

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR
2017

MAY 18, 2016.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

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

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 5077]

[Including cost estimate of the Congressional Budget Office]

The Permanent Select Committee on Intelligence, to whom was referred the bill (H.R. 5077) to authorize appropriations for fiscal year 2017 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of H.R. 5077 is to authorize the intelligence and intelligence-related activities of the United States Government for Fiscal Year 2017. These activities enhance the national security of the United States, support and assist the armed forces of the United States, and support the President in the execution of the foreign policy of the United States.

CLASSIFIED ANNEXES AND COMMITTEE INTENT

The classified annexes to this report include the classified schedules of authorizations and their associated explanatory language. The Committee views the classified annexes as integral parts of

this legislation. The classified annexes contain thorough discussions of the issues considered by the Committee underlying the funding authorizations found in the classified schedules of authorizations. The Committee expects that all intelligence programs discussed in the classified annexes to this report will follow the guidance and limitations set forth as associated language therein. The classified schedules of authorizations are incorporated directly into this legislation by virtue of section 102 of the bill. The classified annexes are available for review by all Members of the House of Representatives, subject to the requirements of clause 13 of rule XXIII of the Rules of the House of Representatives and rule 14 of the Rules of Procedure for the House Permanent Select Committee on Intelligence.

SCOPE OF COMMITTEE REVIEW

The bill authorizes U.S. intelligence and intelligence-related activities within the jurisdiction of the Committee, including the National Intelligence Program (NIP) and the Military Intelligence Program (MIP), the Homeland Security Intelligence Program (HSIP), and the Information Systems Security Program (ISSP). The bill also authorizes funding for the Privacy and Civil Liberties Oversight Board (PCLOB). The NIP consists of all activities of the Office of the Director of National Intelligence, as well as those intelligence, intelligence-related, and counterintelligence activities conducted by: the Central Intelligence Agency; the Department of Defense; the Defense Intelligence Agency; the National Security Agency; the National Reconnaissance Office; the National Geospatial-Intelligence Agency; the Departments of the Army, Navy, and Air Force; the Department of State; the Department of the Treasury; the Department of Energy; the Department of Justice; the Federal Bureau of Investigation; the U.S. Coast Guard; the Department of Homeland Security; and the Drug Enforcement Administration. The Committee has exclusive legislative, authorizing, and oversight jurisdiction of these programs.

COMMITTEE STATEMENT AND VIEWS

The Fiscal Year 2017 intelligence authorization bill funds all U.S. intelligence activities, spanning 16 separate agencies. It authorizes intelligence activities that enable critical national security functions, including: combating the Islamic State of Iraq and the Levant (ISIL), al-Qa'ida, and other terrorist groups; checking increasing Russian aggression; ensuring Iranian compliance with its obligations while countering Iran's malign influence in the region; monitoring an increasingly belligerent North Korea; countering Chinese provocations; defending against cyber threats; preventing the proliferation of weapons of mass destruction; and stopping overseas threats before they reach the Homeland.

This bill authorizes the resources necessary to face these challenges and provides for needed future capabilities, consistent with the funding constraints of the Bipartisan Budget Act of 2015 (BBA). The Fiscal Year 2017 authorization is very slightly above the President's budget request level and includes authorization for a full-year of Overseas Contingency Operations (OCO). Although the Committee believes that the authorized level will allow the In-

telligence Community (IC) to meet the challenges to U.S. and global security in Fiscal Year 2017, the constraints imposed by the BBA have forced tradeoffs that, while acceptable in the near term, are not sustainable over the long term. The Committee remains concerned that the funding levels set forth in current law for Fiscal Year 2018 and beyond could prevent the IC from fully carrying out its missions at a time when the United States and its allies are facing the most significant threat environment since September 11, 2001.

The legislative provisions of this bill consist of changes to statute and direction to the IC to enable effective, efficient, and constitutional intelligence activities. However, as most of the intelligence budget involves highly classified programs, the bulk of this Committee's recommendations each year are found in the classified annexes to the bill. This year's bill funds high-priority initiatives not included in the President's budget request, trims requested increases that lack clear justifications, and reflects the Committee's determinations of which programs represent the best value for intelligence dollars in a challenging and constrained budget environment. Specific recommendations for the MIP are consistent with H.R. 4909, the Committee on Armed Services (HASC)-passed National Defense Authorization Act for Fiscal Year 2017.

COMMITTEE PRIORITIES

Congressional notifications

Section 501(a)(1) of the National Security Act of 1947 (50 U.S.C. § 3091(a)(1)) requires the President to keep the Congressional intelligence committees fully and currently informed of U.S. intelligence activities. Intelligence Community Directive (ICD) 112, Congressional Notification, states that IC elements—including within the Department of Defense (DoD)—shall “keep the Congressional intelligence committees fully informed, in writing, of all significant anticipated intelligence activities, significant intelligence failures, significant intelligence activities, and illegal activities.” ICD 112 further directs that written notification shall be provided to the committees no later than 14 days after the final determination that the activity is significant.

However, the Committee has been frustrated by the varied scope, quality, and timeliness of written Congressional notifications from DoD and the military services, particularly those regarding intelligence acquisition programs and sensitive intelligence and intelligence-related activities. While the Committee appreciates the recent efforts of the Under Secretary of Defense for Intelligence (USD(I)) to formalize guidance to the DoD intelligence components regarding intelligence notifications, and notes that DoD Instruction O-5100.94 governs reporting of sensitive activities, there is currently no comprehensive DoD policy establishing guidelines for notification of intelligence activities to Congress.

Therefore, the Committee directs that \$20.0 million (O&M, DW) of the Fiscal Year 2017 funds for Intelligence Management in the Office of the Secretary of Defense may not be obligated or expended until USD(I):

(1) Issues written guidance to the DoD and military service intelligence components regarding notification to Congress of intelligence activities; and

(2) Certifies to the congressional intelligence and defense committees that the DoD is in compliance with intelligence notification requirements as established by Section 501(a) of the National Security Act of 1947 (50 U.S.C. § 3091) and has implemented procedures consistent with ICD 112 and DoD Instruction O-5100.94, Oversight, Coordination, Assessment, and Reporting of DoD Intelligence and Intelligence Related Sensitive Activities.

The certification in paragraph (2) shall also include an explanation of the basis for the certification, including criteria for determining when Congress is notified and a description of current and planned mechanisms for improving congressional notification.

Privacy and Civil Liberties Oversight Board priorities

In August 2004, Executive Order 13353 provided the foundation for PCLOB by creating an entity within the Department of Justice that would “protect the legal rights of all Americans, including freedoms, civil liberties, and information privacy guaranteed by Federal law.” Congress subsequently enacted a statutory charter for PCLOB to function as an independent agency. The Committee anticipates that PCLOB’s 2014 report regarding Section 702 of the Foreign Intelligence Surveillance Act (FISA) will serve as a valuable resource during consideration of the reauthorization of Section 702 and its impact on Americans’ privacy.

Therefore, in this light, and in light of concerns that have been expressed about the impact of foreign intelligence activities on U.S. persons, the Committee strongly encourages PCLOB to prioritize the privacy rights and civil liberties of U.S. persons in any findings, recommendations, or other reports stemming from its in-depth examinations of counterterrorism activities governed by Executive Order 12333. The Committee further encourages PCLOB to refrain from publishing any such materials in unclassified form until PCLOB has completed a thorough fact-finding process, and the Committee expects the IC will provide timely cooperation with that process.

Cost of living consideration

The Committee is concerned with the high cost of living for military, civilian, and contractor personnel at overseas Combatant Command intelligence centers. Although the Committee recognizes the benefits of co-locating intelligence analysts with the operational commander, the intelligence centers for both U.S. European Command (USEUCOM) and U.S. Africa Command (USAFRICOM) are located over 600 miles from their Combatant Command headquarters. Combatant Commanders based in the United States regularly communicate with forward deployed units, and the USEUCOM and USAFRICOM intelligence centers have developed mechanisms to effectively employ various teleconferencing and virtual communication tools to ensure collaboration across large distances.

The Committee is concerned that despite the utility of these virtual collaboration tools, DoD has not taken action to reduce the number of intelligence personnel stationed in high cost of living

areas. These costs can exceed \$65,000 per person, per year in annual cost of living allowances compared to the continental United States (CONUS) expenses. The additional costs associated with stationing intelligence personnel in high-cost overseas locations detract from other critical intelligence priorities. The Committee is further concerned that DoD does not adequately account for the long-run expense of high costs of living when selecting locations for intelligence facilities.

Therefore, the Committee directs the Defense Intelligence Agency (DIA) to evaluate alternate mechanisms for staffing overseas Combatant Command intelligence centers, particularly those that are not co-located with Combatant Command headquarters, and to identify cost-savings opportunities by shifting personnel to lower cost locations, including CONUS.

Defense Intelligence Agency education opportunities

DIA presently allows DIA employees to receive pay for a single year only while attending certain graduate degree programs on a full-time basis. Employees may pursue such opportunities at the National Intelligence University and similar institutions; and, in certain circumstances, also at public and private civilian universities. However, the one-year limit discourages DIA personnel from pursuing multi-year graduate degree programs. Expanding DIA's program to allow highly qualified DIA employees to pursue multi-year graduate degree programs from accredited civilian universities would further improve retention, recruitment, and foster diversity of thought at DIA.

Therefore, the Committee directs the DIA, no later than 180 days after the enactment of this Act, to provide for and fund a program that allows for DIA employees to attend civilian graduate degree programs for up to two years each, based on the standard length of the relevant program. Where DIA deems appropriate, employees may pursue academic programs extending beyond two years. Consistent with current practices, the program should be made available to at least five employees each year, with each employee receiving a full-time salary while participating in the program.

Consistent with the direction above, each DIA participant shall be subject to any program approvals, service obligations, repayment obligations, and other requirements pertaining to academic programs, as prescribed by applicable laws and policies. No later than 180 days after the enactment of this Act, DIA shall brief the Committee on the status of this direction's implementation.

Mental health prevalence

The Committee is committed to supporting the men and women of the IC, who bravely risk their lives serving their country as civilians in conflict zones and other dangerous locations around the world. These individuals often serve next to their military counterparts in areas of active hostilities. As such, they are often exposed to many of the emotional stresses generally associated with a tour of duty abroad. The Committee believes there are deficiencies and inconsistencies in the pre- and post-deployment mental health and wellness services available to civilian employees.

Therefore, the Committee directs the National Security Agency (NSA), the National Geospatial-Intelligence Agency (NGA), the

Central Intelligence Agency (CIA), and DIA, no later than 180 days after the enactment of this Act, to provide a joint briefing to the congressional intelligence committees on the mental health screenings and related services that these agencies offer employees, both before and after they deploy to combat zones. In addition, the briefing shall include a description of:

- (1) Existing services available and dedicated resources;
- (2) Agency resourcing decisions for and analysis of these services, including the frequency of use by employees compared to the total number returning from deployment; and
- (3) How agencies with deployed civilian employees are sharing best practices and leveraging services or resources outside their agencies.

Study of the Office of the Director of National Intelligence

It has been more than ten years since the Director of National Intelligence (DNI) was established by the Intelligence Reform and Terrorism Prevention Act of 2004. The Committee notes the steady expansion of the statutory functions and responsibilities of the DNI.

Given its responsibilities, the DNI has traditionally been staffed primarily by officers with some experience in the IC. However, the Fiscal Year 2017 President's budget proposed a "large," new effort to hire entry-level personnel into a "DNI career service." The Committee recently learned that one component of the Office of the Director of National Intelligence (ODNI) has already extended a substantial number of conditional offers of employment for entry-level positions, and that additional components plan to identify jobs for, and expand recruitment of, college graduates without experience working in the IC.

The Committee believes that a change of this magnitude should have triggered more fulsome notification to, and engagement with, the congressional intelligence committees. The Committee is also concerned that the continuing expansion of ODNI's responsibilities, in combination with recent entry-level hiring, may have diluted the role originally envisaged for the DNI by Congress, and is skeptical that establishing a new "career cadre" represents the best way forward for ODNI. Training, mentoring, and developing entry-level intelligence officers is a mission better suited to other IC elements that offer a broader range of junior career opportunities.

In Fiscal Year 2017, the Committee intends to closely examine the roles and functions of the DNI, with particular emphasis on DNI's ability to successfully fulfill its three principal responsibilities as defined and described by 50 U.S.C. § 3023. To assist the Committee in its efforts, the Committee directs the Office of Management and Budget (OMB) to conduct a comprehensive review of the organization, management, and operations of ODNI. This review should:

- (1) Evaluate DNI's ability to fulfill its principal responsibilities in light of ODNI's current scope and structure, with particular emphasis given to the relative proportion of personnel and funding dedicated to those principal responsibilities;
- (2) Assess how ODNI might be streamlined by divesting non-essential roles and responsibilities that could be more effectively and

efficiently executed by other IC components or government agencies outside the IC;

(3) Analyze the resource needs of the DNI with respect to its principal responsibilities; and

(4) In light of the above, make recommendations regarding high-volume entry-level hiring and the establishment of a career cadre at ODNI.

The Committee directs OMB, in conjunction with the President's budget request for Fiscal Year 2018, to provide the results of its review to the congressional intelligence committees.

Improving pre-publication review

The Committee is concerned that current and former IC personnel have published written material without completing mandatory pre-publication review procedures or have rejected changes required by the review process, resulting in the publication of classified information. The Committee is particularly troubled by press reports suggesting that officials are unaware of the existence or scope of pre-publication review requirements.

The Committee is also aware of the perception that the pre-publication review process can be unfair, untimely, and unduly onerous and that these burdens may be at least partially responsible for some individuals "opting out" of the mandatory review process. The Committee further understands that IC agencies' pre-publication review mechanisms vary, and that there is no binding, IC-wide guidance on the subject.

The Committee believes that all IC personnel must be made aware of pre-publication review requirements and that the review process must yield timely, reasoned, and impartial decisions that are subject to appeal. The Committee also believes that efficiencies can be identified by limiting the information subject to pre-publication review, to the fullest extent possible, to only those materials that might reasonably contain or be derived from classified information obtained during the course of an individual's association with the IC. In short, the pre-publication review process should be improved to better incentivize compliance and to deter personnel from violating their commitments.

Therefore, the Committee directs that, no later than 180 days after the enactment of this Act, the DNI shall issue an IC-wide policy regarding pre-publication review. The DNI shall transmit this policy to the congressional intelligence committees concurrently with its issuance. The policy should require each IC agency to develop and maintain a pre-publication policy that contains, at a minimum, the following elements:

(1) Identification of the individuals subject to pre-publication review requirements ("covered individuals");

(2) Guidance on the types of information that must be submitted for pre-publication review, including regarding works (a) unrelated to an individual's IC employment; or (b) published in cooperation with a third party, e.g.—

(i) Authored jointly by covered individuals and third parties;

(ii) Authored by covered individuals but published under the name of a third party; or

(iii) Authored by a third party but with substantial input from covered individuals;

(3) Guidance on a process by which covered individuals can participate in pre-publication reviews, and communicate openly and frequently with reviewers;

(4) Requirements for timely responses, as well as reasoned edits and decisions by reviewers;

(5) Requirements for a prompt and transparent appeal process;

(6) Guidelines for the assertion of interagency equities in pre-publication review;

(7) A summary of the lawful measures each agency may take to enforce its policy, to include civil and criminal referrals; and

(8) A description of procedures for post-publication review of documents that are alleged or determined to reveal classified information but were not submitted for pre-publication review.

Additionally the Committee directs the DNI, no later than 180 days after the enactment of this Act, to provide to the congressional intelligence committees a report on the adequacy of IC information technology efforts to improve and expedite pre-publication review processes, and the resources needed to ensure that IC elements can meet this direction.

The Committee further directs that, no later than 270 days after the enactment of this Act, the DNI shall certify to the congressional intelligence committees that IC elements' pre-publication review policies, non-disclosure agreements, and any other agreements imposing pre-publication review obligations that reflect the policy described above.

Open Skies Treaty

The Committee is concerned that the Administration is not leveraging commercial imagery in connection with the Open Skies Treaty, resulting in cumbersome, obsolete, and expensive information sharing practices that carry unnecessary national security risks. The time, money, and effort the United States spends to coordinate with state parties to the treaty provides little to no valuable information to the United States, while permitting Russian collection over U.S. and allies' critical national security infrastructure.

State parties may appreciate the valuable information they receive from the United States as a result of the Open Skies Treaty, but the United States could potentially provide more and better information from commercial imagery and other sources without the inherent risks of independent Russian collection.

Therefore, the Committee directs the DNI, no later than 90 days after the enactment of this Act, to provide a report to the congressional intelligence and defense committees evaluating the potential costs and benefits of providing to covered state parties, excluding Russia and Belarus, qualitatively and quantitatively similar information in lieu of Open Skies Treaty information.

Student loan debt report

IC components need to be able to recruit talented young professionals. However, the soaring cost of college and post-graduate education in the United States is causing many young people to forgo public service in favor of career opportunities with more competitive pay or loan forgiveness benefits.

Therefore, the Committee directs the DNI, no later than 180 days after the enactment of this Act, to provide a report to the congressional intelligence committees on programs that seek to help IC personnel manage student loan debt. The report shall include details about each IC element's program, including loan forgiveness, loan repayment, and financial counseling programs; efforts to inform prospective and current employees about such programs; and the number of employees who use such programs. The report shall also include an analysis of the benefits and drawbacks of creating new programs and expanding existing programs, and shall identify any barriers to the establishment of IC-wide programs.

Workforce development partnership

The Committee has long promoted novel recruiting, hiring and retention practices, especially with respect to highly expert, highly sought-after Science, Technology, Engineering, and Math (STEM) students and professionals. Despite these efforts, the IC continues to struggle with meeting STEM recruitment, hiring and retention goals inside the IC.

The Committee is therefore encouraged to learn that the IC is considering new and creative practices in this regard. For example, the Committee was intrigued by the Pacific Northwest National Laboratory's (PNNL) budding Workforce Development Partnership with the CIA. Partnerships like this may allow IC agencies to leverage PNNL's robust employee recruiting network and seek out STEM students who might not otherwise consider IC employment.

Similarly, to address concerns that potential hires will accept other job offers while awaiting clearances, NGA has a program to allow interim hires to work on unclassified projects until clearances are adjudicated. In addition, several IC agencies have instituted a unique pay scale for their junior STEM workforce. The Committee recognizes the benefits of these initiatives, and believes that such efforts could have wider applicability across the IC.

Therefore, the Committee directs, no later than 180 days after the enactment of this Act, the DNI Chief Human Capital Officer to provide to the congressional intelligence committees an inter-agency briefing on new approaches, including outreach and advertising, the IC is considering or conducting to attract a diverse, robust STEM and IT workforce to meet the increasing demands in the IC.

DEFENSE INTELLIGENCE

Jurisdictional statement on defense intelligence

Pursuant to the Rules of the House of Representatives, the Committee shares jurisdiction over the tactical intelligence and intelligence-related activities of DoD with HASC. The Committee enjoys a collaborative relationship with HASC and appreciates DoD's efforts to facilitate shared oversight of the MIP.

However, the Committee remains deeply concerned that many DoD intelligence and intelligence-related activities are improperly excluded from the MIP. The Committee is also concerned that many intelligence and intelligence-related activities continue to be characterized as "battlespace awareness," "situational awareness," and—especially—"operational preparation of the environment." As

the Committee observed in its report accompanying the Intelligence Authorization Act for Fiscal Year 2010 (H. Rpt. 111–186):

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

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

The continued failure to subject OPE and other activities to Committee scrutiny precludes the Committee from fully executing its statutorily mandated oversight role on behalf of the House and the American people, including by specifically authorizing intelligence and intelligence-related activities as required by Section 504(e) of the National Security Act of 1947 (50 U.S.C. § 3094(e)).

Therefore, the Committee directs DoD to ensure that the Committee receives proper insight and access to information regarding all intelligence and intelligence-related activities of DoD, including those presently funded outside the MIP. The Committee further encourages DoD, in meeting this direction, to err on the side of inclusivity and not to withhold information based on arbitrary or overly technical distinctions such as funding source, characterization of the activities in question, or the fact that the activities in question may have a nexus to ongoing or anticipated military operations.

Non-conventional assisted recovery

Section 1247 of H.R. 4909, the HASC-passed National Defense Authorization Act for Fiscal Year 2017, extends and modifies non-conventional assisted recovery capabilities originally authorized by Section 943(h) of the National Defense Authorization Act for Fiscal Year 2009.

The Committee directs that, to the extent DoD conducts intelligence or intelligence-related activities pursuant to Section 1247 of H.R. 4909, DoD shall keep the Committee fully and currently informed of such activities.

Annual reports on foreign military capabilities

H.R. 4909, the HASC-passed National Defense Authorization Act for Fiscal Year 2017, updates several annual country-specific reports to include intelligence assessments of foreign military capabilities. These assessments will be conducted by NIP- and MIP-funded components of DoD.

Therefore, the Committee directs that, beginning in Fiscal Year 2017, DoD shall ensure it provides to the congressional intelligence committees:

(1) The annual report on military power of the People's Republic of China directed by Section 1202 of the National Defense Authorization Act for Fiscal Year 2000, as amended;

(2) The annual report on military and security developments involving the Russian Federation directed by Section 1245 of the National Defense Authorization Act for Fiscal Year 2015, as amended; and

(3) The annual report on military power of Iran directed by Section 1245 of the National Defense Authorization Act for Fiscal Year 2010, as amended.

Distributed Common Ground/Surface System-Army

The Committee believes the Distributed Common Ground/Surface System-Army (DCGS-A) provides operational and tactical commanders with enhanced, state-of-the-art intelligence, surveillance, and reconnaissance (ISR) tasking, processing, exploitation, and dissemination capabilities and connectivity to the defense intelligence information enterprise. DCGS-A is a critical tool for enabling military intelligence warfighters to process, fuse, and exploit data. In the past, the Army has struggled to keep pace for pre-deployment and in-theater training for DCGS-A. However, training for military intelligence analysts must be prioritized in the pre-deployment readiness cycle to ensure that those using this intelligence tool can effectively utilize its capabilities.

The Army has fielded over 95 percent of DCGS-A Increment 1 systems, with mixed results and often negative feedback from the users. The Army is in the process of fielding Increment 1, Release 2, which will address many of the initial concerns and deficiencies of Increment 1. The Committee remains concerned that the Army has not sufficiently planned for user training in support of the release of Increment 1, Release 2 to operational users.

Therefore, the Committee directs the Army, no later than 90 days after the enactment of this Act, to submit a plan to the congressional intelligence and defense committees on how the Army will fully incorporate DCGS-A training into the readiness cycle for Army personnel. The plan should specifically address any lessons learned from the fielding of DCGS-A Increment 1 and any ongoing corrective actions to improve the roll-out of Increment 1, Release 2.

Distributed Common Ground/Surface System-Air Force

Consistent with the committee report accompanying H.R. 4909, the HASC-passed National Defense Authorization Act for Fiscal Year 2017 (H. Rpt. 114-537), the Committee supports the move toward an open architecture standard for the Distributed Common Ground/Surface System-Air Force (DCGS-AF). However, current

program documentation on specific program milestones is lacking, and it remains unclear how the Air Force will effectively leverage an open architecture without additional changes in contracting strategy for applications on the new architecture.

Therefore, the Committee directs the Air Force, by January 9, 2017, to provide a briefing to the Committee and to HASC outlining the strategic roadmap of how and when the Air Force will achieve an open architecture, including key milestones and decision points and timelines for addressing the recommendations from the 2015 Operational Test and Evaluation report on the DCGS-AF system. The roadmap should also include a strategy for improving contracting mechanisms to better leverage and utilize multiple vendors under the open architecture construct.

Common controller for unmanned aircraft systems

The Committee supports the Army's efforts to develop a common controller for the RQ-7A/B Shadow and the RQ-11B Raven tactical unmanned aerial vehicles. However, the Committee is concerned that the Army is not collaborating with the Marine Corps on similar efforts to develop a ground controller for the Marine Corps family of tactical unmanned aerial systems (UAS), including the RQ-11B Raven, the RQ-12A Wasp, and the RQ-20A Puma.

Therefore, the Committee directs the Army and the Marine Corps Intelligence Activity (MCIA), no later than 90 days after the enactment of this Act, to jointly submit a report to the congressional intelligence and defense committees on the feasibility of developing a common controller for all Brigade and Below UAS airframes, as well as U.S. Marine Corps small unit UAS. The report should address the potential performance and operational benefits of a common controller, anticipated development costs, and anticipated life-cycle cost savings of a common controller.

Conditions for repeal of report on unmanned aerial systems

The committee report accompanying H.R. 4909, the HASC-passed National Defense Authorization Act for Fiscal Year 2017 (H. Rpt. 114-537), proposes to repeal the reporting requirement on the challenges facing UAS, which was directed by the committee report accompanying the National Defense Authorization Act for Fiscal Year 2009 (H. Rpt. 110-652). The Committee has found the report to be of value, but recognizes that there are other avenues to convey the information it contains in a more timely and relevant fashion.

Therefore, the Committee directs DoD to ensure the Committee continues to receive pertinent updates regarding DoD's efforts to address UAS acquisition and interoperability challenges. The Committee further directs DoD, no later than 90 days after the enactment of this Act, to brief the Committee regarding its proposed plan to keep the Committee fully and currently informed regarding UAS issues.

MQ-9 Improvements

Consistent with the committee report accompanying H.R. 4909, the HASC-passed National Defense Authorization Act for Fiscal Year 2017 (H. Rpt. 114-537), the Committee notes that DoD is pursuing a variety of improvement initiatives for additional capability

for the MQ-9 UAS, including the development and testing of innovative anti-icing technologies that allow the MQ-9 to cruise in light icing and visible moisture.

Therefore, the Committee directs the Secretary of Defense (SECDEF), in coordination with the Commander, U.S. Air Force Air Combat Command, and the Commander, U.S. Special Operations Command (USSOCOM), to brief the Committee in addition to HASC no later than October 1, 2016, on DoD's efforts to field an anti-icing capability for the MQ-9.

Air Force Command, Control, Intelligence, Surveillance, and Reconnaissance fleet

Consistent with the committee report accompanying H.R. 4909, the HASC-passed National Defense Authorization Act for Fiscal Year 2017 (H. Rpt. 114-537), the Committee is aware that the Air Force's critical manned Command, Control, Intelligence, Surveillance, and Reconnaissance (C2ISR) aircraft are high-demand assets facing low availability rates, end-of-life issues, and growing sustainment costs. The committee is supportive of the Air Force's plan to replace the Joint Surveillance Target Attack Radar System (JSTARS) fleet with an affordable commercially available platform under a full and open competition. The Committee believes that, when recapitalizing the remainder of the manned C2ISR fleet, the Air Force should use a similar acquisition strategy as the one used with JSTARS, and consider a full and open competition.

Therefore, the Committee directs the Secretary of the Air Force to provide, no later than September 1, 2016, a briefing to the Committee—in addition to HASC—on the Air Force's current plans for recapitalization of its C2ISR aircraft.

Autonomous undersea vehicles

Consistent with the committee report accompanying H.R. 4909, the HASC-passed National Defense Authorization Act for Fiscal Year 2017 (H. Rpt. 114-537), the Committee is aware that the Department of the Navy is performing a gap analysis of autonomous undersea vehicle requirements “to determine the inventory requirements of 2025 and beyond.” In addition, the Committee is aware that the Secretary of the Navy is developing an unmanned systems roadmap strategy in 2016 to help inform future inventory requirements and investment decisions. The Committee remains interested in maintaining a significant peer advantage in the undersea domain and believes autonomous undersea vehicles represent an asymmetric opportunity to leverage atypical intelligence capabilities.

Therefore, the Committee directs the Secretary of the Navy to provide, no later than February 1, 2017, a report to the congressional intelligence committees—in addition to the congressional defense committees—that details the Unmanned Systems roadmap strategy and the program objective memorandum 2018 investment strategy to obtain such a capability.

