

# **Proposed Intelligence Authorization**

## **Fiscal Year 2011**



*May 25, 2010*

A Bill

To authorize appropriations for fiscal year 2011 for intelligence and intelligence-related activities of the United States Government and the Office of the Director of National Intelligence, the Central Intelligence Agency Retirement and Disability System, and for other purposes.

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

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

(a) SHORT TITLE- This Act may be cited as the 'Intelligence Authorization Act for Fiscal Year 2011'.

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

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

**TITLE I--BUDGET AND PERSONNEL AUTHORIZATIONS**

Sec. 101. Authorization of appropriations.

Sec. 102. Classified Schedule of Authorizations.

Sec. 103. Personnel Ceiling Adjustments.

Sec. 104. Intelligence Community Management Account.

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

Sec. 201. Authorization of appropriations.

Sec. 202. Technical modification to mandatory retirement provision of Central Intelligence Agency Retirement Act.

**TITLE III--GENERAL INTELLIGENCE COMMUNITY MATTERS**

**Subtitle A--Personnel Matters**

Sec. 301. Temporary appointment to fill vacancies in Presidentially-appointed and Senate-confirmed positions in the Office of the Director of National Intelligence.

Sec. 302. Enhanced flexibility in details to elements of the Intelligence Community.

Sec. 303. Permanent authorization for the Pat Roberts Intelligence Scholars Program.

Sec. 304. Intelligence Officer Training Programs.

Sec. 305. Enhancement of authority of the Director of National Intelligence for flexible personnel management among the elements of the Intelligence Community.

#### **Subtitle B--Reporting Requirements**

Sec. 321. Reports on foreign industrial espionage.

Sec. 322. Elimination of a reporting requirement on financial intelligence on terrorist assets.

Sec. 323. Repeal of certain reporting requirements

#### **Subtitle C--Other Matters**

Sec. 331. Restriction on conduct of intelligence activities.

Sec. 332. Modification of availability of funds for different intelligence activities.

Sec. 333. Strengthening access to information.

Sec. 334. Extension to the Intelligence Community of authority to delete information about receipt and disposition of foreign gifts and decorations.

Sec. 335. Authority for the Director of National Intelligence Open Source Center to accept from individual volunteers certain needed translation services on an unpaid, gratuitous basis when in the interests of national security.

Sec. 336. Exemption from disclosure of terrorist identity information under the Freedom of Information Act.

Sec. 337. Preventing misuse of the name, initials, or seal of the Office of the Director of National Intelligence or of the Intelligence Community and the unauthorized manufacture and sale of Intelligence Community medals.

Sec. 338. National Intelligence Program funded acquisitions.

Sec. 339. Reserve for Intelligence Community contingencies.

Sec. 340. Additional functions for protective personnel of the Central Intelligence Agency.

### **TITLE IV--MATTERS RELATING TO ELEMENTS OF THE INTELLIGENCE COMMUNITY**

#### **Subtitle A--Office of the Director of National Intelligence**

Sec. 401. Clarification of restriction against co-location of Office of Director of National Intelligence headquarters and location of Office of Director of National Intelligence headquarters.

Sec. 402. Protection of certain files of the Office of the Director of National Intelligence.

Sec. 403. Membership of the Director of National Intelligence on the Transportation Security Oversight Board.

- Sec. 404. Repeal of certain authorities relating to the Office of the National Counterintelligence Executive.
- Sec. 405. Bringing the publication of the National Counterintelligence Strategy into alignment with the policy and strategy of the Director of National Intelligence and modifying the frequency of updates and revisions to the National Counterintelligence Strategy.
- Sec. 406. Inapplicability of the Federal Advisory Committee Act to advisory committees of the Office of the Director of National Intelligence.
- Sec. 407. Award of rank to members of the Senior National Intelligence Service.
- Sec. 408. Application of certain financial reporting standards to the Office of the Director of National Intelligence.
- Sec. 409. Travel on any common carrier for certain Intelligence Community personnel.

#### **Subtitle B--Central Intelligence Agency**

- Sec. 421. Report on audited financial statements progress.
- Sec. 422. Appeals from decisions of Central Intelligence Agency contracting officers.
- Sec. 423. Deputy Director of the Central Intelligence Agency.
- Sec. 424. Protection against reprisals.
- Sec. 425. Inspector General subpoena power.
- Sec. 426. Application of semiannual reporting requirements with respect to evaluation reports.
- Sec. 427. Technical amendments relating to the titles of Central Intelligence Agency positions.
- Sec. 428. Technical correction and addition of Deputy Director of the Central Intelligence Agency.
- Sec. 429. Maintenance and disposition of Office of Director of National Intelligence records by the Central Intelligence Agency.
- Sec. 430. Foreign language proficiency requirements for Central Intelligence Agency officers.
- Sec. 431. Section 5(a)(1) of the Central Intelligence Agency Act of 1949.

#### **Subtitle C--Other Elements**

- Sec. 432. Homeland Security intelligence elements.
- Sec. 433. Authorization of appropriations for Coast Guard National Tactical Integration Office.
- Sec. 434. Extending the authority of the FBI to waive mandatory retirement provisions.
- Sec. 435. Federal Bureau of Investigation participation in the Department of Justice leave bank
- Sec. 436. Defense Intelligence Agency Expenditure Authority
- Sec. 437. Appropriations for Defense intelligence elements.

**TITLE V--TECHNICAL AMENDMENTS**

Sec. 501. Technical corrections to the National Security Act and the Central Intelligence Agency Act.

Sec. 502. Multiyear National Intelligence Program.

Sec. 503. References to Military Intelligence Program and related activities.

