



No. 77

September 24, 2004

S. 2845 - National Intelligence Reform Act of 2004

Calendar No. 716

S. 2845 was favorably reported by the Committee on Governmental Affairs on September 22, 2004 by a unanimous vote; no written report was filed at that time.

Noteworthy

- Under a unanimous consent agreement, the Senate will begin floor consideration of S. 2845 on September 27 at 2:00 p.m., and all amendments must be related to the subject matter of the bill or related to the 9/11 Commission recommendations.
- The Committee on Governmental Affairs held nine hearings from late July to early September that served as the basis for the Intelligence Community reform legislation. On September 21, the Committee began a two-day markup of S. 2845, sponsored by Senators Collins (R-ME) and Lieberman (D-CT).
- The Majority Leader has stated that the goal is to pass the legislation before the Senate recesses in October.
- On August 27, the Bush Administration issued four Executive Orders initiating Intelligence Community reforms and two Homeland Security Presidential Directives initiating homeland security reforms.
- On September 8, the Administration submitted guidelines for Intelligence Community and homeland security reforms.
- Numerous House committees are currently drafting Intelligence Community reform proposals. It is expected that the House will take up consideration of a reform bill before October 8.

Highlights

- The bill creates the new position of National Intelligence Director (NID). This Senate-confirmed official will manage the nation's Intelligence Community (I.C.) and serve as the President's chief intelligence adviser. The NID will have strong budget, personnel, security, and other authorities, and will direct I.C. resources where and when they are needed.
- The bill creates a National Counterterrorism Center (NCTC), expanding the community-wide intelligence analysis capabilities of the new Terrorist Threat Integration Center (TTIC) to include developing interagency counterterrorism plans. The NCTC will not have authority to direct the execution of operations by agencies and will not be in the military chain of command.
- The bill redefines the National Foreign Intelligence Program (NFIP) to be the National Intelligence Program (NIP). The National Intelligence Program will include at least: the Central Intelligence Agency (CIA), National Security Agency (NSA), National Geospatial-Intelligence Agency (NGA), National Reconnaissance Office (NRO), the FBI's Office of Intelligence, and the Department of Homeland Security's Information Analysis function, unless the NID and the head of a department agree otherwise. The National Intelligence Program will not include Defense Department intelligence assets that principally serve joint or tactical military needs.
- The bill creates a Civil Liberties Board, as recommended by the 9/11 Commission, to ensure privacy and civil liberties concerns are protected as the President and executive agencies propose and implement policies to protect the nation against terrorism.
- The bill includes provisions that require the establishment of an information-sharing network designed to facilitate and promote the sharing of terrorism information throughout the federal government, with state and local agencies, and where appropriate, with the private sector.

Bill Summary

I. National Intelligence Director

- This legislation creates a National Intelligence Director (NID) that has the following characteristics:
 - Senate-confirmed position; and
 - President's primary intelligence adviser.

- The NID will perform the following functions:
 - **Manage the National Intelligence Program**, which is composed of Intelligence Community elements concerned with “national” intelligence – i.e., intelligence pertaining to the interests of more than one department.
 - **Serve as the head of the National Intelligence Authority**, which will contain entities such as the Office of the NID, the National Counterterrorism Center, and the national intelligence centers that the NID is authorized to create.
 - **Chair a cabinet-level Joint Intelligence Community Council.**
 - The purpose of the Council is to advise the NID on setting requirements, financial management, and establishing policies across the Intelligence Community.
 - The Council will help ensure the implementation of a joint, unified national intelligence effort to protect national security.
 - **Develop an annual budget request** (and present to the President) – a budget category composed of Intelligence Community components that produce “national” intelligence, meaning, those that serve more than one department.
 - **Receive the National Intelligence Program appropriation** (“power of the purse”), and have the ability to force integration among these agencies, as well as the authority to monitor agency expenditures.
 - **Exercise parallel authority (with the Secretary of Defense) over major acquisitions** funded through the appropriations that the NID will control.
 - **Transfer funds within the National Intelligence Program** to activities that are of higher intelligence priority, subject to: approval of the Director of the Office of Management and Budget, appropriate notification to Congress, and after consultation with the heads of affected agencies and departments. The transfer may not exceed applicable ceilings established in law.
 - **Establish and manage intelligence collection and analysis requirements, priorities,** and tasking of the Intelligence Community.
 - **Set security, personnel, and information technology standards across the Intelligence Community** in order to tie together intelligence agencies into a robust, information-sharing network that strengthens the Community’s ability to recruit and retain the workforce needed to address present and future challenges.
 - **Transfer personnel within the National Intelligence Program**, including staffing the National Counterterrorism Center and the national intelligence centers. In general, the NID shall consult with the heads of departments before exercising budget and personnel authorities.

- **Play an active role in selecting heads of the key entities in the National Intelligence Program.**
 - The NID, with the “concurrence” of the Secretary of Defense, will forward recommendations to the President for the NSA, NGA, and NRO directors;
 - The NID will have the right of “concurrence” with the FBI Director’s selection to head the FBI Office of Intelligence, the Secretary of Homeland Security’s recommendation to the President for the Undersecretary for Information Analysis and Infrastructure Protection, and the Secretary of Defense’s recommendation to the President for the Undersecretary of Defense for Intelligence and selection to head the Defense Intelligence Agency; and
 - The NID will forward a recommendation to the President for the CIA Director.

- **Create National Intelligence Centers** that will integrate capabilities from across the Intelligence Community to accomplish intelligence missions.

- **Establish and maintain an effective, open-source information collection capability** within the Intelligence Community.

- **Establish an integrated framework to bring together the Intelligence Community’s educational components** in order to promote cross-disciplinary education and joint training.

- **Establish a National Intelligence Reserves Corps** to provide temporary reemployment on a voluntary basis of former intelligence community employees during periods of emergency.

- **Provide Congress with a variety of intelligence products and materials**, such as the raw data Congress may need to perform its legislative and oversight roles.

- The Office of the NID will consist of the following:
 - **A general counsel, comptroller, CIO, CFO, civil liberties officer, and privacy officer; the National Intelligence Council**, which currently works for the Director of Central Intelligence; and **no more than five deputies.**

 - **A Principal Deputy NID will be appointed by the President** upon NID recommendation, **by and with the consent of the Senate**, to assist in carrying out the duties and responsibilities of the NID and will act as the NID in the event of an absence or vacancy in the position.

- Other NID-related issues include the following:
 - **Declassification of the National Intelligence Program’s top-line aggregate appropriation figure.** The NID will submit a report to Congress as to whether declassifying the top-line appropriations figures for each agency in the Intelligence

Community would harm national security.

- **Creation of an Office of Inspector General**, as well as an **Ombudsman** to address concerns about politicized intelligence.
 - The Ombudsman's office will have an Analytic Review Unit to provide an independent and objective evaluation of the quality of analysis of national intelligence.
 - The Ombudsman may refer to the Inspector General any serious cases of misconduct related to bias or politicization.

II. National Counterterrorism Center

- This legislation creates a **National Counterterrorism Center (NCTC)** that has the following components:
 - **Directorate of Intelligence** – in essence, a national intelligence center to integrate intelligence capabilities against terrorism.
 - **Directorate of Planning** – to develop interagency counterterrorism plans, assign agencies' responsibilities, and monitor implementation.
- The Directorate of Planning will perform the following functions:
 - **Concentrate on developing joint counterterrorism plans.**
 - **Does not have authority to direct operations by agencies in the Executive Branch, nor is it part of the military chain of command.**
- This legislation creates a NCTC Director that has the following characteristics:
 - Senate-confirmed position;
 - Equivalent of a Deputy Secretary; and
 - Reports to the NID regarding the activities of the Directorate of Intelligence, and to the President and the NID regarding the activities of the Directorate of Planning.
- The NCTC Director will perform the following functions:
 - **Play an active role in selecting key counterterrorism officials in the Executive Branch.**
 - The head of the relevant department or agency must seek the Director's concurrence with the selection or recommendation to the President for the Director of the CIA Counterterrorist Center, the Assistant FBI Director in charge of the Counterterrorism Division, the State Department's Ambassador-at-Large for Counterterrorism, and any other official designated by the President.
 - If the Director does not concur with that selection, then the head of the relevant department or agency must inform the President of the Director's non-concurrence.

