description of—

(i) the relationship between such companies and the Central Intelligence Agency and other elements of the United States Government;

(ii) the workforce of such companies;

(iii) the missions performed by such companies and their employees for the United States; and

(iv) the casualties suffered by employees of such companies in the course of their employment with such companies.

(B) A description of the retirement benefits contracted for or promised to the employees of such companies before 1977, the contributions made by such employees for such benefits, the retirement benefits actually paid such employees, the entitlement of such employees to the payment of future retirement benefits, and the likelihood that former employees of such companies will receive any future retirement benefits.

(C) An assessment of the difference between—

(i) the retirement benefits that former employees of such companies have received or will receive by virtue of their employment with such companies; and

(ii) the retirement benefits that such employees would have received and in the future receive if such employees had been, or would now be, treated as employees of the United States whose services while in the employ of such companies had been or would now be credited as Federal service for the purpose of Federal retirement benefits.

(D) Any recommendations regarding the advisability of legislative action to treat employment at such companies as Federal service for the purpose of Federal retirement benefits in light of the relationship between such companies and the United States Government and the services and sacrifices of such employees to and for the United States, and if legislative action is considered advisable, a proposal for such action and an assessment of its costs.

(2) OTHER CONTENT.—The Director of National Intelligence shall include in the report any views of the Director of the Central Intelligence Agency on the matters covered by the report that the Director of the Central Intelligence Agency considers appropriate.

(c) ASSISTANCE OF COMPTROLLER GENERAL.—The Comptroller General of the United States shall, upon the request of the Director of National Intelligence and in a manner consistent with the protection of classified information, assist the Director in the preparation of the report required by subsection (a).

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

(e) DEFINITIONS.—In this section:

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

(2) ASSOCIATED COMPANY.—The term “associated company” means any company associated with or subsidiary to Air America, including Air Asia Company Limited and the Pacific Division of Southern Air Transport, Incorporated.

SEC. 416. SPACE INTELLIGENCE.

Section 102A of the National Security Act of 1947 (50 U.S.C. 403–1) as amended by sections 303, 304, and 411 of this Act, is further amended by adding at the end the following new subsection:

“(v) CONSIDERATION OF SPACE INTELLIGENCE.—

“(1) IN GENERAL.—The Director of National Intelligence shall require that space-intelligence related issues and concerns are fully considered in carrying out the authorities of the intelligence community under this Act and under other provisions of law, including in carrying out—

“(A) the responsibilities and authorities described under subsections (f), (h), and (q); and

“(B) the creation of policy, and in the recruitment, hiring, training, and retention of personnel.

“(2) ADDITIONAL CONSIDERATIONS.—The Director of National Intelligence shall ensure that agencies give due consideration to the vulnerability assessment prepared for a given major system, as required in section 506C of this Act, at all stages of architecture and system planning, development,

acquisition, operation, and support of a space-intelligence system.”.

SEC. 417. OPERATIONAL FILES IN THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

(a) IN GENERAL.—Title VII of the National Security Act of 1947 (50 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

“OPERATIONAL FILES IN THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

“SEC. 706. (a) RECORDS FROM EXEMPTED OPERATIONAL FILES.—
(1) Any record disseminated or otherwise provided to an element of the Office of the Director of National Intelligence from the exempted operational files of elements of the intelligence community designated in accordance with this title, and any operational files created by the Office of the Director of National Intelligence that incorporate such record in accordance with subparagraph (A)(ii), shall be exempted from the provisions of section 552 of title 5, United States Code that require search, review, publication, or disclosure in connection therewith, in any instance in which—

“(A)(i) such record is shared within the Office of the Director of National Intelligence and not disseminated by that Office beyond that Office; or

“(ii) such record is incorporated into new records created by personnel of the Office of the Director of National Intelligence and maintained in operational files of the Office of the Director of National Intelligence and such record is not disseminated by that Office beyond that Office; and

“(B) the operational files from which such record has been obtained continue to remain designated as operational files exempted from section 552 of title 5, United States Code.