Sec. 504. Technical corrections to the Intelligence Reform and Terrorism Prevention Act of 2004.

Sec. 505. Technical corrections to the Executive Schedule.

Sec. 506. Definition of Intelligence Community.

Sec. 507. Technical amendment to the Electronic Communications Privacy Act.

**TITLE VI—REORGANIZATION OF DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM  
OFFICE**

Sec. 601. Reorganization of Diplomatic Telecommunications Service.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) CONGRESSIONAL INTELLIGENCE COMMITTEES.-- The term `congressional  
4 intelligence committees' means--

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

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

7 (2) INTELLIGENCE COMMUNITY.-- The term `intelligence community' has the meaning  
8 given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

9 **TITLE I--BUDGET AND PERSONNEL AUTHORIZATIONS**

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

11 Funds are hereby authorized to be appropriated for fiscal year 2010 for the conduct of the  
12 intelligence and intelligence-related activities of the following elements of the United States  
13 Government:

14 (1) The Office of the Director of National Intelligence.

15 (2) The Central Intelligence Agency.

16 (3) The Department of Defense.

17 (4) The Defense Intelligence Agency.

18 (5) The National Security Agency.

19 (6) The Department of the Army, the Department of the Navy, and the Department of the Air  
20 Force.

21 (7) The Coast Guard.

22 (8) The Department of State.

23 (9) The Department of the Treasury.

1 (10) The Department of Energy.

2 (11) The Department of Justice.

3 (12) The Federal Bureau of Investigation.

4 (13) The Drug Enforcement Administration.

5 (14) The National Reconnaissance Office.

6 (15) The National Geospatial-Intelligence Agency.

7 (16) The Department of Homeland Security.

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

9 (a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL LEVELS.-- The amounts  
10 authorized to be appropriated under section 101 for the conduct of the intelligence activities of  
11 the elements listed in paragraphs (1) through (16) of section 101, are those specified in the  
12 classified Schedule of Authorizations prepared to accompany the conference report on the bill  
13 \_\_\_\_\_ of the One Hundred Eleventh Congress.

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

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

20 (a) AUTHORITY FOR INCREASES- The Director of National Intelligence may authorize the  
21 employment of civilian personnel in excess of the number of full-time equivalent positions for  
22 fiscal year 2011 authorized by the classified Schedule of Authorizations referred to in section  
23 102(a) if the Director of National Intelligence determines that such action is necessary to the

1 performance of important intelligence functions, except that the number of personnel employed  
2 in excess of the number authorized under such section may not, for any element of the  
3 intelligence community, exceed 5 percent of the number of civilian personnel authorized under  
4 such section for such element.

5 (b) AUTHORITY FOR CONVERSION OF ACTIVITIES PERFORMED BY CONTRACT  
6 PERSONNEL-

7 (1) IN GENERAL- In addition to the authority in subsection (a) and subject to paragraph (2), if  
8 the head of an element of the intelligence community makes a determination that activities  
9 currently being performed by contract personnel should be performed by employees of such  
10 element, the Director of National Intelligence, in order to reduce a comparable number of  
11 contract personnel, may authorize for that purpose employment of additional full-time equivalent  
12 personnel in such element equal to the number of full-time equivalent contract personnel  
13 performing such activities.

14 (2) The authority described in paragraph (1) may not be exercised unless the Director of National  
15 Intelligence concurs with the determination described in such paragraph.

16 (c) TREATMENT OF CERTAIN PERSONNEL- The Director of National Intelligence shall  
17 establish guidelines that govern, for each element of the intelligence community, the treatment  
18 under the personnel levels authorized under section 102(a), including any exemption from such  
19 personnel levels, of employment or assignment in--

20 (1) a student program, trainee program, or similar program;

21 (2) a reserve corps or as a reemployed annuitant; or

22 (3) details, joint duty, or long term, full-time training.

1 (d) NOTICE TO CONGRESSIONAL INTELLIGENCE COMMITTEES- The Director of  
2 National Intelligence shall notify the congressional intelligence committees in writing at least 15  
3 days prior to the initial exercise of an authority described in subsection (a) or (b).

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

5 (a) AUTHORIZATION OF APPROPRIATIONS.-- There is authorized to be appropriated for  
6 the Intelligence Community Management Account of the Director of National Intelligence for  
7 fiscal year 2011 the sum of \$706,692,000.

8 (b) CLASSIFIED AUTHORIZATION OF APPROPRIATIONS.-- In addition to amounts  
9 authorized to be appropriated for the Intelligence Community Management Account by  
10 subsection (a), there are authorized to be appropriated for the Community Management Account  
11 for fiscal year 2011 such additional amounts as are specified in the classified Schedule of  
12 Authorizations referred to in section 102(a). Such additional amounts for advanced research and  
13 development shall remain available until September 30, 2011.

14 **TITLE II--CENTRAL INTELLIGENCE AGENCY**

15 **RETIREMENT AND DISABILITY SYSTEM**

16 **SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

17 There is authorized to be appropriated for the Central Intelligence Agency Retirement and  
18 Disability Fund for fiscal year 2011 the sum of \$292,000,000.

19 **SEC. 202. TECHNICAL MODIFICATION TO MANDATORY RETIREMENT**

20 **PROVISION OF CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT.**

21 Section 235(b)(1)(A) of the Central Intelligence Agency Retirement Act (50 U.S.C.  
22 2055(b)(1)(A)) is amended to read as follows:

1 “(A) Upon reaching age 65, in the case of a participant in the system who is at the Senior  
2 Intelligence Service rank of level 4 or above;”.