III. FBI/CIA Reforms

- The legislation undertakes the following reforms to strengthen the **FBI's capabilities**:
 - **Creates a national security workforce** and ensures that each FBI field office has a senior official responsible for intelligence matters;
 - **Provides basic training** to all new agents in both criminal justice and national security matters; and
 - **Establishes career positions** in national intelligence matters for agents and analysts.
- The legislation requires the following reforms to transform the **CIA's capabilities**:
 - **Enhance analytic and human intelligence capabilities;**
 - **Develop and maintain an effective language program;**
 - Achieve a more effective balance with respect to **unilateral and liaison operations;**
 - **Submit detailed reports to Congress** about progress in these and other areas; and
 - **Coordinate relationships with foreign intelligence and security services**, but with oversight and direction from the NID.

IV. Civil Liberties Board

- The legislation establishes a **Privacy and Civil Liberties Oversight Board**.
- The Board will perform the following functions:
 - **Advise the President and other federal officials** on efforts to ensure that the protection of privacy and civil liberties are appropriately considered when the government proposes or implements legislation related to the War on Terrorism.
 - The Board does not have any veto authority over any proposal.
 - **Investigate and review implementation of government policies** to determine the extent to which the government is respecting privacy and civil liberties.
 - The Board will have the authority to obtain documents and access to personnel from government agencies and to subpoena documents and testimony from outside the government.

VI. Information-Sharing

- The legislation requires the President to **establish an information-sharing network to enhance information flow within the U.S. government** and to promote sharing of intelligence and homeland security information throughout the federal government, with state and local agencies, and with the private sector, when applicable.

Bill Provisions

Please see attached title-by-title breakdown of the bill, which was prepared by the Governmental Affairs Committee. As of press time, the Committee report was not available.

Administration Position

No formal Statement of Administration Policy (SAP) has been released as of press time. However, on September 8, the Administration submitted to Congress guidelines on how the Intelligence Community should be reformed, and has worked closely with the Governmental Affairs Committee staff. A SAP is expected to be released before floor debate begins on this bill.

Other Views

Several Senators have proposed legislation to reform the Intelligence Community including Senators Feinstein (S. 190); Bob Graham (S. 1520); Daschle (S. 6); McCain/Lieberman (S. 2774); and Specter (S. 2811).

Possible Amendments

As of press time, no amendment list was available; however, amendments are expected. Per the unanimous consent agreement, all amendments must be related to the subject matter of the bill or related to the 9/11 Commission recommendations.

THE NATIONAL INTELLIGENCE REFORM ACT OF 2004
SECTION-BY-SECTION

Section 1 *Short Title; Table of Contents*

Section 2. *Definitions*

- Adds the National Intelligence Authority to the membership of the "intelligence community."
- Defines "national intelligence" as intelligence that pertains to the interests of more than one department or agency, excluding counterintelligence or law enforcement activities conducted by the FBI except as agreed between the National Intelligence Director (NID) and the FBI Director. "National intelligence" contrasts with "departmental" intelligence, which refers to intelligence that is only of interest to one department or agency (e.g., intelligence to support the military).
- Defines the "National Intelligence Program" to: (1) include all national programs of the intelligence community; (2) include all programs of CIA, NSA, NGA, NRO, The DHS Office of Information Analysis, and the FBI's Office of Intelligence, whether or not they pertain to national intelligence; and (3) exclude programs that produce intelligence only of interest to one department or agency or that principally support tactical or joint military operations. This definition also includes any other project, program, or activity relating to national intelligence unless the NID and head of the department in question agree to exclude it.

TITLE I NATIONAL INTELLIGENCE AUTHORITY

SUBTITLE A NATIONAL INTELLIGENCE AUTHORITY

Section 101. *National Intelligence Authority*

- Creates the National Intelligence Authority as an independent establishment in the Executive Branch, composed of the Office of the NID, the Inspector General, the Ombudsman of the NIA, the National Counterterrorism Center (NCTC), the National Intelligence Centers, and other entities established by the law, President, or the NID.
- The National Intelligence Authority's purpose is to: (1) unify and strengthen the intelligence community's efforts; (2) ensure that such efforts are organized around missions rather than collection disciplines; (3) to provide for the operation of the NCTC and the National Intelligence Centers; (4) eliminate barriers between efforts to collect foreign intelligence abroad and domestically; and (5) establish clear responsibility and accountability for counterterrorism and other intelligence missions.

- The National Intelligence Authority shall have a seal.

Section 102. National Intelligence Director

- The NID is nominated by the President and confirmed by the Senate. The NID is prohibited from simultaneously serving in any capacity in any other element of the intelligence community.
- The NID shall (1) serve as the head of the intelligence community; (2) act as the President's principal intelligence adviser; (3) serve as the head of the National Intelligence Authority; and (4) direct and oversee the National Intelligence Program.

SUBTITLE B RESPONSIBILITIES AND AUTHORITIES OF THE NATIONAL INTELLIGENCE DIRECTOR

Section 111. Provision of National Intelligence

- The NID is responsible for providing timely and objective national intelligence to: (1) the President; (2) the heads of other departments and agencies; (3) the Chairman of the Joint Chiefs of Staff and senior military commanders; (4) to the House and Senate, and the committees thereof; and (5) to such other persons or entities as the President shall direct.

Section 112. Responsibilities of National Intelligence Director

- The NID shall determine the annual budget for intelligence activities by: (1) providing to the heads of the departments containing agencies or elements within the intelligence community and that have one or more programs, projects, or activities within the NIP, and to the heads of such agencies and elements, guidance for development the NIP budget pertaining to such agencies or elements; (2) developing and presenting to the President an annual budget for the NIP after consultation with the heads of agencies or elements, and the heads of their respective departments, (3) providing budget guidance to each element of the intelligence community that does not have one or more program, project, or activity within the NIP regarding the intelligence and intelligence-related activities of such element; and (4) participating in the development by the Secretary of Defense of the annual budgets for the military intelligence programs, projects, and activities not included in the NIP.
- The NID shall manage and oversee the National Intelligence Program, including by executing funds, reprogramming funds, and transferring funds and personnel as appropriate.
- The NID shall establish requirements and priorities for collection, analysis, and dissemination of national intelligence by elements of the intelligence community. The NID shall also establish collection and analysis requirements for the intelligence community, determine collection and analysis priorities, issue and manage collection and analysis tasking, and resolve conflicts in the tasking of elements of the intelligence

community within the National Intelligence Program, except as otherwise agreed with the Secretary of Defense pursuant to the direction of the President. Furthermore, the NID shall provide advisory tasking on the collection of intelligence to elements of the government not part of the intelligence community.