Unmanned Carrier Launched Surveillance and Strike and related programs

Consistent with the committee report accompanying H.R. 4909, the HASC-passed National Defense Authorization Act for Fiscal

Year 2017 (H. Rpt. 114–537), the Committee is encouraged that DoD has completed its review of the Unmanned Carrier Launched Surveillance and Strike (UCLASS) program and has decided to move forward with a slight variation that will include airborne tanking as an additional requirement. The Committee, however, is concerned that modifications such as expanding requirements create inefficiencies and delays in the DoD’s major system acquisitions process.

Therefore, the Committee directs the Comptroller General of the United States, no later than March 1, 2017, to provide a report to the congressional intelligence committees in addition to the congressional defense committees—on the Navy’s carrier based unmanned aircraft acquisition programs. The report shall include the following:

(1) The Navy’s requirements and acquisition strategy for the programs, including whether the strategies are consistent with acquisition management best practices identified by the Comptroller General;

(2) The extent to which the programs have established and are meeting cost, schedule, and performance goals, including test plans and progress; and

(3) The extent to which critical technologies are mature; system and subsystem designs are stable; and manufacturing processes are understood and have demonstrated capability to produce reliable, high-quality systems efficiently.

Translated foreign military and technical writings

Consistent with the committee report accompanying H.R. 4909, the HASC-passed National Defense Authorization Act for Fiscal Year 2017 (H. Rpt. 114–537), the Committee notes that DoD’s strategy and programmatic decision-making are informed by an understanding of foreign military and technical writings. However, the Committee is concerned that these translated writings are not widely disseminated or easily accessible within either DoD or the broader community of analysts supporting and informing U.S. defense strategy and policy.

Therefore, the committee directs SECDEF, no later than July 15, 2016, to provide a briefing to the Committee—in addition to HASC—on the policies governing the access and dissemination of translated foreign military and technical writings. The briefing should also address the following elements:

(1) Policies and guidelines governing the access and dissemination of translated writings;

(2) Policies and guidelines governing the releasability of translated writings, including release authorities;

(3) Organizations and resources currently dedicated to the translation and dissemination of such writings; and

(4) Options to make translated writings more accessible within DoD and to the public, including identification of policy changes and resources required for each option.

Comptroller General assessment of deployable identity management

Consistent with the committee report accompanying H.R. 4909, the HASC-passed National Defense Authorization Act for Fiscal Year 2017 (H. Rpt. 114–537), the Committee notes that DoD has

used biometrics and forensics to successfully identify, target, and disrupt terrorists and enemy combatants. The Committee further notes that DoD has taken steps to establish expeditionary biometrics and forensics as enduring capabilities in the base budget. The Committee is concerned, however, that these funding levels may not be adequate to sustain current and future validated mission requirements.

Therefore, the Committee directs the Comptroller General of the United States to assess DoD's process for determining and validating its future expeditionary biometrics and forensics requirements, as well as actions DoD has taken to ensure that its expeditionary biometrics and forensics capabilities, including materiel solutions, trained personnel, and funding, are available to meet current and future requirements. The Committee further directs the Comptroller General to provide, no later than March 1, 2017, a briefing to the Committee—in addition to HASC—on the Comptroller General's preliminary findings.

Social media analytics supporting battlespace awareness

Consistent with the committee report accompanying H.R. 4909, the HASC-passed National Defense Authorization Act for Fiscal Year 2017 (H. Rpt. 114–537), the Committee is concerned with DoD's ability to effectively monitor and utilize social media analytic tools.

Therefore, the Committee directs the Secretary of Defense, no later than February 15, 2017, to conduct and provide a briefing to the Committee—in addition to HASC—regarding an assessment of the current policy directives on how defense entities use such social media tools.

Language training

Consistent with the committee report accompanying H.R. 4909, the HASC-passed National Defense Authorization Act for Fiscal Year 2017 (H. Rpt. 114–537), the Committee believes that foreign language proficiency, including immersive regional and cultural training, is a major force multiplier and a key component of national intelligence and defense. The Committee further believes that DoD should examine whether training for U.S. service members in Russian language, regional expertise, and culture are sufficient to ensure service members deploying to Eastern Europe are prepared to effectively fulfill mission requirements.

Therefore, the Committee urges the Director of the Defense Language and National Security Education Office (DLNSEO) to assess the need for additional courses in Russian language, regional expertise, and culture training. Additionally, the Committee directs the Director of the DLNSEO, no later than September 30, 2016, to provide a briefing to the Committee—in addition to HASC—on the feasibility and estimated costs of these opportunities and provide a suggested list of developing countries prioritized for engagement and instruction.

Domestic source of traveling wave tubes

Consistent with the committee report accompanying H.R. 4909, the HASC-passed National Defense Authorization Act for Fiscal Year 2017 (H. Rpt. 114–537), the Committee is concerned with the

use of foreign-made components in the most sensitive national security programs. Specifically, the Committee is aware that traveling wave tubes (TWTs) of non-U.S. manufacture are being used in critical satellite and guided missile programs.

Therefore, the Committee directs the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, no later than March 1, 2017, to provide a briefing to the Committee—in addition to HASC—on the risks of non-U.S. TWTs in national security programs.

Enduring high-resolution geospatial data

Consistent with the committee report accompanying H.R. 4909, the HASC-passed National Defense Authorization Act for Fiscal Year 2017 (H. Rpt. 114–537), the Committee is aware that the DoD has been utilizing sophisticated three-dimensional high-resolution light detection and ranging (LIDAR) systems to provide geospatial data for tactical users in theaters of hostilities. The Committee believes that these tactical systems are vital to supporting urgent, in-theater operational forces in the successful execution of their missions. However, the Committee is concerned that reliance on OCO funds prevented USSOCOM and the Army from properly ensuring that such capabilities are included in the base budget request.

Therefore the Committee directs the Commander, USSOCOM, in coordination with the Secretary of the Army and the Chairman of the Joint Chiefs of Staff, no later than November 1, 2016, to conduct a review of these activities and the capabilities supporting them, and to provide a briefing regarding this review to the Committee—in addition to HASC.

Internet of Things

Consistent with the committee report accompanying H.R. 4909, the HASC-passed National Defense Authorization Act for Fiscal Year 2017 (H. Rpt. 114–537), the Committee is concerned that, despite mitigation efforts, DoD may remain vulnerable based on its reliance on non-defense networks, such as those from defense industrial base partners or allies. These challenges will grow more pronounced with the increasing prevalence of web-connected devices, commonly referred to as the Internet of Things (IoT).

Therefore, the Committee directs the Comptroller General of the United States to assess DoD's planning and management for the security impact and challenges that the IoT will present to DoD. The Committee further directs the Comptroller General to provide a briefing to the congressional intelligence and defense committees, no later than March 1, 2017, on the preliminary results of this assessment.

Strategy for assured access to trusted microelectronics

Consistent with Section 231 of H.R. 4909, the HASC-passed National Defense Authorization Act for Fiscal Year 2017, ensuring the integrity of the U.S. supply chain has been, and continues to be, a matter of intense Committee interest. Although the Committee's concerns extend to all links in the supply chain, it is especially concerned with microelectronic components employed within materials developed or purchased by IC elements within DoD.

Therefore, the Committee directs that USD(I), no later than one year after the enactment of the National Defense Authorization Act for Fiscal Year 2017, submit to the congressional intelligence—in addition to the congressional defense committees—a strategy to ensure that the IC elements within DoD have ensured access to trusted microelectronics by no later than September 30, 2020. The strategy be submitted in unclassified form but may include a classified annex. It shall include the following elements:

(1) Definitions of the various levels of trust required by classes of DoD systems;

(2) Means of classifying systems of DoD based on the level of trust such systems are required to maintain with respect to microelectronics;

(3) Means by which trust in microelectronics can be assured;

(4) Means to increase the supplier base for assured microelectronics to ensure multiple supply pathways;

(5) An assessment of the microelectronics needs of DoD in future years, including the need for trusted, radiation-hardened microelectronics;

(6) An assessment of the microelectronic needs of DoD that may not be fulfilled by entities outside DoD; and

(7) The resources required to assure access to trusted microelectronics, including infrastructure and investments in science and technology.

Additionally, consistent with the committee report accompanying H.R. 4909, the HASC-passed National Defense Authorization Act for Fiscal Year 2017 (H. Rpt. 114–537), the Committee directs the Comptroller General of the United States, no later than March 30, 2017, to provide to the Committee—in addition to HASC—a report that evaluates how selected commercial microelectronics businesses provide trusted microelectronics to the U.S. government.

In its report, the Comptroller General should address the following:

(1) How selected commercial companies incorporate trust into their leading-edge microelectronics, including techniques to protect intellectual property and prevent malicious content in devices; and

(2) The extent to which DoD could implement these commercial practices, and any challenges associated with implementing such practices for defense systems.

CYBERSECURITY

Review of dual-hatting relationship

Consistent with the committee report accompanying H.R. 4909, the HASC-passed National Defense Authorization Act for Fiscal Year 2017 (H. Rpt. 114–537), the Committee supports further evaluation of the dual-hatting of a single individual as both Commander of U.S. Cyber Command (USCYBERCOM) and Director of the National Security Agency (DIRNSA) if USCYBERCOM is established as a combatant command under the Unified Command Plan.

Therefore, the Committee directs SECDEF, no later than November 1, 2016, to provide a briefing to the Committee—in addition to HASC—on a review and assessment of the dual-hatting of DIRNSA and Commander, USCYBERCOM. This review should address:

- (1) Roles and responsibilities, including intelligence authorities, of both USCYBERCOM and NSA;
- (2) Assessment of the current impact of the dual-hatting relationship, including both advantages and disadvantages;
- (3) Recommendations on courses of action for separating the dual-hatting of DIRNSA and Commander, USCYBERCOM, if appropriate;
- (4) Suggested timelines for carrying out such courses of action, if appropriate; and
- (5) Recommendations for legislative actions as necessary.

The Committee further believes that a decision to terminate the dual-hatting of the DIRNSA and Commander, CYBERCOM, should prompt a further review of NSA's organization. The Committee seeks to promote the efficient and effective execution of NSA's national intelligence mission. Specifically, the Committee believes that the organization of NSA should be examined to account for the evolution of its mission since its establishment, the current structure of the IC, and the fact that NSA is predominantly NIP-funded.

Therefore, the Committee directs DNI, no later than October 1, 2016, to conduct an assessment and provide a briefing to the Committee on options to better align the structure, budgetary procedures, and oversight of NSA with its national intelligence mission. This assessment should include an evaluation of the merits of transitioning NSA to civilian leadership appointed by the DNI in lieu of military leadership appointed by SECDEF.

Comptroller General assessment of the management and measurement of cyber activities

Consistent with the committee report accompanying H.R. 4909, the HASC-passed National Defense Authorization Act for Fiscal Year 2017 (H. Rpt. 114-537), the Committee notes that a single major cyber incident could have significant impact on DoD, including loss of confidence in national security, loss of national security or personal identifiable information, and the inability to conduct military operations.

Therefore, the Committee directs the Comptroller General of the United States to assess the Department of Defense's management and measurement of progress in protecting its own networks, systems, and information, and, no later than April 15, 2017, to provide to the congressional intelligence committees—in addition to the HASC and the Senate Armed Services Committee—a report on the findings of such assessment.

Acquisition security improvement

The Committee remains concerned about supply chain and cybersecurity vulnerabilities in the IC. The Committee believes the IC should implement a more comprehensive approach to address these vulnerabilities, particularly during the acquisition process. However, ICD 801, the IC guideline governing the acquisition process, is outdated and must be revised to reflect current risks. In particular, despite issuance of ICD 731, Supply Chain Risk Management, in 2013, ICD 801 has not been updated to reflect this policy nor does it include consideration of cybersecurity vulnerabilities and mitigation.

Therefore, the Committee directs the DNI, no later than 180 days after the enactment of this Act, to review and consider amendments to ICD 801 to better reflect and anticipate supply chain and cybersecurity risks and threats, as well as outline policies to mitigate both risks and threats. In particular, the review should examine whether to:

- (1) Expand risk management criteria in the acquisition process to include cyber and supply chain threats;
- (2) Require counterintelligence and security assessments as part of the acquisition and procurement process;
- (3) Propose and adopt new education requirements for acquisition professionals on cyber and supply chain threats; and
- (4) Factor in the cost of cyber and supply chain security.

Cyber information sharing and customer feedback

The Committee commends NSA's new policies and procedures to facilitate greater information sharing of cyber threat indicators and defensive measures with the Department of Homeland Security (DHS) at the unclassified level.

With the recent enactment of the Cybersecurity Act of 2015, which encourages greater information sharing between private sector stakeholders, as well as with government entities, the Committee believes the next step is to ensure the entire IC is working to disseminate timely, actionable information to private sector stakeholders so they can better protect their information technology networks. The vast majority of U.S. networks reside in the private sector, and it is good governance to ensure that those networks are safe and secure for the general public.

The Committee appreciates that the IC has begun efforts to increase unclassified cyber threat sharing. Because an increase in the quantity of reporting does not necessarily indicate effectiveness or usefulness, this Committee continues to monitor the quality of the information distributed.

Therefore, the Committee directs that the DNI, no later than 120 days after the enactment of this Act, to brief the congressional intelligence committees on IC-wide efforts to share more information with DHS for further dissemination to the private sector. This briefing shall specifically address types of information shared, metrics on output, tabulation of low output producing agencies, recommendations on how low output agencies can increase sharing, timeliness of information shared, and average total time it takes for information to transit the system.

The Committee also directs the DNI, in coordination with the DHS Office of Intelligence and Analysis (I&A), to conduct a survey of government and private sector participants of the National Cybersecurity and Communications Integration Center (NCCIC). The survey shall be anonymous, provide an accurate assessment of the usefulness and timeliness of the data received, and determine if customers are satisfied with intelligence briefings on threat actors impacting their specific industry. The DNI shall provide to the congressional intelligence and homeland security committees, no later than one year after the enactment of this Act, an unclassified report detailing the results of this survey.

Cybersecurity expertise at national labs

The Committee believes that the Department of Energy (DOE) National Labs represent a unique and invaluable resource for the government and the IC in particular.

Therefore, the Committee directs, no later than 180 days after the enactment of this Act, DHS I&A, in coordination with DOE Office of Intelligence and Counterintelligence (DOE-IN), to provide to the congressional intelligence committees a report on the current utilization of National Lab expertise by DHS I&A. In addition, this report should address opportunities to increase DHS I&A's utilization of cybersecurity expertise of the National Labs as well as the budgetary implications of taking advantage of these potential opportunities.

Cybersecurity courses for Centers of Academic Excellence

The Committee is concerned by a recent analysis from a security firm, which determined that not one of the nation's leading undergraduate computer science programs requires students to take a cybersecurity course before graduating. Cybersecurity depends on IC professionals having a strong understanding of the cyber threat and how to mitigate it—which in turn requires a strong academic background. NSA and DHS co-sponsor the Centers of Academic Excellence (CAE) in Cyber Defense program, which includes an emphasis on basic cybersecurity. Nevertheless, even some CAE-designated institutions lack cybersecurity course prerequisites in their computer science curricula.

Therefore, the Committee directs the DNI, no later than 180 days after the enactment of this Act, to submit to the congressional intelligence committees a report on improving cybersecurity training within NIP-funded undergraduate and graduate computer science programs. The report should specifically address:

- (1) The potential advantages and disadvantages of conditioning an institution's receipt of such funds on its computer science program's requiring cybersecurity as a precondition to graduation;
- (2) How CAE programs might bolster cybersecurity educational requirements; and
- (3) Recommendations to support the goal of ensuring that federally-funded computer science programs properly equip students to confront future cybersecurity challenges.

SPACE

Joint Interagency Combined Space Operations Center

Consistent with the committee report accompanying H.R. 4909, the HASC-passed National Defense Authorization Act for Fiscal Year 2017 (H. Rpt. 114-537), the Committee supports integrated interagency efforts, such as Joint Interagency Combined Space Operations Center (JICSpOC), intended to protect and defend critical national space capabilities in response to increasing counterspace threats from potential foreign adversaries. The Committee is also aware that it is unclear how the JICSpOC or its capabilities will be used after Fiscal Year 2016.

Therefore, the Committee directs the DNI, in coordination with DoD, to provide, no later than January 15, 2017, a briefing to the congressional intelligence and defense committees that addresses:

(1) The future objectives, strategy, and resources planned for the JICSpOC;

(2) How these activities will be complementary to or integrated with U.S. Strategic Command's Joint Space Operations Center (JSpOC) and the National Reconnaissance Operations Center; and

(3) A review of the costs and benefits of maintaining a separate JSpOC and JICSpOC as well as the optimal location to perform the related activities.

Space defense and protection

Consistent with the committee report accompanying H.R. 4909, the HASC-passed National Defense Authorization Act for Fiscal Year 2017 (H. Rpt. 114–537), the Committee remains concerned about the growing and serious risk that foreign counterspace threats pose to the U.S. national security posture and believes that the National Research Council (NRC) provided useful guidance in addressing this challenge in its December 2015 study, as directed by Section 912 of the National Defense Authorization Act for Fiscal Year 2014.

Therefore, the Committee directs the DNI, in coordination with DoD, to provide a briefing to the congressional intelligence and defense committees, no later than December 1, 2016, on the actions taken, if any, in response to the NRC's findings and recommendations.

Plan for strengthening outer space cooperation with Japan

Consistent with the committee report accompanying H.R. 4909, the HASC-passed National Defense Authorization Act for Fiscal Year 2017 (H. Rpt. 114–537), the Committee notes that the Guidelines for Defense Cooperation between the United States and the Government of Japan issued in April 2015 included important openness to cooperation in several areas, including those utilizing outer space.

Therefore, the Committee directs SECDEF and the Chairman of the Joint Chiefs of Staff, in coordination with the Secretary of State and the DNI, no later than April 1, 2017, to jointly submit to the congressional intelligence and defense committees, the House Committee on Foreign Affairs, and the Senate Committee on Foreign Relations a report outlining the opportunities to improve U.S.-Japan cooperation in outer space.

COMMITTEE CONSIDERATION AND ROLL CALL VOTES

On April 29, 2016, the Committee met in open session and ordered the bill H.R. 5077 favorably reported.

In open session, the Committee considered the text of the bill H.R. 5077. Mr. Himes offered an amendment that would permit the Privacy and Civil Liberties Oversight Board to access covert action information related to protecting the United States from terrorism. He subsequently withdrew the amendment.

The Committee considered the classified Fiscal Year 2017 schedule of authorizations, which it adopted by a voice vote.

Chairman Nunes then moved to make the classified Fiscal Year 2017 schedule of authorizations available for members of the House to review. The motion was agreed to by a recorded vote of 20 ayes to 0 noes:

Voting aye: Mr. Nunes (chairman), Mr. Miller, Mr. Conaway, Mr. King, Mr. LoBiondo, Mr. Rooney, Mr. Heck, Mr. Pompeo, Ms. Ros-Lehtinen, Mr. Turner, Mr. Wenstrup, Mr. Stewart, Mr. Schiff, Mr. Himes, Ms. Sewell, Mr. Carson, Ms. Speier, Mr. Quigley, Mr. Swalwell, and Mr. Murphy.

Voting no: None

The Committee then agreed to a motion by the Chairman to favorably report the bill H.R. 5077 to the House, including by reference the classified schedules of authorizations. The motion was agreed to by a voice vote.

SECTION-BY-SECTION ANALYSIS AND EXPLANATION OF AMENDMENT

Section 1—Short title; table of contents

Section 1 lists the title and the table of contents of the Intelligence Authorization Act for Fiscal Year 2017 (the Act).

Section 2—Definitions

Section 2 defines the terms “congressional intelligence committees” and the “Intelligence Community” (IC) that will be used in the Act

TITLE I—INTELLIGENCE ACTIVITIES

Section 101—Authorization of appropriations

Section 101 lists the U.S. Government departments, agencies, and other elements for which the Act authorizes appropriations for intelligence and intelligence-related activities for Fiscal Year 2017.

Section 102—Classified schedule of authorizations

Section 102 provides that the amounts authorized to be appropriated for intelligence and intelligence-related activities and the personnel levels for Fiscal Year 2017 are contained in the classified Schedule of Authorizations and that the classified Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President.

Section 103—Personnel ceiling adjustments

Section 103 provides that the Director of National Intelligence (DNI) may authorize employment of civilian personnel in Fiscal Year 2017 in excess of the number of authorized positions by an amount not exceeding three percent of the total limit applicable to each IC element under Section 102. The DNI may do so only if necessary to the performance of important intelligence functions.

Section 104—Intelligence Community Management Account

Section 104 authorizes appropriations for the Intelligence Community Management Account (ICMA) of the DNI and sets the authorized personnel levels for the elements within the ICMA for Fiscal Year 2017.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT
AND DISABILITY SYSTEM

Section 201—Authorization of appropriations

Section 201 authorizes appropriations in the amount of \$514,000,000 for Fiscal Year 2017 for the Central Intelligence Agency Retirement and Disability Fund.

TITLE III—GENERAL PROVISIONS

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

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

Section 302—Restriction on conduct of intelligence activities

Section 302 provides that the authorization of appropriations by the Act shall not be deemed to constitute authority for the conduct of any intelligence activity that is not otherwise authorized by the Constitution or laws of the United States.

Section 303—Authorization of appropriations for Privacy and Civil Liberties Oversight Board

Section 303 requires funds available to the Privacy and Civil Liberties Oversight Board (PCLOB) to be obligated or expended during a fiscal year only if such funds were specifically authorized by Congress for that fiscal year, and authorizes the full amount of the Administration's budget request for PCLOB for Fiscal Year 2017.

Section 304—Modification of certain whistleblowing procedures

Section 304 amends current law, including the Intelligence Community Whistleblower Protection Act (IC WPA), to provide for the direct transmission to Congress by IC inspectors general (IGs) of whistleblower complaints containing classified information.

Section 305—Reports on major defense intelligence acquisition programs

Section 305 requires milestone decision authorities to provide the congressional intelligence and defense committees with reports on major defense intelligence acquisition programs at each milestone approval through initial operating capability or full operating capability, as applicable.

Section 306—Modifications to certain requirements for construction of facilities

Section 306 amends and clarifies existing law regarding the requirements for inclusion in the Administration's annual budget request and notification to the congressional intelligence committees of projects for the construction of facilities for the primary use of IC personnel.

Section 307—Information on Activities of Privacy and Civil Liberties Oversight Board

Section 307 requires PCLOB to keep Congress and relevant IC elements fully and currently informed of its activities.

Section 308—Clarification of authorization of certain activities of the Department of Energy

Section 308 authorizes funds appropriated for Fiscal Year 2016 for the intelligence and intelligence-related activities of the Department of Energy.

Section 309—Technical correction to Executive Schedule

Section 309 contains a technical correction regarding the annual rate of basic pay for the Director of the National Counter Proliferation Center.

Section 310—Maximum amount charged for declassification reviews

Section 310 prohibits the head of an element of the IC from charging reproduction fees for a mandatory declassification review in excess of reproduction fees that the head would charge for a request for information under the Freedom of Information Act (FOIA). It also permits agency heads to waive processing fees for declassification reviews in the same manner as for FOIA.

TITLE IV—MATTERS RELATING TO ELEMENTS OF THE INTELLIGENCE COMMUNITY

SUBTITLE A—OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

Section 401—Analyses and impact statements by Director of National Intelligence regarding actions by Committee on Foreign Investment in the United States

Section 401 directs the DNI to submit to the congressional intelligence committees, after the completion of a review or an investigation of a covered transaction, the threat analysis previously provided to the Committee on Foreign Investment in the United States (CFIUS) pertaining to such transaction. It also directs the DNI to provide the committees with impact statements when the DNI determines that a covered transaction will have an operational impact on the IC.

Section 402—National Counterintelligence and Security Center

Section 402 renames the National Counterintelligence Executive as the “National Counterintelligence and Security Center,” with conforming amendments.

Section 403—Assistance for governmental entities and private entities in recognizing online violent extremist content

Section 403 requires the DNI to publish on a publicly available Internet website a list of all logos, symbols, insignia, and other markings commonly associated with, or adopted by, State Department-designated foreign terrorist organizations.

SUBTITLE B—CENTRAL INTELLIGENCE AGENCY AND OTHER ELEMENTS

Section 411—Enhanced death benefits for employees of the Central Intelligence Agency

Section 411 authorizes the Director of the Central Intelligence Agency (CIA) to pay death benefits substantially similar to those authorized for members of the Foreign Service, and requires the Director to submit implementing regulations to the congressional intelligence committees.

Section 412—Pay and retirement authorities of the Inspector General of the Central Intelligence Agency

Section 412 amends the Central Intelligence Agency Act of 1949 to permit the CIA Inspector General (IG) to designate an officer or employee as a law enforcement officer for purposes of pay and retirement benefits, if such officer or employee is appointed to a position with responsibility for investigating suspected offenses against the criminal laws of the United States. This section may not be construed to confer on the CIA IG, or any other officer or employee of CIA, any police or law enforcement or internal security functions or authorities.

Section 413—Clarification of authority, direction, and control over the information assurance directorate of the National Security Agency

Section 413 restores authority, direction, and control over the Information Assurance Directorate of the National Security Agency to the Under Secretary of Defense for Intelligence.

Section 414—Living quarters allowance for employees of the Defense Intelligence Agency

Section 414 prohibits the receipt of a living quarters allowance by any civilian employee of the Defense Intelligence Agency who is assigned to a directorate of a geographic combatant command that is headquartered outside of the United States. It applies starting with the pay period beginning on or after one year following enactment of the Act.

Section 415—Plan on assumption of certain weather missions by the National Reconnaissance Office

Section 415 requires the Director of the National Reconnaissance Office to develop a plan to carry out certain space-based environmental monitoring missions currently performed by the Air Force. It also authorizes certain pre-acquisition activities and directs that an independent cost estimate be submitted to the congressional intelligence and defense committees.

Section 416—Modernization of security clearance information technology architecture

Section 416 requires the DNI to assist the Secretary of Defense in developing and implementing—and issuing guidance relating to a modernization of DoD's security clearance information technology architecture.

TITLE V—MATTERS RELATING TO UNITED STATES NAVAL
STATION, GUANTANAMO BAY, CUBA

Section 501—Declassification of information on past terrorist activities of detainees transferred from United States Naval Station, Guantanamo Bay, Cuba, after signing of Executive Order 13492

Section 501 requires the DNI to conduct a prompt declassification review—and, once declassified, make available to the public intelligence reports prepared by the National Counterterrorism Center prior to Periodic Review Board sessions or detainee transfers on the past terrorist activities of individuals detained at United States Naval Station, Guantanamo Bay, Cuba, who were transferred or released after the signing of Executive Order 13492.

TITLE VI—REPORTS AND OTHER MATTERS

Section 601—Report on intelligence community employees detailed to National Security Council

Section 601 requires the DNI to submit to the congressional intelligence committees a report listing, by year, the number of employees of an element of the IC who have been detailed to the National Security Council during each of the previous ten years.

Section 602—Intelligence community reporting to Congress on foreign fighter flows

Section 602 directs DNI to submit to the congressional intelligence committees a report on foreign fighter flows to and from terrorist safe havens abroad.

Section 603—Report on information relating to academic programs, scholarships, fellowships, and internships sponsored, administered, or used by the intelligence community

Section 603 directs DNI to submit to the congressional intelligence committees a report regarding IC information collection on certain academic programs, scholarships, fellowships, and internships sponsored, administered, or used by the intelligence community.

Section 604—Report on cybersecurity threats to seaports of the United States and maritime shipping

Section 604 directs the Under Secretary of Homeland Security for Intelligence and Analysis to submit to the congressional intelligence committees a report on the cybersecurity threats to seaports of the United States and maritime shipping.