3 **TITLE III--GENERAL INTELLIGENCE COMMUNITY**  
4 **MATTERS**

5 **Subtitle A--Personnel Matters**

6 **SEC. 301. TEMPORARY APPOINTMENT TO FILL VACANCIES IN**

7 **PRESIDENTIALLY-APPOINTED AND SENATE-CONFIRMED POSITIONS IN**

8 **THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE**

9 Section 103 of the National Security Act of 1947 (50 U.S.C. 403-3(e)) is amended by  
10 redesignating subsection (e) as subsection (f) and inserting after subsection (d) the following new  
11 subsection (e):

12 “(e) TEMPORARY APPOINTMENT TO FILL VACANCIES IN PRESIDENTIALLY-  
13 APPOINTED AND SENATE-CONFIRMED POSITIONS IN THE OFFICE OF THE  
14 DIRECTOR OF NATIONAL INTELLIGENCE.—

15 If an officer of the Office of the Director of National Intelligence, other than the Director of  
16 National Intelligence, whose appointment to office is required to be made by the President, by  
17 and with the advice and consent of the Senate, dies, resigns, or is otherwise unable to perform the  
18 functions and duties of the office—

19 “(1) the first assistant to the office of such officer shall perform the functions and duties  
20 of the office temporarily in an acting capacity subject to the time limitations of 5 U.S.C. §  
21 3346 if during the 365-day period preceding the date of death, resignation, or beginning  
22 of inability to serve of the applicable officer, the person served in a position of first  
23 assistant to the office of such officer for not less than 90 days.

1 “(2) notwithstanding subparagraph (e)(1), the President may direct a person who serves  
2 in an office for which appointment is required to be made by the President, by and with  
3 the advice and consent of the Senate, to perform the functions and duties of the vacant  
4 office temporarily in an acting capacity subject to the time limitations of 5 U.S.C. § 3346.

5 “(3) notwithstanding subparagraph (e)(1), the Director of National Intelligence may  
6 recommend to the President, and the President may direct, a person to perform the  
7 functions and duties of the vacant office temporarily in an acting capacity subject to the  
8 time limitations of 5 U.S.C. § 3346, if ---

9 “(A) during the 365-day period preceding the date of death, resignation, or  
10 beginning of inability to serve of the applicable officer, the person served in a  
11 position in an element of the Intelligence Community, as defined in section 3(4)  
12 of this Act, for not less than 90 days;

13 “(B) the rate of pay for the position described under subparagraph (A) is equal to  
14 or greater than the minimum rate of pay payable for a position at GS-15 of the  
15 General Schedule; and

16 “(C) in the case of a person who is employed by an element of the Intelligence  
17 Community, the Director of National Intelligence consults with the head of the  
18 department containing the Intelligence Community element or, in the case of an  
19 employee of the Central Intelligence Agency, the Director of the Central  
20 Intelligence Agency. If the head of the department containing the Intelligence  
21 Community element or, in the case of a Central Intelligence Agency employee,  
22 the Director of the Central Intelligence Agency, objects to the recommendation,

1 the Director of National Intelligence may make the recommendation to the  
2 President after informing the President of the objection.”

3 **SEC. 302. ENHANCED FLEXIBILITY IN DETAILS TO ELEMENTS OF THE**  
4 **INTELLIGENCE COMMUNITY**

5 Except as provided in section 113 of the National Security Act of 1947 (50 U.S.C. 404h)  
6 and section 904(g)(2) of the Counterintelligence Enhancement Act of 2002 (title IX of Public  
7 Law 107–306; 50 U.S.C. 402c(g)(2)) and notwithstanding any other provision of law, an officer  
8 or employee of the United States or member of the Armed Forces may be detailed to the staff of  
9 an element of the intelligence community funded through the National Intelligence Program  
10 from another element of the intelligence community or from another element of the United States  
11 Government on a reimbursable or non-reimbursable basis, as jointly agreed to by the head of the  
12 receiving element and the head of the detailing element (or the designees of such officials), for a  
13 period not to exceed 3 years.

14 **SEC. 303. PERMANENT AUTHORIZATION FOR THE PAT ROBERTS**  
15 **INTELLIGENCE SCHOLARS PROGRAM**

16 (a) IN GENERAL.—Subsection (a) of section 318 of the Intelligence Authorization Act  
17 for Fiscal Year 2004 (Public Law 108–177; 50 U.S.C. 441g note) is amended—

18 (1) in the heading, by striking “PILOT PROGRAM” and inserting “IN GENERAL”;

19 (2) in paragraph (1)—

20 (A) by striking “pilot”; and

21 (B) by inserting “, acquisition, scientific, and technical, or other” after

22 “analytic” in both places that term appears;

23 (3) in paragraph (2), by striking “pilot”; and

1 (4) in paragraph (3), by striking “pilot”.

2 (b) ELEMENTS.—Subsection (b) of section 318 of the Intelligence Authorization Act  
3 for Fiscal Year 2004 (Public Law 108–177; 50 U.S.C. 411g note) is amended—

4 (1) in the matter preceding paragraph (1), by striking “pilot”;

5 (2) in paragraph (1), by striking “analysts” and inserting “professionals”; and

6 (3) in paragraph (2), by inserting “, acquisition, scientific, and technical, or other” after  
7 “analytic”.

8 (c) PERMANENT AUTHORIZATION.—Section 318 of the Intelligence Authorization  
9 Act for Fiscal Year 2004 (Public Law 108–177; 50 U.S.C. 411g note) is amended by striking  
10 subsections (c), (d), (e), (f), and (g).