- The NID shall also establish requirements and priorities for collection of intelligence under the Foreign Intelligence Surveillance Act (FISA) and assist the Attorney General in ensuring that intelligence derived from FISA operations is disseminated, but the NID has no authority to direct or undertake FISA operations except as otherwise authorized by statute or Executive order.
- The NID shall oversee and manage the NCTC, and establish, oversee, and manage National Intelligence Centers.
- In consultation with the heads of the other elements of the intelligence community, the NID shall establish a personnel management system for the intelligence community that: (1) facilitates assignments in the NCTC and the National Intelligence Centers; (2) sets standards for education and training; (3) encourage the recruitment and retention of high-quality individuals; (4) ensures that intelligence personnel are sufficiently diverse; (5) makes service in more than one element of the intelligence community a condition for promotion; (6) effectively manages intelligence community personnel who are trained in community-wide matters; (7) provides for effective management of human capital within the intelligence community; (8) is consistent with public employment principles of merit and fitness; and (9) includes the enhancements required under section 114,
- The NID shall promote and evaluate the utility of national intelligence to consumers in the U.S. Government.
- The NID shall ensure that appropriate officials have access to a variety of intelligence assessments and analytical views.
- The NID shall: (1) protect intelligence sources and methods; (2) establish reporting guidelines that maximize the dissemination of information while protecting sources and methods; and (3) establish requirements and procedures for: (a) the classification of information; (b) access to classified information; and (c) dissemination of classified information. The NID shall establish and implement uniform standards and procedures for granting access to sensitive compartmented information.
- The NID shall develop, in consultation with the heads of relevant departments and agencies, an integrated communications network that provides interoperable communications capabilities within the intelligence community and with other entities or persons the NID determines appropriate.
- The NID shall establish standards for information technology and communications for the intelligence community.

- The NID shall ensure that the intelligence community makes efficient and effective use of open-source **information** and analysis.
- The NID shall ensure compliance by the intelligence community with all laws, regulations, and policies, including applicable to protecting civil rights and civil liberties.
- The NID shall eliminate waste and unnecessary duplication within the intelligence community and perform other functions as directed by the President.
- The NID shall direct and coordinate the performance by the elements of intelligence community within the NIP of such services that are as are of common concern which the NID determines can be more efficiently performed in a consolidated manner, including research and development.
- The NID may prescribe regulations relating to the discharge and enforcement of the responsibilities under this section.

Section 113, Authorities of National Intelligence Director

- The NID shall have access to all national intelligence collected anywhere in the executive branch, to the extent approved by the President.
- The NID shall determine the annual budget for intelligence activities by: (1) providing to the heads of the departments containing agencies or elements within the intelligence community and that have one or more programs, projects, or activities within the NIP, and to the heads of such agencies and elements, guidance for development the NIP budget pertaining to such agencies or elements; (2) developing and presenting to the President an annual budget for the NIP after consultation with the heads of agencies or elements, and the heads of their respective departments, including, in furtherance of such budget, the review, modification, and approval of budgets of the agencies or elements of the intelligence community with one or more programs, projects, or activities within the NIP utilizing the budget authorities in subsection (c)(1); (3) providing guidance on the development of annual budgets for each element of the intelligence community that does not have any program, project, or activity within the NIP utilizing the budget authorities in subsection (c)(2); (4) participating in the development by the Secretary of Defense of the annual budget for military intelligence programs and activities outside the NIP; (4) receiving the appropriations for the NIP as specified in subsection (d) and allotting and allocating funds to agencies and elements of the intelligence community; and (5) managing and overseeing the execution by the agencies or elements of the intelligence community, and, if necessary, the modification of the annual budget for the NIP, including directing the reprogramming and transfer of funds, and the transfer of personnel, among and between elements of the intelligence community within the NIP utilizing the authorities in subsections (f) and (g).
- In developing the annual National Intelligence Program budget, the NID shall coordinate, prepare, and present to the President the annual budgets of intelligence community

components that are within the National Intelligence Program, in consultation with the heads of such components. The NID shall approve budget submissions from such components, and may require modifications to meet NID priorities, before approving such budgets for submission to the President.

Regarding components of the intelligence community not within the National Intelligence Program, the NID shall provide guidance for the development of their budgets. The heads of such components shall coordinate closely with the NID before submitting their budgets to the President.

Any amounts appropriated or otherwise made available to the National Intelligence Program are appropriated to and under the NID's direct jurisdiction. The NID shall manage and oversee the execution of National Intelligence Program funds by any intelligence community element which receives such funds.

National Intelligence Program funds may not be reprogrammed by an element of the intelligence community without NID approval. A Department head shall consult with the NID before reprogramming non-National Intelligence Program funds of departmental entities within the intelligence community. The NID shall consult with the affected department head prior to reprogramming funds of an element of the intelligence community within the NIP. The NID shall consult with the appropriate committees of Congress regarding modifications of existing procedures to expedite the reprogramming of funds within the NIP, including procedures for notifying Congress of department or agency objections to a reprogramming by the NID.

With the approval of the Office of Management and Budget and after consultation with the affected department or agency, the NID may (1) transfer or reprogram funds from one intelligence community element funded by the National Intelligence Program to another; (2) review, and approve or disapprove, any proposal to transfer or reprogram funds from non-NIP appropriations to NIP appropriations; (3) in accordance with procedures developed by the NID, transfer personnel of an element of the intelligence community funded by the NIP to another element of the intelligence community; and (4) in accordance with procedures developed by the NID and the heads of the departments and agencies concerned, transfer personnel of an element of the intelligence community funded outside the NIP to another element of the intelligence community. The NID may only make such a transfer if the funds or personnel are being transferred to a higher priority, the funds are not being transferred to the NID Reserve for Contingencies, and the transfer does not exceed applicable ceilings. The NID shall notify the Appropriations Committees of the House and the Senate, Senate Select Committee on Intelligence, and the House Permanent Select Committee on Intelligence of all transfers. In addition, the NID shall notify the Armed Services Committees of transfers involving Defense Department personnel; the Judiciary Committees of transfers involving FBI personnel; and the Senate Committee on Governmental Affairs and the House Committee on Homeland Security of transfers involving Department of Homeland Security personnel.

- The NID shall establish information-technology standards for the intelligence community and shall promote and encourage information-sharing among the elements of the intelligence community.
- The NID shall oversee and direct the Director of the Central Intelligence Agency in coordinating the relationships between elements of the intelligence community and their counterparts in foreign governments on all matters relating to national security intelligence or involving intelligence acquired through clandestine means.
- The NID shall establish and maintain within the intelligence community an effective and efficient open source information capability.
- The head of each element of the intelligence community shall promptly provide the NID such information as the NID may request.

Section 114. Enhanced Personnel Management

- The NID shall prescribe regulations to provide incentives (e.g., bonuses) for intelligence community personnel to serve on the staffs of the NCTC, the National Intelligence Centers, and other community-management positions.
- The NID shall ensure that intelligence personnel who are assigned or detailed for service under the NID shall be promoted at rates equivalent to or better than personnel who did not serve in such capacities.
- The NID shall prescribe mechanisms to facilitate the personnel rotation across the intelligence community so that intelligence personnel will become more 'joint' - i.e., understanding more than one intelligence organization or disciplines. Such mechanisms may include: (1) providing rewards for service in 'joint' positions; (2) establishing a special occupational category for intelligence personnel who wish to devote their careers to such service; (3) establishing requirements for education, training, service, and evaluation on 'joint' matters. It is the sense of Congress that such mechanisms seek to duplicate joint officer management policies established by the Goldwater-Nichols Department of Defense Reorganization Act of 1986.

Section 115. Security Clearances

- This section would require President, acting through the NID, to establish uniform standards and procedures for the access to classified information for both employees and contract personnel. The NID would also be required to ensure reciprocity among executive branch agencies for clearances. The section would also require the President to designate a single federal agency to be responsible for the providing and maintaining clearances. The agency selected would be tasked with establishing and maintaining a database of all clearances to help ensure reciprocity.

Section 116. National Intelligence Reserve Corps

- The NID may provide for the establishment and training of a National Intelligence Reserve Corps for the temporary reemployment on a voluntary basis of former intelligence community employees during times of emergency.