Section 605—Report on counter-messaging activities

Section 605 directs the Under Secretary of Homeland Security for Intelligence and Analysis to submit to the congressional intelligence committees a report on the counter-messaging activities of the Department of Homeland Security with respect to the Islamic State and other extremist groups.

Section 606—Report on reprisals against contractors of the intelligence community

Section 606 directs the IC IG to submit to the congressional intelligence committees a report on known or suspected reprisals made against employees of contractors of elements of the IC, and to make any appropriate recommendations.

OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held multiple hearings on the classified budgetary issues raised by H.R. 5077. The bill, as reported by the Committee, reflects conclusions reached by the Committee in light of this oversight activity.

GENERAL PERFORMANCE GOALS AND OBJECTIVES

The goals and objectives of H.R. 5077 are to authorize the intelligence and intelligence-related activities of the United States Government for Fiscal Year 2017. These activities enhance the national security of the United States, support and assist the armed forces of the United States, and support the President in the execution of the foreign policy of the United States.

The classified annex that accompanies this report reflects in great detail the Committee's specific performance goals and objectives at the programmatic level with respect to classified programs.

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104-4) requires a statement of whether the provisions of the reported bill include unfunded mandates. In compliance with this requirement, the Committee has received a letter from the Congressional Budget Office included herein.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 11, 2016.

Hon. DEVIN NUNES,
*Chairman, Permanent Select Committee on Intelligence,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5077, the Intelligence Authorization Act for Fiscal Year 2017.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is William Ma.

Sincerely,

KEITH HALL.

Enclosure.

H.R. 5077—Intelligence Authorization Act for Fiscal Year 2017

Summary: H.R. 5077 would authorize appropriations for fiscal year 2017 for intelligence activities of the U.S. government, the Intelligence Community Management Account (ICMA), the Central

CBO does not provide estimates for classified programs; therefore, this estimate addresses only the unclassified aspects of the bill. On that limited basis, CBO estimates that implementing the unclassified provisions of the bill would cost \$521 million over the 2017–2021 period, subject to appropriation of the specified amounts.

In addition, enacting the bill also would affect direct spending and revenues by allowing the Inspector General of the Central Intelligence Agency (CIA) to designate certain employees as law enforcement officers; therefore, pay-as-you procedures apply. However, CBO estimates that those effects would not be significant over the 2017–2026 period.

CBO estimates that enacting H.R. 5077 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

H.R. 5077 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated Costs to the Federal Government: The estimated budgetary effects of H.R. 5077 are shown in the following table. The costs of this legislation fall within budget function 050 (national defense).

	By fiscal year, in millions of dollars—					
	2017	2018	2019	2020	2021	2017-2021
INCREASES IN SPENDING SUBJECT TO APPROPRIATION						
Intelligence Community Management Account:						
Authorization Level	519	0	0	0	0	519
Estimated Outlays	337	145	18	8	3	511
Privacy and Civil Liberties Oversight Board:						
Authorization Level	10	0	0	0	0	10
Estimated Outlays	7	3	0	0	0	10
Total Increases:						
Estimated Authorization Level	529	0	0	0	0	529
Estimated Outlays	344	148	18	8	3	521

Basis of estimate: For this estimate, CBO assumes that H.R. 5077 will be enacted near the beginning of fiscal year 2017, that the specified amounts will be appropriated, and that outlays will follow historical spending patterns for existing or similar programs.

Spending subject to appropriation

Intelligence Community Management Account. Section 104 would authorize the appropriation of nearly \$519 million for fiscal year 2017 for the ICMA. That amount is about 3 percent higher (or \$13 million more) than the amount appropriated for that account for fiscal year 2016. The ICMA is the principal source of funding for the Office of the Director of National Intelligence and for managing the intelligence agencies. CBO estimates that implementing section 104 would cost \$511 million over the 2017–2021 period.

Privacy and Civil Liberties Oversight Board. Section 303 would authorize an appropriation of about \$10 million for fiscal year 2017 for the PCLOB to perform its statutory functions. The PCLOB is an independent agency within the executive branch responsible for ensuring that measures taken by the federal government to combat terrorism are balanced against the need to protect privacy and civil

liberties. The specified amount authorized for 2017 is less than the \$21 million provided in 2016; however, that amount included two-year funding to cover relocation costs the Board will experience as it vacates its current facility in 2016, occupies an interim space, and moves into new offices in 2017. CBO estimates that implementing section 303 would cost \$10 million over the 2017–2021 period.

Living Quarters Allowance (LQA). Section 414 would prohibit the Defense Intelligence Agency (DIA) from paying LQA to any of its employees assigned to a directorate of a combatant command that has its headquarters located outside of the United States. Two combatant commands meet that condition—U.S. European Command and U.S. Africa Command and both are headquartered in Stuttgart, Germany.

LQA is used as an incentive to recruit eligible individuals for assignments overseas. Annual rates are determined by the Department of State and are based on location, employee grade, and family size. For 2016, annual LQA rates published for Stuttgart, Germany, range from \$32,700 to \$41,800 for employees without families and from \$39,200 to \$42,300 for employees with families. The with family rates may also be increased by between 10 percent and 30 percent for employees with larger families.

Eliminating LQA payments to those DIA employees would decrease the amount the agency pays for LQA. However, on the basis of information from DIA, CBO expects that, in the absence of such payments, the affected employees would be more likely to request and receive permission to cut short their tours of duty by several years and return to the United States earlier than they otherwise would. The resulting increase in relocation costs the average cost to move an employee's household to or from an overseas location is about \$75,000—would, in CBO's estimation, largely offset any savings that would result from eliminating LQA payments. Thus, CBO estimates that implementing this provision would have an insignificant net effect on personnel costs.

Direct spending and revenues

Law Enforcement Officials. Section 412 would allow the CIA Inspector General to designate individuals performing certain investigative functions as law enforcement officers (LEOs) for purposes of pay and retirement benefits. The average difference between a LEO and a non-LEO retirement annuity is about \$25,000 per year. LEOs are also required to contribute 0.5 percent more of their salaries toward their future retirement annuities than non-LEOs (such employee contributions are recorded in the budget as revenues). Based on information from the CIA and the Office of Management and Budget, CBO estimates that the increase in revenues and direct spending under this provision would not be significant over the 2017–2026 period.

Central Intelligence Agency Retirement and Disability System. Section 201 would authorize the appropriation of \$514 million for CIARDS for fiscal year 2017 to maintain the proper funding level for operating that retirement and disability system. Appropriations to CIARDS are treated as direct spending in the budget and are projected to continue in CBO's baseline. Therefore, CBO does not ascribe any additional cost to this provision.

Intergovernmental and private-sector impact: H.R. 5077 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Increase in long-term direct spending and deficits: CBO estimates that enacting H.R. 5077 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

Estimate prepared by: Federal costs: William Ma; impact on state, local, and tribal governments; Jon Sperl; impact on the private sector: Paige Piper-Bach.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

STATEMENT ON CONGRESSIONAL EARMARKS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee states that the bill as reported contains no congressional earmarks, limited tax benefits, or limited tariff benefits

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004

* * * * *

TITLE I—REFORM OF THE INTELLIGENCE COMMUNITY

* * * * *

Subtitle F—Privacy and Civil Liberties

SEC. 1061. PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.

(a) IN GENERAL.—There is established as an independent agency within the executive branch a Privacy and Civil Liberties Oversight Board (referred to in this section as the “Board”).

(b) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) In conducting the war on terrorism, the Government may need additional powers and may need to enhance the use of its existing powers.

(2) This shift of power and authority to the Government calls for an enhanced system of checks and balances to protect the precious liberties that are vital to our way of life and to ensure

that the Government uses its powers for the purposes for which the powers were given.

(3) The National Commission on Terrorist Attacks Upon the United States correctly concluded that “The choice between security and liberty is a false choice, as nothing is more likely to endanger America’s liberties than the success of a terrorist attack at home. Our history has shown us that insecurity threatens liberty. Yet, if our liberties are curtailed, we lose the values that we are struggling to defend.”

(c) PURPOSE.—The Board shall—

(1) analyze and review actions the executive branch takes to protect the Nation from terrorism, ensuring that the need for such actions is balanced with the need to protect privacy and civil liberties; and

(2) 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.

(d) FUNCTIONS.—

(1) ADVICE AND COUNSEL ON POLICY DEVELOPMENT AND IMPLEMENTATION.—The Board shall—

(A) review proposed legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the development and adoption of information sharing guidelines under subsections (d) and (f) of section 1016;

(B) review the implementation of new and existing legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the implementation of information sharing guidelines under subsections (d) and (f) of section 1016;

(C) advise the President and the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are appropriately considered in the development and implementation of such legislation, regulations, policies, and guidelines; and

(D) in providing advice on proposals to retain or enhance a particular governmental power, consider whether the department, agency, or element of the executive branch has established—

(i) that the need for the power is balanced with the need to protect privacy and civil liberties;

(ii) that there is adequate supervision of the use by the executive branch of the power to ensure protection of privacy and civil liberties; and

(iii) that there are adequate guidelines and oversight to properly confine its use.

(2) OVERSIGHT.—The Board shall continually review—

(A) the regulations, policies, and procedures, and the implementation of the regulations, policies, and procedures, of the departments, agencies, and elements of the executive branch relating to efforts to protect the Nation from terrorism to ensure that privacy and civil liberties are protected;

(B) the information sharing practices of the departments, agencies, and elements of the executive branch re-

lating to efforts to protect the Nation from terrorism to determine whether they appropriately protect privacy and civil liberties and adhere to the information sharing guidelines issued or developed under subsections (d) and (f) of section 1016 and to other governing laws, regulations, and policies regarding privacy and civil liberties; and

(C) other actions by the executive branch relating to efforts to protect the Nation from terrorism to determine whether such actions—

(i) appropriately protect privacy and civil liberties; and

(ii) are consistent with governing laws, regulations, and policies regarding privacy and civil liberties.

(3) RELATIONSHIP WITH PRIVACY AND CIVIL LIBERTIES OFFICERS.—The Board shall—

(A) receive and review reports and other information from privacy officers and civil liberties officers under section 1062;

(B) when appropriate, make recommendations to such privacy officers and civil liberties officers regarding their activities; and

(C) when appropriate, coordinate the activities of such privacy officers and civil liberties officers on relevant inter-agency matters.

(4) TESTIMONY.—The members of the Board shall appear and testify before Congress upon request.

(5) INFORMATION.—

(A) ACTIVITIES.—*In addition to the reports submitted to Congress under subsection (e)(1)(B), the Board shall ensure that each official and congressional committee specified in subparagraph (B) is kept fully and currently informed of the activities of the Board, including any significant anticipated activities.*

(B) OFFICIALS AND CONGRESSIONAL COMMITTEES SPECIFIED.—*The officials and congressional committees specified in this subparagraph are the following:*

(i) *The Director of National Intelligence.*

(ii) *The head of any element of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)) the activities of which are, or are anticipated to be, the subject of the review or advice of the Board.*

(iii) *The Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.*

(e) REPORTS.—

(1) IN GENERAL.—The Board shall—

(A) receive and review reports from privacy officers and civil liberties officers under section 1062; and

(B) periodically submit, not less than semiannually, reports—

(i)(I) to the appropriate committees of Congress, including the Committee on the Judiciary of the Senate, the Committee on the Judiciary of the House of Representatives, the Committee on Homeland Security

and Governmental Affairs of the Senate, the Committee on Homeland Security of the House of Representatives, the Committee on Oversight and Government Reform of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(II) to the President; and

(ii) which shall be in unclassified form to the greatest extent possible, with a classified annex where necessary.

(2) CONTENTS.—Not less than 2 reports submitted each year under paragraph (1)(B) shall include—

(A) a description of the major activities of the Board during the preceding period;

(B) information on the findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d);

(C) the minority views on any findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d);

(D) each proposal reviewed by the Board under subsection (d)(1) that—

(i) the Board advised against implementation; and

(ii) notwithstanding such advice, actions were taken to implement; and

(E) for the preceding period, any requests submitted under subsection (g)(1)(D) for the issuance of subpoenas that were modified or denied by the Attorney General.

(f) INFORMING THE PUBLIC.—The Board shall—

(1) make its reports, including its reports to Congress, available to the public to the greatest extent that is consistent with the protection of classified information and applicable law; and

(2) hold public hearings and otherwise inform the public of its activities, as appropriate and in a manner consistent with the protection of classified information and applicable law.

(g) ACCESS TO INFORMATION.—

(1) AUTHORIZATION.—If determined by the Board to be necessary to carry out its responsibilities under this section, the Board is authorized to—

(A) have access from any department, agency, or element of the executive branch, or any Federal officer or employee of any such department, agency, or element, to all relevant records, reports, audits, reviews, documents, papers, recommendations, or other relevant material, including classified information consistent with applicable law;

(B) interview, take statements from, or take public testimony from personnel of any department, agency, or element of the executive branch, or any Federal officer or employee of any such department, agency, or element;

(C) request information or assistance from any State, tribal, or local government; and

(D) at the direction of a majority of the members of the Board, submit a written request to the Attorney General of the United States that the Attorney General require, by

subpoena, persons (other than departments, agencies, and elements of the executive branch) to produce any relevant information, documents, reports, answers, records, accounts, papers, and other documentary or testimonial evidence.

(2) REVIEW OF SUBPOENA REQUEST.—

(A) IN GENERAL.—Not later than 30 days after the date of receipt of a request by the Board under paragraph (1)(D), the Attorney General shall—

- (i) issue the subpoena as requested; or
- (ii) provide the Board, in writing, with an explanation of the grounds on which the subpoena request has been modified or denied.

(B) NOTIFICATION.—If a subpoena request is modified or denied under subparagraph (A)(ii), the Attorney General shall, not later than 30 days after the date of that modification or denial, notify the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

(3) ENFORCEMENT OF SUBPOENA.—In the case of contumacy or failure to obey a subpoena issued pursuant to paragraph (1)(D), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to produce the evidence required by such subpoena.

(4) AGENCY COOPERATION.—Whenever information or assistance requested under subparagraph (A) or (B) of paragraph (1) is, in the judgment of the Board, unreasonably refused or not provided, the Board shall report the circumstances to the head of the department, agency, or element concerned without delay. The head of the department, agency, or element concerned shall ensure that the Board is given access to the information, assistance, material, or personnel the Board determines to be necessary to carry out its functions.

(5) ACCESS.—Nothing in this section shall be construed to authorize the Board, or any agent thereof, to gain access to information regarding an activity covered by section 503(a) of the National Security Act of 1947 (50 U.S.C. 3093(a)).

(h) MEMBERSHIP.—

(1) MEMBERS.—The Board shall be composed of a full-time chairman and 4 additional members, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) QUALIFICATIONS.—Members of the Board shall be selected solely on the basis of their professional qualifications, achievements, public stature, expertise in civil liberties and privacy, and relevant experience, and without regard to political affiliation, but in no event shall more than 3 members of the Board be members of the same political party. The President shall, before appointing an individual who is not a member of the same political party as the President, consult with the leadership of that party, if any, in the Senate and House of Representatives.

(3) INCOMPATIBLE OFFICE.—An individual appointed to the Board may not, while serving on the Board, be an elected offi-

cial, officer, or employee of the Federal Government, other than in the capacity as a member of the Board.

(4) TERM.—Each member of the Board shall serve a term of 6 years, except that—

(A) a member appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term; and

(B) upon the expiration of the term of office of a member, the member shall continue to serve until the member's successor has been appointed and qualified, except that no member may serve under this subparagraph—

(i) for more than 60 days when Congress is in session unless a nomination to fill the vacancy shall have been submitted to the Senate; or

(ii) after the adjournment sine die of the session of the Senate in which such nomination is submitted.

(5) QUORUM AND MEETINGS.—The Board shall meet upon the call of the chairman or a majority of its members. Three members of the Board shall constitute a quorum.

(i) COMPENSATION AND TRAVEL EXPENSES.—

(1) COMPENSATION.—

(A) CHAIRMAN.—The chairman of the Board shall be compensated at the rate of pay payable for a position at level III of the Executive Schedule under section 5314 of title 5, United States Code.

(B) MEMBERS.—Each member of the Board shall be compensated at a rate of pay payable for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Board.

(2) TRAVEL EXPENSES.—Members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for persons employed intermittently by the Government under section 5703(b) of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

(j) STAFF.—

(1) APPOINTMENT AND COMPENSATION.—The chairman of the Board, in accordance with rules agreed upon by the Board, shall appoint and fix the compensation of a full-time executive director and such other personnel as may be necessary to enable the Board to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) DETAILEES.—Any Federal employee may be detailed to the Board without reimbursement from the Board, and such detailee shall retain the rights, status, and privileges of the detailee's regular employment without interruption.

(3) CONSULTANT SERVICES.—The Board may procure the temporary or intermittent services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates that do not exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of such title.

(k) SECURITY CLEARANCES.—

(1) IN GENERAL.—The appropriate departments, agencies, and elements of the executive branch shall cooperate with the Board to expeditiously provide the Board members and staff with appropriate security clearances to the extent possible under existing procedures and requirements.

(2) RULES AND PROCEDURES.—After consultation with the Secretary of Defense, the Attorney General, and the Director of National Intelligence, the Board shall adopt rules and procedures of the Board for physical, communications, computer, document, personnel, and other security relating to carrying out the functions of the Board.

(l) TREATMENT AS AGENCY, NOT AS ADVISORY COMMITTEE.—The Board—

(1) is an agency (as defined in section 551(1) of title 5, United States Code); and

(2) is not an advisory committee (as defined in section 3(2) of the Federal Advisory Committee Act (5 U.S.C. App.)).

[(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section amounts as follows:

[(1) For fiscal year 2008, \$5,000,000.

[(2) For fiscal year 2009, \$6,650,000.

[(3) For fiscal year 2010, \$8,300,000.

[(4) For fiscal year 2011, \$10,000,000.

[(5) For fiscal year 2012 and each subsequent fiscal year, such sums as may be necessary.]

(m) FUNDING.—

(1) SPECIFIC AUTHORIZATION REQUIRED.—Appropriated funds available to the Board may be obligated or expended to carry out activities under this section only if such funds were specifically authorized by Congress for use for such activities for such fiscal year.

(2) DEFINITION.—In this subsection, the term “specifically authorized by Congress” has the meaning given that term in section 504(e) of the National Security Act of 1947 (50 U.S.C. 3094(e)).

* * * * *

TITLE III—SECURITY CLEARANCES

SEC. 3001. SECURITY CLEARANCES.

(a) DEFINITIONS.—In this section:

(1) The term “agency” means—

(A) an executive agency (as that term is defined in section 105 of title 5, United States Code);

(B) a military department (as that term is defined in section 102 of title 5, United States Code); and

(C) an element of the intelligence community.

(2) The term “authorized investigative agency” means an agency designated by the head of the agency selected pursuant to subsection (b) to conduct a counterintelligence investigation or investigation of persons who are proposed for access to classified information to ascertain whether such persons satisfy the criteria for obtaining and retaining access to such information.

(3) The term “authorized adjudicative agency” means an agency authorized by law, regulation, or direction of the Director of National Intelligence to determine eligibility for access to classified information in accordance with Executive Order 12968.

(4) The term “highly sensitive program” means—

(A) a government program designated as a Special Access Program (as that term is defined in section 4.1(h) of Executive Order 12958 or any successor Executive order); or

(B) a government program that applies restrictions required for—

(i) restricted data (as that term is defined in section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)); or

(ii) other information commonly referred to as “sensitive compartmented information”.

(5) The term “current investigation file” means, with respect to a security clearance, a file on an investigation or adjudication that has been conducted during—

(A) the 5-year period beginning on the date the security clearance was granted, in the case of a Top Secret Clearance, or the date access was granted to a highly sensitive program;

(B) the 10-year period beginning on the date the security clearance was granted in the case of a Secret Clearance; and

(C) the 15-year period beginning on the date the security clearance was granted in the case of a Confidential Clearance.

(6) The term “personnel security investigation” means any investigation required for the purpose of determining the eligibility of any military, civilian, or government contractor personnel to access classified information.

(7) The term “periodic reinvestigations” means investigations conducted for the purpose of updating a previously completed background investigation—

(A) every 5 years in the case of a top secret clearance or access to a highly sensitive program;

(B) every 10 years in the case of a secret clearance; or

(C) every 15 years in the case of a Confidential Clearance.

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

(A) the Permanent Select Committee on Intelligence and the Committees on Armed Services, Homeland Security, Government Reform, and the Judiciary of the House of Representatives; and

(B) the Select Committee on Intelligence and the Committees on Armed Services, Homeland Security and Governmental Affairs, and the Judiciary of the Senate.

(9) ACCESS DETERMINATION.—The term “access determination” means the determination regarding whether an employee—

(A) is eligible for access to classified information in accordance with Executive Order 12968 (60 Fed. Reg. 40245; relating to access to classified information), or any successor thereto, and Executive Order 10865 (25 Fed. Reg. 1583; relating to safeguarding classified information with industry), or any successor thereto; and

(B) possesses a need to know under such an Order.

(b) SELECTION OF ENTITY.—Except as otherwise provided, not later than 90 days after the date of the enactment of this Act, the President shall select a single department, agency, or element of the executive branch to be responsible for—

(1) directing day-to-day oversight of investigations and adjudications for personnel security clearances, including for highly sensitive programs, throughout the United States Government;

(2) developing and implementing uniform and consistent policies and procedures to ensure the effective, efficient, and timely completion of security clearances and determinations for access to highly sensitive programs, including the standardization of security questionnaires, financial disclosure requirements for security clearance applicants, and polygraph policies and procedures;

(3) serving as the final authority to designate an authorized investigative agency or authorized adjudicative agency;

(4) ensuring reciprocal recognition of access to classified information among the agencies of the United States Government, including acting as the final authority to arbitrate and resolve disputes involving the reciprocity of security clearances and access to highly sensitive programs pursuant to subsection (d);

(5) ensuring, to the maximum extent practicable, that sufficient resources are available in each agency to achieve clearance and investigative program goals;

(6) reviewing and coordinating the development of tools and techniques for enhancing the conduct of investigations and granting of clearances; and

(7) not later than 180 days after the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2014, and consistent with subsection (j)—

(A) developing policies and procedures that permit, to the extent practicable, individuals alleging reprisal for having made a protected disclosure (provided the individual does not disclose classified information or other information contrary to law) to appeal any action affecting an employee’s access to classified information and to retain their government employment status while such challenge is pending; and

(B) developing and implementing uniform and consistent policies and procedures to ensure proper protections during the process for denying, suspending, or revoking a se-

curity clearance or access to classified information following a protected disclosure, including the ability to appeal such a denial, suspension, or revocation, except that there shall be no appeal of an agency's suspension of a security clearance or access determination for purposes of conducting an investigation, if that suspension lasts no longer than 1 year or the head of the agency or a designee of the head of the agency certifies that a longer suspension is needed before a final decision on denial or revocation to prevent imminent harm to the national security.

(c) PERFORMANCE OF SECURITY CLEARANCE INVESTIGATIONS.—(1) Notwithstanding any other provision of law, not later than 180 days after the date of the enactment of this Act, the President shall, in consultation with the head of the entity selected pursuant to subsection (b), select a single agency of the executive branch to conduct, to the maximum extent practicable, security clearance investigations of employees and contractor personnel of the United States Government who require access to classified information and to provide and maintain all security clearances of such employees and contractor personnel. The head of the entity selected pursuant to subsection (b) may designate other agencies to conduct such investigations if the head of the entity selected pursuant to subsection (b) considers it appropriate for national security and efficiency purposes.

(2) The agency selected under paragraph (1) shall—

(A) take all necessary actions to carry out the requirements of this section, including entering into a memorandum of understanding with any agency carrying out responsibilities relating to security clearances or security clearance investigations before the date of the enactment of this Act;

(B) as soon as practicable, integrate reporting of security clearance applications, security clearance investigations, and determinations of eligibility for security clearances, with the database required by subsection (e); and

(C) ensure that security clearance investigations are conducted in accordance with uniform standards and requirements established under subsection (b), including uniform security questionnaires and financial disclosure requirements.

(d) RECIPROCITY OF SECURITY CLEARANCE AND ACCESS DETERMINATIONS.—(1) All security clearance background investigations and determinations completed by an authorized investigative agency or authorized adjudicative agency shall be accepted by all agencies.

(2) All security clearance background investigations initiated by an authorized investigative agency shall be transferable to any other authorized investigative agency.

(3)(A) An authorized investigative agency or authorized adjudicative agency may not establish additional investigative or adjudicative requirements (other than requirements for the conduct of a polygraph examination) that exceed requirements specified in Executive Orders establishing security requirements for access to classified information without the approval of the head of the entity selected pursuant to subsection (b).

(B) Notwithstanding subparagraph (A), the head of the entity selected pursuant to subsection (b) may establish such additional re-

quirements as the head of such entity considers necessary for national security purposes.

(4) An authorized investigative agency or authorized adjudicative agency may not conduct an investigation for purposes of determining whether to grant a security clearance to an individual where a current investigation or clearance of equal level already exists or has been granted by another authorized adjudicative agency.

(5) The head of the entity selected pursuant to subsection (b) may disallow the reciprocal recognition of an individual security clearance by an agency under this section on a case-by-case basis if the head of the entity selected pursuant to subsection (b) determines that such action is necessary for national security purposes.

(6) The head of the entity selected pursuant to subsection (b) shall establish a review procedure by which agencies can seek review of actions required under this section.

(e) DATABASE ON SECURITY CLEARANCES.—(1) Not later than 12 months after the date of the enactment of this Act, the Director of the Office of Personnel Management shall, in cooperation with the heads of the entities selected pursuant to subsections (b) and (c), establish and commence operating and maintaining an integrated, secure, database into which appropriate data relevant to the granting, denial, or revocation of a security clearance or access pertaining to military, civilian, or government contractor personnel shall be entered from all authorized investigative and adjudicative agencies.

(2) The database under this subsection shall function to integrate information from existing Federal clearance tracking systems from other authorized investigative and adjudicative agencies into a single consolidated database.

(3) Each authorized investigative or adjudicative agency shall check the database under this subsection to determine whether an individual the agency has identified as requiring a security clearance has already been granted or denied a security clearance, or has had a security clearance revoked, by any other authorized investigative or adjudicative agency.

(4) The head of the entity selected pursuant to subsection (b) shall evaluate the extent to which an agency is submitting information to, and requesting information from, the database under this subsection as part of a determination of whether to certify the agency as an authorized investigative agency or authorized adjudicative agency.

(5) The head of the entity selected pursuant to subsection (b) may authorize an agency to withhold information about certain individuals from the database under this subsection if the head of the entity considers it necessary for national security purposes.

(f) EVALUATION OF USE OF AVAILABLE TECHNOLOGY IN CLEARANCE INVESTIGATIONS AND ADJUDICATIONS.—(1) The head of the entity selected pursuant to subsection (b) shall evaluate the use of available information technology and databases to expedite investigative and adjudicative processes for all and to verify standard information submitted as part of an application for a security clearance.

(2) The evaluation shall assess the application of the technologies described in paragraph (1) for—

(A) granting interim clearances to applicants at the secret, top secret, and special access program levels before the completion of the appropriate full investigation;

(B) expediting investigations and adjudications of security clearances, including verification of information submitted by the applicant;

(C) ongoing verification of suitability of personnel with security clearances in effect for continued access to classified information;

(D) use of such technologies to augment periodic reinvestigations;

(E) assessing the impact of the use of such technologies on the rights of applicants to verify, correct, or challenge information obtained through such technologies; and

(F) such other purposes as the head of the entity selected pursuant to subsection (b) considers appropriate.

(3) An individual subject to verification utilizing the technology described in paragraph (1) shall be notified of such verification, shall provide consent to such use, and shall have access to data being verified in order to correct errors or challenge information the individual believes is incorrect.

(4) Not later than one year after the date of the enactment of this Act, the head of the entity selected pursuant to subsection (b) shall submit to the President and the appropriate committees of Congress a report on the results of the evaluation, including recommendations on the use of technologies described in paragraph (1).