11 (d) USE OF FUNDS.—Section 318 of the Intelligence Authorization Act for Fiscal Year  
12 2004 (Public Law 108– 177; 50 U.S.C. 411g note), as amended by subsection (c), is further  
13 amended by adding at the end the following:

14 “(c) USE OF FUNDS.—Funds made available for the program may be used for the  
15 following purposes:

16 “(1) To provide a monthly stipend for each month that the individual is pursuing a  
17 course of study described in subsection (a).

18 “(2) To pay such individual’s full tuition to permit the individual to complete  
19 such a course of study.

20 “(3) To provide an allowance for books and materials that such individual  
21 requires to complete such a course of study.

22 “(4) To pay such individual’s expenses for travel as requested by an element of  
23 the intelligence community related to the program.”.

1 (e) CONFORMING AMENDMENTS.—

2 (1) SECTION HEADING.—The section heading of section 318 of the Intelligence  
3 Authorization Act for Fiscal Year 2004 (Public Law 108–177; 117 Stat. 2613) is amended to  
4 read as follows:

5 “SEC. 318. PAT ROBERTS INTELLIGENCE SCHOLARS PROGRAM.”.

6 (2) TABLE OF CONTENTS.—The table of contents in section 1(b) of the Intelligence  
7 Authorization Act for Fiscal Year 2004 (Public Law 108–177; 117 Stat. 2599) is amended by  
8 striking the item relating to section 318 and inserting the following:

9 “Sec. 318. Pat Roberts Intelligence Scholars Program.”.

## 10 **SEC. 304. INTELLIGENCE OFFICER TRAINING PROGRAMS**

11 (a) AUTHORITY.—The Director may carry out, or may authorize the head of an element of the  
12 intelligence community to carry out, programs in accordance with this section for the purposes  
13 described in subsection (c).

14 (b) DEFINITIONS.—In this section:

15 (1) DIRECTOR.—The term “Director” means “the Director of National Intelligence”.

16 (2) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher  
17 education” has the meaning given the term in section 101 of the Higher Education Act of  
18 1965 (20 U.S.C. 1001).

19 (c) PURPOSES.—The purpose of a program carried out under this section shall be—

20 (1) to encourage the preparation, recruitment, and retention of civilian intelligence  
21 community personnel who possesses language, analytic, scientific, technical, or other  
22 skills necessary to meet the needs of the intelligence community, as identified by the  
23 Director; and

1           (2) to enhance recruitment and retention of an ethnically and culturally diverse  
2           workforce for the intelligence community with capabilities critical to the national security  
3           interests of the United States.

4   (d) AUTHORIZED PROGRAMS.—The programs authorized under this section are as follows:

5           (1) GRANTS TO INDIVIDUALS.—A program carried out in accordance with  
6           subsection (e) to provide financial aid to an individual to pursue a program at an  
7           institution of higher education in language, analysis, science, technical fields, or other  
8           skills necessary to meet the needs of the intelligence community, as identified by the  
9           Director.

10          (2) GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.—A program carried  
11          out in accordance with subsection (f) to provide a grant to an institution of higher  
12          education to develop a program of study in an area of study referred to paragraph (1).

13   (e) GRANTS TO INDIVIDUALS.—

14          (1) IN GENERAL.—The Director, or the head of an element of the intelligence  
15          community authorized by the Director under subsection (a), may award a grant to an  
16          individual who is pursuing an associate, baccalaureate, advanced degree, or certification  
17          in an area of study referred to in subsection (c)(1) at an institution of higher education.

18          (2) USE OR FUNDS.—A grant awarded to an individual under this section to enroll in a  
19          program at an institution of higher education may be used—

20                 (A) to pay the tuition, fees, and other costs of such program;

21                 (B) to pay the living expenses of the individual during the time the individual is  
22                 enrolled in such program; or

1 (C) to support internship activities of the individual within the intelligence  
2 community during the academic year or periods between academic years in which  
3 the individual is enrolled in such program.

4 (3) ADMINISTRATION OF GRANTS.—A grant of financial aid to an individual under  
5 this section shall be administered through—

6 (A) the Pat Roberts Intelligence Scholars Program carried out under section 318  
7 of the Intelligence Authorization Act for Fiscal Year 2004 (50 U.S.C. 441g note);  
8 or

9 (B) the Louis Stokes Educational Scholarship Program carried out under section  
10 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note).

11 (4) SELECTION.—In selecting an individual to receive a grant under this section to  
12 enroll in a program at an institution of higher education, the Director or head of an  
13 element of the intelligence community, as appropriate, shall consider whether such  
14 institution has been awarded a grant under this section.

15 (5) AUTHORITY FOR SCREENING.—The Director is authorized to screen and qualify  
16 each individual selected to receive a grant under this section for the appropriate security  
17 clearance without regard to the date that the employment relationship between the  
18 individual and an element of the intelligence community is formed, or whether it is ever  
19 formed.

20 (f) GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.—

21 (1) IN GENERAL.—The Director may award a grant to an institution of higher education  
22 to support the establishment, continued development, improvement, or administration of  
23 a program of study referred to in subsection (c)(1) at such institution.

1 (2) USE OF FUNDS.—A grant awarded to an institution of higher education under this  
2 section may be used for the following:

3 (A) National Security-related curriculum or program development.

4 (B) Faculty development.

5 (C) Laboratory equipment or improvements.

6 (D) Faculty research in language, analysis, science, technical, or other fields that  
7 meet current or emerging needs of the intelligence community as identified by the  
8 Director of National Intelligence.

9 (E) Student Developmental Stipends

10 (3) REPORTS.—An institution of higher education awarded a grant under this section  
11 shall submit to the Director regular reports regarding the use of such grant, including—

12 (A) a description of the benefits to students who participate in the course of study  
13 funded by such grant;

14 (B) a description of the results and accomplishments related to such course of  
15 study; and

16 (C) any other information that the Director may require.