Section 117. Appointment and Termination of Certain Officials Responsible for Intelligence-Related Activities

- The NID shall recommend to the President an individual to fill the position of CIA Director.
- The NID shall obtain the concurrence of the Secretary of Defense before recommending to the President an individual to fill the position of Director of the National Security Agency; Director of the National Reconnaissance Office; or Director of the National Geo spatial-Intelligence Agency. If the Defense Secretary does not concur in the recommendation, the NID may still make the recommendation, but must include with the recommendation a statement that the Secretary does not concur.
- The head of the appropriate department or agency shall obtain the concurrence of the NID before appointing or recommending to the President for appointment the Under Secretary of Defense for Intelligence; the Director of the Defense Intelligence Agency; the Assistant Secretary of Homeland Security for Information Analysis; and the Executive Assistant Director for Intelligence of the FBI. If the NID does not concur, the secretary or agency head may still appoint or recommend the official for appointment, but must notify the President of the lack of concurrence.
- The NID may recommend any official covered by this section for termination to the President or head of the appropriate department or agency. The NID must seek the concurrence of the head of the affected department or agency. If there is no concurrence, the NID may still make the recommendation, but must notify the President of the lack of concurrence.

Section 118. Reserve for Contingencies of the National Intelligence Director

- This section establishes a Reserve for Contingencies of the NID consisting of amounts appropriated to, transferred to, or deposited in the Reserve to be used for purposes as are provided for by law. All unobligated balances of the CIA Reserve for Contingencies shall be transferred to this fund on the date of enactment.

SUBTITLE C OFFICE OF THE NATIONAL INTELLIGENCE DIRECTOR

Section 121. Office of the National Intelligence Director

- There is within the National Intelligence Authority, an Office of the National Intelligence Director with the function of helping the NID in carrying out the duties and

responsibilities of the NID. The Office of the NID shall have a professional staff and may have permanent staff, including transferred elements of the Community Management Staff.

- The Office of the NID consists of the Principal Deputy NID; any other Deputy NID appointed under §122(b); the National Intelligence Council; the General Counsel of the National Intelligence Authority; the Intelligence Comptroller; the Office for Civil Rights and Civil Liberties of the National Intelligence Authority; the Privacy Officer of the National Intelligence Authority; the Chief Information Officer of the National Intelligence Authority; the Chief Human Capital Officer of the National Intelligence Authority; the Chief Financial Officer of the NIA; the National Counterintelligence Executive; and such other offices and officials as may be established by law or the NID may establish or designate. The National Intelligence Council and the National Counterintelligence Executive currently exist and are being transferred to the Office of the NID.
- As of October 1, 2006 the Office of the NID may not co-locate with any other element of the intelligence community,

Section 122. Deputy National Intelligence Directors

- There is a Principal Deputy NID recommended by the NID and appointed by the President with the advice and consent of the Senate, who may not serve in any other capacity in any other element of the intelligence community.
- There shall be not more than four Deputy NIDs, all of whom shall be appointed by the President. The Deputy NIDs shall be recommended by the NID to the President and shall carry out such duties as specified by law or the NID.

Section 123. National Intelligence Council

- The National Intelligence Council shall be composed of senior intelligence community analysts and substantive experts from the public and private sector who shall be appointed by, report to, and serve at the pleasure of the NID. The members of the National Intelligence Council shall constitute the senior intelligence advisers of the Intelligence Community with their respective areas of expertise. This reflects the law currently governing the National Intelligence Council.
- The Council shall produce national intelligence estimates (including alternate views); evaluate community-wide collection and production of intelligence; and otherwise assist the NID in carrying out the position's responsibilities under §111.
- The NID shall ensure that each national intelligence estimate (1) states separately and distinguishes between the intelligence underlying such estimate and the assumptions and judgments of analysts with respect to such intelligence and estimate; (2) describes the quality and reliability of the intelligence underlying such estimate; (3) presents and

explains alternate conclusions, if any, with respect to the intelligence underlying such estimate and such estimate; and (4) characterizes the uncertainties, if any, and the confidence in such estimate. This is a new responsibility added to the law governing the National Intelligence Council.

- The Council has the authority to contract. In addition, its staff shall be provided by the NID and support shall be provided as appropriate by the heads of the elements of the intelligence community. This reflects the law currently governing the National Intelligence Council.

Section 124. General Counsel of the National Intelligence Authority

- The General Counsel of the NIA shall be appointed by the President with the advice and consent of the Senate. This official is the chief legal officer of the NIA and shall perform such functions as the NID shall prescribe. An official serving in this position may not also serve as General Counsel of any other department, agency, or element of the United States government.

Section 125. Intelligence Comptroller.

- The NID shall appoint an Intelligence Comptroller from civilian life who shall report directly to the NID. This official shall assist the NID in preparing and executing the budget of the NIP; assist the NID in participating in the Defense Secretary's annual budget for military intelligence and activities outside of the NIP; provide unfettered access to the NID to financial information under the NIP; and other duties as may be prescribed by the NID or specified by law.

Section 126. Officer for Civil Rights and Civil Liberties of the National Intelligence Authority

- The NID shall appoint an Officer for Civil Rights and Civil Liberties of the National Intelligence Authority who shall report directly to the NID. This official shall coordinate with the NIA Privacy Officer.
- This official shall assist the NID in ensuring that the protection of civil rights and civil liberties is appropriately incorporated in policies and procedures developed for and implemented by the NIA, in the relationships among the elements of the intelligence community within the NIP, and in the relationships between the elements of the intelligence community within the NIP and the other elements of the intelligence community. This official shall also oversee compliance by the NIA with the Constitution and all laws and rules relating to civil rights and civil liberties regarding the same.
- This official shall also review, investigate, and assess complaints and other information regarding possible abuses of civil rights or civil liberties in the administration of and relationships among the NIA, unless the NIA's IG determines that the IG can better review the matter.

Section 127. Privacy Officer of the National Intelligence Authority

- The NID shall appoint a Privacy Officer of the NIA. This official shall have primary responsibility for the privacy policy of the NIA and shall coordinate with the NIA Officer for Civil Rights and Civil Liberties.

Section 128. Chief Information Officer of the National Intelligence Authority.

- The NID shall appoint a Chief Information Officer of the NIA. The NIA CIO shall assist the NID in developing and implementing an integrated communications network that provides interoperable communications capabilities among all elements of the intelligence community.

Section 129. Chief Human Capital Officer of the National Intelligence Authority.

- This section would require the NID to appoint a Chief Human Capital Officer to assist the NID with the development and implementation of workforce management strategies for the intelligence community.

Section 130. Chief Financial Officer

There is a Chief Financial Office of the National Intelligence Authority.

Section 131. National Counterintelligence Executive,

- This office is moved to the Office of the National Intelligence Director. The National Counterintelligence Executive serves as the head of national Counterintelligence for the United States government; chairs the National Counterintelligence Policy Board; and heads the Office of the National Counterintelligence Executive (also moved to the Office of the NID).

**SUBTITLE D ADDITIONAL ELEMENTS OF NATIONAL INTELLIGENCE
AUTHORITY**

Section 141. Inspector General of the National Intelligence Authority.

- This section is structured similarly to 50 U.S.C. §403q, which creates the CIA's Inspector General. This section gives the Inspector General of the NIA authorities over the NIA that largely track the CIA Inspector General's authorities over the CIA. The significant difference between the two is that this section gives the NIA Inspector General the authority to initiate and conduct independent investigations, inspections, and audits relating to the relationships among the elements of the intelligence community within the National Intelligence Program, and between those elements and the other elements of the intelligence community. By contrast, the CIA Inspector General's authorities do not

extend to the relationships between elements of the intelligence community; instead, they focus on the CIA.