(g) REDUCTION IN LENGTH OF PERSONNEL SECURITY CLEARANCE PROCESS.—(1) The head of the entity selected pursuant to subsection (b) shall, within 90 days of selection under that subsection, develop, in consultation with the appropriate committees of Congress and each authorized adjudicative agency, a plan to reduce the length of the personnel security clearance process.

(2)(A) To the extent practical the plan under paragraph (1) shall require that each authorized adjudicative agency make a determination on at least 90 percent of all applications for a personnel security clearance within an average of 60 days after the date of receipt of the completed application for a security clearance by an authorized investigative agency. Such 60-day average period shall include—

(i) a period of not longer than 40 days to complete the investigative phase of the clearance review; and

(ii) a period of not longer than 20 days to complete the adjudicative phase of the clearance review.

(B) Determinations on clearances not made within 60 days shall be made without delay.

(3)(A) The plan under paragraph (1) shall take effect 5 years after the date of the enactment of this Act.

(B) During the period beginning on a date not later than 2 years after the date after the enactment of this Act and ending on the date on which the plan under paragraph (1) takes effect, each authorized adjudicative agency shall make a determination on at least 80 percent of all applications for a personnel security clearance pursuant to this section within an average of 120 days after the date of receipt of the application for a security clearance by an

authorized investigative agency. Such 120-day average period shall include—

(i) a period of not longer than 90 days to complete the investigative phase of the clearance review; and

(ii) a period of not longer than 30 days to complete the adjudicative phase of the clearance review.

(h) REPORTS.—(1) Not later than February 15, 2006, and annually thereafter through 2011, the head of the entity selected pursuant to subsection (b) shall submit to the appropriate committees of Congress a report on the progress made during the preceding year toward meeting the requirements of this section.

(2) Each report shall include, for the period covered by such report—

(A) the periods of time required by the authorized investigative agencies and authorized adjudicative agencies for conducting investigations, adjudicating cases, and granting clearances, from date of submission to ultimate disposition and notification to the subject and the subject's employer;

(B) a discussion of any impediments to the smooth and timely functioning of the requirements of this section; and

(C) such other information or recommendations as the head of the entity selected pursuant to subsection (b) considers appropriate.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary for fiscal year 2005 and each fiscal year thereafter for the implementation, maintenance, and operation of the database required by subsection (e).

(j) RETALIATORY REVOCATION OF SECURITY CLEARANCES AND ACCESS DETERMINATIONS.—

(1) IN GENERAL.—Agency personnel with authority over personnel security clearance or access determinations shall not take or fail to take, or threaten to take or fail to take, any action with respect to any employee's security clearance or access determination in retaliation for—

(A) any lawful disclosure of information to the Director of National Intelligence (or an employee designated by the Director of National Intelligence for such purpose) or the head of the employing agency (or employee designated by the head of that agency for such purpose) by an employee that the employee reasonably believes evidences—

(i) a violation of any Federal law, rule, or regulation;

or

(ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

(B) any lawful disclosure to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee reasonably believes evidences—

(i) a violation of any Federal law, rule, or regulation;

or

(ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

(C) any lawful disclosure that complies with—

(i) subsections (a)(1), (d), and (h) of section 8H of the Inspector General Act of 1978 (5 U.S.C. App.);

(ii) **【subparagraphs (A), (D), and (H)】** *subparagraphs (A), (C), and (G)* of section 17(d)(5) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 3517(d)(5)); or

(iii) subparagraphs (A), (D), and (I) of section 103H(k)(5) of the National Security Act of 1947 (50 U.S.C. 3033(k)(5)); and

(D) if the actions do not result in the employee or applicant unlawfully disclosing information specifically required by Executive order to be kept classified in the interest of national defense or the conduct of foreign affairs, any lawful disclosure in conjunction with—

(i) the exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation;

(ii) testimony for or otherwise lawfully assisting any individual in the exercise of any right referred to in clause (i); or

(iii) cooperation with or disclosing information to the Inspector General of an agency, in accordance with applicable provisions of law in connection with an audit, inspection, or investigation conducted by the Inspector General.

(2) **RULE OF CONSTRUCTION.**—Consistent with the protection of sources and methods, nothing in paragraph (1) shall be construed to authorize the withholding of information from Congress or the taking of any personnel action against an employee who lawfully discloses information to Congress.

(3) **DISCLOSURES.**—

(A) **IN GENERAL.**—A disclosure shall not be excluded from paragraph (1) because—

(i) the disclosure was made to a person, including a supervisor, who participated in an activity that the employee reasonably believed to be covered by paragraph (1)(A)(ii);

(ii) the disclosure revealed information that had been previously disclosed;

(iii) the disclosure was not made in writing;

(iv) the disclosure was made while the employee was off duty; or

(v) of the amount of time which has passed since the occurrence of the events described in the disclosure.

(B) **REPRISALS.**—If a disclosure is made during the normal course of duties of an employee, the disclosure shall not be excluded from paragraph (1) if any employee who has authority to take, direct others to take, recommend, or approve any personnel action with respect to the employee making the disclosure, took, failed to take, or threatened to take or fail to take a personnel action with respect to that employee in reprisal for the disclosure.

(4) **AGENCY ADJUDICATION.**—

(A) **REMEDIAL PROCEDURE.**—An employee or former employee who believes that he or she has been subjected to a reprisal prohibited by paragraph (1) may, within 90 days

after the issuance of notice of such decision, appeal that decision within the agency of that employee or former employee through proceedings authorized by subsection (b)(7), except that there shall be no appeal of an agency's suspension of a security clearance or access determination for purposes of conducting an investigation, if that suspension lasts not longer than 1 year (or a longer period in accordance with a certification made under subsection (b)(7)).

(B) CORRECTIVE ACTION.—If, in the course of proceedings authorized under subparagraph (A), it is determined that the adverse security clearance or access determination violated paragraph (1), the agency shall take specific corrective action to return the employee or former employee, as nearly as practicable and reasonable, to the position such employee or former employee would have held had the violation not occurred. Such corrective action may include back pay and related benefits, travel expenses, and compensatory damages not to exceed \$300,000.

(C) CONTRIBUTING FACTOR.—In determining whether the adverse security clearance or access determination violated paragraph (1), the agency shall find that paragraph (1) was violated if a disclosure described in paragraph (1) was a contributing factor in the adverse security clearance or access determination taken against the individual, unless the agency demonstrates by a preponderance of the evidence that it would have taken the same action in the absence of such disclosure, giving the utmost deference to the agency's assessment of the particular threat to the national security interests of the United States in the instant matter.

(5) APPELLATE REVIEW OF SECURITY CLEARANCE ACCESS DETERMINATIONS BY DIRECTOR OF NATIONAL INTELLIGENCE.—

(A) APPEAL.—Within 60 days after receiving notice of an adverse final agency determination under a proceeding under paragraph (4), an employee or former employee may appeal that determination in accordance with the procedures established under subparagraph (B).

(B) POLICIES AND PROCEDURES.—The Director of National Intelligence, in consultation with the Attorney General and the Secretary of Defense, shall develop and implement policies and procedures for adjudicating the appeals authorized by subparagraph (A).

(C) CONGRESSIONAL NOTIFICATION.—Consistent with the protection of sources and methods, at the time the Director of National Intelligence issues an order regarding an appeal pursuant to the policies and procedures established by this paragraph, the Director of National Intelligence shall notify the congressional intelligence committees.

(6) JUDICIAL REVIEW.—Nothing in this section shall be construed to permit or require judicial review of any—

(A) agency action under this section; or

(B) action of the appellate review procedures established under paragraph (5).

(7) PRIVATE CAUSE OF ACTION.—Nothing in this section shall be construed to permit, authorize, or require a private cause of

action to challenge the merits of a security clearance determination.

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INSPECTOR GENERAL ACT OF 1978

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SEC. 8H. (a)(1)(A) An employee of the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, or the National Security Agency, *including any such employee who is assigned or detailed to a combatant command or other element of the Federal Government*, or of a contractor of any of those Agencies, who intends to report to Congress a complaint or information with respect to an urgent concern may report the complaint or information to the Inspector General of the Department of Defense (or designee).

(B) 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 of the Intelligence Community.

(C) An employee of the Federal Bureau of Investigation, or of a contractor of the Bureau, who intends to report to Congress a complaint or information with respect to an urgent concern may report the complaint or information to the Inspector General of the Department of Justice (or designee).

(D) Any other employee of, or contractor to, an executive agency, or element or unit thereof, determined by the President under section 2302(a)(2)(C)(ii) of title 5, United States Code, to have as its principal function the conduct of foreign intelligence or counter-intelligence activities, who intends to report to Congress a complaint or information with respect to an urgent concern may report the complaint or information to the appropriate Inspector General (or designee) under this Act, section 17 of the Central Intelligence Agency Act of 1949, or section 103H(k) of the National Security Act of 1947 (50 U.S.C. 3033(k)).

(2) If a designee of an Inspector General under this section receives a complaint or information of an employee with respect to an urgent concern, that designee shall report the complaint or information to the Inspector General within 7 calendar days of receipt.

(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.

(b) [(1) Not] *Not* later than the end of the 14-calendar day period beginning on the date of receipt of an employee complaint or information under subsection (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 head of the establishment] *to the intelligence committees* notice of that determination, together with the complaint or information.

[(2) If the head of an establishment determines that a complaint or information transmitted under paragraph (1) would create a conflict of interest for the head of the establishment, the head of the establishment shall return the complaint or information to the Inspector General with that determination and the Inspector General shall make the transmission to the Director of National Intelligence and, if the establishment is within the Department of Defense, to the Secretary of Defense. In such a case, the requirements of this section for the head of the establishment apply to each recipient of the Inspector General's transmission.]

[(c) Upon receipt of a transmittal from the Inspector General under subsection (b), the head of the establishment shall, within 7 calendar days of such receipt, forward such transmittal to the intelligence committees, together with any comments the head of the establishment considers appropriate.]

[(d)] (c)(1) If the Inspector General does not find credible under subsection (b) a complaint or information submitted to the Inspector General under subsection (a), or does not transmit the complaint or information to [the head of the establishment] *the intelligence committees* in accurate form under subsection (b), the employee (subject to paragraph (2)) may submit the complaint or information to Congress by contacting either or both of the intelligence committees directly.

(2) The employee may contact the intelligence committees directly as described in paragraph (1) only if the employee—

(A) before making such a contact, furnishes to [the head of the establishment, through the Inspector General,] *the Inspector General* a statement of the employee's complaint or information and notice of the employee's intent to contact the intelligence committees directly; and

(B) obtains and follows from [the head of the establishment, through the Inspector General,] *the Inspector General, in consultation with the head of the establishment*, direction on how to contact the intelligence committees in accordance with appropriate security practices.

(3) A member or employee of one of the intelligence committees who receives a complaint or information under paragraph (1) does so in that member or employee's official capacity as a member or employee of that committee.

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

[(f)] (e) An action taken by the head of an establishment or an Inspector General under [subsections (a) through (e)] *subsections (a) through (d)* shall not be subject to judicial review.

[(g)] (f)(1) The Inspector General of the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, and the National Security Agency shall each submit to the congressional intelligence committees each year a report that sets forth the following:

(A) The personnel and funds requested by such Inspector General for the fiscal year beginning in such year for the activities of the office of such Inspector General in such fiscal year.

(B) The plan of such Inspector General for such activities, including the programs and activities scheduled for review by the office of such Inspector General during such fiscal year.

(C) An assessment of the current ability of such Inspector General to hire and retain qualified personnel for the office of such Inspector General.

(D) Any matters that such Inspector General considers appropriate regarding the independence and effectiveness of the office of such Inspector General.

(2) The submittal date for a report under paragraph (1) each year shall be the date provided in section 507 of the National Security Act of 1947.

(3) In this subsection, the term "congressional intelligence committees" shall have the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

[(h)] (g) An individual who has submitted a complaint or information to an Inspector General under this section may notify any member of the Permanent Select Committee on Intelligence of the House of Representatives or the Select Committee on Intelligence of the Senate, or a staff member of either such Committee, of the fact that such individual has made a submission to that particular Inspector General, and of the date on which such submission was made.

[(i)] (h) In this section:

(1) The term "urgent concern" means any of the following:

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

(B) 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.

(C) 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 section 7(c) in response to an employee's reporting an urgent concern in accordance with this section.

(2) The term "intelligence committees" means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

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CENTRAL INTELLIGENCE AGENCY ACT OF 1949

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【AUTHORITY TO PAY DEATH GRATUITIES

【SEC. 11. (a)(1) The Director may pay a gratuity to the surviving dependents of any officer or employee of the Agency who dies as a result of injuries (other than from disease) sustained outside the United States and whose death—

【(A) resulted from hostile or terrorist activities; or

【(B) occurred in connection with an intelligence activity having a substantial element of risk.

【(2) The provisions of this subsection shall apply with respect to deaths occurring after June 30, 1974.

【(b) Any payment under subsection (a)—

【(1) shall be in an amount equal to the amount of the annual salary of the officer or employee concerned at the time of death;

【(2) shall be considered a gift and shall be in lieu of payment of any lesser death gratuity authorized by any other Federal law; and

【(3) shall be made under the same conditions as apply to payments authorized by section 14 of the Act of August 1, 1956 (22 U.S.C. 2679a).】

BENEFITS AVAILABLE IN EVENT OF THE DEATH OF AN EMPLOYEE

SEC. 11. (a) AUTHORITY.—The Director may pay death benefits substantially similar to those authorized for members of the Foreign Service pursuant to the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.) or any other provision of law. The Director may adjust the eligibility for death benefits as necessary to meet the unique requirements of the mission of the Agency.

(b) REGULATIONS.—Regulations issued pursuant to this section shall be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate before such regulations take effect.

* * * * *

SEC. 17. INSPECTOR GENERAL FOR THE AGENCY.

(a) PURPOSE; ESTABLISHMENT.—In order to—

(1) create an objective and effective office, appropriately accountable to Congress, to initiate and conduct independently inspections, investigations, and audits relating to programs and operations of the Agency;

(2) provide leadership and recommend policies designed to promote economy, efficiency, and effectiveness in the administration of such programs and operations, and detect fraud and abuse in such programs and operations;

(3) provide a means for keeping the Director fully and currently informed about problems and deficiencies relating to the administration of such programs and operations, and the necessity for and the progress of corrective actions; and

(4) in the manner prescribed by this section, ensure that the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence (hereafter in this section referred to collectively as the “intelligence committees”) are kept similarly informed of significant problems and deficiencies

as well as the necessity for and the progress of corrective actions,

there is hereby established in the Agency an Office of Inspector General (hereafter in this section referred to as the "Office").

(b) APPOINTMENT; SUPERVISION; REMOVAL.—(1) There shall be at the head of the Office an Inspector General who shall be appointed by the President, by and with the advice and consent of the Senate. This appointment shall be made without regard to political affiliation and shall be on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigation. Such appointment shall also be made on the basis of compliance with the security standards of the Agency and prior experience in the field of foreign intelligence.

(2) The Inspector General shall report directly to and be under the general supervision of the Director.

(3) The Director may prohibit the Inspector General from initiating, carrying out, or completing any audit, inspection, or investigation if the Director determines that such prohibition is necessary to protect vital national security interests of the United States.

(4) If the Director exercises any power under paragraph (3), he shall submit an appropriately classified statement of the reasons for the exercise of such power within seven days to the intelligence committees. The Director shall advise the Inspector General at the time such report is submitted, and, to the extent consistent with the protection of intelligence sources and methods, provide the Inspector General with a copy of any such report. In such cases, the Inspector General may submit such comments to the intelligence committees that he considers appropriate.

(5) In accordance with section 535 of title 28, United States Code, the Inspector General shall report to the Attorney General any information, allegation, or complaint received by the Inspector General relating to violations of Federal criminal law that involve a program or operation of the Agency, consistent with such guidelines as may be issued by the Attorney General pursuant to subsection (b)(2) of such section. A copy of all such reports shall be furnished to the Director.

(6) The Inspector General may be removed from office only by the President. The President shall communicate in writing to the intelligence committees the reasons for any such removal not later than 30 days prior to the effective date of such removal. Nothing in this paragraph shall be construed to prohibit a personnel action otherwise authorized by law, other than transfer or removal.

(c) DUTIES AND RESPONSIBILITIES.—It shall be the duty and responsibility of the Inspector General appointed under this section—

(1) to provide policy direction for, and to plan, conduct, supervise, and coordinate independently, the inspections, investigations, and audits relating to the programs and operations of the Agency to ensure they are conducted efficiently and in accordance with applicable law and regulations;

(2) to keep the Director fully and currently informed concerning violations of law and regulations, fraud and other serious problems, abuses and deficiencies that may occur in such

programs and operations, 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 Office, 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 his responsibilities, to comply with generally accepted government auditing standards.

(d) SEMIANNUAL REPORTS; IMMEDIATE REPORTS OF SERIOUS OR FLAGRANT PROBLEMS; REPORTS OF FUNCTIONAL PROBLEMS; REPORTS TO CONGRESS ON URGENT CONCERNS.—(1) The Inspector General shall, not later than October 31 and April 30 of each year, prepare and submit to the Director a classified semiannual report summarizing the activities of the Office during the immediately preceding six-month periods ending September 30 and March 31, respectively. Not later than 30 days after the date of the receipt of such reports, the Director shall transmit such reports to the intelligence committees with any comments he may deem appropriate. Such reports shall, at a minimum, include a list of the title or subject of each inspection, investigation, review, or audit conducted during the reporting period and—

(A) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Agency identified by the Office during the reporting period;

(B) a description of the recommendations for corrective action made by the Office during the reporting period with respect to significant problems, abuses, or deficiencies identified in subparagraph (A);

(C) a statement of whether corrective 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;

(D) a certification that the Inspector General has had full and direct access to all information relevant to the performance of his functions;

(E) a description of the exercise of the subpoena authority under subsection (e)(5) by the Inspector General during the reporting period; and

(F) such recommendations as the Inspector General may wish to make concerning legislation to promote economy and efficiency in the administration of programs and operations undertaken by the Agency, and to detect and eliminate fraud and abuse in such programs and operations.

(2) The Inspector General shall report immediately to the Director whenever he becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs or operations. The Director shall transmit such report to the intelligence committees within seven calendar days, together with any comments he considers appropriate.

(3) In the event that—

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

(B) an investigation, inspection, or audit carried out by the Inspector General should focus on any current or former Agency official who—

(i) holds or held a position in the Agency that is subject to appointment by the President, by and with the advice and consent of the Senate, including such a position held on an acting basis; or

(ii) holds or held the position in the Agency, including such a position held on an acting basis, of—

(I) Deputy Director;

(II) Associate Deputy Director;

(III) Director of the National Clandestine Service;

(IV) Director of Intelligence;

(V) Director of Support; or

(VI) Director of Science and Technology.

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

(D) the Inspector General receives notice from the Department of Justice declining or approving prosecution of possible criminal conduct of any of the officials 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 intelligence committees.

(4) Pursuant to Title V of the National Security Act of 1947, the Director shall submit to the intelligence committees any report or findings and recommendations of an inspection, investigation, or audit conducted by the office which has been requested by the Chairman or Ranking Minority Member of either committee.

(5)(A) An employee of the Agency, or of a contractor to the Agency, 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) **[(i) Not]** *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]** *to the intelligence committees* notice of that determination, together with the complaint or information.

[(ii) If the Director determines that a complaint or information transmitted under paragraph (1) would create a conflict of interest for the Director, the Director shall return the complaint or information to the Inspector General with that determination and the Inspector General shall make the transmission to the Director of National Intelligence. In such a case, the requirements of this subsection for the Director of the Central Intelligence Agency apply to the Director of National Intelligence]

[(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 intelligence committees, together with any comments the Director considers appropriate.]

[(D)] (C)(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] *the intelligence committees* 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 intelligence committees directly.

(ii) The 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,] *the Inspector General* a statement of the employee's complaint or information and notice of the employee's intent to contact the intelligence committees directly; and

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

(iii) A member or employee of one of the 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 that committee.

[(E)] (D) 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)] (E) An action taken by the Director or the Inspector General under this paragraph shall not be subject to judicial review.

[(G)] (F) In this paragraph:

(i) 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 operations 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 (e)(3)(B) in response to an employee's reporting an urgent concern in accordance with this paragraph.

(ii) The term "intelligence committees" means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

[(H)] (G) An individual who has submitted a complaint or information to the Inspector General under this section may notify any

member of the Permanent Select Committee on Intelligence of the House of Representatives or the Select Committee on Intelligence of the Senate, or a staff member of either such Committee, of the fact that such individual has made a submission to the Inspector General, and of the date on which such submission was made.

(e) AUTHORITIES OF THE INSPECTOR GENERAL.—(1) The Inspector General shall have direct and prompt access to the Director when necessary for any purpose pertaining to the performance of his duties.

(2) The Inspector General shall have access to any employee or any employee of a contractor of the Agency whose testimony is needed for the performance of his duties. In addition, he 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. Failure on the part of any employee or contractor to cooperate with the Inspector General shall be grounds for appropriate administrative actions by the Director, to include 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 Agency—

(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 or providing such information may be taken by any employee of the Agency in a position to take such actions, unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

(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 his duties, which oath affirmation, or affidavit when administered or taken by or before an employee of the Office 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 in any medium (including electronically stored information or any tangible thing) and documentary evidence necessary in the performance of the duties and responsibilities of the Inspector General.

(B) In the case of Government agencies, the Inspector General shall obtain information, documents, reports, answers, records, ac-

counts, 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 or component of the Agency.

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

(6) The Inspector General 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.

(7)(A) Subject to applicable law and the policies of the Director, the Inspector General shall select, appoint and employ such officers and employees as may be necessary to carry out his functions. In making such selections, the Inspector General shall ensure that such officers and employees have the requisite training and experience to enable him to carry out his duties effectively. In this regard, the Inspector General shall create within his organization a career cadre of sufficient size to provide appropriate continuity and objectivity needed for the effective performance of his duties.

(B) Consistent with budgetary and personnel resources allocated by the Director, the Inspector General has final approval of—

(i) the selection of internal and external candidates for employment with the Office of Inspector General; and

(ii) all other personnel decisions concerning personnel permanently assigned to the Office of Inspector General, including selection and appointment to the Senior Intelligence Service, but excluding all security-based determinations that are not within the authority of a head of other Central Intelligence Agency offices.

(C)(i) *The Inspector General may designate an officer or employee appointed in accordance with subparagraph (A) as a law enforcement officer solely for purposes of subchapter III of chapter 83 or chapter 84 of title 5, United States Code, if such officer or employee is appointed to a position with responsibility for investigating suspected offenses against the criminal laws of the United States.*

(ii) *In carrying out clause (i), the Inspector General shall ensure that any authority under such clause is exercised in a manner consistent with section 3307 of title 5, United States Code, as it relates to law enforcement officers.*

(iii) *For purposes of applying sections 3307(d), 8335(b), and 8425(b) of title 5, United States Code, the Inspector General may exercise the functions, powers, and duties of an agency head or appointing authority with respect to the Office.*

(8)(A) The Inspector General shall—

(i) appoint a Counsel to the Inspector General who shall report to the Inspector General; or

(ii) obtain the services of a counsel appointed by and directly reporting to another Inspector General or the Council of the Inspectors General on Integrity and Efficiency on a reimbursable basis.

(B) The counsel appointed or obtained under subparagraph (A) shall perform such functions as the Inspector General may prescribe.

(9)(A) The Inspector General may request such information or assistance as may be necessary for carrying out the duties and responsibilities of the Inspector General provided by this section from any Federal, State, or local governmental agency or unit thereof.

(B) Upon request of the Inspector General for information or assistance from a department or agency of the Federal Government, the head of the department or agency involved, insofar as practicable and not in contravention of any existing statutory restriction or regulation of such department or agency, shall furnish to the Inspector General, or to an authorized designee, such information or assistance.

(C) Nothing in this paragraph may be construed to provide any new authority to the Central Intelligence Agency to conduct intelligence activity in the United States.

(D) In this paragraph, the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States.

(f) SEPARATE BUDGET ACCOUNT.—(1) Beginning with fiscal year 1991, and in accordance with procedures to be issued by the Director of National Intelligence in consultation with the intelligence committees, the Director of National Intelligence shall include in the National Intelligence Program budget a separate account for the Office of Inspector General established pursuant to this section.

(2) For each fiscal year, the Inspector General shall transmit a budget estimate and request through the Director to the Director of National Intelligence that specifies for such fiscal year—

(A) the aggregate amount requested for the operations of the Inspector General;

(B) the amount requested for all training requirements of the Inspector General, including a certification from the Inspector General that the amount requested is sufficient to fund all training requirements for the Office; and

(C) the amount requested to support the Council of the Inspectors General on Integrity and Efficiency, including a justification for such amount.

(3) In transmitting a proposed budget to the President for a fiscal year, the Director of National Intelligence shall include for such fiscal year—

(A) the aggregate amount requested for the Inspector General of the Central Intelligence Agency;

(B) the amount requested for Inspector General training;

(C) the amount requested to support the Council of the Inspectors General on Integrity and Efficiency; and

(D) the comments of the Inspector General, if any, with respect to such proposed budget.

(4) The Director of National Intelligence shall submit to the Committee on Appropriations and the Select Committee on Intelligence of the Senate and the Committee on Appropriations and the Permanent Select Committee on Intelligence of the House of Representatives for each fiscal year—

(A) a separate statement of the budget estimate transmitted pursuant to paragraph (2);

(B) the amount requested by the Director of National Intelligence for the Inspector General pursuant to paragraph (3)(A);

(C) the amount requested by the Director of National Intelligence for training of personnel of the Office of the Inspector General pursuant to paragraph (3)(B);

(D) the amount requested by the Director of National Intelligence for support for the Council of the Inspectors General on Integrity and Efficiency pursuant to paragraph (3)(C); and

(E) the comments of the Inspector General under paragraph (3)(D), if any, on the amounts requested pursuant to paragraph (3), including whether such amounts would substantially inhibit the Inspector General from performing the duties of the Office.

(g) TRANSFER.—There shall be transferred to the Office the office of the Agency referred to as the “Office of Inspector General.” The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, or available to such “Office of Inspector General” are hereby transferred to the Office established pursuant to this section.

(h) INFORMATION ON WEBSITE.—(1) The Director of the Central Intelligence Agency shall establish and maintain on the homepage of the Agency’s publicly accessible website information relating to the Office of the Inspector General including methods to contact the Inspector General.

(2) The information referred to in paragraph (1) shall be obvious and facilitate accessibility to the information related to the Office of the Inspector General.

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NATIONAL SECURITY ACT OF 1947

SHORT TITLE

That this Act may be cited as the “National Security Act of 1947”.

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TITLE I—COORDINATION FOR NATIONAL SECURITY

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【Sec. 103F. National Counterintelligence Executive.】
Sec. 103F. Director of the National Counterintelligence and Security Center.

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TITLE V—ACCOUNTABILITY FOR INTELLIGENCE ACTIVITIES

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Sec. 506K. Reports on major defense intelligence acquisition programs at each milestone approval.

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TITLE I—COORDINATION FOR NATIONAL SECURITY

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RESPONSIBILITIES AND AUTHORITIES OF THE DIRECTOR OF NATIONAL INTELLIGENCE

SEC. 102A. (a) PROVISION OF INTELLIGENCE.—(1) The Director of National Intelligence shall be responsible for ensuring that national intelligence is provided—

(A) to the President;

(B) to the heads of departments and agencies of the executive branch;

(C) to the Chairman of the Joint Chiefs of Staff and senior military commanders;

(D) to the Senate and House of Representatives and the committees thereof; and

(E) to such other persons as the Director of National Intelligence determines to be appropriate.

(2) Such national intelligence should be timely, objective, independent of political considerations, and based upon all sources available to the intelligence community and other appropriate entities.