17 (g) APPLICATION.—An individual or an institution of higher education seeking a grant under  
18 this section shall submit an application to the Director describing the proposed use of the grant at  
19 such time and in such manner as the Director may require.

20 (h) REGULATIONS.—The Director shall prescribe such regulations as are necessary to carry  
21 out this section.

22 (i) REPEAL OF PRIOR PROGRAMS.—

23 (1) IN GENERAL.—The following provisions are repealed:

1 (A) Section 319 of Intelligence Authorization Act for Fiscal Year 2004 (Public  
2 Law 108–177; 50 U.S.C. 403 note).

3 (B) Section 1003 of the National Security Act of 1947 (50 U.S.C. 441g–2).

4 (C) Section 922 of Ronald W. Reagan National Defense Authorization Act for  
5 Fiscal Year 2005 (Public Law 108–375; 50 U.S.C. 402 note).

6 (2) EFFECT ON PRIOR AGREEMENTS.—An agreement, contract, or employment  
7 relationship that was in effect pursuant to a provision repealed by subparagraph (A), (B),  
8 or (C) of paragraph (1) prior to the date of the enactment of this Act shall remain in effect  
9 unless all parties mutually agree to amend, modify, or abrogate such agreement, contract,  
10 or relationship.

11 (3) TABLE OF CONTENTS AMENDMENTS.—

12 (A) INTELLIGENCE AUTHORIZATION ACT

13 FOR FISCAL YEAR 2004.—The Intelligence Authorization Act for Fiscal Year  
14 2004 is amended in the table of contents in section 1(b), by striking the item  
15 relating to section 319.

16 (B) RONALD W. REAGAN NATIONAL DEFENSE AUTHORIZATION ACT  
17 FOR FISCAL YEAR

18 2005.—The Ronald W. Reagan National Defense Authorization Act for Fiscal  
19 Year 2005 (Public Law 108–375; 118 Stat. 1811) is amended—

20 (i) in the table of contents in section 2(b), by striking the item relating to  
21 section 922; and

22 (ii) in title IV in the table of contents preceding subtitle A, by striking the  
23 item relating to section 922.

1 (j) EFFECT OF OTHER LAW.—The Director shall administer the Intelligence Officer Training  
2 Program pursuant to the provisions of chapter 63 of title 31, United States Code and chapter 75  
3 of such title, except that the Comptroller General of the United States shall have no authority,  
4 duty, or responsibility in matters related to this program.

5 **SEC. 305. ENHANCEMENT OF AUTHORITY OF THE DIRECTOR OF NATIONAL**  
6 **INTELLIGENCE FOR FLEXIBLE PERSONNEL MANAGEMENT AMONG**  
7 **THE ELEMENTS OF THE INTELLIGENCE COMMUNITY**

8 Section 102A of the National Security Act of 1947 (50 U.S.C. 403-1) is amended by adding the  
9 following new subsections:

10 “ (t) AUTHORITY TO ESTABLISH POSITIONS IN THE INTELLIGENCE COMMUNITY  
11 EXCEPTED SERVICE.—

12 “ (1) The Director of National Intelligence may, at the request of the head of the  
13 department or agency concerned, and in coordination with the Director of the Office of  
14 Personnel Management—

15 “ (A) convert competitive service and non-Intelligence Community  
16 excepted service positions and the incumbents of such positions within an element  
17 of the Intelligence Community to excepted service positions as the head of the  
18 department or agency concerned determines necessary to carry out the  
19 intelligence functions of such elements of the Intelligence Community; and

20 “ (B) establish new positions in the Intelligence Community excepted  
21 service within the elements of the Intelligence Community in their respective  
22 department or agency, if the head of the department or agency concerned

1 determines such positions are necessary to carry out the intelligence functions of  
2 such elements of the Intelligence Community.

3 “ (2) For the purposes of this section, the ‘Intelligence Community  
4 excepted service’ shall have the same coverage as applicable to employees of the  
5 Office of the Director of National Intelligence as referred to in 50 U.S.C. 403-3

6 (d)

7 “ (3) Incumbents in competitive service positions converted to Intelligence Community  
8 excepted service positions pursuant to (1)(A) above may choose to retain their status in  
9 the competitive service for as long as they hold the positions to which converted.

10 “(4) Exercise of a granted authority is at the discretion of the head of the employing  
11 department or agency concerned.”

12 “(u) EXTENDING PERSONNEL FLEXIBILITIES THROUGHOUT THE INTELLIGENCE  
13 COMMUNITY.—

14 “ (1) Notwithstanding the provisions of any other law, in order to ensure the equitable  
15 treatment of employees across the Intelligence Community, the Director of National Intelligence  
16 may, at the request of the head of the department or agency concerned, and for those matters that  
17 fall under the responsibilities of the Office of Personnel Management under statute or executive  
18 order, in coordination with the Director of the Office of Personnel Management, authorize 1 or  
19 more elements of the Intelligence Community, as defined in Section 3(4) of the National  
20 Security Act, to adopt compensation authority, performance management authority, and  
21 scholarship authority that have been authorized for any other element of the Intelligence  
22 Community if the Director of National Intelligence—

1           “(A) determines that such adoption would improve the management and performance  
2 of the Intelligence Community; and

3           “(B) notifies the Senate Select Committee on Intelligence and the House Permanent  
4 Select Committee on Intelligence not later than 60 days before such authority is to take effect,  
5 and provides those committees with a description of the authority to be extended and an estimate  
6 of the associated costs.