“(2) The operational files of the Office of the Director of National Intelligence referred to in paragraph (1)(A)(ii) shall be substantially similar in nature to the originating operational files from which the record was disseminated or provided, as such files are defined in this title.

“(3) Records disseminated or otherwise provided to the Office of the Director of National Intelligence from other elements of the intelligence community that are not protected by paragraph (1), and that are authorized to be disseminated beyond the Office of the Director of National Intelligence, shall remain subject to search and review under section 552 of title 5, United States Code, but may continue to be exempted from the publication and disclosure provisions of that section by the originating agency to the extent that such section permits.

“(4) Notwithstanding any other provision of this title, records in the exempted operational files of the Central Intelligence Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, the National Security Agency, or the Defense Intelligence Agency shall not be subject to the search and review provisions of section 552 of title 5, United States Code, solely because they have been disseminated to an element or elements of the Office of the Director of National Intelligence, or referenced in operational files of the Office of the Director of National Intelligence and that are not disseminated beyond the Office of the Director of National Intelligence.

“(5) Notwithstanding any other provision of this title, the incorporation of records from the operational files of the Central Intelligence Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, the National Security Agency, or the Defense Intelligence Agency, into operational files of the Office of the Director of National Intelligence shall not subject that record or the operational files of the Central Intelligence Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, the National Security Agency or the Defense Intelligence Agency to the search and review provisions of section 552 of title 5, United States Code.

“(b) OTHER RECORDS.—(1) Files in the Office of the Director of National Intelligence that are not exempted under subsection (a) of this section which contain information derived or disseminated from exempted operational files shall be subject to search and review under section 552 of title 5, United States Code.

“(2) The inclusion of information from exempted operational files in files of the Office of the Director of National Intelligence that are not exempted under subsection (a) shall not affect the exemption of the originating operational files from search, review, publication, or disclosure.

“(3) Records from exempted operational files of the Office of the Director of National Intelligence which have been disseminated to and referenced in files that are not exempted under subsection (a), and which have been returned to exempted operational files of the Office of the Director of National Intelligence for sole retention, shall be subject to search and review.

“(c) SEARCH AND REVIEW FOR CERTAIN PURPOSES.—Notwithstanding subsection (a), exempted operational files shall continue to be subject to search and review for information concerning any of the following:

“(1) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5, United States Code.

“(2) Any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code.

“(3) The specific subject matter of an investigation by any of the following for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity:

“(A) The Select Committee on Intelligence of the Senate.

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

“(C) The Intelligence Oversight Board.

“(D) The Department of Justice.

“(E) The Office of the Director of National Intelligence.

“(F) The Office of the Inspector General of the Intelligence Community.

“(d) DECENNIAL REVIEW OF EXEMPTED OPERATIONAL FILES.—

(1) Not less than once every 10 years, the Director of National Intelligence shall review the operational files exempted under subsection (a) to determine whether such files, or any portion of such files, may be removed from the category of exempted files.

“(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

“(3) A complainant that alleges that the Director of National Intelligence has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court’s review shall be limited to determining the following:

“(A) Whether the Director has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2008 or before the expiration of the 10-year period beginning on the date of the most recent review.

“(B) Whether the Director of National Intelligence, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.

“(e) SUPERSEDITION OF OTHER LAWS.—The provisions of this section may not be superseded except by a provision of law that is enacted after the date of the enactment of this section and that specifically cites and repeals or modifies such provisions.

“(f) APPLICABILITY.—The Director of National Intelligence will publish a regulation listing the specific elements within the Office of the Director of National Intelligence whose records can be exempted from search and review under this section.

“(g) ALLEGATION; IMPROPER WITHHOLDING OF RECORDS; JUDICIAL REVIEW.—(1) Except as provided in paragraph (2), whenever any person who has requested agency records under section 552 of title 5, United States Code, alleges that the Office of the Director of National Intelligence has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code.