(b) ACCESS TO INTELLIGENCE.—Unless otherwise directed by the President, the Director of National Intelligence shall have access to all national intelligence and intelligence related to the national security which is collected by any Federal department, agency, or other entity, except as otherwise provided by law or, as appropriate, under guidelines agreed upon by the Attorney General and the Director of National Intelligence.

(c) BUDGET AUTHORITIES.—(1) With respect to budget requests and appropriations for the National Intelligence Program, the Director of National Intelligence shall—

(A) based on intelligence priorities set by the President, provide to the heads of departments containing agencies or organizations within the intelligence community, and to the heads of such agencies and organizations, guidance for developing the National Intelligence Program budget pertaining to such agencies and organizations;

(B) based on budget proposals provided to the Director of National Intelligence by the heads of agencies and organizations within the intelligence community and the heads of their respective departments and, as appropriate, after obtaining the advice of the Joint Intelligence Community Council, develop and determine an annual consolidated National Intelligence Program budget; and

(C) present such consolidated National Intelligence Program budget, together with any comments from the heads of departments containing agencies or organizations within the intelligence community, to the President for approval.

(2) In addition to the information provided under paragraph (1)(B), the heads of agencies and organizations within the intelligence community shall provide the Director of National Intelligence such other information as the Director shall request for the purpose of determining the annual consolidated National Intelligence Program budget under that paragraph.

(3)(A) The Director of National Intelligence shall participate in the development by the Secretary of Defense of the annual budget

for the Military Intelligence Program or any successor program or programs.

(B) The Director of National Intelligence shall provide guidance for the development of the annual budget for each element of the intelligence community that is not within the National Intelligence Program.

(4) The Director of National Intelligence shall ensure the effective execution of the annual budget for intelligence and intelligence-related activities.

(5)(A) The Director of National Intelligence shall be responsible for managing appropriations for the National Intelligence Program by directing the allotment or allocation of such appropriations through the heads of the departments containing agencies or organizations within the intelligence community and the Director of the Central Intelligence Agency, with prior notice (including the provision of appropriate supporting information) to the head of the department containing an agency or organization receiving any such allocation or allotment or the Director of the Central Intelligence Agency.

(B) Notwithstanding any other provision of law, pursuant to relevant appropriations Acts for the National Intelligence Program, the Director of the Office of Management and Budget shall exercise the authority of the Director of the Office of Management and Budget to apportion funds, at the exclusive direction of the Director of National Intelligence, for allocation to the elements of the intelligence community through the relevant host executive departments and the Central Intelligence Agency. Department comptrollers or appropriate budget execution officers shall allot, allocate, reprogram, or transfer funds appropriated for the National Intelligence Program in an expeditious manner.

(C) The Director of National Intelligence shall monitor the implementation and execution of the National Intelligence Program by the heads of the elements of the intelligence community that manage programs and activities that are part of the National Intelligence Program, which may include audits and evaluations.

(6) Apportionment and allotment of funds under this subsection shall be subject to chapter 13 and section 1517 of title 31, United States Code, and the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.).

(7)(A) The Director of National Intelligence shall provide a semi-annual report, beginning April 1, 2005, and ending April 1, 2007, to the President and the Congress regarding implementation of this section.

(B) The Director of National Intelligence shall report to the President and the Congress not later than 15 days after learning of any instance in which a departmental comptroller acts in a manner inconsistent with the law (including permanent statutes, authorization Acts, and appropriations Acts), or the direction of the Director of National Intelligence, in carrying out the National Intelligence Program.

(d) **ROLE OF DIRECTOR OF NATIONAL INTELLIGENCE IN TRANSFER AND REPROGRAMMING OF FUNDS.—(1)(A)** No funds made available under the National Intelligence Program may be transferred or reprogrammed without the prior approval of the Director of National

Intelligence, except in accordance with procedures prescribed by the Director of National Intelligence.

(B) The Secretary of Defense shall consult with the Director of National Intelligence before transferring or reprogramming funds made available under the Military Intelligence Program or any successor program or programs.

(2) Subject to the succeeding provisions of this subsection, the Director of National Intelligence may transfer or reprogram funds appropriated for a program within the National Intelligence Program—

(A) to another such program;

(B) to other departments or agencies of the United States Government for the development and fielding of systems of common concern related to the collection, processing, analysis, exploitation, and dissemination of intelligence information; or

(C) to a program funded by appropriations not within the National Intelligence Program to address critical gaps in intelligence information sharing or access capabilities.

(3) The Director of National Intelligence may only transfer or reprogram funds referred to in paragraph (1)(A)—

(A) with the approval of the Director of the Office of Management and Budget; and

(B) after consultation with the heads of departments containing agencies or organizations within the intelligence community to the extent such agencies or organizations are affected, and, in the case of the Central Intelligence Agency, after consultation with the Director of the Central Intelligence Agency.

(4) The amounts available for transfer or reprogramming in the National Intelligence Program in any given fiscal year, and the terms and conditions governing such transfers and reprogrammings, are subject to the provisions of annual appropriations Acts and this subsection.

(5)(A) A transfer or reprogramming of funds may be made under this subsection only if—

(i) the funds are being transferred to an activity that is a higher priority intelligence activity;

(ii) the transfer or reprogramming supports an emergent need, improves program effectiveness, or increases efficiency;

(iii) the transfer or reprogramming does not involve a transfer or reprogramming of funds to a Reserve for Contingencies of the Director of National Intelligence or the Reserve for Contingencies of the Central Intelligence Agency;

(iv) the transfer or reprogramming results in a cumulative transfer or reprogramming of funds out of any department or agency, as appropriate, funded in the National Intelligence Program in a single fiscal year—

(I) that is less than \$150,000,000, and

(II) that is less than 5 percent of amounts available to a department or agency under the National Intelligence Program; and

(v) the transfer or reprogramming does not terminate an acquisition program.

(B) A transfer or reprogramming may be made without regard to a limitation set forth in clause (iv) or (v) of subparagraph (A) if the

transfer has the concurrence of the head of the department involved or the Director of the Central Intelligence Agency (in the case of the Central Intelligence Agency). The authority to provide such concurrence may only be delegated by the head of the department involved or the Director of the Central Intelligence Agency (in the case of the Central Intelligence Agency) to the deputy of such officer.

(6) Funds transferred or reprogrammed under this subsection shall remain available for the same period as the appropriations account to which transferred or reprogrammed.

(7) Any transfer or reprogramming of funds under this subsection shall be carried out in accordance with existing procedures applicable to reprogramming notifications for the appropriate congressional committees. Any proposed transfer or reprogramming for which notice is given to the appropriate congressional committees shall be accompanied by a report explaining the nature of the proposed transfer or reprogramming and how it satisfies the requirements of this subsection. In addition, the congressional intelligence committees shall be promptly notified of any transfer or reprogramming of funds made pursuant to this subsection in any case in which the transfer or reprogramming would not have otherwise required reprogramming notification under procedures in effect as of the date of the enactment of this subsection.

(e) TRANSFER OF PERSONNEL.—(1)(A) In addition to any other authorities available under law for such purposes, in the first twelve months after establishment of a new national intelligence center, the Director of National Intelligence, with the approval of the Director of the Office of Management and Budget and in consultation with the congressional committees of jurisdiction referred to in subparagraph (B), may transfer not more than 100 personnel authorized for elements of the intelligence community to such center.

(B) The Director of National Intelligence shall promptly provide notice of any transfer of personnel made pursuant to this paragraph to—

- (i) the congressional intelligence committees;
- (ii) the Committees on Appropriations of the Senate and the House of Representatives;
- (iii) in the case of the transfer of personnel to or from the Department of Defense, the Committees on Armed Services of the Senate and the House of Representatives; and
- (iv) in the case of the transfer of personnel to or from the Department of Justice, to the Committees on the Judiciary of the Senate and the House of Representatives.

(C) The Director shall include in any notice under subparagraph (B) an explanation of the nature of the transfer and how it satisfies the requirements of this subsection.

(2)(A) The Director of National Intelligence, with the approval of the Director of the Office of Management and Budget and in accordance with procedures to be developed by the Director of National Intelligence and the heads of the departments and agencies concerned, may transfer personnel authorized for an element of the intelligence community to another such element for a period of not more than 2 years.

(B) A transfer of personnel may be made under this paragraph only if—

- (i) the personnel are being transferred to an activity that is a higher priority intelligence activity; and
 - (ii) the transfer supports an emergent need, improves program effectiveness, or increases efficiency.
- (C) The Director of National Intelligence shall promptly provide notice of any transfer of personnel made pursuant to this paragraph to—
- (i) the congressional intelligence committees;
 - (ii) in the case of the transfer of personnel to or from the Department of Defense, the Committees on Armed Services of the Senate and the House of Representatives; and
 - (iii) in the case of the transfer of personnel to or from the Department of Justice, to the Committees on the Judiciary of the Senate and the House of Representatives.
- (D) The Director shall include in any notice under subparagraph (C) an explanation of the nature of the transfer and how it satisfies the requirements of this paragraph.
- (3)(A) In addition to the number of full-time equivalent positions authorized for the Office of the Director of National Intelligence for a fiscal year, there is authorized for such Office for each fiscal year an additional 100 full-time equivalent positions that may be used only for the purposes described in subparagraph (B).
- (B) Except as provided in subparagraph (C), the Director of National Intelligence may use a full-time equivalent position authorized under subparagraph (A) only for the purpose of providing a temporary transfer of personnel made in accordance with paragraph (2) to an element of the intelligence community to enable such element to increase the total number of personnel authorized for such element, on a temporary basis—
- (i) during a period in which a permanent employee of such element is absent to participate in critical language training;
 - or
 - (ii) to accept a permanent employee of another element of the intelligence community to provide language-capable services.
- (C) Paragraph (2)(B) shall not apply with respect to a transfer of personnel made under subparagraph (B).
- (D) For each of the fiscal years 2010, 2011, and 2012, the Director of National Intelligence shall submit to the congressional intelligence committees an annual report on the use of authorities under this paragraph. Each such report shall include a description of—
- (i) the number of transfers of personnel made by the Director pursuant to subparagraph (B), disaggregated by each element of the intelligence community;
 - (ii) the critical language needs that were fulfilled or partially fulfilled through the use of such transfers; and
 - (iii) the cost to carry out subparagraph (B).
- (4) It is the sense of Congress that—
- (A) the nature of the national security threats facing the United States will continue to challenge the intelligence community to respond rapidly and flexibly to bring analytic resources to bear against emerging and unforeseen requirements;
 - (B) both the Office of the Director of National Intelligence and any analytic centers determined to be necessary should be

fully and properly supported with appropriate levels of personnel resources and that the President's yearly budget requests adequately support those needs; and

(C) the President should utilize all legal and administrative discretion to ensure that the Director of National Intelligence and all other elements of the intelligence community have the necessary resources and procedures to respond promptly and effectively to emerging and unforeseen national security challenges.

(f) TASKING AND OTHER AUTHORITIES.—(1)(A) The Director of National Intelligence shall—

(i) establish objectives, priorities, and guidance for the intelligence community to ensure timely and effective collection, processing, analysis, and dissemination (including access by users to collected data consistent with applicable law and, as appropriate, the guidelines referred to in subsection (b) and analytic products generated by or within the intelligence community) of national intelligence;

(ii) determine requirements and priorities for, and manage and direct the tasking of, collection, analysis, production, and dissemination of national intelligence by elements of the intelligence community, including—

(I) approving requirements (including those requirements responding to needs provided by consumers) for collection and analysis; and

(II) resolving conflicts in collection requirements and in the tasking of national collection assets of the elements of the intelligence community; and

(iii) provide advisory tasking to intelligence elements of those agencies and departments not within the National Intelligence Program.

(B) The authority of the Director of National Intelligence under subparagraph (A) shall not apply—

(i) insofar as the President so directs;

(ii) with respect to clause (ii) of subparagraph (A), insofar as the Secretary of Defense exercises tasking authority under plans or arrangements agreed upon by the Secretary of Defense and the Director of National Intelligence; or

(iii) to the direct dissemination of information to State government and local government officials and private sector entities pursuant to sections 201 and 892 of the Homeland Security Act of 2002 (6 U.S.C. 121, 482).

(2) The Director of National Intelligence shall oversee the National Counterterrorism Center, *the National Counterproliferation Center*, and *the National Counterintelligence and Security Center*, and may establish such other national intelligence centers as the Director determines necessary.

(3)(A) The Director of National Intelligence shall prescribe, in consultation with the heads of other agencies or elements of the intelligence community, and the heads of their respective departments, personnel policies and programs applicable to the intelligence community that—

(i) encourage and facilitate assignments and details of personnel to national intelligence centers, and between elements of the intelligence community;

(ii) set standards for education, training, and career development of personnel of the intelligence community;

(iii) encourage and facilitate the recruitment and retention by the intelligence community of highly qualified individuals for the effective conduct of intelligence activities;

(iv) ensure that the personnel of the intelligence community are sufficiently diverse for purposes of the collection and analysis of intelligence through the recruitment and training of women, minorities, and individuals with diverse ethnic, cultural, and linguistic backgrounds;

(v) make service in more than one element of the intelligence community a condition of promotion to such positions within the intelligence community as the Director shall specify; and

(vi) ensure the effective management of intelligence community personnel who are responsible for intelligence community-wide matters.

(B) Policies prescribed under subparagraph (A) shall not be inconsistent with the personnel policies otherwise applicable to members of the uniformed services.

(4) The Director of National Intelligence shall ensure compliance with the Constitution and laws of the United States by the Central Intelligence Agency and shall ensure such compliance by other elements of the intelligence community through the host executive departments that manage the programs and activities that are part of the National Intelligence Program.

(5) The Director of National Intelligence shall ensure the elimination of waste and unnecessary duplication within the intelligence community.

(6) The Director of National Intelligence shall establish requirements and priorities for foreign intelligence information to be collected under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), and provide assistance to the Attorney General to ensure that information derived from electronic surveillance or physical searches under that Act is disseminated so it may be used efficiently and effectively for national intelligence purposes, except that the Director shall have no authority to direct or undertake electronic surveillance or physical search operations pursuant to that Act unless authorized by statute or Executive order.

(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 an accountability review of an element of the intelligence community or the personnel of such element in relation to a failure or deficiency within the intelligence community.

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

(C)(i) The Director of National Intelligence shall provide the findings of an accountability review conducted under subparagraph (A) and the Director's recommendations for corrective or punitive action, if any, to the head of the applicable element of the intelligence community. Such recommendations may include a recommendation for dismissal of personnel.

(ii) If the head of such element does not implement a recommendation made by the Director under clause (i), the head of

such element shall submit to the congressional intelligence committees a notice of the determination not to implement the recommendation, including the reasons for the determination.

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

(8) The Director of National Intelligence shall perform such other functions as the President may direct.

(9) Nothing in this title shall be construed as affecting the role of the Department of Justice or the Attorney General under the Foreign Intelligence Surveillance Act of 1978.

(g) INTELLIGENCE INFORMATION SHARING.—(1) The Director of National Intelligence shall have principal authority to ensure maximum availability of and access to intelligence information within the intelligence community consistent with national security requirements. The Director of National Intelligence shall—

(A) establish uniform security standards and procedures;

(B) establish common information technology standards, protocols, and interfaces;

(C) ensure development of information technology systems that include multi-level security and intelligence integration capabilities;

(D) establish policies and procedures to resolve conflicts between the need to share intelligence information and the need to protect intelligence sources and methods;

(E) develop an enterprise architecture for the intelligence community and ensure that elements of the intelligence community comply with such architecture;

(F) have procurement approval authority over all enterprise architecture-related information technology items funded in the National Intelligence Program; and

(G) in accordance with Executive Order No. 13526 (75 Fed. Reg. 707; relating to classified national security information) (or any subsequent corresponding executive order), and part 2001 of title 32, Code of Federal Regulations (or any subsequent corresponding regulation), establish—

(i) guidance to standardize, in appropriate cases, the formats for classified and unclassified intelligence products created by elements of the intelligence community for purposes of promoting the sharing of intelligence products; and

(ii) policies and procedures requiring the increased use, in appropriate cases, and including portion markings, of the classification of portions of information within one intelligence product.

(2) The President shall ensure that the Director of National Intelligence has all necessary support and authorities to fully and effectively implement paragraph (1).

(3) Except as otherwise directed by the President or with the specific written agreement of the head of the department or agency in question, a Federal agency or official shall not be considered to have met any obligation to provide any information, report, assessment, or other material (including unevaluated intelligence information) to that department or agency solely by virtue of having

provided that information, report, assessment, or other material to the Director of National Intelligence or the National Counterterrorism Center.

(4) The Director of National Intelligence shall, in a timely manner, report to Congress any statute, regulation, policy, or practice that the Director believes impedes the ability of the Director to fully and effectively ensure maximum availability of access to intelligence information within the intelligence community consistent with the protection of the national security of the United States.

(h) ANALYSIS.—To ensure the most accurate analysis of intelligence is derived from all sources to support national security needs, the Director of National Intelligence shall—

(1) implement policies and procedures—

(A) to encourage sound analytic methods and tradecraft throughout the elements of the intelligence community;

(B) to ensure that analysis is based upon all sources available; and

(C) to ensure that the elements of the intelligence community regularly conduct competitive analysis of analytic products, whether such products are produced by or disseminated to such elements;

(2) ensure that resource allocation for intelligence analysis is appropriately proportional to resource allocation for intelligence collection systems and operations in order to maximize analysis of all collected data;

(3) ensure that differences in analytic judgment are fully considered and brought to the attention of policymakers; and

(4) ensure that sufficient relationships are established between intelligence collectors and analysts to facilitate greater understanding of the needs of analysts.

(i) PROTECTION OF INTELLIGENCE SOURCES AND METHODS.—(1) The Director of National Intelligence shall protect intelligence sources and methods from unauthorized disclosure.

(2) Consistent with paragraph (1), in order to maximize the dissemination of intelligence, the Director of National Intelligence shall establish and implement guidelines for the intelligence community for the following purposes:

(A) Classification of information under applicable law, Executive orders, or other Presidential directives.

(B) Access to and dissemination of intelligence, both in final form and in the form when initially gathered.

(C) Preparation of intelligence products in such a way that source information is removed to allow for dissemination at the lowest level of classification possible or in unclassified form to the extent practicable.

(3) The Director may only delegate a duty or authority given the Director under this subsection to the Principal Deputy Director of National Intelligence.

(j) UNIFORM PROCEDURES FOR CLASSIFIED INFORMATION.—The Director of National Intelligence, subject to the direction of the President, shall—

(1) establish uniform standards and procedures for the grant of access to sensitive compartmented information to any officer or employee of any agency or department of the United States

and to employees of contractors of those agencies or departments;

(2) ensure the consistent implementation of those standards and procedures throughout such agencies and departments;

(3) ensure that security clearances granted by individual elements of the intelligence community are recognized by all elements of the intelligence community, and under contracts entered into by those agencies;

(4) ensure that the process for investigation and adjudication of an application for access to sensitive compartmented information is performed in the most expeditious manner possible consistent with applicable standards for national security;

(5) ensure that the background of each employee or officer of an element of the intelligence community, each contractor to an element of the intelligence community, and each individual employee of such a contractor who has been determined to be eligible for access to classified information is monitored on a continual basis under standards developed by the Director, including with respect to the frequency of evaluation, during the period of eligibility of such employee or officer of an element of the intelligence community, such contractor, or such individual employee to such a contractor to determine whether such employee or officer of an element of the intelligence community, such contractor, and such individual employee of such a contractor continues to meet the requirements for eligibility for access to classified information; and

(6) develop procedures to require information sharing between elements of the intelligence community concerning potentially derogatory security information regarding an employee or officer of an element of the intelligence community, a contractor to an element of the intelligence community, or an individual employee of such a contractor that may impact the eligibility of such employee or officer of an element of the intelligence community, such contractor, or such individual employee of such a contractor for a security clearance.

(k) COORDINATION WITH FOREIGN GOVERNMENTS.—Under the direction of the President and in a manner consistent with section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927), the Director of National Intelligence shall oversee the coordination of the relationships between elements of the intelligence community and the intelligence or security services of foreign governments or international organizations on all matters involving intelligence related to the national security or involving intelligence acquired through clandestine means.

(l) ENHANCED PERSONNEL MANAGEMENT.—(1)(A) The Director of National Intelligence shall, under regulations prescribed by the Director, provide incentives for personnel of elements of the intelligence community to serve—

(i) on the staff of the Director of National Intelligence;

(ii) on the staff of the national intelligence centers;

(iii) on the staff of the National Counterterrorism Center; and

(iv) in other positions in support of the intelligence community management functions of the Director.

(B) Incentives under subparagraph (A) may include financial incentives, bonuses, and such other awards and incentives as the Director considers appropriate.

(2)(A) Notwithstanding any other provision of law, the personnel of an element of the intelligence community who are assigned or detailed under paragraph (1)(A) to service under the Director of National Intelligence shall be promoted at rates equivalent to or better than personnel of such element who are not so assigned or detailed.

(B) The Director may prescribe regulations to carry out this paragraph.

(3)(A) The Director of National Intelligence shall prescribe mechanisms to facilitate the rotation of personnel of the intelligence community through various elements of the intelligence community in the course of their careers in order to facilitate the widest possible understanding by such personnel of the variety of intelligence requirements, methods, users, and capabilities.

(B) The mechanisms prescribed under subparagraph (A) may include the following:

(i) The establishment of special occupational categories involving service, over the course of a career, in more than one element of the intelligence community.

(ii) The provision of rewards for service in positions undertaking analysis and planning of operations involving two or more elements of the intelligence community.

(iii) The establishment of requirements for education, training, service, and evaluation for service involving more than one element of the intelligence community.

(C) It is the sense of Congress that the mechanisms prescribed under this subsection should, to the extent practical, seek to duplicate for civilian personnel within the intelligence community the joint officer management policies established by chapter 38 of title 10, United States Code, and the other amendments made by title IV of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433).

(4)(A) Except as provided in subparagraph (B) and subparagraph (D), this subsection shall not apply with respect to personnel of the elements of the intelligence community who are members of the uniformed services.

(B) Mechanisms that establish requirements for education and training pursuant to paragraph (3)(B)(iii) may apply with respect to members of the uniformed services who are assigned to an element of the intelligence community funded through the National Intelligence Program, but such mechanisms shall not be inconsistent with personnel policies and education and training requirements otherwise applicable to members of the uniformed services.

(C) The personnel policies and programs developed and implemented under this subsection with respect to law enforcement officers (as that term is defined in section 5541(3) of title 5, United States Code) shall not affect the ability of law enforcement entities to conduct operations or, through the applicable chain of command, to control the activities of such law enforcement officers.

(D) Assignment to the Office of the Director of National Intelligence of commissioned officers of the Armed Forces shall be considered a joint-duty assignment for purposes of the joint officer

management policies prescribed by chapter 38 of title 10, United States Code, and other provisions of that title.

(m) **ADDITIONAL AUTHORITY WITH RESPECT TO PERSONNEL.**—(1) In addition to the authorities under subsection (f)(3), the Director of National Intelligence may exercise with respect to the personnel of the Office of the Director of National Intelligence any authority of the Director of the Central Intelligence Agency with respect to the personnel of the Central Intelligence Agency under the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.), and other applicable provisions of law, as of the date of the enactment of this subsection to the same extent, and subject to the same conditions and limitations, that the Director of the Central Intelligence Agency may exercise such authority with respect to personnel of the Central Intelligence Agency.

(2) Employees and applicants for employment of the Office of the Director of National Intelligence shall have the same rights and protections under the Office of the Director of National Intelligence as employees of the Central Intelligence Agency have under the Central Intelligence Agency Act of 1949, and other applicable provisions of law, as of the date of the enactment of this subsection.

(n) **ACQUISITION AND OTHER AUTHORITIES.**—(1) In carrying out the responsibilities and authorities under this section, the Director of National Intelligence may exercise the acquisition and appropriations authorities referred to in the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) other than the authorities referred to in section 8(b) of that Act (50 U.S.C. 403j(b)).

(2) For the purpose of the exercise of any authority referred to in paragraph (1), a reference to the head of an agency shall be deemed to be a reference to the Director of National Intelligence or the Principal Deputy Director of National Intelligence.

(3)(A) Any determination or decision to be made under an authority referred to in paragraph (1) by the head of an agency may be made with respect to individual purchases and contracts or with respect to classes of purchases or contracts, and shall be final.

(B) Except as provided in subparagraph (C), the Director of National Intelligence or the Principal Deputy Director of National Intelligence may, in such official's discretion, delegate to any officer or other official of the Office of the Director of National Intelligence any authority to make a determination or decision as the head of the agency under an authority referred to in paragraph (1).

(C) The limitations and conditions set forth in section 3(d) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403c(d)) shall apply to the exercise by the Director of National Intelligence of an authority referred to in paragraph (1).

(D) Each determination or decision required by an authority referred to in the second sentence of section 3(d) of the Central Intelligence Agency Act of 1949 shall be based upon written findings made by the official making such determination or decision, which findings shall be final and shall be available within the Office of the Director of National Intelligence for a period of at least six years following the date of such determination or decision.

(4)(A) In addition to the authority referred to in paragraph (1), the Director of National Intelligence may authorize the head of an element of the intelligence community to exercise an acquisition authority referred to in section 3 or 8(a) of the Central Intelligence

Agency Act of 1949 (50 U.S.C. 403c and 403j(a)) for an acquisition by such element that is more than 50 percent funded under the National Intelligence Program.

(B) The head of an element of the intelligence community may not exercise an authority referred to in subparagraph (A) until—

(i) the head of such element (without delegation) submits to the Director of National Intelligence a written request that includes—

(I) a description of such authority requested to be exercised;

(II) an explanation of the need for such authority, including an explanation of the reasons that other authorities are insufficient; and

(III) a certification that the mission of such element would be—

(aa) impaired if such authority is not exercised; or

(bb) significantly and measurably enhanced if such authority is exercised; and

(ii) the Director of National Intelligence issues a written authorization that includes—

(I) a description of the authority referred to in subparagraph (A) that is authorized to be exercised; and

(II) a justification to support the exercise of such authority.

(C) A request and authorization to exercise an authority referred to in subparagraph (A) may be made with respect to an individual acquisition or with respect to a specific class of acquisitions described in the request and authorization referred to in subparagraph (B).

(D)(i) A request from a head of an element of the intelligence community located within one of the departments described in clause (ii) to exercise an authority referred to in subparagraph (A) shall be submitted to the Director of National Intelligence in accordance with any procedures established by the head of such department.

(ii) The departments described in this clause are the Department of Defense, the Department of Energy, the Department of Homeland Security, the Department of Justice, the Department of State, and the Department of the Treasury.

(E)(i) The head of an element of the intelligence community may not be authorized to utilize an authority referred to in subparagraph (A) for a class of acquisitions for a period of more than 3 years, except that the Director of National Intelligence (without delegation) may authorize the use of such an authority for not more than 6 years.

(ii) Each authorization to utilize an authority referred to in subparagraph (A) may be extended in accordance with the requirements of subparagraph (B) for successive periods of not more than 3 years, except that the Director of National Intelligence (without delegation) may authorize an extension period of not more than 6 years.

(F) Subject to clauses (i) and (ii) of subparagraph (E), the Director of National Intelligence may only delegate the authority of the Director under subparagraphs (A) through (E) to the Principal Dep-

uty Director of National Intelligence or a Deputy Director of National Intelligence.

(G) The Director of National Intelligence shall submit—

(i) to the congressional intelligence committees a notification of an authorization to exercise an authority referred to in subparagraph (A) or an extension of such authorization that includes the written authorization referred to in subparagraph (B)(ii); and

(ii) to the Director of the Office of Management and Budget a notification of an authorization to exercise an authority referred to in subparagraph (A) for an acquisition or class of acquisitions that will exceed \$50,000,000 annually.

(H) Requests and authorizations to exercise an authority referred to in subparagraph (A) shall remain available within the Office of the Director of National Intelligence for a period of at least 6 years following the date of such request or authorization.