7           “(2) To the extent that an existing compensation authority within the Intelligence  
8 Community is limited to a particular category of employees or a particular situation, that  
9 authority may be adopted in another element of the Intelligence Community only for employees  
10 in an equivalent category or in an equivalent situation.

11           “(3) In this subsection, the term ‘compensation authority’ means authority involving basic  
12 pay (including position classification), premium pay, awards, bonuses, incentives, allowances,  
13 differentials, student loan repayments, and special payments, excluding—

14           “(A) authorities related to benefits such as leave, separation pay, retirement, and  
15 insurance;

16           “(B) the authority to grant Presidential Rank Awards provided under 5 U.S.C. 4507  
17 and 4507a, 5 U.S.C. 3151(c), or any other statute; and

18           “(C) compensation authorities and performance management authorities provided  
19 under statutes pertaining to the Senior Executive Service or under 5 U.S.C. 5376 relating  
20 to senior-level and scientific or professional positions.”

21           “(4) Exercise of a granted authority is at the discretion of the head of the employing  
22 department or agency concerned.”

23           “(v) PAY AUTHORITY FOR CRITICAL POSITIONS.-

1           “(1) Notwithstanding any pay limitation established under any other provision of law  
2 applicable to employees in elements of the Intelligence Community, the Director of National  
3 Intelligence, at the request of the head of the department or agency concerned, and in  
4 consultation with the Directors of the Office of Personnel Management and the Office of  
5 Management and Budget, may grant authority to fix the rate of basic pay for 1 or more  
6 department or agency positions within the Intelligence Community at a rate in excess of any  
7 applicable limitation, subject to the conditions set forth in this subsection. Exercise of a granted  
8 authority is at the discretion of the head of the employing department or agency concerned,  
9 subject to the conditions set forth in this subsection and any conditions established by the  
10 Director of National Intelligence when granting the authority.

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

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

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

17           “(3) A rate of basic pay may not be fixed under this subsection at a rate greater than the  
18 rate payable for level II of the Executive Schedule under Section 5313 of title 5, United  
19 States Code, except upon written approval of the Director of National Intelligence or as  
20 otherwise authorized by law.

21           “(4) A rate of basic pay may not be fixed under this subsection at a rate greater than the  
22 rate payable for level I of the Executive Schedule under Section 5312 of title 5, United

1 States Code, except upon written approval of the President in response to a request by the  
2 Director of National Intelligence or as otherwise authorized by law.

3 “(5) The authority granted under this subsection for a position shall terminate at the discretion of  
4 the Director of National Intelligence.

## 5 **Subtitle B—Reporting Requirements**

### 6 **SEC. 321. REPORTS ON FOREIGN INDUSTRIAL ESPIONAGE.**

7 Section 809(b) of the Intelligence Authorization Act for Fiscal Year 1995, Public Law 103-359  
8 {50 U.S.C. app. 2170b} is amended as follows:

9 (a) Strike subsections (b)(1) and (2) {50 U.S.C. app. 2170b(b)(1) and (2)} and insert:

10 “(b) BIENNIAL UPDATE.--

11 “(1) SUBMITTAL TO CONGRESSIONAL INTELLIGENCE COMMITTEES.-- The  
12 President shall submit to the congressional intelligence committees and congressional  
13 leadership a report updating the information referred to in subsection (a) (1) (d) not later  
14 than February 1, 2010 and every two years thereafter.”

15 (b) Renumber subsection (b)(3) as (b)(2).

### 16 **SEC. 322. ELIMINATION OF REPORTING REQUIREMENT ON FINANCIAL** 17 **INTELLIGENCE ON TERRORIST ASSETS.**

18 (1) IN GENERAL--Section 118 of the National Security Act of 1947 (50 U.S.C. 404m) is  
19 amended –

20 (A) in the section heading, by striking “SEMIANNUAL REPORT ON” from the  
21 title, and inserting “EMERGENCY NOTIFICATION REGARDING”;

22 (B) by striking subsection (a);

23 (C) be redesignating subsection (b) as subsection (a);

1 (D) by striking subsection (c); and

2 (E) by redesignating subsection (d) as subsection (b).

3 (2) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section  
4 of the National Security Act of 1947 is amended by striking the item related to Section  
5 118 and inserting the following:

6 “Sec. 118. Emergency notification regarding financial intelligence on terrorist  
7 assets”.

8 **SEC. 323. REPEAL OF CERTAIN REPORTING REQUIREMENTS.**

9 (a) ANNUAL REPORTS ON COMMERCE WITH, AND ASSISTANCE TO  
10 CUBA FROM OTHER FOREIGN COUNTRIES--Section 108, Helms-Burton Act, P.L. 104-  
11 114, 110 Stat. 798 (22 U.S.C. Section 6038) is repealed.

12 (b) UNCLASSIFIED ANNUAL REPORT OF THE INTELLIGENCE COMMUNITY AS  
13 REQUIRED BY THE NATIONAL SECURITY ACT OF 1947.

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

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

18 (c) ANNUAL AND SPECIAL REPORTS ON PROVISION OF INTELLIGENCE  
19 INFORMATION TO THE UNITED NATIONS—Section 112 (b) (1) of the National Security  
20 Act of 1947 (50 U.S.C. 404g) is amended—

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

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

1 (d) ANNUAL CERTIFICATION ON COUNTERINTELLIGENCE INITIATIVES—Section  
2 1102(b) of the National Security Act of 1947 (50 U.S.C. 442a(b) is amended by striking  
3 paragraph (2).