“(2) Judicial review shall not be available in the manner provided for under paragraph (1) as follows:

“(A) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by the Office of the Director of National Intelligence, such information shall be examined *ex parte*, *in camera* by the court.

“(B) The court shall determine, to the fullest extent practicable, the issues of fact based on sworn written submissions of the parties.

“(C) When a complainant alleges that requested records are improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission based upon personal knowledge or otherwise admissible evidence.

“(D)(i) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, the Office of the Director of National Intelligence shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn

written submission that exempted operational files likely to contain responsive records currently meet the criteria set forth in subsection (a).

“(ii) The court may not order the Office of the Director of National Intelligence to review the content of any exempted operational file or files in order to make the demonstration required under clause (i), unless the complainant disputes the Office’s showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

“(E) In proceedings under subparagraph (C) or (D), a party may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36.

“(F) If the court finds under this subsection that the Office of the Director of National Intelligence has improperly withheld requested records because of failure to comply with any provision of this section, the court shall order the Office to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code, and such order shall be the exclusive remedy for failure to comply with this section.

“(G) If at any time following the filing of a complaint pursuant to this paragraph the Office of the Director of National Intelligence agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.”.

(b) CLERICAL AMENDMENT.—The table of contents in the first section of the National Security Act of 1947 is amended by inserting after the item relating to section 705 the following new item:

“Sec. 706. Operational files in the Office of the Director of National Intelligence.”.

SEC. 418. INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT TO ADVISORY COMMITTEES OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

Section 4(b) of the Federal Advisory Committee Act (5 U.S.C. App.) is amended—

- (1) in paragraph (1), by striking “or”;
- (2) in paragraph (2), by striking the period and inserting “; or”; and
- (3) by adding at the end the following new paragraph:
“(3) the Office of the Director of National Intelligence.”.

SEC. 419. APPLICABILITY OF THE PRIVACY ACT TO THE DIRECTOR OF NATIONAL INTELLIGENCE AND THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

Subsection (j) of section 552a of title 5, United States Code, is amended—

- (1) in paragraph (1), by striking “or”;
- (2) by redesignating paragraph (2) as paragraph (3); and
- (3) by inserting after paragraph (1) the following new paragraph:
“(2) maintained by the Office of the Director of National Intelligence; or”.

SEC. 420. REPEAL OF CERTAIN AUTHORITIES RELATING TO THE OFFICE OF THE NATIONAL COUNTERINTELLIGENCE EXECUTIVE.

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

- (1) by striking subsections (d), (h), (i), and (j); and
- (2) by redesignating subsections (e), (f), (g), (k), (l), and (m) as subsections (d), (e), (f), (g), (h), and (i), respectively; and
- (3) in subsection (f), as redesignated by paragraph (2), by striking paragraphs (3) and (4).

(b) CONFORMING AMENDMENTS.—Such section 904 is further amended—

- (1) in subsection (d), as redesignated by subsection (a)(2) of this section, by striking “subsection (f)” each place it appears in paragraphs (1) and (2) and inserting “subsection (e)”; and
- (2) in subsection (e), as so redesignated—
 - (A) in paragraph (1), by striking “subsection (e)(1)” and inserting “subsection (d)(1)”; and
 - (B) in paragraph (2), by striking “subsection (e)(2)” and inserting “subsection (d)(2)”.

Subtitle B—Central Intelligence Agency

SEC. 431. REVIEW OF COVERT ACTION PROGRAMS BY INSPECTOR GENERAL OF THE CENTRAL INTELLIGENCE AGENCY.

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

- (1) redesignating subsection (e) as subsection (g) and transferring such subsection to the end; and
- (2) by inserting after subsection (d) the following new subsection:

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

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

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

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

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

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

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

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

SEC. 432. INAPPLICABILITY TO DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY OF REQUIREMENT FOR ANNUAL REPORT ON PROGRESS IN AUDITABLE FINANCIAL STATEMENTS.

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

SEC. 433. ADDITIONAL FUNCTIONS AND AUTHORITIES FOR PROTECTIVE PERSONNEL OF THE CENTRAL INTELLIGENCE AGENCY.