- Section 141 (a) establishes an Office of the Inspector General within the National Intelligence Authority (NIA).
- Section 141(b) establishes the purposes of the OIG, which include creating an objective and effective office to conduct independent investigations, inspections, and audits; providing a means to keep the NID fully informed of problems and deficiencies within the agency; and ensuring that the congressional intelligence committees are kept informed.
- Section 141(c) provides that the head of the OIG shall be the Inspector General of the NIA and that the Inspector General shall be presidentially-appointed and Senate-confirmed. This section also requires that the IG be selected without regard to political affiliation and solely on the basis of integrity, compliance with the security standards, and prior experience in the field of intelligence or national security as well as on a demonstrated ability in accounting, financial analysis, law, management analysis, public administration, or auditing. This section also requires that the IG report directly to the NID. This section states that the IG may only be removed by the President and that the President must submit the reasons for such removal to the intelligence committees.
- Section 141 (d) establishes the duties and responsibilities of the IG including providing policy direction for, and to plan, conduct, and coordinate independently, the investigations, inspections, and audits relating to the programs and operations of the NIA; keeping the NID informed of violations of law, regulations, civil liberties, privacy, fraud, and other deficiencies; taking due regard for the protection of intelligence sources and methods in the preparation of reports; and complying with generally accepted government auditing standards.
- Section 141 (e) allows the NID to prohibit the IG from initiating or carrying out an investigation, inspection, or audit if the NID determines it is vital to national security, but requires the NID to submit to the intelligence committees the reasons for the prohibition and allows the IG to submit any relevant comments to the intelligence committees.
- Section 141(f) requires that the IG have direct and prompt access to the NID; any employee or contractor; and any other element of the intelligence community within the National Intelligence Program. This section also requires that the IG have access to all relevant records, reports, audits, reviews, and other documents. The IG is also authorized to receive and investigate complaints or information from any person concerning violations of law, rules, regulations, mismanagement, waste, abuse, and substantial danger to public health and safety. Requires the IG not to disclose the identity of such an employee, without consent, and restricts reprisals against an employee for making a complaint to the IG. This section provides the IG with subpoena authority and establishes guidelines for the use of the authority.

- Section 141 (g) requires that the IG be provided appropriate office space and supplies; allows the IG to appoint and employ staff; and allows the IG to request information and assistance from any department, agency, or other element of the government, with the concurrence of the NID,
- Section 141 (h) establishes a semi-annual reporting requirement by the IG to the NID, who in turn would be required to transmit the reports to the congressional intelligence committees together with any comments of the NID. The section also requires the IG to immediately report to the NID any serious or flagrant problems, abuses, or deficiencies and requires the NID to transmit those reports to the intelligence committees. The section also establishes additional reporting requirements in certain circumstances, such as when a matter is referred to Justice because of possible criminal conduct, an investigation should focus on a person who is Senate-confirmed, and when the IG is unable to resolve differences with the NID. The section also establishes procedures employees must follow prior to making any reports directly to the Congress.
- Section 141(1) requires the NID to establish a separate budget account for the OIG.

Section 142. Ombudsman of the National Intelligence Authority.

- This section creates an Ombudsman in the National Intelligence Authority, appointed by the NID, who will have the authority to counsel, arbitrate, offer recommendations on, or initiate investigations into problems of politicization, biased reporting, or the lack of objective analysis within the NIA or any element of the National Intelligence Program, as well as the ability to monitor the effectiveness of measures taken in response. The Ombudsman will also be able to conduct reviews of the analytic product or products of the NIA or any element of the NIP, or of any analysis of national intelligence by any element of the intelligence community. This Ombudsman will also be an independent, informal, and confidential counselor for those who have complaints about politicization, biased reporting, or the lack of objective analysis in the NIA. This office is patterned after the CIA Ombudsman.
- There shall be an Analytic Review Unit within the within the Office of the Ombudsman who shall assist in the performance of the duties of that office.
- The Ombudsman will have wide ranging access to all analytic products, field reports, and raw intelligence of any entity within the Intelligence Community and to IG reports or any material that might be pertinent to the issue.
- This official will provide the NID and the congressional intelligence committees with an annual report that includes an assessment of the current level of politicization, biased reporting, or the lack of objective analysis within the NIA or any elements of the National Intelligence Program, suggestions for remedial measures, and the effectiveness of remedial measures taken.

- In addition to carrying out activities under this section, the Ombudsman of the National Intelligence Authority may refer serious cases of misconduct related to politicization of intelligence information, biased reporting, or lack of objective analysis within the intelligence community to the Inspector General of the National Intelligence Authority for investigation.

Section 143. National Counterterrorism Center.

- The NCTC is created within the NIA and shall be headed by a Director appointed with the advice and consent of the Senate, who shall may not simultaneously serve in any other capacity in the intelligence community. The primary mission of the NCTC shall be to unify strategy for civilian and military counterterrorism efforts, to effectively integrate counterterrorism intelligence and operations across agency boundaries inside and outside of the United States, and to develop interagency counterterrorism plans. This official will also ensure that collection of counterterrorism intelligence and operations are informed by all source intelligence.
- The NCTC Director reports to the NID on the budget and programs of the NCTC and the activities of the NCTC Directorate of Intelligence. The Director of the NCTC reports to the President and the NID on the planning and progress of joint counterterrorism operations. At the direction of the President, the NSC, and the NID, the NCTC Director serves as the principal adviser to the President on joint operations relating to counterterrorism; provides unified strategic direction for civilian and military counterterrorism efforts and to effectively integrate counterterrorism intelligence and operations across agency boundaries inside and outside of the United States; advises the President on the extent to which various agency and departmental counterterrorism program recommendations and budget proposals conform to the President's priorities; and perform such other duties as the NID may prescribe.
- The NCTC Director has the right to concur in the appointment of the Director of the CIA's Counterterrorism Center; the Assistant Director of the FBI's Counterterrorism Division; the State Department's Coordinator for Counterterrorism; and the heads of other entities so designated that have principle missions relating to counterterrorism. If the Department head making the appointment or recommendation does not accept the NCTC Director's recommendation, the appointment or recommendation may still go forward, but the NCTC Director's objection must be passed along to the President.
- The NCTC shall have a Directorate of Intelligence, which will include the Terrorist Threat Integration Center (transferred to the DI under §323). The DI shall have primary responsibility for analysis of terrorism and terrorist organizations for all sources, whether foreign or domestic. The DI shall be the primary repository for all-source information on suspected terrorists, their organizations, and their capabilities; propose intelligence collection requirements for action by elements of the intelligence community inside and outside of the United States; have primary responsibility for net assessments and warnings about terrorist threats, which assessments and warnings shall be based on a comparison of terrorist intentions and capabilities with assessed national vulnerabilities

and countermeasures; and perform such other duties and functions as the NCTC Director may prescribe.

- The NCTC shall have a Directorate of Planning with the primary responsibility for developing interagency counterterrorism plans.
- The NCTC shall have a professional staff. It will also have an analytical staff transferred from other elements of the intelligence community. This staff will be under the control of the NCTC Director.
- Other agencies shall support and assist the NCTC, including by implementation of plans devised by the NCTC. If there is a disagreement on the implementation of such a plan between the NCTC Director and the head of an affected department or agency, then the NCTC may either accede to the head of the department or agency or notify the National Security Council of the disagreement, which shall resolve such disagreement.

Section 144. National Intelligence Centers

- The NID may establish within the NIA one or more centers to address intelligence priorities established by the NSC. Each center shall be assigned an area of intelligence responsibility. Each center shall be headed by a director appointed by the NID who shall be the NID's principal adviser in that center's area of responsibility.
- The NID shall assign lead responsibility for administrative support for such center to an element of the intelligence community. The NID shall determine the structure and size of each center and shall notify Congress before the establishment of a center.
- Each center shall, in its area of responsibility, have primary responsibility for providing all-source analysis of intelligence; have primary responsibility for identifying and proposing to the NID intelligence collection and analysis requirements; have primary responsibility for net assessments and warnings; ensure that appropriate officials have access to a variety of intelligence assessments and analytical views; and perform such other duties as the NID shall specify.
- The NID shall ensure that the centers engage in appropriate information sharing. The Directors of the centers shall report to the NID regarding their activities and coordinate with the Principal Deputy NID regarding such activities.
- The centers may have a professional staff. The NID may also transfer personnel from elements of the intelligence community or request the transfer of personnel from elements outside the intelligence community to the centers. Personnel employed, assigned, or detailed to a center shall be under the authority, direction, or control the center's director.
- The NID may terminate a center if the NID determined that the center is no longer necessary, but must notify Congress before carrying out such termination.