(I) Nothing in this paragraph may be construed to alter or otherwise limit the authority of the Central Intelligence Agency to independently exercise an authority under section 3 or 8(a) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403c and 403j(a)).

(o) CONSIDERATION OF VIEWS OF ELEMENTS OF INTELLIGENCE COMMUNITY.—In carrying out the duties and responsibilities under this section, the Director of National Intelligence shall take into account the views of a head of a department containing an element of the intelligence community and of the Director of the Central Intelligence Agency.

(p) RESPONSIBILITY OF DIRECTOR OF NATIONAL INTELLIGENCE REGARDING NATIONAL INTELLIGENCE PROGRAM BUDGET CONCERNING THE DEPARTMENT OF DEFENSE.—Subject to the direction of the President, the Director of National Intelligence shall, after consultation with the Secretary of Defense, ensure that the National Intelligence Program budgets for the elements of the intelligence community that are within the Department of Defense are adequate to satisfy the national intelligence needs of the Department of Defense, including the needs of the Chairman of the Joint Chiefs of Staff and the commanders of the unified and specified commands, and wherever such elements are performing Government-wide functions, the needs of other Federal departments and agencies.

(q) ACQUISITIONS OF MAJOR SYSTEMS.—(1) For each intelligence program within the National Intelligence Program for the acquisition of a major system, the Director of National Intelligence shall—

(A) require the development and implementation of a program management plan that includes cost, schedule, and performance goals and program milestone criteria, except that with respect to Department of Defense programs the Director shall consult with the Secretary of Defense;

(B) serve as exclusive milestone decision authority, except that with respect to Department of Defense programs the Director shall serve as milestone decision authority jointly with the Secretary of Defense or the designee of the Secretary; and

(C) periodically—

(i) review and assess the progress made toward the achievement of the goals and milestones established in such plan; and

- (ii) submit to Congress a report on the results of such review and assessment.
- (2) If the Director of National Intelligence and the Secretary of Defense are unable to reach an agreement on a milestone decision under paragraph (1)(B), the President shall resolve the conflict.
- (3) Nothing in this subsection may be construed to limit the authority of the Director of National Intelligence to delegate to any other official any authority to perform the responsibilities of the Director under this subsection.
- (4) In this subsection:
 - (A) The term “intelligence program”, with respect to the acquisition of a major system, means a program that—
 - (i) is carried out to acquire such major system for an element of the intelligence community; and
 - (ii) is funded in whole out of amounts available for the National Intelligence Program.
 - (B) The term “major system” has the meaning given such term in section 4(9) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 403(9)).
- (r) PERFORMANCE OF COMMON SERVICES.—The Director of National Intelligence shall, in consultation with the heads of departments and agencies of the United States Government containing elements within the intelligence community and with the Director of the Central Intelligence Agency, coordinate the performance by the elements of the intelligence community within the National Intelligence Program of such services as are of common concern to the intelligence community, which services the Director of National Intelligence determines can be more efficiently accomplished in a consolidated manner.
- (s) 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 coordination with the Director of the Office of Personnel Management and the Director of the Office of Management and Budget, grant authority to the head of a department or agency to fix the rate of basic pay for one 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 only—
 - (A) with respect to a position that requires an extremely high level of expertise and is critical to successful accomplishment of an important mission; and
 - (B) to the extent necessary to recruit or retain an individual exceptionally well qualified for the position.
 - (3) The head of a department or agency may not fix a rate of basic pay under this subsection at a rate greater than the rate payable for level II of the Executive Schedule under section 5313 of title 5, United States Code, except upon written approval of the Director of National Intelligence or as otherwise authorized by law.

(4) The head of a department or agency may not fix a rate of basic pay under this subsection at a rate greater than the rate payable for level I of the Executive Schedule under section 5312 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.

(6)(A) The Director of National Intelligence shall notify the congressional intelligence committees not later than 30 days after the date on which the Director grants authority to the head of a department or agency under this subsection.

(B) The head of a department or agency to which the Director of National Intelligence grants authority under this subsection shall notify the congressional intelligence committees and the Director of the exercise of such authority not later than 30 days after the date on which such head exercises such authority.

(t) AWARD OF RANK TO MEMBERS OF THE SENIOR NATIONAL INTELLIGENCE SERVICE.—(1) The President, based on the recommendation of the Director of National Intelligence, may award a rank to a member of the Senior National Intelligence Service or other intelligence community senior civilian officer not already covered by such a rank award program in the same manner in which a career appointee of an agency may be awarded a rank under section 4507 of title 5, United States Code.

(2) The President may establish procedures to award a rank under paragraph (1) to a member of the Senior National Intelligence Service or a senior civilian officer of the intelligence community whose identity as such a member or officer is classified information (as defined in section 606(1)).

(u) CONFLICT OF INTEREST REGULATIONS.—The Director of National Intelligence, in consultation with the Director of the Office of Government Ethics, shall issue regulations prohibiting an officer or employee of an element of the intelligence community from engaging in outside employment if such employment creates a conflict of interest or appearance thereof.

(v) AUTHORITY TO ESTABLISH POSITIONS IN EXCEPTED SERVICE.—(1) The Director of National Intelligence, with the concurrence of the head of the covered department concerned and in consultation with the Director of the Office of Personnel Management, may—

(A) convert competitive service positions, and the incumbents of such positions, within an element of the intelligence community in such department, to excepted service positions as the Director of National Intelligence determines necessary to carry out the intelligence functions of such element; and

(B) establish new positions in the excepted service within an element of the intelligence community in such department, if the Director of National Intelligence determines such positions are necessary to carry out the intelligence functions of such element.

(2) An incumbent occupying a position on the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2012 selected to be converted to the excepted service under this section shall have the right to refuse such conversion. Once such indi-

vidual no longer occupies the position, the position may be converted to the excepted service.

(3) A covered department may appoint an individual to a position converted or established pursuant to this subsection without regard to the civil-service laws, including parts II and III of title 5, United States Code.

(4) In this subsection, the term "covered department" means the Department of Energy, the Department of Homeland Security, the Department of State, or the Department of the Treasury.

(w) NUCLEAR PROLIFERATION ASSESSMENT STATEMENTS INTELLIGENCE COMMUNITY ADDENDUM.—The Director of National Intelligence, in consultation with the heads of the appropriate elements of the intelligence community and the Secretary of State, shall provide to the President, the congressional intelligence committees, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Foreign Relations of the Senate an addendum to each Nuclear Proliferation Assessment Statement accompanying a civilian nuclear cooperation agreement, containing a comprehensive analysis of the country's export control system with respect to nuclear-related matters, including interactions with other countries of proliferation concern and the actual or suspected nuclear, dual-use, or missile-related transfers to such countries.

(x) REQUIREMENTS FOR INTELLIGENCE COMMUNITY CONTRACTORS.—The Director of National Intelligence, in consultation with the head of each department of the Federal Government that contains an element of the intelligence community and the Director of the Central Intelligence Agency, shall—

(1) ensure that—

(A) any contractor to an element of the intelligence community with access to a classified network or classified information develops and operates a security plan that is consistent with standards established by the Director of National Intelligence for intelligence community networks; and

(B) each contract awarded by an element of the intelligence community includes provisions requiring the contractor comply with such plan and such standards;

(2) conduct periodic assessments of each security plan required under paragraph (1)(A) to ensure such security plan complies with the requirements of such paragraph; and

(3) ensure that the insider threat detection capabilities and insider threat policies of the intelligence community apply to facilities of contractors with access to a classified network.

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

SEC. 103. (a) OFFICE OF DIRECTOR OF NATIONAL INTELLIGENCE.—There is an Office of the Director of National Intelligence.

(b) FUNCTION.—The function of the Office of the Director of National Intelligence is to assist the Director of National Intelligence in carrying out the duties and responsibilities of the Director under this Act and other applicable provisions of law, and to carry out such other duties as may be prescribed by the President or by law.

(c) COMPOSITION.—The Office of the Director of National Intelligence is composed of the following:

(1) The Director of National Intelligence.

- (2) The Principal Deputy Director of National Intelligence.
- (3) Any Deputy Director of National Intelligence appointed under section 103A.
- (4) The National Intelligence Council.
- (5) The General Counsel.
- (6) The Civil Liberties Protection Officer.
- (7) The Director of Science and Technology.
- (8) The [National Counterintelligence Executive (including the Office of the National Counterintelligence Executive)] *Director of the National Counterintelligence and Security Center*.
- (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.
- (13) The Chief Financial Officer of the Intelligence Community.
- (14) Such other offices and officials as may be established by law or the Director may establish or designate in the Office, including national intelligence centers.

(d) STAFF.—(1) To assist the Director of National Intelligence in fulfilling the duties and responsibilities of the Director, the Director shall employ and utilize in the Office of the Director of National Intelligence a professional staff having an expertise in matters relating to such duties and responsibilities, and may establish permanent positions and appropriate rates of pay with respect to that staff.

(2) The staff of the Office of the Director of National Intelligence under paragraph (1) shall include the staff of the Office of the Deputy Director of Central Intelligence for Community Management that is transferred to the Office of the Director of National Intelligence under section 1091 of the National Security Intelligence Reform Act of 2004.

(e) TEMPORARY FILLING OF VACANCIES.—With respect to filling temporarily a vacancy in an office within the Office of the Director of National Intelligence (other than that of the Director of National Intelligence), section 3345(a)(3) of title 5, United States Code, may be applied—

- (1) in the matter preceding subparagraph (A), by substituting “an element of the intelligence community, as that term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)),” for “such Executive agency”; and
- (2) in subparagraph (A), by substituting “the intelligence community” for “such agency”.

(f) LOCATION OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.—The headquarters of the Office of the Director of National Intelligence may be located in the Washington metropolitan region, as that term is defined in section 8301 of title 40, United States Code.

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【NATIONAL COUNTERINTELLIGENCE EXECUTIVE】 *DIRECTOR OF THE
NATIONAL COUNTERINTELLIGENCE AND SECURITY CENTER*

SEC. 103F. (a) 【NATIONAL COUNTERINTELLIGENCE EXECUTIVE】 *DIRECTOR OF THE NATIONAL COUNTERINTELLIGENCE AND SECURITY CENTER*.—The 【National Counterintelligence Executive】 *Director of the National Counterintelligence and Security Center* under section 902 of the Counterintelligence Enhancement Act of 2002 (title IX of Public Law 107–306; 50 U.S.C. 402b et seq.) is a component of the Office of the Director of National Intelligence.

(b) DUTIES.—The 【National Counterintelligence Executive】 *Director of the National Counterintelligence and Security Center* shall perform the duties provided in the Counterintelligence Enhancement Act of 2002 and such other duties as may be prescribed by the Director of National Intelligence or specified by law.

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INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY

SEC. 103H. (a) OFFICE OF INSPECTOR GENERAL OF THE 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—

(1) to create an objective and effective office, appropriately accountable to Congress, to initiate and conduct independent investigations, inspections, audits, and reviews on programs and activities within the responsibility and authority of the Director of National Intelligence;

(2) to provide leadership and coordination and recommend policies for activities designed—

(A) to promote economy, efficiency, and effectiveness in the administration and implementation of such programs and activities; and

(B) to prevent and detect fraud and abuse in such programs and activities;

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

(A) problems and deficiencies relating to the administration of programs and activities 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, to ensure that the congressional intelligence committees are kept similarly informed of—

(A) significant problems and deficiencies relating to programs and activities 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 THE 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 Intel-

ligence Community, who shall be appointed by the President, by and with the advice and consent of the Senate.

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

(A) without regard to political affiliation;

(B) on the basis of integrity, compliance with 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 investigations.

(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 communicate in writing to the congressional intelligence committees the reasons for the removal not later than 30 days prior to the effective date of such removal. Nothing in this paragraph shall be construed to prohibit a personnel action otherwise authorized by law, other than transfer or removal.

(d) ASSISTANT INSPECTORS GENERAL.—Subject to the policies of the Director of National Intelligence, the Inspector General of the Intelligence Community shall—

(1) appoint an Assistant Inspector General for Audit who shall have the responsibility for supervising the performance of auditing activities relating to programs and activities within the responsibility and authority of the Director;

(2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and activities; and

(3) appoint other Assistant Inspectors General that, in the judgment of the Inspector General, are necessary to carry out the duties of the Inspector General.

(e) DUTIES AND RESPONSIBILITIES.—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, audits, and reviews relating to programs and activities within the responsibility and authority of the Director of National Intelligence;

(2) to keep the Director of National Intelligence fully and currently informed concerning violations of law and regulations, fraud, and other serious problems, abuses, and deficiencies relating to the programs and activities within the responsibility and authority of the Director, to recommend corrective action concerning such problems, and to report on the progress made in implementing such 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.

(f) 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, audit, or review if the Director determines that such prohibition is necessary to protect vital national security interests of the United States.

(2) Not later than seven days after the date on which the Director exercises the authority under paragraph (1), the Director shall submit to the congressional intelligence committees an appropriately classified statement of the reasons for the exercise of such authority.

(3) The Director shall advise the Inspector General at the time a statement 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 statement.

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

(g) 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, subject to the limitations in subsection (f), make such investigations and reports relating to the administration of the programs and activities within the authorities and responsibilities of the Director as are, in the judgment of the Inspector General, necessary or desirable.

(B) The Inspector General shall have access to any employee, or any employee of a contractor, of any element of the intelligence community needed for the performance of the duties of the Inspector General.

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

(D) 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 (C).

(E) The Director, or on the recommendation of the Director, another appropriate official of the intelligence community, shall take appropriate administrative actions against an employee, or an employee of a contractor, of an element of the intelligence community that fails to cooperate with the Inspector General. Such administrative action may include loss of employment or the termination of an existing contractual relationship.

(3) The Inspector General is authorized to receive and investigate, pursuant to subsection (h), complaints or information from any person concerning the existence of an activity within the authorities and responsibilities of the Director of National Intel-

ligence 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 intelligence community—

(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 this provision shall qualify as a withholding statute pursuant to subsection (b)(3) of section 552 of title 5, United States Code (commonly known as the “Freedom of Information Act”); and

(B) no action constituting a reprisal, or threat of reprisal, for making such complaint or disclosing such information to the Inspector General 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 the 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 in any medium (including electronically stored information, as well as any tangible thing) 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 component of the Office of the Director of National Intelligence or any element of the intelligence community, including the Office of the Director of National Intelligence.

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

(6) The Inspector General may obtain services as authorized by section 3109 of title 5, United States Code, at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for grade GS-15 of the General Schedule under section 5332 of title 5, United States Code.

(7) The Inspector General may, to the extent and in such amounts as may be provided in appropriations, enter into contracts and other arrangements for audits, studies, analyses, and other

services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this section.

(h) COORDINATION AMONG INSPECTORS GENERAL.—(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, audit, or review by both the Inspector General of the Intelligence Community and an inspector general with oversight responsibility for an element of the intelligence community, the Inspector General of the Intelligence Community and such other inspector general shall expeditiously resolve the question of which inspector general shall conduct such investigation, inspection, audit, or review to avoid unnecessary duplication of the activities of the inspectors general.

(B) In attempting to resolve a question under subparagraph (A), the inspectors general concerned may request the assistance of the Intelligence Community Inspectors General Forum established under paragraph (2). In the event of a dispute between an inspector general within a department or agency of the United States Government and the Inspector General of the Intelligence Community that has not been resolved with the assistance of such Forum, the inspectors general shall submit the question to the Director of National Intelligence and the head of the affected department or agency for resolution.

(2)(A) There is established the Intelligence Community Inspectors General Forum, which shall consist of all statutory or administrative inspectors general with oversight responsibility for an element of the intelligence community.

(B) The Inspector General of the Intelligence Community shall serve as the Chair of the Forum established under subparagraph (A). 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 contract personnel, records, audits, reviews, documents, recommendations, or other materials that may involve or be of assistance to more than one of its members.

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

(i) COUNSEL TO THE INSPECTOR GENERAL.—(1) The Inspector General of the Intelligence Community shall—

(A) appoint a Counsel to the Inspector General who shall report to the Inspector General; or

(B) obtain the services of a counsel appointed by and directly reporting to another inspector general or the Council of the Inspectors General on Integrity and Efficiency on a reimbursable basis.

(2) The counsel appointed or obtained under paragraph (1) shall perform such functions as the Inspector General may prescribe.

(j) STAFF AND OTHER SUPPORT.—(1) The Director of National Intelligence shall provide the Inspector General of the Intelligence Community with appropriate and adequate office space at central and field office locations, 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, powers, and duties 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) Consistent with budgetary and personnel resources allocated by the Director of National Intelligence, the Inspector General has final approval of—

(A) the selection of internal and external candidates for employment with the Office of the Inspector General; and

(B) all other personnel decisions concerning personnel permanently assigned to the Office of the Inspector General, including selection and appointment to the Senior Intelligence Service, but excluding all security-based determinations that are not within the authority of a head of a component of the Office of the Director of National Intelligence.

(4)(A) Subject to the concurrence of the Director of National Intelligence, 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 Federal, State (as defined in section 804), or local governmental agency or unit thereof.

(B) Upon request of the Inspector General for information or assistance from a department, agency, or element of the Federal Government 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, such information or assistance.

(C) The Inspector General of the Intelligence Community may, upon reasonable notice to the head of any element of the intelligence community and in coordination with that element's inspector general pursuant to subsection (h), conduct, as authorized by this section, an investigation, inspection, audit, or review 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.

(k) REPORTS.—(1)(A) The Inspector General of the Intelligence Community shall, not later than October 31 and April 30 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 September 30 and March 31, 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, audit, or review conducted during the period covered by such report.

(ii) A description of significant problems, abuses, and deficiencies relating to the administration of programs and activities of the intelligence community within the responsibility and authority of the Director of National Intelligence, 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 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 of whether or not corrective action has been completed on each significant recommendation described in previous semiannual reports, and, in a case where corrective action has been completed, a description of such corrective action.

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

(vi) A description of the exercise of the subpoena authority under subsection (g)(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 programs and activities within the responsibility and authority of the Director of National Intelligence, and to detect and eliminate fraud and abuse in such programs and activities.

(C) Not later than 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 programs and activities 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)(A) In the event that—

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

(ii) an investigation, inspection, audit, or review 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;

(iii) 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 clause (ii);

(iv) 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 clause (ii); or

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

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

(B) The Inspector General shall submit to the committees of the Senate and of the House of Representatives with jurisdiction over a department of the United States Government any portion of each report under subparagraph (A) that involves an investigation, inspection, audit, or review carried out by the Inspector General focused on any current or former official of a component of such department simultaneously with submission of the report to the congressional intelligence committees.

(4) The Director shall submit to the congressional intelligence committees any report or findings and recommendations of an investigation, inspection, audit, or review 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** *to the congressional intelligence committees* 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)] *(C)*(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** *the congressional intelligence committees* in accurate form under subparagraph (B), the employee (subject to clause (ii)) may submit the complaint or information to Congress by contacting either or both of the congressional intelligence committees directly.

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

(I) before making such a contact, furnishes to **the Director, through the Inspector General,** *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,** *the Inspector General, in consultation with the Director,* direction on how to contact the congressional intelligence committees in accordance with appropriate security practices.

(iii) A member or employee of one of the congressional intelligence committees who receives a complaint or information under this subparagraph does so in that member or employee's official capacity as a member or employee of such committee.

[(E)] *(D)* 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)] *(E)* An action taken by the Director or the Inspector General under this paragraph shall not be subject to judicial review.

[(G)] *(F)* 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 within the responsibility and authority of the Director of National Intelligence 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 (g)(3)(B) of this section in response to an employee's reporting an urgent concern in accordance with this paragraph.

[(H)] (G) Nothing in this section shall be construed to limit the protections afforded to an employee under section 17(d) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(d)) or section 8H of the Inspector General Act of 1978 (5 U.S.C. App.).

[(I)] (H) An individual who has submitted a complaint or information to the Inspector General under this section may notify any member of either of the congressional intelligence committees, or a staff member of either of such committees, of the fact that such individual has made a submission to the Inspector General, and of the date on which such submission was made.

(6) In accordance with section 535 of title 28, United States Code, the Inspector General shall expeditiously 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.

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

(m) SEPARATE BUDGET ACCOUNT.—The Director of National Intelligence shall, in accordance with procedures 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 the Inspector General of the Intelligence Community.

(n) BUDGET.—(1) For each fiscal year, the Inspector General of the Intelligence Community shall transmit a budget estimate and request to the Director of National Intelligence that specifies for such fiscal year—

(A) the aggregate amount requested for the operations of the Inspector General;

(B) the amount requested for all training requirements of the Inspector General, including a certification from the Inspector General that the amount requested is sufficient to fund all training requirements for the Office of the Inspector General; and

(C) the amount requested to support the Council of the Inspectors General on Integrity and Efficiency, including a justification for such amount.

(2) In transmitting a proposed budget to the President for a fiscal year, the Director of National Intelligence shall include for such fiscal year—

(A) the aggregate amount requested for the Inspector General of the Intelligence Community;

(B) the amount requested for Inspector General training;

(C) the amount requested to support the Council of the Inspectors General on Integrity and Efficiency; and

(D) the comments of the Inspector General, if any, with respect to such proposed budget.

(3) The Director of National Intelligence shall submit to the congressional intelligence committees, the Committee on Appropriations of the Senate, and the Committee on Appropriations of the House of Representatives for each fiscal year—

(A) a separate statement of the budget estimate transmitted pursuant to paragraph (1);

(B) the amount requested by the Director for the Inspector General pursuant to paragraph (2)(A);

(C) the amount requested by the Director for the training of personnel of the Office of the Inspector General pursuant to paragraph (2)(B);

(D) the amount requested by the Director for support for the Council of the Inspectors General on Integrity and Efficiency pursuant to paragraph (2)(C); and

(E) the comments of the Inspector General under paragraph (2)(D), if any, on the amounts requested pursuant to paragraph (2), including whether such amounts would substantially inhibit the Inspector General from performing the duties of the Office of the Inspector General.

(o) INFORMATION ON WEBSITE.—(1) The Director of National Intelligence shall establish and maintain on the homepage of the publicly accessible website of the Office of the Director of National Intelligence information relating to the Office of the Inspector General of the Intelligence Community including methods to contact the Inspector General.

(2) The information referred to in paragraph (1) shall be obvious and facilitate accessibility to the information related to the Office of the Inspector General of the Intelligence Community.

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TITLE V—ACCOUNTABILITY FOR INTELLIGENCE ACTIVITIES

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SEC. 506K. REPORTS ON MAJOR DEFENSE INTELLIGENCE ACQUISITION PROGRAMS AT EACH MILESTONE APPROVAL.

(a) *REPORT ON MILESTONE A.*—Not later than 15 days after granting Milestone A or equivalent approval for a major defense intelligence acquisition program, the milestone decision authority for the program shall submit to the appropriate congressional committees a report containing a brief summary of the following:

(1) *The estimated cost and schedule for the program established by the military department concerned, including—*

(A) *the dollar values estimated for the program acquisition unit cost and total life-cycle cost; and*

(B) *the planned dates for each program milestone and initial operational capability.*

(2) *The independent estimated cost for the program established pursuant to section 2334(a)(6) of title 10, United States Code, and any independent estimated schedule for the program, including—*

(A) *the dollar values estimated for the program acquisition unit cost and total life-cycle cost; and*

(B) *the planned dates for each program milestone and initial operational capability.*

(3) *A summary of the technical risks, including cybersecurity risks and supply chain risks, associated with the program, as determined by the military department concerned, including identification of any critical technologies that need to be matured.*

(4) *A summary of the sufficiency review conducted by the Director of Cost Assessment and Program Evaluation of the Department of Defense of the analysis of alternatives performed for the program (as referred to in section 2366a(b)(6) of such title).*

(5) *Any other information the milestone decision authority considers relevant.*

(b) *REPORT ON MILESTONE B.*—Not later than 15 days after granting Milestone B or equivalent approval for a major defense intelligence acquisition program, the milestone decision authority for the program shall submit to the appropriate congressional committees a report containing a brief summary of the following:

(1) *The estimated cost and schedule for the program established by the military department concerned, including—*

(A) *the dollar values estimated for the program acquisition unit cost, average procurement unit cost, and total life-cycle cost; and*

(B) *the planned dates for each program milestone, initial operational test and evaluation, and initial operational capability.*

(2) *The independent estimated cost for the program established pursuant to section 2334(a)(6) of title 10, United States Code, and any independent estimated schedule for the program, including—*

(A) *the dollar values estimated for the program acquisition unit cost, average procurement unit cost, and total life-cycle cost; and*

(B) the planned dates for each program milestone, initial operational test and evaluation, and initial operational capability.

(3) A summary of the technical risks, including cybersecurity risks and supply chain risks, associated with the program, as determined by the military department concerned, including identification of any critical technologies that have not been successfully demonstrated in a relevant environment.

(4) A summary of the sufficiency review conducted by the Director of Cost Assessment and Program Evaluation of the analysis of alternatives performed for the program pursuant to section 2366a(b)(6) of such title.

(5) A statement of whether the preliminary design review for the program described in section 2366b(a)(1) of such title has been completed.

(6) Any other information the milestone decision authority considers relevant.

(c) **REPORT ON MILESTONE C.**—Not later than 15 days after granting Milestone C or equivalent approval for a major defense intelligence acquisition program, the milestone decision authority for the program shall submit to the appropriate congressional committees a report containing a brief summary of the following:

(1) The estimated cost and schedule for the program established by the military department concerned, including—

(A) the dollar values estimated for the program acquisition unit cost, average procurement unit cost, and total life-cycle cost; and

(B) the planned dates for initial operational test and evaluation and initial operational capability.

(2) The independent estimated cost for the program established pursuant to section 2334(a)(6) of title 10, United States Code, and any independent estimated schedule for the program, including—

(A) the dollar values estimated for the program acquisition unit cost, average procurement unit cost, and total life-cycle cost; and

(B) the planned dates for initial operational test and evaluation and initial operational capability.

(3) The cost and schedule estimates approved by the milestone decision authority for the program.

(4) A summary of the production, manufacturing, and fielding risks, including cybersecurity risks and supply chain risks, associated with the program.

(5) Any other information the milestone decision authority considers relevant.

(d) **INITIAL OPERATING CAPABILITY OR FULL OPERATING CAPABILITY.**—Not later than 15 days after a major defense intelligence acquisition program reaches initial operating capability or full operating capability, the milestone decision authority for the program shall notify the appropriate congressional committees of the program reaching such capability.

(e) **ADDITIONAL INFORMATION.**—At the request of any of the appropriate congressional committees, the milestone decision authority shall submit to the appropriate congressional committees further information or underlying documentation for the information in a re-

port submitted under subsection (a), (b), or (c), including the independent cost and schedule estimates and the independent technical risk assessments referred to in those subsections.

(f) *NONDUPLICATION OF EFFORT.*—If any information required under this section has been included in another report or assessment previously submitted to the congressional intelligence committees under sections 506A, 506C, or 506E, the milestone decision authority may provide a list of such reports and assessments at the time of submitting a report required under this section instead of including such information in such report.

(g) *DEFINITIONS.*—In this section:

(1) The term “appropriate congressional committees” means the congressional intelligence committees and the congressional defense committees (as defined in section 101(a)(16) of title 10, United States Code).

(2) The term “major defense intelligence acquisition program” means a major defense acquisition program (as defined in section 2430 of title 10, United States Code) that relates to intelligence or intelligence-related activities.

(3) The term “Milestone A approval” has the meaning given that term in section 2366a(d) of title 10, United States Code.

(4) The terms “Milestone B approval” and “Milestone C approval” have the meaning given those terms in section 2366(e) of such title.

(5) The term “milestone decision authority” has the meaning given that term in section 2366a(d) of such title.