(a) IN GENERAL.—Section 5(a)(4) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f(a)(4)) is amended—

(1) by inserting “(A)” after “(4)”;

(2) in subparagraph (A), as so designated—

(A) by striking “and the protection” and inserting “the protection”; and

(B) by striking the semicolon and inserting “, and the protection of the Director of National Intelligence and such personnel of the Office of the Director of National Intelligence as the Director of National Intelligence may designate; and”;

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

“(B) Authorize personnel engaged in the performance of protective functions authorized pursuant to subparagraph (A), when engaged in, and in furtherance of, the performance of such functions, to make arrests without warrant for any offense against the United States committed in the presence of such personnel, or for any felony cognizable under the laws of the United States, if such personnel have reasonable grounds to believe that the person to be arrested has committed or is committing such felony, except that any authority pursuant to this subparagraph may be exercised only in accordance with guidelines approved by the Director and the Attorney General and such personnel may not exercise any authority for the service of civil process or for the investigation of criminal offenses;”.

(b) REQUIREMENT TO REPORT.—As soon as possible after the date of an exercise of authority under subparagraph (B) of section 5(a)(4) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f(a)(4)), as added by subsection (a)(3), and not later than 10 days after such date, the Director of the Central Intelligence Agency shall submit to the congressional intelligence committees a report describing such exercise of authority.

SEC. 434. TECHNICAL AMENDMENTS RELATING TO TITLES OF CERTAIN CENTRAL INTELLIGENCE AGENCY POSITIONS.

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

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

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

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

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

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

SEC. 435. CLARIFYING AMENDMENTS RELATING TO SECTION 105 OF THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2004.

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

(1) by striking “Director of Central Intelligence” and inserting “Director of National Intelligence”; and

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

Subtitle C—Defense Intelligence Components

SEC. 441. ENHANCEMENT OF NATIONAL SECURITY AGENCY TRAINING PROGRAM.

Subsection (e) of section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by striking “(1) When an employee” and all that follows through “(2) Agency efforts” and inserting “Agency efforts”.

SEC. 442. CODIFICATION OF AUTHORITIES OF NATIONAL SECURITY AGENCY PROTECTIVE PERSONNEL.

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

“SEC. 21. (a) The Director of the National Security Agency is authorized to designate personnel of the National Security Agency to perform protective functions for the Director and for any personnel of the Agency designated by the Director.

“(b)(1) In the performance of protective functions under this section, personnel of the Agency designated to perform protective functions pursuant to subsection (a) are authorized, when engaged in, and in furtherance of, the performance of such functions, to make arrests without a warrant for—

“(A) any offense against the United States committed in the presence of such personnel; or

“(B) any felony cognizable under the laws of the United States if such personnel have reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

“(2) The authority in paragraph (1) may be exercised only in accordance with guidelines approved by the Director and the Attorney General.

“(3) Personnel of the Agency designated to perform protective functions pursuant to subsection (a) shall not exercise any authority

for the service of civil process or the investigation of criminal offenses.

“(c) Nothing in this section shall be construed to impair or otherwise affect any authority under any other provision of law relating to the performance of protective functions.

“(d) As soon as possible after the date of an exercise of authority under this section and not later than 10 days after such date, the Director shall submit to the congressional intelligence committees a report describing such exercise of authority.

“(e) 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. 443. INSPECTOR GENERAL MATTERS.

(a) COVERAGE UNDER INSPECTOR GENERAL ACT OF 1978.—Subsection (a)(2) of section 8G of the Inspector General Act of 1978 (5 U.S.C. App. 8G) is amended—

(1) by inserting “the Defense Intelligence Agency,” after “the Corporation for Public Broadcasting,”;

(2) by inserting “the National Geospatial-Intelligence Agency,” after “the National Endowment for the Humanities,”; and

(3) by inserting “the National Reconnaissance Office, the National Security Agency,” after “the National Labor Relations Board,”.