SUBTITLE E EDUCATION AND TRAINING OF INTELLIGENCE COMMUNITY PERSONNEL

Section 151. Framework for Cross-Disciplinary Education and Training

- Framework for cross-disciplinary education and training. This section would require the NID to establish a framework of that brings together the educational components of the intelligence community to promote cross-disciplinary education. This framework will help prepare employees for joint assignments.

Section 152. Intelligence Community Scholarship Program

- This section would require the NID to develop a scholarship program under which intelligence community agencies would provide college scholarships to students in exchange for future service at the agency. The provision reserves 10 percent of the scholarships for intelligence community employees as an additional means for training.

SUBTITLE F ADDITIONAL AUTHORITIES OF NATIONAL INTELLIGENCE AUTHORITY

Section 161. Use of Appropriated Funds

- If specifically authorized to dispose of real property, the NID shall exercise such authority in strict compliance with subchapter IV of chapter 5 of title 40, United States Code; the NID shall deposit proceeds from such disposal in the Treasury. Gifts or donations of services or property of or for the NIA shall only be accepted if permitted by an appropriations act.

Section 162. Acquisitions and Fiscal Authorities

- This section serves two primary functions. First, it establishes for the National Intelligence Director (NID) enhanced acquisition authority similar to that of the Director of Central Intelligence, as head of the Central Intelligence Agency (CIA). Second, it establishes that the NID will ultimately have milestone decision authority for acquisitions of major systems funded by the National Intelligence Program (NIP) and requires that the NID establish a major system acquisition management framework similar to that utilized by DOD for defense acquisition programs. This provides the NID management authority over acquisition programs funded by the National Intelligence Authority (NIA) even if those programs are conducted by other agencies such as DOD.

Section 163. Personnel Matters

- This section grants the NID the same personnel authorities over NIA employees that the DCI has over CIA personnel. The provision makes clear that employees and applicants for employment of the NIA have the same rights and protections as CIA employees.

Section 164. Ethics Matters

- This section makes technical and conforming amendments to the Ethics in Government for the NIA.

TITLE II OTHER IMPROVEMENTS OF INTELLIGENCE ACTIVITIES

SUBTITLE A IMPROVEMENTS OF INTELLIGENCE ACTIVITIES

Section 201. Availability to Public of Certain Intelligence Funding Information

- This section declassifies the top line budget authorization and appropriation figures for the National Intelligence Program. This bill also directs the NID to study the feasibility of disclosing such information for agencies in the National Intelligence Program and submit a report to Congress on the results within 180 days.

Section 202. Merger of Homeland Security Council Into National Security Council

- The Homeland Security Council is merged into the National Security Council.

Section 203 Joint Intelligence Community Council

- There is a Joint Intelligence Community Council consisting of the NID (who shall chair the council), the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Attorney General, the Secretary of Energy, the Secretary of Homeland Security, and such other officers as the President may designate. The JICC shall meet upon the request of the NID.
- The JICC shall assist the NID in developing and implementing a joint, unified national intelligence effort to protect national security by advising the NID on establishing requirements, developing budgets, financial management, and monitoring and evaluating the intelligence community's performance; and in ensuring the timely execution of programs, policies, and directives established or developed by the NID.

Section 204 Improvement of Intelligence Capabilities of the Federal Bureau of Investigation,

- Section 204 of the bill acknowledges that the National Commission on Terrorist Attacks Upon the United States stated in its final report that, under Director Robert Mueller, the FBI has made significant progress in improving its intelligence capabilities. The Commission also urged the FBI to fully institutionalize the shift to a preventative counterterrorism posture. In order to continue to improve the intelligence capabilities of

the Bureau, the FBI is required to develop and maintain a national intelligence workforce consisting of agents, analysts, linguists, and surveillance specialists who are recruited, trained, and rewarded in a manner consistent with the intelligence mission of the Bureau. This section of the bill also requires agents to be trained in criminal justice and intelligence matters, and requires that agents be given the opportunity to be assigned intelligence responsibilities early in their career. In addition, the FBI Director shall establish career positions in intelligence matters for agents and analysts, and afford agents and analysts of the Bureau the opportunity to work in the career specialty selected by such agents and analysts over their entire career with the Bureau. The FBI Director shall carry out a program to enhance the capacity of the FBI to recruit and retain individuals with skills relevant to the intelligence mission of the Bureau. The Bureau should also afford its analysts career opportunities commensurate with those afforded analysts in other intelligence community entities.

- This section also directs the FBI to ensure that each operational intelligence supervisor be a certified intelligence officer. The Director shall ensure that the successful discharge of advanced training courses, and of one or more assignments to another element of the intelligence community, is a precondition to advancement to higher level intelligence assignments in the Bureau. Field Intelligence Group (FIG) supervisors must report directly to a senior manager responsible for intelligence matters, and must ensure the integration of analysts, agents, linguists, and surveillance personnel in the field.
- The Bureau is also directed to expand its secure facilities to ensure the successful discharge by the field intelligence components of the national security and criminal intelligence missions of the FBI.
- The bill directs the FBI to modify its budget structure, in consultation with the Director of the Office of Management and Budget, according to the four principal missions of the Bureau: (1) Intelligence; (2) Counterterrorism and counterintelligence; (3) Criminal Enterprises/Federal Crimes; (4) Criminal justice services.
- Not later than 180 days after the enactment of this Act, the FBI is required to submit to Congress a report detailing the Bureau's progress in carrying out the requirements of Section 204. The Bureau is also required to include in each annual program review of the FBI submitted to Congress a report on the progress made by each field office in implementing national program priorities. Not later than 180 days after the enactment of this Act, and annually thereafter, the FBI shall submit a report to Congress assessing the qualifications, status, and roles of FBI analysts. Additionally, not later than 180 days after the enactment of this act, and annually thereafter, the FBI shall submit a report to Congress detailing the Bureau's progress in implementing information-sharing principles.

Section 205.

Federal Bureau of Investigation Intelligence Career Service

- Section 205 of the bill establishes an intelligence career service for Federal Bureau of Investigation analysts. The FBI Director, in consultation with the Director of the Office of Personnel Management, may establish positions for intelligence analysts, without

regard to chapter 51 of title 5, United States Code. The Director shall prescribe procedures for establishing and classifying such positions, and may fix the rate of pay for such positions, without regard to subchapter III of chapter 53 of title 5, United States Code, as long as the rate of pay is not greater than the rate of pay payable for level IV of the Executive Schedule.

- The bill requires that any performance management system established for intelligence analysts have at least one level of performance above a retention standard.
- Not less than sixty days before the date of implementation of authorities granted under this section, the FBI Director shall submit an operating plan describing the Director's intended use of the authorities to: (1) the Committees on Appropriations of the Senate and the House of Representatives; (2) the Committee on Governmental Affairs of the Senate; (3) the Committee on Government Reform of the House of Representatives; (4) the congressional intelligence committees; and (5) the Committees on the Judiciary of the Senate and the House of Representatives.
- Also, no later than December 31, 2005, and annually thereafter for four years, the FBI Director shall submit an annual report of the use of the permanent authorities provided under this section during the preceding fiscal year to: (1) the Committees on Appropriations of the Senate and the House of Representatives; (2) the Committee on Governmental Affairs of the Senate; (3) the Committee on Government Reform of the House of Representatives; (4) the congressional intelligence committees; and (5) the Committees on the Judiciary of the Senate and the House of Representatives.

Section 206. Information Sharing

- Consistent with the 9/11 Commission Report and reports issued by the Markle Foundation's Task Force on National Security in the Information Age ("Markle"), the legislation mandates that the President create an information network that can be accessed, and to which contributions can be made, by various federal, state and local governmental entities. The section goes further, however, to develop mechanisms to ensure that executive branch agencies will comply with the rules and guidelines put in place to ensure the network's success.
- In addition, this section includes intelligence and homeland security information in the network as well rather than just terrorism information.