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**SECTION 8131 OF THE DEPARTMENT OF DEFENSE
APPROPRIATIONS ACT, 1995**

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【SEC. 8131. (a) No project for the construction of any facility, or improvement to any facility, having an estimated Federal cost in excess of \$300,000, may be undertaken in any fiscal year unless specifically identified as a separate item in the President’s annual fiscal year budget request or otherwise specifically authorized and appropriated if such facility or improvement would be used primarily by personnel of the intelligence community.

【(b) As used in this section, the term “intelligence community” has the same meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).】

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**INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR
1995**

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TITLE VI—CONSTRUCTION OF FACILITIES FOR THE INTELLIGENCE COMMUNITY

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SEC. 602. LIMITATION ON CONSTRUCTION OF FACILITIES TO BE USED PRIMARILY BY THE INTELLIGENCE COMMUNITY.

(a) IN GENERAL.—

(1) IN GENERAL.—Except as provided in subsection (b), no project for the construction of any facility to be used primarily by personnel of any component of the intelligence community which has an estimated Federal cost in excess of \$5,000,000 may be undertaken in any fiscal year unless such project is specifically identified as a separate item in the President's annual fiscal year budget request and is specifically authorized by the Congress.

(2) NOTIFICATION.—In the case of a project for the construction of any facility to be used primarily by personnel of any component of the intelligence community which has an estimated Federal cost greater than \$1,000,000 but less than \$5,000,000, or where any [improvement project to] *project for the improvement, repair, or modification of* such a facility has an estimated Federal cost greater than \$1,000,000, the Director of National Intelligence shall submit a notification to the intelligence committees specifically identifying such project.

(b) EXCEPTION.—

(1) IN GENERAL.—Notwithstanding subsection (a) but subject to paragraphs (2) and (3), a project for the construction of a facility to be used primarily by personnel of any component of the intelligence community may be carried out if the Secretary of Defense and the Director of National Intelligence jointly determine—

(A) that the project is vital to the national security or to the protection of health, safety, or the quality of the environment, and

(B) that the requirement for the project is so urgent that deferral of the project for inclusion in the next Act authorizing appropriations for the intelligence community would be inconsistent with national security or the protection of health, safety, or environmental quality, as the case may be.

(2) REPORT.—(A) When a decision is made to carry out a construction project under this subsection, the Secretary of Defense and the Director of National Intelligence jointly shall submit a report in writing to the appropriate committees of Congress on that decision. Each such report shall include (i) the justification for the project and the current estimate of the cost of the project, (ii) the justification for carrying out the project under this subsection, and (iii) a statement of the source of the funds to be used to carry out the project. The project may then be carried out only after the end of the 7-day period beginning on the date the notification is received by such committees.

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

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

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

(3) PROJECTS PRIMARILY FOR CIA.—If a project referred to in paragraph (1) is primarily for the Central Intelligence Agency, the Director of the Central Intelligence Agency shall make the determination and submit the report required by paragraphs (1) and (2).

(4) LIMITATION.—A project carried out under this subsection shall be carried out within the total amount of funds appropriated for intelligence and intelligence-related activities that have not been obligated.

(c) APPLICATION.—This section shall not apply to any project which is subject to subsection (a)(1)(A) or (c) of section 601.

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TITLE 5, UNITED STATES CODE

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PART III—EMPLOYEES

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SUBPART D—PAY AND ALLOWANCES

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CHAPTER 53—PAY RATES AND SYSTEMS

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SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES

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§ 5313. Positions at level II

Level II of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

- Deputy Secretary of Defense.
- Deputy Secretary of State.
- Deputy Secretary of State for Management and Resources.
- Administrator, Agency for International Development.
- Administrator of the National Aeronautics and Space Administration.
- Deputy Secretary of Veterans Affairs.

Deputy Secretary of Homeland Security.
 Under Secretary of Homeland Security for Management.
 Deputy Secretary of the Treasury.
 Deputy Secretary of Transportation.
 Chairman, Nuclear Regulatory Commission.
 Chairman, Council of Economic Advisers.
 Director of the Office of Science and Technology.
 Director of the Central Intelligence Agency.
 Secretary of the Air Force.
 Secretary of the Army.
 Secretary of the Navy.
 Administrator, Federal Aviation Administration.
 Director of the National Science Foundation.
 Deputy Attorney General.
 Deputy Secretary of Energy.
 Deputy Secretary of Agriculture.
 Director of the Office of Personnel Management.
 Administrator, Federal Highway Administration.
 Administrator of the Environmental Protection Agency.
 Under Secretary of Defense for Acquisition, Technology, and
 Logistics.
 Deputy Secretary of Labor.
 Deputy Director of the Office of Management and Budget.
 Independent Members, Thrift Depositor Protection Oversight
 Board.
 Deputy Secretary of Health and Human Services.
 Deputy Secretary of the Interior.
 Deputy Secretary of Education.
 Deputy Secretary of Housing and Urban Development.
 Deputy Director for Management, Office of Management and
 Budget.
 Director of the Federal Housing Finance Agency.
 Deputy Commissioner of Social Security, Social Security Ad-
 ministration.
 Administrator of the Community Development Financial In-
 stitutions Fund.
 Deputy Director of National Drug Control Policy.
 Members, Board of Governors of the Federal Reserve Sys-
 tem.
 Under Secretary of Transportation for Policy.
 Chief Executive Officer, Millennium Challenge Corporation.
 Principal Deputy Director of National Intelligence.
 Director of the National Counterterrorism Center.
 [Director of the National Counter Proliferation Center.]
 Administrator of the Federal Emergency Management Agen-
 cy.
 Federal Transit Administrator.

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DEFENSE PRODUCTION ACT OF 1950

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TITLE VII—GENERAL PROVISIONS

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AUTHORITY TO REVIEW CERTAIN MERGERS, ACQUISITIONS, AND
TAKEOVERS

SEC. 721. (a) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) COMMITTEE; CHAIRPERSON.—The terms “Committee” and “chairperson” mean the Committee on Foreign Investment in the United States and the chairperson thereof, respectively.

(2) CONTROL.—The term “control” has the meaning given to such term in regulations which the Committee shall prescribe.

(3) COVERED TRANSACTION.—The term “covered transaction” means any merger, acquisition, or takeover that is proposed or pending after August 23, 1988, by or with any foreign person which could result in foreign control of any person engaged in interstate commerce in the United States.

(4) FOREIGN GOVERNMENT-CONTROLLED TRANSACTION.—The term “foreign government-controlled transaction” means any covered transaction that could result in the control of any person engaged in interstate commerce in the United States by a foreign government or an entity controlled by or acting on behalf of a foreign government.

(5) CLARIFICATION.—The term “national security” shall be construed so as to include those issues relating to “homeland security”, including its application to critical infrastructure.

(6) CRITICAL INFRASTRUCTURE.—The term “critical infrastructure” means, subject to rules issued under this section, systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems or assets would have a debilitating impact on national security.

(7) CRITICAL TECHNOLOGIES.—The term “critical technologies” means critical technology, critical components, or critical technology items essential to national defense, identified pursuant to this section, subject to regulations issued at the direction of the President, in accordance with subsection (h).

(8) LEAD AGENCY.—The term “lead agency” means the agency, or agencies, designated as the lead agency or agencies pursuant to subsection (k)(5) for the review of a transaction.

(b) NATIONAL SECURITY REVIEWS AND INVESTIGATIONS.—

(1) NATIONAL SECURITY REVIEWS.—

(A) IN GENERAL.—Upon receiving written notification under subparagraph (C) of any covered transaction, or pursuant to a unilateral notification initiated under subparagraph (D) with respect to any covered transaction, the President, acting through the Committee—

(i) shall review the covered transaction to determine the effects of the transaction on the national security of the United States; and

(ii) shall consider the factors specified in subsection (f) for such purpose, as appropriate.

(B) CONTROL BY FOREIGN GOVERNMENT.—If the Committee determines that the covered transaction is a foreign government-controlled transaction, the Committee shall

conduct an investigation of the transaction under paragraph (2).

(C) WRITTEN NOTICE.—

(i) IN GENERAL.—Any party or parties to any covered transaction may initiate a review of the transaction under this paragraph by submitting a written notice of the transaction to the Chairperson of the Committee.

(ii) WITHDRAWAL OF NOTICE.—No covered transaction for which a notice was submitted under clause (i) may be withdrawn from review, unless a written request for such withdrawal is submitted to the Committee by any party to the transaction and approved by the Committee.

(iii) CONTINUING DISCUSSIONS.—A request for withdrawal under clause (ii) shall not be construed to preclude any party to the covered transaction from continuing informal discussions with the Committee or any member thereof regarding possible resubmission for review pursuant to this paragraph.

(D) UNILATERAL INITIATION OF REVIEW.—Subject to subparagraph (F), the President or the Committee may initiate a review under subparagraph (A) of—

(i) any covered transaction;

(ii) any covered transaction that has previously been reviewed or investigated under this section, if any party to the transaction submitted false or misleading material information to the Committee in connection with the review or investigation or omitted material information, including material documents, from information submitted to the Committee; or

(iii) any covered transaction that has previously been reviewed or investigated under this section, if—

(I) any party to the transaction or the entity resulting from consummation of the transaction intentionally materially breaches a mitigation agreement or condition described in subsection (1)(1)(A);

(II) such breach is certified to the Committee by the lead department or agency monitoring and enforcing such agreement or condition as an intentional material breach; and

(III) the Committee determines that there are no other remedies or enforcement tools available to address such breach.

(E) TIMING.—Any review under this paragraph shall be completed before the end of the 30-day period beginning on the date of the acceptance of written notice under subparagraph (C) by the chairperson, or beginning on the date of the initiation of the review in accordance with subparagraph (D), as applicable.

(F) LIMIT ON DELEGATION OF CERTAIN AUTHORITY.—The authority of the Committee to initiate a review under subparagraph (D) may not be delegated to any person, other than the Deputy Secretary or an appropriate Under Sec-

retary of the department or agency represented on the Committee.

(2) NATIONAL SECURITY INVESTIGATIONS.—

(A) IN GENERAL.—In each case described in subparagraph (B), the Committee shall immediately conduct an investigation of the effects of a covered transaction on the national security of the United States, and take any necessary actions in connection with the transaction to protect the national security of the United States.

(B) APPLICABILITY.—Subparagraph (A) shall apply in each case in which—

(i) a review of a covered transaction under paragraph (1) results in a determination that—

(I) the transaction threatens to impair the national security of the United States and that threat has not been mitigated during or prior to the review of a covered transaction under paragraph (1);

(II) the transaction is a foreign government-controlled transaction; or

(III) the transaction would result in control of any critical infrastructure of or within the United States by or on behalf of any foreign person, if the Committee determines that the transaction could impair national security, and that such impairment to national security has not been mitigated by assurances provided or renewed with the approval of the Committee, as described in subsection (l), during the review period under paragraph (1); or

(ii) the lead agency recommends, and the Committee concurs, that an investigation be undertaken.

(C) TIMING.—Any investigation under subparagraph (A) shall be completed before the end of the 45-day period beginning on the date on which the investigation commenced.

(D) EXCEPTION.—

(i) IN GENERAL.—Notwithstanding subparagraph (B)(i), an investigation of a foreign government-controlled transaction described in subclause (II) of subparagraph (B)(i) or a transaction involving critical infrastructure described in subclause (III) of subparagraph (B)(i) shall not be required under this paragraph, if the Secretary of the Treasury and the head of the lead agency jointly determine, on the basis of the review of the transaction under paragraph (1), that the transaction will not impair the national security of the United States.

(ii) NONDELEGATION.—The authority of the Secretary or the head of an agency referred to in clause (i) may not be delegated to any person, other than the Deputy Secretary of the Treasury or the deputy head (or the equivalent thereof) of the lead agency, respectively.

(E) GUIDANCE ON CERTAIN TRANSACTIONS WITH NATIONAL SECURITY IMPLICATIONS.—The Chairperson shall, not later than 180 days after the effective date of the Foreign Investment and National Security Act of 2007, publish in the Federal Register guidance on the types of transactions that the Committee has reviewed and that have presented national security considerations, including transactions that may constitute covered transactions that would result in control of critical infrastructure relating to United States national security by a foreign government or an entity controlled by or acting on behalf of a foreign government.

(3) CERTIFICATIONS TO CONGRESS.—

(A) CERTIFIED NOTICE AT COMPLETION OF REVIEW.—Upon completion of a review under subsection (b) that concludes action under this section, the chairperson and the head of the lead agency shall transmit a certified notice to the members of Congress specified in subparagraph (C)(iii).

(B) CERTIFIED REPORT AT COMPLETION OF INVESTIGATION.—As soon as is practicable after completion of an investigation under subsection (b) that concludes action under this section, the chairperson and the head of the lead agency shall transmit to the members of Congress specified in subparagraph (C)(iii) a certified written report (consistent with the requirements of subsection (c)) on the results of the investigation, unless the matter under investigation has been sent to the President for decision.

(C) CERTIFICATION PROCEDURES.—

(i) IN GENERAL.—Each certified notice and report required under subparagraphs (A) and (B), respectively, shall be submitted to the members of Congress specified in clause (iii), and shall include—

- (I) a description of the actions taken by the Committee with respect to the transaction; and
- (II) identification of the determinative factors considered under subsection (f).

(ii) CONTENT OF CERTIFICATION.—Each certified notice and report required under subparagraphs (A) and (B), respectively, shall be signed by the chairperson and the head of the lead agency, and shall state that, in the determination of the Committee, there are no unresolved national security concerns with the transaction that is the subject of the notice or report.

(iii) MEMBERS OF CONGRESS.—Each certified notice and report required under subparagraphs (A) and (B), respectively, shall be transmitted—

- (I) to the Majority Leader and the Minority Leader of the Senate;
- (II) to the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of any committee of the Senate having oversight over the lead agency;
- (III) to the Speaker and the Minority Leader of the House of Representatives;

(IV) to the chair and ranking member of the Committee on Financial Services of the House of Representatives and of any committee of the House of Representatives having oversight over the lead agency; and

(V) with respect to covered transactions involving critical infrastructure, to the members of the Senate from the State in which the principal place of business of the acquired United States person is located, and the member from the Congressional District in which such principal place of business is located.

(iv) SIGNATURES; LIMIT ON DELEGATION.—

(I) IN GENERAL.—Each certified notice and report required under subparagraphs (A) and (B), respectively, shall be signed by the chairperson and the head of the lead agency, which signature requirement may only be delegated in accordance with subclause (II).

(II) LIMITATION ON DELEGATION OF CERTIFICATIONS.—The chairperson and the head of the lead agency may delegate the signature requirement under subclause (I)—

(aa) only to an appropriate employee of the Department of the Treasury (in the case of the Secretary of the Treasury) or to an appropriate employee of the lead agency (in the case of the lead agency) who was appointed by the President, by and with the advice and consent of the Senate, with respect to any notice provided under paragraph (1) following the completion of a review under this section; or

(bb) only to a Deputy Secretary of the Treasury (in the case of the Secretary of the Treasury) or a person serving in the Deputy position or the equivalent thereof at the lead agency (in the case of the lead agency), with respect to any report provided under subparagraph (B) following an investigation under this section.

(4) ANALYSIS BY DIRECTOR OF NATIONAL INTELLIGENCE.—

(A) IN GENERAL.—The Director of National Intelligence shall expeditiously carry out a thorough analysis of any threat to the national security of the United States posed by any covered transaction. The Director of National Intelligence shall also seek and incorporate the views of all affected or appropriate intelligence agencies with respect to the transaction.

(B) TIMING.—The analysis required under subparagraph (A) shall be provided by the Director of National Intelligence to the Committee not later than 20 days after the date on which notice of the transaction is accepted by the Committee under paragraph (1)(C), but such analysis may be supplemented or amended, as the Director considers

necessary or appropriate, or upon a request for additional information by the Committee. The Director may begin the analysis at any time prior to acceptance of the notice, in accordance with otherwise applicable law.

(C) INTERACTION WITH INTELLIGENCE COMMUNITY.—The Director of National Intelligence shall ensure that the intelligence community remains engaged in the collection, analysis, and dissemination to the Committee of any additional relevant information that may become available during the course of any investigation conducted under subsection (b) with respect to a transaction.

(D) INDEPENDENT ROLE OF DIRECTOR.—The Director of National Intelligence shall be a nonvoting, ex officio member of the Committee, and shall be provided with all notices received by the Committee under paragraph (1)(C) regarding covered transactions, but shall serve no policy role on the Committee, other than to provide analysis under subparagraphs (A) and (C) in connection with a covered transaction.

(E) SUBMISSION TO CONGRESSIONAL INTELLIGENCE COMMITTEES.—*Not later than 5 days after the completion of a review or an investigation of a covered transaction under this subsection that concludes action under this section, the Director shall submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate an analysis under subparagraph (A) relating to such covered transaction previously provided to the Committee, including any supplements or amendments to such analysis made by the Director.*

(F) IMPACT STATEMENTS.—*Not later than 60 days after the completion of a review or an investigation of a covered transaction under this subsection that concludes action under this section, the Director shall determine whether the covered transaction will have an operational impact on the intelligence community, and, if so, shall submit a report on such impact to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate. Each such report shall—*

- (i) describe the operational impact of the covered transaction on the intelligence community; and*
- (ii) describe any actions that have been or will be taken to mitigate such impact.*

(5) SUBMISSION OF ADDITIONAL INFORMATION.—No provision of this subsection shall be construed as prohibiting any party to a covered transaction from submitting additional information concerning the transaction, including any proposed restructuring of the transaction or any modifications to any agreements in connection with the transaction, while any review or investigation of the transaction is ongoing.

(6) NOTICE OF RESULTS TO PARTIES.—The Committee shall notify the parties to a covered transaction of the results of a review or investigation under this section, promptly upon completion of all action under this section.

(7) REGULATIONS.—Regulations prescribed under this section shall include standard procedures for—

(A) submitting any notice of a covered transaction to the Committee;

(B) submitting a request to withdraw a covered transaction from review;

(C) resubmitting a notice of a covered transaction that was previously withdrawn from review; and

(D) providing notice of the results of a review or investigation to the parties to the covered transaction, upon completion of all action under this section.

(c) CONFIDENTIALITY OF INFORMATION.—Any information or documentary material filed with the President or the President's designee pursuant to this section shall be exempt from disclosure under section 552 of title 5, United States Code, and no such information or documentary material may be made public, except as may be relevant to any administrative or judicial action or proceeding. Nothing in this subsection shall be construed to prevent disclosure to either House of Congress or to any duly authorized committee or subcommittee of the Congress.

(d) ACTION BY THE PRESIDENT.—

(1) IN GENERAL.—Subject to paragraph (4), the President may take such action for such time as the President considers appropriate to suspend or prohibit any covered transaction that threatens to impair the national security of the United States.

(2) ANNOUNCEMENT BY THE PRESIDENT.—The President shall announce the decision on whether or not to take action pursuant to paragraph (1) not later than 15 days after the date on which an investigation described in subsection (b) is completed.

(3) ENFORCEMENT.—The President may direct the Attorney General of the United States to seek appropriate relief, including divestment relief, in the district courts of the United States, in order to implement and enforce this subsection.

(4) FINDINGS OF THE PRESIDENT.—The President may exercise the authority conferred by paragraph (1), only if the President finds that—

(A) there is credible evidence that leads the President to believe that the foreign interest exercising control might take action that threatens to impair the national security; and

(B) provisions of law, other than this section and the International Emergency Economic Powers Act, do not, in the judgment of the President, provide adequate and appropriate authority for the President to protect the national security in the matter before the President.

(5) FACTORS TO BE CONSIDERED.—For purposes of determining whether to take action under paragraph (1), the President shall consider, among other factors each of the factors described in subsection (f), as appropriate.

(e) ACTIONS AND FINDINGS NONREVIEWABLE.—The actions of the President under paragraph (1) of subsection (d) and the findings of the President under paragraph (4) of subsection (d) shall not be subject to judicial review.

(f) FACTORS TO BE CONSIDERED.—For purposes of this section, the President or the President’s designee may, taking into account the requirements of national security, consider—

(1) domestic production needed for projected national defense requirements,

(2) the capability and capacity of domestic industries to meet national defense requirements, including the availability of human resources, products, technology, materials, and other supplies and services,

(3) the control of domestic industries and commercial activity by foreign citizens as it affects the capability and capacity of the United States to meet the requirements of national security,

(4) the potential effects of the proposed or pending transaction on sales of military goods, equipment, or technology to any country—

(A) identified by the Secretary of State—

(i) under section 6(j) of the Export Administration Act of 1979, as a country that supports terrorism;

(ii) under section 6(l) of the Export Administration Act of 1979, as a country of concern regarding missile proliferation; or

(iii) under section 6(m) of the Export Administration Act of 1979, as a country of concern regarding the proliferation of chemical and biological weapons;

(B) identified by the Secretary of Defense as posing a potential regional military threat to the interests of the United States; or

(C) listed under section 309(c) of the Nuclear Non-Proliferation Act of 1978 on the “Nuclear Non-Proliferation-Special Country List” (15 C.F.R. Part 778, Supplement No. 4) or any successor list;

(5) the potential effects of the proposed or pending transaction on United States international technological leadership in areas affecting United States national security;

(6) the potential national security-related effects on United States critical infrastructure, including major energy assets;

(7) the potential national security-related effects on United States critical technologies;

(8) whether the covered transaction is a foreign government-controlled transaction, as determined under subsection (b)(1)(B);

(9) as appropriate, and particularly with respect to transactions requiring an investigation under subsection (b)(1)(B), a review of the current assessment of—

(A) the adherence of the subject country to nonproliferation control regimes, including treaties and multilateral supply guidelines, which shall draw on, but not be limited to, the annual report on “Adherence to and Compliance with Arms Control, Nonproliferation and Disarmament Agreements and Commitments” required by section 403 of the Arms Control and Disarmament Act;

(B) the relationship of such country with the United States, specifically on its record on cooperating in counter-terrorism efforts, which shall draw on, but not be limited

to, the report of the President to Congress under section 7120 of the Intelligence Reform and Terrorism Prevention Act of 2004; and

(C) the potential for transshipment or diversion of technologies with military applications, including an analysis of national export control laws and regulations;

(10) the long-term projection of United States requirements for sources of energy and other critical resources and material; and

(11) such other factors as the President or the Committee may determine to be appropriate, generally or in connection with a specific review or investigation.

(g) ADDITIONAL INFORMATION TO CONGRESS; CONFIDENTIALITY.—

(1) BRIEFING REQUIREMENT ON REQUEST.—The Committee shall, upon request from any Member of Congress specified in subsection (b)(3)(C)(iii), promptly provide briefings on a covered transaction for which all action has concluded under this section, or on compliance with a mitigation agreement or condition imposed with respect to such transaction, on a classified basis, if deemed necessary by the sensitivity of the information. Briefings under this paragraph may be provided to the congressional staff of such a Member of Congress having appropriate security clearance.

(2) APPLICATION OF CONFIDENTIALITY PROVISIONS.—

(A) IN GENERAL.—The disclosure of information under this subsection shall be consistent with the requirements of subsection (c). Members of Congress and staff of either House of Congress or any committee of Congress, shall be subject to the same limitations on disclosure of information as are applicable under subsection (c).

(B) PROPRIETARY INFORMATION.—Proprietary information which can be associated with a particular party to a covered transaction shall be furnished in accordance with subparagraph (A) only to a committee of Congress, and only when the committee provides assurances of confidentiality, unless such party otherwise consents in writing to such disclosure.

(h) REGULATIONS.—

(1) IN GENERAL.—The President shall direct, subject to notice and comment, the issuance of regulations to carry out this section.

(2) EFFECTIVE DATE.—Regulations issued under this section shall become effective not later than 180 days after the effective date of the Foreign Investment and National Security Act of 2007.

(3) CONTENT.—Regulations issued under this subsection shall—

(A) provide for the imposition of civil penalties for any violation of this section, including any mitigation agreement entered into or conditions imposed pursuant to subsection (1);

(B) to the extent possible—

(i) minimize paperwork burdens; and

(ii) coordinate reporting requirements under this section with reporting requirements under any other provision of Federal law; and

(C) provide for an appropriate role for the Secretary of Labor with respect to mitigation agreements.

(i) EFFECT ON OTHER LAW.—No provision of this section shall be construed as altering or affecting any other authority, process, regulation, investigation, enforcement measure, or review provided by or established under any other provision of Federal law, including the International Emergency Economic Powers Act, or any other authority of the President or the Congress under the Constitution of the United States.

(j) TECHNOLOGY RISK ASSESSMENTS.—In any case in which an assessment of the risk of diversion of defense critical technology is performed by a designee of the President, a copy of such assessment shall be provided to any other designee of the President responsible for reviewing or investigating a merger, acquisition, or takeover under this section.

(k) COMMITTEE ON FOREIGN INVESTMENT IN THE UNITED STATES.—

(1) ESTABLISHMENT.—The Committee on Foreign Investment in the United States, established pursuant to Executive Order No. 11858, shall be a multi agency committee to carry out this section and such other assignments as the President may designate.

(2) MEMBERSHIP.—The Committee shall be comprised of the following members or the designee of any such member:

(A) The Secretary of the Treasury.

(B) The Secretary of Homeland Security.

(C) The Secretary of Commerce.

(D) The Secretary of Defense.

(E) The Secretary of State.

(F) The Attorney General of the United States.

(G) The Secretary of Energy.

(H) The Secretary of Labor (nonvoting, ex officio).

(I) The Director of National Intelligence (nonvoting, ex officio).

(J) The heads of any other executive department, agency, or office, as the President determines appropriate, generally or on a case-by-case basis.

(3) CHAIRPERSON.—The Secretary of the Treasury shall serve as the chairperson of the Committee.

(4) ASSISTANT SECRETARY FOR THE DEPARTMENT OF THE TREASURY.—There shall be established an additional position of Assistant Secretary of the Treasury, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretary appointed under this paragraph shall report directly to the Undersecretary of the Treasury for International Affairs. The duties of the Assistant Secretary shall include duties related to the Committee on Foreign Investment in the United States, as delegated by the Secretary of the Treasury under this section.

(5) DESIGNATION OF LEAD AGENCY.—The Secretary of the Treasury shall designate, as appropriate, a member or mem-

bers of the Committee to be the lead agency or agencies on behalf of the Committee—

(A) for each covered transaction, and for negotiating any mitigation agreements or other conditions necessary to protect national security; and

(B) for all matters related to the monitoring of the completed transaction, to ensure compliance with such agreements or conditions and with this section.

(6) OTHER MEMBERS.—The chairperson shall consult with the heads of such other Federal departments, agencies, and independent establishments in any review or investigation under subsection (a), as the chairperson determines to be appropriate, on the basis of the facts and circumstances of the covered transaction under review or investigation (or the designee of any such department or agency head).

(7) MEETINGS.—The Committee shall meet upon the direction of the President or upon the call of the chairperson, without regard to section 552b of title 5, United States Code (if otherwise applicable).

(1) MITIGATION, TRACKING, AND POSTCONSUMMATION MONITORING AND ENFORCEMENT.—

(1) MITIGATION.—

(A) IN GENERAL.—The Committee or a lead agency may, on behalf of the Committee, negotiate, enter into or impose, and enforce any agreement or condition with any party to the covered transaction in order to mitigate any threat to the national security of the United States that arises as a result of the covered transaction.

(B) RISK-BASED ANALYSIS REQUIRED.—Any agreement entered into or condition imposed under subparagraph (A) shall be based on a risk-based analysis, conducted by the Committee, of the threat to national security of the covered transaction.

(2) TRACKING AUTHORITY FOR WITHDRAWN NOTICES.—

(A) IN GENERAL.—If any written notice of a covered transaction that was submitted to the Committee under this section is withdrawn before any review or investigation by the Committee under subsection (b) is completed, the Committee shall establish, as appropriate—

(i) interim protections to address specific concerns with such transaction that have been raised in connection with any such review or investigation pending any resubmission of any written notice under this section with respect to such transaction and further action by the President under this section;

(ii) specific time frames for resubmitting any such written notice; and

(iii) a process for tracking any actions that may be taken by any party to the transaction, in connection with the transaction, before the notice referred to in clause (ii) is resubmitted.