(b) CERTAIN DESIGNATIONS UNDER INSPECTOR GENERAL ACT OF 1978.—Subsection (a) of section 8H of the Inspector General Act of 1978 (5 U.S.C. App. 8H) is amended by adding at the end the following new paragraph:

“(3) The Inspectors General of the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, and the National Security Agency shall be designees of the Inspector General of the Department of Defense for purposes of this section.”.

(c) POWER OF HEADS OF ELEMENTS OVER INVESTIGATIONS.—Subsection (d) of section 8G of that Act—

(1) by inserting “(1)” after “(d)”;

(2) in the second sentence of paragraph (1), as designated by paragraph (1) of this subsection, by striking “The head” and inserting “Except as provided in paragraph (2), the head”; and

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

“(2)(A) The Secretary of Defense, in consultation with the Director of National Intelligence, may prohibit the Inspector General of an element of the intelligence community specified in subparagraph (D) from initiating, carrying out, or completing any audit or investigation if the Secretary determines that the prohibition is necessary to protect vital national security interests of the United States.

“(B) If the Secretary exercises the authority under subparagraph (A), the Secretary shall submit to the committees of Congress specified in subparagraph (E) an appropriately classified statement of the reasons for the exercise of the authority not later than 7 days after the exercise of the authority.

“(C) At the same time the Secretary submits under subparagraph (B) a statement on the exercise of the authority in subparagraph (A) to the committees of Congress specified in subparagraph (E), the Secretary shall notify the Inspector General of such element of the submittal of such statement and, to the extent consistent with the protection of intelligence sources and methods, provide the Inspector General with a copy of such statement. The Inspector General may submit to such committees of Congress any comments on a notice or statement received by the Inspector General under this subparagraph that the Inspector General considers appropriate.

“(D) The elements of the intelligence community specified in this subparagraph are as follows:

- “(i) The Defense Intelligence Agency.
- “(ii) The National Geospatial-Intelligence Agency.
- “(iii) The National Reconnaissance Office.
- “(iv) The National Security Agency.

“(E) The committees of Congress specified in this subparagraph are—

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

“(ii) the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.”

SEC. 444. CONFIRMATION OF APPOINTMENT OF HEADS OF CERTAIN COMPONENTS OF THE INTELLIGENCE COMMUNITY.

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

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

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

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

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

(c) **POSITIONS OF IMPORTANCE AND RESPONSIBILITY.**—

(1) **DESIGNATION OF POSITIONS.**—The President may designate any of the positions referred to in paragraph (2) as positions of importance and responsibility under section 601 of title 10, United States Code.

(2) **COVERED POSITIONS.**—The positions referred to in this paragraph are as follows:

- (A) The Director of the National Security Agency.
- (B) The Director of the National Reconnaissance Office.

(d) **EFFECTIVE DATE AND APPLICABILITY.**—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act and shall apply upon the earlier of—

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

to such position, by and with the advice and consent of the Senate, assumes the duties of such position; or

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

SEC. 445. CLARIFICATION OF NATIONAL SECURITY MISSIONS OF NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY FOR ANALYSIS AND DISSEMINATION OF CERTAIN INTELLIGENCE INFORMATION.

Section 442(a) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting after paragraph (1) the following new paragraph (2):

“(2)(A) As directed by the Director of National Intelligence, the National Geospatial-Intelligence Agency shall also develop a system to facilitate the analysis, dissemination, and incorporation of likenesses, videos, and presentations produced by ground-based platforms, including handheld or clandestine photography taken by or on behalf of human intelligence collection organizations or available as open-source information, into the National System for Geospatial Intelligence.

“(B) The authority provided by this paragraph does not include authority for the National Geospatial-Intelligence Agency to manage tasking of handheld or clandestine photography taken by or on behalf of human intelligence collection organizations.”; and

(3) in paragraph (3), as so redesignated, by striking “paragraph (1)” and inserting “paragraphs (1) and (2)”.

SEC. 446. SECURITY CLEARANCES IN THE NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY.