SUBTITLE B PRIVACY AND CIVIL LIBERTIES

Section 211. Privacy and Civil Liberties Oversight Board

- Section 211 (a) establishes the Privacy and Civil Liberties Oversight Board within the Executive Office of the President.

- Section 21 l(b) sets out congressional findings that in the war on terrorism, the Government may need additional powers, and that this shift in power calls for an enhanced system of checks and balances to protect civil liberties.
- Section 21 l(c) states that the purposes of the Board are to analyze and review actions the executive branch takes to protect the Nation from terrorism, and ensure that liberty concerns are appropriately considered in the development and implementation of laws, regulations, and policies related to efforts to protect the Nation against terrorism.
- Section 21 l(d) establishes the functions of the Board which include advice and counsel, oversight, and interaction with department and agency privacy and civil liberties officers. Under the advice and counsel role, Section 21 l(d) directs the Board to review proposed legislation, regulations, and policies, including those related to information sharing, review the implementation of legislation, regulations, and policies, and advise the President, departments, and agencies. In providing advice regarding proposals to retain or enhance a governmental power, the Board is directed to consider whether the relevant department or agency has explained that the power actually materially enhances security; that there is adequate supervision of the use by the executive branch of the power to ensure protection of privacy and civil liberties; and that there are adequate guidelines and oversight to properly confine its use. Under its oversight role, the Board is directed to continually review the regulations, policies, and procedures of departments and agencies to ensure privacy and civil liberties are protected and review the information sharing practices of departments and agencies. Section 21 l(d) also requires the Board to review and assess reports from department and agency privacy and civil liberties officers, make recommendations to them, and, when appropriate, coordinate their activities on relevant interagency matters. It also requires members of the Board to appear and testify before Congress upon request.
- Section 21 l(e) establishes reporting requirements. It requires the Board to receive reports from the department and agency privacy and civil liberties officers, and periodically submit reports of its activities to the President and the appropriate committees of Congress, including the Senate Committee on Governmental Affairs, the House Committee on Government Reform, the Committees on the Judiciary, and the Committees on Intelligence. This section also requires that the reports shall be unclassified to the greatest extent possible, with a classified annex where necessary.
- Section 21 l(f) requires the Board to ensure the public is informed by making its reports available to the public to the greatest extent consistent with the protection of classified information, and holding public hearings, as appropriate.
- Section 21 l(g) authorizes the Board to have access to relevant records of departments and agencies, to interview personnel of departments and agencies, to request information or assistance from any State, tribal, or local government, and to require, by subpoena issued at the direction of a majority of the Board, persons to produce relevant information. This section also establishes enforcement mechanisms for its subpoena authority.

- Section 21 l(h) establishes the membership of the Board, which shall include a full-time chairman and four additional members, who would be presidentially-appointed and Senate-confirmed for 6-year fixed terms. The members of the Board are required to be selected solely on the basis of their professional qualifications, achievements, public stature, expertise in civil liberties and privacy, and relevant experience and members may not be an official, officer, or employee of the Federal government in another capacity. This section also requires that no more than three members of the Board be members of the same political party. This section also establishes procedures for meetings and quorums.
- Section 21 l(i) establishes the compensation and travel expenses of the Board members.
- Section 211 (j) establishes procedures for the appointment and compensation of staff, provides for the use of detailees, and authorizes the Board to procure consultant services,
- Section 21 i(k) directs the appropriate departments and agencies to cooperate with the Board to ensure an expeditious process for appropriate security clearances.
- Section 211 (1) provides that, for the purposes of the Federal Advisory Committee Act, the Board shall be treated like an agency, not an advisory committee.

Section 212 Privacy and Civil Liberties Officers

- Section 212(a) requires agency and department heads of Justice, Defense, State, Treasury, Health and Human Services, Homeland Security, National Intelligence, and the Central Intelligence Agency and any other department or agency indicated by the Board to designate not less than one senior officer to assist the head of the respective department or agency in appropriately considering privacy and civil liberties concerns, to periodically investigate and review agency actions, policies, and procedures, and to ensure that the department or agency has adequate procedures to receive, investigate, respond to, and redress complaints from individuals who allege violations of their privacy or civil liberties. In providing advice regarding proposals to retain or enhance a governmental power, the privacy and civil liberties officers are directed to consider whether the relevant department or agency has explained that the power actually materially enhances security; that there is adequate supervision of the use by the executive branch of the power to ensure protection of privacy and civil liberties; and that there are adequate guidelines and oversight to properly confine its use.
- Section 212(b) provides an exception to (a) where the privacy or civil liberties officer within a department or agency has already been statutorily created.
- Section 212(c) provides that privacy and civil liberties officers report directly to the head of the department or agency and that they coordinate their activities with the appropriate Inspector General.

- t Section 212(d) requires the head of each department or agency to ensure that each privacy and civil liberties officer has the necessary information, material, and resources to fulfill their functions, is advised of proposed policy changes, is consulted, and is provided appropriate access to personnel and material.
- Section 212(e) prohibits reprisals against employees for making a complaint or for disclosing information to a privacy or civil liberties officer, or to the Privacy and Civil Liberties Oversight Board, but provides no new personnel rights or causes of action.
- Section 212(f) establishes quarterly reporting requirements for the privacy and civil liberties officers on their activities.
- Section 212(g) requires that the privacy and civil liberties officers make their reports available to the public to the greatest extent consistent with the protection of classified information and otherwise inform the public of their activities.
- Section 212(h) makes clear that the provisions under this section shall not be construed to limit or supplant other authorities provided by law to privacy and civil liberties officers.

SUBTITLE C INDEPENDENCE OF INTELLIGENCE AGENCIES

Section 221. Independence of the National Intelligence Director.

- This section requires that the NID not be based in the Executive Office of the President. It also provides that the NID shall provide the President and Congress with national intelligence that is timely, objective, independent of political considerations, and which has not been shaped to serve policy goals.

Section 222. Independence of Intelligence.

- The Director of the NCTC and director of other national intelligence centers are required to provide the President, Congress, and the NID with intelligence that is timely, objective, independent of political considerations, and which has not been shaped to serve policy goals. The CIA Director is required to ensure that the intelligence produced by the CIA is objective, independent of political considerations, and has not been shaped to serve policy goals. The National Intelligence Council is required to ensure that its intelligence estimates are timely, objective, independent of political considerations, and have not been shaped to serve policy goals.

Section 223. Independence of National Counterterrorism Center.

- No agency or officer of the executive branch can require the NCTC Director to either receive permission to testify before Congress or to submit testimony, recommendations, or comments to Congress for review prior to submission to Congress, provided that the testimony, recommendations, or comments include a statement indicating they are the views of the NCTC, and do not necessarily represent the Administration's views.

Section 224. Access of Congressional Committees to National Intelligence>

- The NID, the NCTC Director and the Director of any national intelligence center must provide to the Congressional intelligence committees and any other committee with jurisdiction over the subject matter to which the information relates all intelligence assessments, intelligence estimates, sense of the intelligence community memoranda, and daily senior executive intelligence briefs, other than the Presidential Daily Brief and those reports prepared exclusively for the President.
- The NID, NCTC Director and director of other national intelligence centers are also required to respond within 15 days to requests for any intelligence assessment, report, estimate, or other intelligence information from the Congressional intelligence committees or other committees of Congress with jurisdiction over the subject matter to which the information relates. The NID, NCTC Director, and director of other national intelligence centers are also required to respond to such requests from the Chairman, Vice Chairman, or Ranking Member of the Senate or House intelligence committees. The NID, NCTC Director, and director of other national intelligence centers are required to provide the requested information unless the President certifies that the information is not being provided because the President is asserting a privilege pursuant to the United States Constitution.

Section 225. Communications with Congress.