(B) DESIGNATION OF AGENCY.—The lead agency, other than any entity of the intelligence community (as defined in the National Security Act of 1947), shall, on behalf of the Committee, ensure that the requirements of subpara-

graph (A) with respect to any covered transaction that is subject to such subparagraph are met.

(3) NEGOTIATION, MODIFICATION, MONITORING, AND ENFORCEMENT.—

(A) DESIGNATION OF LEAD AGENCY.—The lead agency shall negotiate, modify, monitor, and enforce, on behalf of the Committee, any agreement entered into or condition imposed under paragraph (1) with respect to a covered transaction, based on the expertise with and knowledge of the issues related to such transaction on the part of the designated department or agency. Nothing in this paragraph shall prohibit other departments or agencies in assisting the lead agency in carrying out the purposes of this paragraph.

(B) REPORTING BY DESIGNATED AGENCY.—

(i) MODIFICATION REPORTS.—The lead agency in connection with any agreement entered into or condition imposed with respect to a covered transaction shall—

(I) provide periodic reports to the Committee on any material modification to any such agreement or condition imposed with respect to the transaction; and

(II) ensure that any material modification to any such agreement or condition is reported to the Director of National Intelligence, the Attorney General of the United States, and any other Federal department or agency that may have a material interest in such modification.

(ii) COMPLIANCE.—The Committee shall develop and agree upon methods for evaluating compliance with any agreement entered into or condition imposed with respect to a covered transaction that will allow the Committee to adequately assure compliance, without—

(I) unnecessarily diverting Committee resources from assessing any new covered transaction for which a written notice has been filed pursuant to subsection (b)(1)(C), and if necessary, reaching a mitigation agreement with or imposing a condition on a party to such covered transaction or any covered transaction for which a review has been reopened for any reason; or

(II) placing unnecessary burdens on a party to a covered transaction.

(m) ANNUAL REPORT TO CONGRESS.—

(1) IN GENERAL.—The chairperson shall transmit a report to the chairman and ranking member of the committee of jurisdiction in the Senate and the House of Representatives, before July 31 of each year on all of the reviews and investigations of covered transactions completed under subsection (b) during the 12-month period covered by the report.

(2) CONTENTS OF REPORT RELATING TO COVERED TRANSACTIONS.—The annual report under paragraph (1) shall contain the following information, with respect to each covered transaction, for the reporting period:

(A) A list of all notices filed and all reviews or investigations completed during the period, with basic information on each party to the transaction, the nature of the business activities or products of all pertinent persons, along with information about any withdrawal from the process, and any decision or action by the President under this section.

(B) Specific, cumulative, and, as appropriate, trend information on the numbers of filings, investigations, withdrawals, and decisions or actions by the President under this section.

(C) Cumulative and, as appropriate, trend information on the business sectors involved in the filings which have been made, and the countries from which the investments have originated.

(D) Information on whether companies that withdrew notices to the Committee in accordance with subsection (b)(1)(C)(ii) have later refiled such notices, or, alternatively, abandoned the transaction.

(E) The types of security arrangements and conditions the Committee has used to mitigate national security concerns about a transaction, including a discussion of the methods that the Committee and any lead agency are using to determine compliance with such arrangements or conditions.

(F) A detailed discussion of all perceived adverse effects of covered transactions on the national security or critical infrastructure of the United States that the Committee will take into account in its deliberations during the period before delivery of the next report, to the extent possible.

(3) CONTENTS OF REPORT RELATING TO CRITICAL TECHNOLOGIES.—

(A) IN GENERAL.—In order to assist Congress in its oversight responsibilities with respect to this section, the President and such agencies as the President shall designate shall include in the annual report submitted under paragraph (1)—

(i) an evaluation of whether there is credible evidence of a coordinated strategy by 1 or more countries or companies to acquire United States companies involved in research, development, or production of critical technologies for which the United States is a leading producer; and

(ii) an evaluation of whether there are industrial espionage activities directed or directly assisted by foreign governments against private United States companies aimed at obtaining commercial secrets related to critical technologies.

(B) RELEASE OF UNCLASSIFIED STUDY.—All appropriate portions of the annual report under paragraph (1) may be classified. An unclassified version of the report, as appropriate, consistent with safeguarding national security and privacy, shall be made available to the public.

(n) CERTIFICATION OF NOTICES AND ASSURANCES.—Each notice, and any followup information, submitted under this section and

regulations prescribed under this section to the President or the Committee by a party to a covered transaction, and any information submitted by any such party in connection with any action for which a report is required pursuant to paragraph (3)(B) of subsection (1), with respect to the implementation of any mitigation agreement or condition described in paragraph (1)(A) of subsection (1), or any material change in circumstances, shall be accompanied by a written statement by the chief executive officer or the designee of the person required to submit such notice or information certifying that, to the best of the knowledge and belief of that person—

- (1) the notice or information submitted fully complies with the requirements of this section or such regulation, agreement, or condition; and
- (2) the notice or information is accurate and complete in all material respects.

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COUNTERINTELLIGENCE ENHANCEMENT ACT OF 2002

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**TITLE IX—COUNTERINTELLIGENCE
ACTIVITIES**

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SEC. 902. [NATIONAL COUNTERINTELLIGENCE EXECUTIVE] DIRECTOR OF THE NATIONAL COUNTERINTELLIGENCE AND SECURITY CENTER.

[(a) ESTABLISHMENT.—(1) There shall be a National Counterintelligence Executive, who shall be appointed by the Director of National Intelligence.]

[(2) It is the sense of Congress that the Director of National Intelligence should seek the views of the Attorney General, Secretary of Defense, and Director of the Central Intelligence Agency in selecting an individual for appointment as the Executive.]

(a) ESTABLISHMENT.—There shall be a Director of the National Counterintelligence and Security Center (referred to in this section as “the Director”), who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) MISSION.—The mission of the [National Counterintelligence Executive] Director of the National Counterintelligence and Security Center shall be to serve as the head of national counterintelligence for the United States Government.

(c) DUTIES.—Subject to the direction and control of the Director of National Intelligence, the duties of the [National Counterintelligence Executive] Director of the National Counterintelligence and Security Center are as follows:

- (1) To carry out the mission referred to in subsection (b).*
- (2) To act as chairperson of the National Counterintelligence Policy Board under section 811 of the Counterintelligence and Security Enhancements Act of 1994 (title VIII of Public Law*

103-359; 50 U.S.C. 402a), as amended by section 903 of this Act.

(3) To act as head of the [Office of the National Counterintelligence Executive] *National Counterintelligence and Security Center* under section 904.

(4) To participate as an observer on such boards, committees, and entities of the executive branch as the Director of National Intelligence considers appropriate for the discharge of the mission and functions of the Executive and the [Office of the National Counterintelligence Executive] *National Counterintelligence and Security Center* under section 904.

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SEC. 904. [OFFICE OF THE NATIONAL COUNTERINTELLIGENCE EXECUTIVE] NATIONAL COUNTERINTELLIGENCE AND SECURITY CENTER.

(a) ESTABLISHMENT.—There shall be an [Office of the National Counterintelligence Executive] *National Counterintelligence and Security Center*.

(b) HEAD [OF OFFICE] CENTER.—The [National Counterintelligence Executive] *Director of the National Counterintelligence and Security Center* shall be the head of the [Office of the National Counterintelligence Executive] *National Counterintelligence and Security Center*.

(c) LOCATION [OF OFFICE] CENTER.—The [Office of the National Counterintelligence Executive] *National Counterintelligence and Security Center* shall be located in the Office of the Director of National Intelligence.

(d) FUNCTIONS.—Subject to the direction and control of the [National Counterintelligence Executive] *Director of the National Counterintelligence and Security Center*, the functions of the [Office of the National Counterintelligence Executive] *National Counterintelligence and Security Center* shall be as follows:

(1) NATIONAL THREAT IDENTIFICATION AND PRIORITIZATION ASSESSMENT.—Subject to subsection (e), in consultation with appropriate department and agencies of the United States Government, and private sector entities, to produce a strategic planning assessment of the counterintelligence requirements of the United States to be known as the National Threat Identification and Prioritization Assessment.

(2) NATIONAL COUNTERINTELLIGENCE STRATEGY.—

(A) REQUIREMENT TO PRODUCE.—Subject to subsection (e), in consultation with appropriate department and agencies of the United States Government, and private sector entities, and based on the most current National Threat Identification and Prioritization Assessment under paragraph (1), to produce a strategy for the counterintelligence programs and activities of the United States Government to be known as the National Counterintelligence Strategy.

(B) REVISION AND REQUIREMENT.—The National Counterintelligence Strategy shall be revised or updated at least once every three years and shall be aligned with the strategy and policies of the Director of National Intelligence.

(3) IMPLEMENTATION OF NATIONAL COUNTERINTELLIGENCE STRATEGY.—To evaluate on an ongoing basis the implementa-

tion of the National Counterintelligence Strategy and to submit to the President periodic reports on such evaluation, including a discussion of any shortfalls in the implementation of the Strategy and recommendations for remedies for such shortfalls.

(4) NATIONAL COUNTERINTELLIGENCE STRATEGIC ANALYSES.—As directed by the Director of National Intelligence and in consultation with appropriate elements of the departments and agencies of the United States Government, to oversee and coordinate the production of strategic analyses of counterintelligence matters, including the production of counterintelligence damage assessments and assessments of lessons learned from counterintelligence activities.

(5) NATIONAL COUNTERINTELLIGENCE PROGRAM BUDGET.—In consultation with the Director of National Intelligence—

(A) to coordinate the development of budgets and resource allocation plans for the counterintelligence programs and activities of the Department of Defense, the Federal Bureau of Investigation, the Central Intelligence Agency, and other appropriate elements of the United States Government;

(B) to ensure that the budgets and resource allocation plans developed under subparagraph (A) address the objectives and priorities for counterintelligence under the National Counterintelligence Strategy; and

(C) to submit to the National Security Council periodic reports on the activities undertaken [by the Office] *by the Center* under subparagraphs (A) and (B).

(6) NATIONAL COUNTERINTELLIGENCE COLLECTION AND TARGETING COORDINATION.—To develop priorities for counterintelligence investigations and operations, and for collection of counterintelligence, for purposes of the National Counterintelligence Strategy, except [that the Office] *that the Center* may not—

(A) carry out any counterintelligence investigations or operations; or

(B) establish its own contacts, or carry out its own activities, with foreign intelligence services.

(7) NATIONAL COUNTERINTELLIGENCE OUTREACH, WATCH, AND WARNING.—

(A) COUNTERINTELLIGENCE VULNERABILITY SURVEYS.—To carry out and coordinate surveys of the vulnerability of the United States Government, and the private sector, to intelligence threats in order to identify the areas, programs, and activities that require protection from such threats.

(B) OUTREACH.—To carry out and coordinate outreach programs and activities on counterintelligence to other elements of the United States Government, and the private sector, and to coordinate the dissemination to the public of warnings on intelligence threats to the United States.

(C) RESEARCH AND DEVELOPMENT.—To ensure that research and development programs and activities of the United States Government, and the private sector, direct attention to the needs of the counterintelligence community for technologies, products, and services.

(D) TRAINING AND PROFESSIONAL DEVELOPMENT.—To develop policies and standards for training and professional development of individuals engaged in counterintelligence activities and to manage the conduct of joint training exercises for such personnel.

(e) ADDITIONAL REQUIREMENTS REGARDING NATIONAL THREAT IDENTIFICATION AND PRIORITIZATION ASSESSMENT AND NATIONAL COUNTERINTELLIGENCE STRATEGY.—(1) A National Threat Identification and Prioritization Assessment under subsection (d)(1), and any modification of such assessment, shall not go into effect until approved by the President.

(2) A National Counterintelligence Strategy under subsection (d)(2), and any modification of such strategy, shall not go into effect until approved by the President.

(3) The [National Counterintelligence Executive] *Director of the National Counterintelligence and Security Center* shall submit to the congressional intelligence committees each National Threat Identification and Prioritization Assessment, or modification thereof, and each National Counterintelligence Strategy, or modification thereof, approved under this section.

(4) In this subsection, 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.

(f) PERSONNEL.—(1) Personnel of the [Office of the National Counterintelligence Executive] *National Counterintelligence and Security Center* may consist of personnel employed [by the Office] *by the Center* or personnel on detail from any other department, agency, or element of the Federal Government. Any such detail may be on a reimbursable or nonreimbursable basis, at the election of the head of the agency detailing such personnel.

(2) Notwithstanding section 104(d) or any other provision of law limiting the period of the detail of personnel on a nonreimbursable basis, the detail of an officer or employee of United States or a member of the Armed Forces under paragraph (1) on a nonreimbursable basis may be for any period in excess of one year that the [National Counterintelligence Executive] *Director of the National Counterintelligence and Security Center* and the head of the department, agency, or element concerned consider appropriate.

(g) TREATMENT OF ACTIVITIES UNDER CERTAIN ADMINISTRATIVE LAWS.—The files [of the Office] *of the Center* shall be treated as operational files of the Central Intelligence Agency for purposes of section 701 of the National Security Act of 1947 (50 U.S.C. 431) to the extent such files meet criteria under subsection (b) of that section for treatment of files as operational files of an element of the Agency.

(h) OVERSIGHT BY CONGRESS.—The location [of the Office] *of the Center* of the [National Counterintelligence Executive] *Director of the National Counterintelligence and Security Center* within the Office of the Director of National Intelligence shall not be construed as affecting access by Congress, or any committee of Congress, to—

(1) any information, document, record, or paper in the possession [of the Office] *of the Center*; or

(2) any personnel [of the Office] *of the Center*.

(i) CONSTRUCTION.—Nothing in this section shall be construed as affecting the authority of the Director of National Intelligence, the Secretary of Defense, the Secretary of State, the Attorney General, or the Director of the Federal Bureau of Investigation as provided or specified under the National Security Act of 1947 or under other provisions of law.

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**COUNTERINTELLIGENCE AND SECURITY
ENHANCEMENTS ACT OF 1994**

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**TITLE VIII—COUNTERINTELLIGENCE
AND SECURITY**

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SEC. 811. COORDINATION OF COUNTERINTELLIGENCE ACTIVITIES.

(a) ESTABLISHMENT OF COUNTERINTELLIGENCE POLICY BOARD.—There is established within the executive branch of Government a National Counterintelligence Policy Board (in this section referred to as the “Board”). The Board shall report to the President through the National Security Council.

(b) CHAIRPERSON.—**[The National Counterintelligence Executive]** *The Director of the National Counterintelligence and Security Center* under section 902 of the Counterintelligence Enhancement Act of 2002 shall serve as the chairperson of the Board.

(c) MEMBERSHIP.—The membership of the National Counterintelligence Policy Board shall consist of the following:

(1) **[The National Counterintelligence Executive]** *The Director of the National Counterintelligence and Security Center.*

(2) Senior personnel of departments and elements of the United States Government, appointed by the head of the department or element concerned, as follows:

(A) The Department of Justice, including the Federal Bureau of Investigation.

(B) The Department of Defense, including the Joint Chiefs of Staff.

(C) The Department of State.

(D) The Department of Energy.

(E) The Central Intelligence Agency.

(F) Any other department, agency, or element of the United States Government specified by the President.

(d) FUNCTIONS AND DISCHARGE OF FUNCTIONS.—(1) The Board shall—

(A) serve as the principal mechanism for—

(i) developing policies and procedures for the approval of the President to govern the conduct of counterintelligence activities; and

(ii) upon the direction of the President, resolving conflicts that arise between elements of the Government conducting such activities; and

(B) act as an interagency working group to—

(i) ensure the discussion and review of matters relating to the implementation of the Counterintelligence Enhancement Act of 2002; and

(ii) provide advice **to the National Counterintelligence Executive** *to the Director of the National Counterintelligence and Security Center* on priorities in the implementation of the National Counterintelligence Strategy produced by the **Office of the National Counterintelligence Executive** *National Counterintelligence and Security Center* under section 904(e)(2) of that Act.

(2) The Board may, for purposes of carrying out its functions under this section, establish such interagency boards and working groups as the Board considers appropriate.

(e) COORDINATION OF COUNTERINTELLIGENCE MATTERS WITH THE FEDERAL BUREAU OF INVESTIGATION.—(1) Except as provided in paragraph (5), the head of each department or agency within the executive branch shall ensure that—

(A) the Federal Bureau of Investigation is advised immediately of any information, regardless of its origin, which indicates that classified information is being, or may have been, disclosed in an unauthorized manner to a foreign power or an agent of a foreign power;

(B) following a report made pursuant to subparagraph (A), the Federal Bureau of Investigation is consulted with respect to all subsequent actions which may be undertaken by the department or agency concerned to determine the source of such loss or compromise; and

(C) where, after appropriate consultation with the department or agency concerned, the Federal Bureau of Investigation undertakes investigative activities to determine the source of the loss or compromise, the Federal Bureau of Investigation is given complete and timely access to the employees and records of the department or agency concerned for purposes of such investigative activities.

(2) Except as provided in paragraph (5), the Director of the Federal Bureau of Investigation shall ensure that espionage information obtained by the Federal Bureau of Investigation pertaining to the personnel, operations, or information of departments or agencies of the executive branch, is provided through appropriate channels in a timely manner to the department or agency concerned, and that such departments or agencies are consulted in a timely manner with respect to espionage investigations undertaken by the Federal Bureau of Investigation which involve the personnel, operations, or information of such department or agency.

(3)(A) The Director of the Federal Bureau of Investigation shall submit to the head of the department or agency concerned a written assessment of the potential impact of the actions of the department or agency on a counterintelligence investigation.

(B) The head of the department or agency concerned shall—

(i) use an assessment under subparagraph (A) as an aid in determining whether, and under what circumstances, the subject of an investigation under paragraph (1) should be left in place for investigative purposes; and

(ii) notify in writing the Director of the Federal Bureau of Investigation of such determination.

(C) The Director of the Federal Bureau of Investigation and the head of the department or agency concerned shall continue to consult, as appropriate, to review the status of an investigation covered by this paragraph, and to reassess, as appropriate, a determination of the head of the department or agency concerned to leave a subject in place for investigative purposes.

(4)(A) The Federal Bureau of Investigation shall notify appropriate officials within the executive branch, including the head of the department or agency concerned, of the commencement of a full field espionage investigation with respect to an employee within the executive branch.

(B) A department or agency may not conduct a polygraph examination, interrogate, or otherwise take any action that is likely to alert an employee covered by a notice under subparagraph (A) of an investigation described in that subparagraph without prior coordination and consultation with the Federal Bureau of Investigation.

(5) Where essential to meet extraordinary circumstances affecting vital national security interests of the United States, the President may on a case-by-case basis waive the requirements of paragraph (1), (2), or (3), as they apply to the head of a particular department or agency, or the Director of the Federal Bureau of Investigation. Such waiver shall be in writing and shall fully state the justification for such waiver. Within thirty days, the President shall notify the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives that such waiver has been issued, and at that time or as soon as national security considerations permit, provide these committees with a complete explanation of the circumstances which necessitated such waiver.

(6) Nothing in this section may be construed to alter the existing jurisdictional arrangements between the Federal Bureau of Investigation and the Department of Defense with respect to investigations of persons subject to the Uniform Code of Military Justice, nor to impose additional reporting requirements upon the Department of Defense with respect to such investigations beyond those required by existing law and executive branch policy.

(7) As used in this section, the terms "foreign power" and "agent of a foreign power" have the same meanings as set forth in sections 101 (a) and (b), respectively, of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

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**INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR
2004**

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TITLE III—GENERAL PROVISIONS

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Subtitle C—Counterintelligence

SEC. 341. COUNTERINTELLIGENCE INITIATIVES FOR THE INTELLIGENCE COMMUNITY.

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

* * * * *

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

* * * * *

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

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TITLE 10, UNITED STATES CODE

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SUBTITLE A—GENERAL MILITARY LAW

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PART I—ORGANIZATION AND GENERAL MILITARY POWERS

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CHAPTER 4—OFFICE OF THE SECRETARY OF DEFENSE

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§ 142. Chief Information Officer

(a) There is a Chief Information Officer of the Department of Defense.

(b)(1) The Chief Information Officer of the Department of Defense—

(A) is the Chief Information Officer of the Department of Defense for the purposes of sections 3506(a)(2) and 3544(a)(3) of title 44;

(B) has the responsibilities and duties specified in section 11315 of title 40**【;】**; and

(C) has the responsibilities specified for the Chief Information Officer in sections 2222, 2223(a), and 2224 of this title [; and].

[(D) exercises authority, direction, and control over the Information Assurance Directorate of the National Security Agency.]

(2) The Chief Information Officer shall perform such additional duties and exercise such powers as the Secretary of Defense may prescribe.

(c) The Chief Information Officer takes precedence in the Department of Defense with the officials serving in positions specified in section 131(b)(4) of this title. The officials serving in positions specified in section 131(b)(4) and the Chief Information Officer of the Department of Defense take precedence among themselves in the order prescribed by the Secretary of Defense.

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DISCLOSURE OF DIRECTED RULE MAKING

H.R. 5077 does not specifically direct any rule makings within the meaning of 5 U.S.C. 551.

DUPLICATION OF FEDERAL PROGRAMS

H.R. 5077 does not duplicate or reauthorize an established program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

MINORITY VIEWS

The Intelligence Committee advanced the bipartisan Intelligence Authorization Act (IAA) for Fiscal Year (FY) 2017 by unanimous voice vote.

The annual IAA ensures that the programs and activities of the U.S. Intelligence Community (IC), including Department of Defense (DoD) intelligence elements, are authorized in law and optimally resourced to protect the nation from threats at home and abroad. Equally important, this critical piece of legislation also ensures rigorous congressional oversight of the IC, including over its most sensitive aspects.

This year's IAA is comprehensive, detailed, and thoughtfully-considered. It authorizes intelligence funding in the Base budget at a level nearly equal to the FY17 President's Budget request, which is approximately the same as the FY16 enacted budget level. The Overseas Contingency Operations authorization is roughly 1.5% above the request.

The bill provides substantial and appropriate oversight of the IC by trimming unnecessary funding and reprioritizing resource allocation; adding money to underfunded programs; and providing congressional direction to improve processes, gain efficiencies, and ensure greater transparency and accountability within the IC. It also fences significant amounts of funding to better ensure continuous IC accountability throughout the year.

Specifically, the FY17 IAA:

- a. Emphasizes the need to focus on long-term threats, such as those from an increasingly aggressive China, Russia, and North Korea, while maintaining focus on the immediate threats posed by terrorism and the security challenges in the Middle East, North Africa, and South Asia;
- b. Protects our most vital capabilities, whether in space, cyberspace, on land or at sea, as well as our most invaluable resources—our IC professionals—against growing threats across domains;
- c. Leverages and promotes commercial capabilities, while investing in the most advanced technologies that do not yet have commercial application;
- d. Promotes greater capacity-building among key partners and allies to further leverage shared resources and competencies, and advances more strategic approaches to these efforts;
- e. Emphasizes the importance of recruiting, developing, and retaining the most effective and diverse workforce to answer the increasingly complex challenges facing the IC and the defense intelligence enterprise;
- f. Continues to support HUMINT, a critical intelligence mission;

- g. Promotes, through resources and direction, enhanced cyber security for our nation's most critical systems; and
- h. Ensures thorough oversight of surveillance capabilities.

In light of whistleblower allegations that intelligence was inappropriately influenced or distorted at CENTCOM, this year's bill also includes provisions aimed at better ensuring the integrity of DoD intelligence analysis. Additionally, this year's IAA improves the procedure for IC whistleblowers to report complaints to Congress.

The Minority remains committed to a strong counterterrorism posture, but also to a more transparent one. Accordingly, the Minority reiterates the need for the release of substantial data on the total number of combatants and noncombatant civilians who may have been killed or injured as a result of counterterrorism action. Ranking Member Schiff continues to highlight this issue within the Committee and to the Administration.

The Minority is pleased that the IAA fully funds and, for the first time, specifically authorizes the activities of the Privacy and Civil Liberties Oversight Board (PCLOB), an entity tasked with ensuring that U.S. counterterrorism programs advance national security while appropriately safeguarding civil liberties. However, the Minority will remain vigilant to ensure that the Committee does not seek to constrain PCLOB authorities in the future—particularly in light of last year's provision to curtail its jurisdiction over U.S. Covert Action programs, which this year Representative Himes tried to reverse through an amendment. The Minority continues to demonstrate its strong support for this important and independent body, and to oppose efforts to limit its role in overseeing counterterrorism activities.

Unlike last year's IAA, this year's bill omits odious transfer restrictions from the detention center at Guantanamo Bay. This year's IAA, however, calls for a declassification review of certain intelligence products regarding terrorist acts committed by transferred detainees before their arrival at Guantanamo Bay. The only detainees covered by the declassification provision, however, are those transferred since President Obama took office, disregarding the roughly 500 detainees transferred or released by the prior administration—detainees whose recidivism rates generally remain far higher than any transferred or released under President Obama.

Additionally, this year's IAA unfortunately does not fund the President's request to enhance intelligence analysis on the serious national security implications of climate change. Food and water scarcity, and vast population displacement, are inevitable features of unchecked climate change and therefore will prove to be tremendous drivers of global instability, which the IC needs to better anticipate and understand.

Despite these specific weaknesses, the House Intelligence Committee reached bipartisan agreement on this year's IAA, which includes several key provisions championed by Minority Members, including:

- a. Mr. Himes's provision to improve the timeliness and fairness of the prepublication review process throughout the IC, by calling for uniform guidance to ensure that reviews only block

publication of appropriately classified material, and that employees at each IC element receive impartial and expeditious reviews of their works;

b. Ms. Sewell's language on investment in "Centers of Academic Excellence" programs, helping to guarantee that a diverse array of students can take part in IC internships, and her requirement to collect data to evaluate the IC's federally-funded academic programs;

c. Mr. Carson's provision requiring the IC to publish insignia commonly associated with terrorist organizations to assist public and private entities in swiftly removing terrorist content online; his provision on cooperation and de-confliction between the departments of Homeland Security and State regarding countering violent extremism programs; and his requirement to have the Committee receive information on the operational impacts of foreign investment in the United States;

d. Ms. Speier's provisions to: (a) standardize declassification photocopying fees across the IC to promote increased availability of information and enhance transparency; (b) expand access to graduate education programs at the Defense Intelligence Agency, (c) obtain information on the mental health resilience programs available to IC civilians returning from tours in combat zones; and (d) study reprisals taken against IC contractors who make disclosures that would be legally protected if made by IC employees;

e. Mr. Quigley's language to continue support to security services in Ukraine;

f. Mr. Swalwell's provision to track foreign fighters, his requirement to analyze the status of loan forgiveness and debt counseling programs in the IC, and his provision to better understand how the departments of Homeland Security and Energy take advantage of the expertise resident at our National Labs; and

g. Mr. Murphy's provisions to: (a) provide a report detailing cybersecurity threats to, or vulnerabilities in, systems employed by seaports and transshipment hubs, including efforts to improve our preparedness and response to a cyber attack; (b) improve intelligence reporting with respect to Iran's compliance with the Joint Comprehensive Plan of Action; and (c) requires a report on the security threats emanating from maritime smuggling routes and ways to better cooperate with other nations to mitigate these threats.

The Minority strongly supports this year's Intelligence Authorization Act. It will further ensure that the IC, including DoD's intelligence components, are appropriately resourced and authorized

to address an increasingly complex security environment, while safeguarding civil liberties and privacy.

ADAM B. SCHIFF,
Ranking Member.
LUIS V. GUTIÉRREZ.
JAMES A. HIMES.
TERRI A. SEWELL.
ANDRÉ CARSON.
JACKIE SPEIER.
MIKE QUIGLEY.
ERIC SWALWELL.
PATRICK MURPHY.