The Secretary of Defense shall, during the period beginning on the date of the enactment of this Act and ending on December 31, 2008, delegate to the Director of the National Geospatial-Intelligence Agency personnel security authority with respect to the National Geospatial-Intelligence Agency (including authority relating to the use of contractor personnel in investigations and adjudications for security clearances) that is identical to the personnel security authority of the Director of the National Security Agency with respect to the National Security Agency.

Subtitle D—Other Elements

SEC. 451. CLARIFICATION OF INCLUSION OF COAST GUARD AND DRUG ENFORCEMENT ADMINISTRATION AS ELEMENTS OF THE INTELLIGENCE COMMUNITY.

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

(1) in subparagraph (H)—

(A) by inserting “the Coast Guard,” after “the Marine Corps,”; and

(B) by inserting “the Drug Enforcement Administration,” after “the Federal Bureau of Investigation,”; and

(2) in subparagraph (K), by striking “, including the Office of Intelligence of the Coast Guard”.

TITLE V—OTHER MATTERS

Subtitle A—General Intelligence Matters

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

(a) EXTENSION.—

(1) IN GENERAL.—Subsection (a) of section 1007 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2442) is amended by striking “September 1, 2004” and inserting “December 31, 2008”.

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

(3) COMMISSION MEMBERSHIP.—

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

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

(b) FUNDING.—

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

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

SEC. 502. REPORT ON INTELLIGENCE ACTIVITIES.

Not later than 120 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the congressional intelligence committees a report describing authorizations, if any, granted during the 10-year period ending on the date of the enactment of this Act to engage in intelligence activities related to the overthrow of a democratically elected government.

SEC. 503. AERIAL RECONNAISSANCE PLATFORMS.

Section 133(b) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364; 120 Stat. 2112) is amended—

(1) in paragraph (1)—

(A) by striking “After fiscal year 2007” and inserting “For each fiscal year after fiscal year 2007”; and

(B) by inserting “, in that fiscal year,” after “Secretary of Defense”; and
(2) in paragraph (2)—

(A) by inserting “in a fiscal year” after “Department of Defense”; and

(B) by inserting “in that fiscal year” after “Congress”.

Subtitle B—Technical Amendments

SEC. 511. TECHNICAL AMENDMENTS TO TITLE 10, UNITED STATES CODE, ARISING FROM ENACTMENT OF THE INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.

(a) REFERENCES TO HEAD OF INTELLIGENCE COMMUNITY.—Title 10, United States Code, is amended by striking “Director of Central Intelligence” each place it appears and inserting “Director of National Intelligence” in the following:

- (1) Section 193(d)(2).
- (2) Section 193(e).
- (3) Section 201(a).
- (4) Section 201(b)(1).
- (5) Section 201(c)(1).
- (6) Section 425(a).
- (7) Section 431(b)(1).
- (8) Section 441(c).
- (9) Section 441(d).
- (10) Section 443(d).
- (11) Section 2273(b)(1).
- (12) Section 2723(a).

(b) CLERICAL AMENDMENTS.—Such title is further amended by striking “DIRECTOR OF CENTRAL INTELLIGENCE” each place it appears and inserting “DIRECTOR OF NATIONAL INTELLIGENCE” in the following:

- (1) Section 441(c).
- (2) Section 443(d).

(c) REFERENCE TO HEAD OF CENTRAL INTELLIGENCE AGENCY.—Section 444 of such title is amended by striking “Director of Central Intelligence” each place it appears and inserting “Director of the Central Intelligence Agency”.

SEC. 512. TECHNICAL AMENDMENT TO THE CENTRAL INTELLIGENCE AGENCY ACT OF 1949.

Section 5(a)(1) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f(a)(1)) is amended by striking “authorized under paragraphs (2) and (3) of section 102(a), subsections (c)(7) and (d) of section 103, subsections (a) and (g) of section 104, and section 303 of the National Security Act of 1947 (50 U.S.C. 403(a)(2), (3), 403–3(c)(7), (d), 403–4(a), (g), and 405)” and inserting “authorized under section 104A of the National Security Act of 1947 (50 U.S.C. 403–4a).”.