- Employees or contractors for the National Intelligence Authority, CIA, DIA, NGA, NSA, FBI, and other agencies principally involved in the conduct of foreign intelligence or counterintelligence are permitted to disclose certain information to Congress without reporting it first to the appropriate inspector general. The information they may report is information, including classified information, the employee reasonably believes provides direct and specific evidence of a false or inaccurate statement to Congress, or withheld from Congress, in any intelligence assessment, report, or estimate. Such a disclosure may be made to a member of a committee of Congress having primary responsibility for oversight of the agency to which the information relates, other members of Congress authorized to receive the information of the type disclosed, or an employee of Congress with the appropriate clearance and who is authorized to receive the information disclosed.

TITLE III MODIFICATIONS OF LAWS RELATING TO INTELLIGENCE

COMMUNITY MANAGEMENT

SUBTITLE A CONFORMING AND OTHER AMENDMENTS

Section 301. Restatement and Modification of Basic Authority on the Central Intelligence Agency

- Makes technical and conforming amendments establishing the Central Intelligence Agency as an independent agency reporting to the NID. This section also creates the

position of the Director of the Central Intelligence Agency, appointed by the President and confirmed by the Senate. The Director of the CIA reports to the NID regarding his or her activities.

- This section ensures that the CIA takes the lead role in the collection of human intelligence outside of the United States. The CIA will also provide overall direction of the same.
- The Director of the CIA shall (1) serve as the head of the CIA; (2) collect intelligence through human sources and by other appropriate means, except that the Director of the CIA shall have no police, subpoena, or law enforcement powers or internal security functions; (3) correlate and evaluate intelligence related to the national security and provide appropriate dissemination of such intelligence; (4) provide overall direction for and coordination of the collection of national intelligence outside the United States through human sources by elements of the intelligence community authorized to undertake such collection and, in coordination with other departments, agencies, or elements of the United States Government which are authorized to undertake such collection, ensure that the most effective use is made of resources and that appropriate account is taken of the risks to the United States and those involved in such collection; and (5) perform such other functions and duties pertaining to intelligence relating to the national security as the President or the NID may direct.
- Notwithstanding the provisions of any other law, the Director of the CIA may, in the discretion of the Director, terminate the employment of any officer or employee of the Central Intelligence Agency whenever the Director considers the termination of employment of such officer or employee necessary or advisable in the interests of the United States.
- The Director of the Central Intelligence Agency shall, in accordance with standards developed by the Director in consultation with the NID (1) enhance the analytic, human intelligence and other capabilities of the Central Intelligence Agency; (2) develop and maintain an effective language program within the Agency; (3) emphasize the hiring of personnel of diverse backgrounds for purposes of improving the capabilities of the Agency; (4) establish and maintain effective relationships between human intelligence and signals intelligence within the Agency at the operational level; and (5) achieve a more effective balance within the Agency with respect to unilateral operations and liaison operations. The CIA shall not later than 180 days after the effective date of this section, and annually thereafter, submit to the NID and the congressional intelligence committees a report setting forth the following: (A) A strategy for improving the conduct of analysis (including strategic analysis) by the CIA, and the progress of the Agency in implementing the strategy; (B) A strategy for improving the human intelligence and other capabilities of the Agency, and the progress of the Agency in implementing the strategy; (C) In conjunction with the Director of the NSA, a strategy for achieving integration between signals and human intelligence capabilities, and the progress in implementing the strategy; (D) Metrics and milestones for measuring progress in the implementation of each such strategy.

Section 302. Conforming Amendments Relating to Roles of National Intelligence Director and Director of the Central Intelligence Agency

- Makes technical and conforming amendments.

Section 303. Other Conforming Amendments

- Makes technical and conforming amendments.

Section 304. Modifications of Foreign Intelligence and Counterintelligence Under National Security Act of 1947

- Makes technical and conforming amendments.

Section 305. Elements of Intelligence Community Under National Security Act of 1947

- Makes technical and conforming amendments.

Section 306. Redesignation of National Foreign Intelligence Program as the National Intelligence Program

- Makes technical and conforming amendments.

Section 307. Conforming Amendments on Coordination of Budgets of Elements of the Intelligence Community within the Department of Defense.

- Makes technical and conforming amendments.

Section 308. Repeal of Superseded Authorities

- Makes technical and conforming amendments.

Section 309. Clerical Amendments to National Security Act of 1947

- Makes technical and conforming amendments.

Section 310. Modification of Authorities Relating to National Counterintelligence Executive

- The Office of the National Counterintelligence Executive is moved to the Office of the NID. This section also makes other technical amendments.

Section 311. Conforming Amendment to Inspector General Act of 1978.

- Makes technical and conforming amendments.

Section 312. Conforming Amendments Relating to Chief Financial Officer of the National Intelligence Authority

- Makes technical and conforming amendments.

SUBTITLE B TRANSFERS AND TERMINATIONS

Section 321. Transfer of Office of Deputy Director of Central Intelligence for Community Management

- This section transfers the DCFs Community Management Staff to the Office of the NID.

Section 322. Transfer of National Counter terrorism Executive

- This office is transferred to the Office of the NID.

Section 323. Transfer of Terrorist Threat Integration Center

- This office is transferred to the NCTC.

Section 324. Termination of Certain Positions Within the Central Intelligence Agency

- This section terminates the positions of (1) Deputy Director of Central Intelligence for Community Management; (2) Assistant Director of Central Intelligence for Collection; (3) Assistant Director of Central Intelligence for Analysis and Production; and (4) Assistant Director of Central Intelligence for Administration.

SUBTITLE C OTHER TRANSITION MATTERS

Section 331. Executive Schedule Matters

- This section sets the pay for the following individuals according to the Executive Schedule:

NID - Level I

NCTC Director and Deputy NIDs - Level II

Director of the Central Intelligence Agency - Level III

Section 332. Preservation of Intelligence Capabilities

- This directs the NID, DCI, and the Secretary of Defense to take appropriate actions to preserve the intelligence capabilities during the establishment of this act.

Section 333. Reorganization.

- This section would grant the National Intelligence Director the authority to allocate or reallocate functions among the officers of the National Intelligence Program and establish, consolidate, alter, or discontinue organizational units with the National Intelligence Program. The legislation places several limitations on the reorganization authority. First, the NID would be prohibited from exercising the authority without with the approval of the President, after consultation with the department, agency or element concerned. Second, any use of this authority would have to be consistent with the law. Third, the legislation requires the NID to provide notice to Congress, including the rationale for the action, and then have the reorganization plan approved by the intelligence and government operations committees in both the Senate and House of Representatives.

Section 334. National Intelligence Director Report on Implementation of Intelligence Community Reform

- This section requires the NID to report to Congress on the implementation of this act one year after the date of its enactment.

Section 335. Comptroller General Reports on Implementation of Intelligence Community Reform

- This section requires the Comptroller General of the GAO to issue an implementation progress report two years after the enactment of the act and issue interim reports as he finds appropriate. These reports are to provide Congress with (1) an overall assessment of the progress made in the implementation of this Act (and the amendments made by this Act), (2) a description of any delays or other short-falls in the implementation of this Act that have been identified by the GAO, and (3) recommendations for additional legislative or administrative action that the Comptroller General considers appropriate. This requirement is similar to reporting requirements in other sections of the bill that specifically direct GAO to evaluate (1) the implementation of the information sharing network, and (2) the policies and procedures adopted for managing the acquisition of major systems for national intelligence purposes.

Section 336. General References

- Makes technical and conforming amendments.

SUBTITLE D EFFECTIVE DATE

Section 341 Effective Date

- This act will take effect no later than 180 days after its enactment, unless the President is able to put the act (or portions of same) into effect earlier.

SUBTITLE E OTHER MATTERS

Section 351 *Severability*

- This section is the act's severability clause.

Section 352. *Authorization of Appropriations*

- * This authorizes appropriations for FY 2005 to carry out this act.