4 (e) ANNUAL DIRECTOR OF CENTRAL INTELLIGENCE (NOW THE DIRECTOR OF  
5 NATIONAL INTELLIGENCE) REPORT ON THE STATUS OF THE TERRORIST  
6 IDENTIFICATION CLASSIFICATION SYSTEM—Section 343 of the Intelligence  
7 Authorization Act for Fiscal Year 2003 (50 U.S.C. 404n-2), P.L. 107-306, 116 Stat. 2400 is  
8 amended—

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

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

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

15 CONFORMING AMENDMENTS—Section 507(a) of the National Security Act of 1947  
16 (50 U.S.C. 415b(a)) is amended—

17 (1) in paragraph (1):

18 (A) by striking subparagraphs (A) The annual report on intelligence required by  
19 section 109 and (B) The annual report on intelligence provided to the United Nations  
20 required by section 112 (b) (1); and

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

1 (2) in paragraph (2), by striking subparagraph (D) The annual report on counterdrug  
2 intelligence matters required by section 826 of the Intelligence Authorization Act for  
3 Fiscal Year 2003.

4 (g) ANNUAL REPORT ON SAFETY AND SECURITY OF RUSSIAN NUCLEAR  
5 FACILITIES AND FORCES—Section 114 of the National Security Act of 1947 (50 U.S.C.  
6 404i) is amended—

7 (1) by striking subsection (a); and

8 (2) by redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c),  
9 respectively.

10 (h) SEMIANNUAL REPORT ON CONTRIBUTIONS TO PROLIFERATION EFFORTS OF  
11 COUNTRIES OF PROLIFERATION CONCERN.—Section 722 of the Combating Proliferation  
12 of Weapons on Mass Destruction Act of 1996 (50 U.S.C. 2639 is repealed.

### 13 **Subtitle C—Other Matters**

#### 14 **SEC. 331. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES**

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

#### 18 **SEC. 332. MODIFICATION OF AVAILABILITY OF FUNDS FOR DIFFERENT** 19 **INTELLIGENCE ACTIVITIES.**

20 Subparagraph (B) of Section 504(a)(3) of the National Security Act of 1947 (50 U.S.C.  
21 414(a)(3)) is amended to read as follows:

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

1 **SEC. 333. STRENGTHENING ACCESS TO INFORMATION**

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

4 (1) in subparagraph (E), by striking `and' at the end;

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

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

7 `(G) in carrying out this subsection, without regard to any other provision of law (other  
8 than this Act and the National Security Intelligence Reform Act of 2004 (title I of Public Law  
9 108-458; 118 Stat. 3643)), expend funds and make funds available to other departments or  
10 agencies of the United States for, and direct the development and fielding of, systems of  
11 common concern related to the collection, processing, analysis, exploitation, and dissemination  
12 of intelligence information; and

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

17 (b) AUTHORITIES OF HEADS OF OTHER DEPARTMENTS AND AGENCIES-

18 Notwithstanding any other provision of law, the head of any department or agency of the United  
19 States is authorized to receive and utilize funds made available to the department or agency by  
20 the Director of National Intelligence pursuant to section 102A(g)(1) of the National Security Act  
21 of 1947 (50 U.S.C. 403-1(g)(1)), as amended by subsection (a), and receive and utilize any  
22 system referred to in such section that is made available to the department or agency.

1 **SEC. 334. EXTENSION TO THE INTELLIGENCE COMMUNITY OF AUTHORITY**  
2 **TO DELETE INFORMATION ABOUT RECEIPT AND DISPOSITION OF**  
3 **FOREIGN GIFTS AND DECORATIONS.**

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

5 ``4)(A) In transmitting such listings for an element of the intelligence community, the  
6 head of such element may delete the information described in subparagraphs (A) and (C) of  
7 paragraphs (2) and (3) if the head of such element certifies in writing to the Secretary of State  
8 that the publication of such information could adversely affect United States intelligence sources  
9 or methods.

10 ``B) In this paragraph, the term `element of the intelligence community' means an  
11 element of the intelligence community listed in or designated under section 3(4) of the National  
12 Security Act of 1947 (50 U.S.C. 401a(4)).''.

13 **SEC. 335. AUTHORITY FOR THE DIRECTOR OF NATIONAL INTELLIGENCE**  
14 **OPEN SOURCE CENTER TO ACCEPT FROM INDIVIDUAL VOLUNTEERS**  
15 **CERTAIN NEEDED TRANSLATION SERVICES ON AN UNPAID,**  
16 **GRATUITOUS BASIS WHEN IN THE INTERESTS OF NATIONAL SECURITY.**

17 (a) **AUTHORITY TO ACCEPT SERVICES.** During the current fiscal year and thereafter,  
18 and notwithstanding Section 1342 of Title 31 of the United States Code or any legal prohibition  
19 against the augmentation of appropriations, the Director of National Intelligence Open Source  
20 Center (hereinafter "Open Source Center"), is authorized to accept the translation services of  
21 individuals either directly or through a nonprofit organization or academic institution on an  
22 unpaid, gratuitous basis provided that:

1           (1)     The Director of the Central Intelligence Agency has determined, in accordance  
2 with Director of National Intelligence guidance for the Intelligence Community, that the Open  
3 Source Center's acceptance of translation services in the language(s) offered will serve the  
4 national security interests of the United States;

5           (2)     The translation work performed will be based upon information that has been  
6 collected from open sources or that otherwise is unclassified;

7           (3)     The individuals are qualified to perform the work involved;

8           (4)     The individuals will not require a security clearance to perform the work but shall  
9 be vetted via a National Agency Check prior to acceptance of services;

10          (5)     The Open Source Center shall review the translated product to ensure accuracy to  
11 the same extent that it would review the translated product provided by a compensated employee  
12 or contractor;

13          (6)     The Open Source Center executes and enforces a written agreement with each  
14 individual from whom such services will be accepted providing that the individual will make no  
15 claim against the United States for compensation for such services, that the individual providing  
16 translation services on a gratuitous basis under this provision is not considered to be an employee  
17 of the Federal Government for any purpose based on these services provided, and that the  
18 individual will otherwise protect the interests of the United States.