SEC. 513. TECHNICAL AMENDMENTS RELATING TO THE MULTIYEAR NATIONAL INTELLIGENCE PROGRAM.

(a) IN GENERAL.—Subsection (a) of section 1403 of the National Defense Authorization Act for Fiscal Year 1991 (50 U.S.C. 404b) is amended—

- (1) in the heading, by striking “FOREIGN”; and
- (2) by striking “foreign” each place it appears.

(b) RESPONSIBILITY OF DIRECTOR OF NATIONAL INTELLIGENCE.—That section is further amended—

(1) in subsections (a) and (c), by striking “Director of Central Intelligence” and inserting “Director of National Intelligence”; and

(2) in subsection (b), by inserting “of National Intelligence” after “Director”.

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

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

SEC. 514. TECHNICAL CLARIFICATION OF CERTAIN REFERENCES TO JOINT MILITARY INTELLIGENCE PROGRAM AND TACTICAL INTELLIGENCE AND RELATED ACTIVITIES.

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

(1) in subsection (c)(3)(A), by striking “annual budgets for the Joint Military Intelligence Program and for Tactical Intelligence and Related Activities” and inserting “annual budget for the Military Intelligence Program or any successor program or programs”; and

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

SEC. 515. TECHNICAL AMENDMENTS TO THE NATIONAL SECURITY ACT OF 1947.

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

(1) In section 102A (50 U.S.C. 403–1)—

(A) in subsection (d)—

(i) in paragraph (3), by striking “subparagraph (A)” in the matter preceding subparagraph (A) and inserting “paragraph (1)(A)”; and

(ii) in paragraph (5)(A), by striking “or personnel” in the matter preceding clause (i); and

(iii) in paragraph (5)(B), by striking “or agency involved” in the second sentence and inserting “involved or the Director of the Central Intelligence Agency (in the case of the Central Intelligence Agency)”;

(B) in subsection (1)(2)(B), by striking “section” and inserting “paragraph”; and

(C) in subsection (n), by inserting “AND OTHER” after “ACQUISITION”.

(2) In section 119(c)(2)(B) (50 U.S.C. 404o(c)(2)(B)), by striking “subsection (h)” and inserting “subsection (i)”.

(3) In section 705(e)(2)(D)(i) (50 U.S.C. 432c(e)(2)(D)(i)), by striking “responsible” and inserting “responsive”.

SEC. 516. TECHNICAL AMENDMENTS TO THE INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.

(a) AMENDMENTS TO NATIONAL SECURITY INTELLIGENCE REFORM ACT OF 2004.—The National Security Intelligence Reform Act of 2004 (title I of Public Law 108–458; 118 Stat. 3643) is amended as follows:

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

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

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

(b) OTHER AMENDMENTS TO INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.—The Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3638) is amended as follows:

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

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

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

(C) in subsection (f), by striking “shall,” in the matter preceding paragraph (1) and inserting “shall”.

(2) In section 2006 (28 U.S.C. 509 note)—

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

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

SEC. 517. TECHNICAL AMENDMENTS TO THE EXECUTIVE SCHEDULE.

(a) EXECUTIVE SCHEDULE LEVEL II.—Section 5313 of title 5, United States Code, is amended by striking the item relating to the Director of Central Intelligence and inserting the following new item:

“Director of the Central Intelligence Agency.”

(b) EXECUTIVE SCHEDULE LEVEL III.—Section 5314 of title 5, United States Code, is amended by striking the item relating to the Deputy Directors of Central Intelligence and inserting the following new item:

“Deputy Director of the Central Intelligence Agency.”

(c) EXECUTIVE SCHEDULE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by striking the item relating to the General Counsel of the Office of the National Intelligence Director and inserting the following new item:

H. R. 2082—58

“General Counsel of the Office of the Director of National Intelligence.”.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*