19          (7)     The Open Source Center's use of gratuitous translation services in any given  
20 fiscal year may not result in translated material that exceeds 20 percent of the Open Source  
21 Center's translation production generated using appropriated funds, as measured by the number  
22 of translated words.

1 (b) AUTHORITY TO RECRUIT AND TRAIN INDIVIDUALS PROVIDING SERVICES.

2 The Open Source Center may directly recruit and train individuals to provide gratuitous services  
3 under subsection (a) or may work with nonprofit organizations or academic institutions to  
4 identify individuals willing to provide services under subsection (a).

5 **SEC. 336. EXEMPTION FROM DISCLOSURE OF TERRORIST IDENTITY**

6 **INFORMATION UNDER THE FREEDOM OF INFORMATION ACT**

7 Section 119 of the National Security Act of 1947 (50 U.S.C. Section 404o) is amended by adding  
8 at the end the following new subsection:

9 “(k) EXEMPTION FROM DISCLOSURE OF TERRORIST IDENTITY INFORMATION

10 UNDER THE FREEDOM OF INFORMATION ACT.—(1) Notwithstanding any other  
11 provision of law, terrorist identity information maintained for terrorist screening purposes or  
12 other authorized counterterrorism purposes shall be exempt from disclosure under section 552 of  
13 title 5, United States Code.

14 “(2) In this section:

15 (A) AUTHORIZED COUNTERTERRORISM PURPOSE.—The term ‘authorized  
16 counterterrorism purpose’ includes dissemination to and appropriate use by an element of the  
17 Federal Government of terrorist identifiers of persons designated as terrorists or supporters of  
18 terrorists under any provision of law.

19 “(B) TERRORIST IDENTITY INFORMATION.—

20 The term ‘terrorist identity information’ means—

21 “(i) information from databases maintained by any element of the Federal

22 Government that would reveal whether an individual has or has not been determined to

1 be a known or suspected terrorist or has or has not been determined to be within the  
2 networks of contacts and support of a known or suspected terrorist;

3 “(ii) information related to determinations as to whether or not an individual is or  
4 should be included in the Terrorist Screening Database or other screening databases  
5 based on a determination that the individual is a known or suspected terrorist; and

6 “(iii) information from the Terrorist Screening Database provided to any State,  
7 local, territorial, or tribal government, notwithstanding any State, local, territorial, or  
8 tribal law requiring disclosure of public records.

9 “(C) TERRORIST IDENTIFIERS.—The term ‘terrorist identifiers’—

10 “(i) includes, with respect to a known or suspected terrorist or someone who has been  
11 determined to be within the networks of contacts and support of a known or suspected  
12 terrorist--

13 “(I) names and aliases;

14 “(II) dates or places of birth;

15 “(III) unique identifying numbers or  
16 information;

17 “(IV) physical identifiers or biometrics; and

18 “(V) any other identifying information provided for watchlisting purposes;

19 and

20 “(ii) does not include derogatory information or information that would reveal or  
21 compromise intelligence or law enforcement sources or methods.’’.

22 **SEC. 337. PREVENTING MISUSE OF THE NAME, INITIALS, OR SEAL OF THE**

23 **OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE OR OF THE**

1           **INTELLIGENCE COMMUNITY AND THE UNAUTHORIZED**

2           **MANUFACTURE AND SALE OF INTELLIGENCE COMMUNITY MEDALS.**

3 Title XI of the National Security Act of 1947 (50 U.S.C. 442 et seq.) is amended by adding the  
4 following new section:

5 PREVENTING MISUSE OF THE NAME, INITIALS, OR SEAL OF THE OFFICE OF THE  
6 DIRECTOR OF NATIONAL INTELLIGENCE OR THE INTELLIGENCE COMMUNITY  
7 AND THE UNAUTHORIZED MANUFACTURE AND SALE OF INTELLIGENCE  
8 COMMUNITY MEDALS

9 “(a) PROHIBITED ACTS—

10           “(1) No person may, except with the written permission of the Director of National  
11 Intelligence, or the Director’s designee, knowingly use the words “Office of the Director of  
12 National Intelligence”, the initials “ODNI”, the seal of the Office of the Director of National  
13 Intelligence, “Intelligence Community, ” the initials “IC”, the seal of the Intelligence  
14 Community, or any colorable imitation of such words, initials, or seal in connection with any  
15 merchandise, impersonation, solicitation, or commercial activity in a manner reasonably  
16 calculated to convey the impression that such use is approved, endorsed, or authorized by the  
17 Director of National Intelligence, except that employees of the Intelligence Community, as  
18 defined in § 401a(4) of this Act, may use the Intelligence Community name, initials, and seal in  
19 accordance with regulations promulgated by the Director of National Intelligence.

20           “(2) No person may manufacture, ship, import, or offer for sale any decoration or medal  
21 authorized or awarded by the Director of National Intelligence under the National Intelligence  
22 Awards Program, or any colorable imitation thereof, except as authorized in writing by the  
23 Director of National Intelligence.

1 “(b) INJUNCTION-- Whenever it appears to the Attorney General that any person is engaged or  
2 is about to engage in an act or practice which constitutes or will constitute conduct prohibited by  
3 subsection (a), the Attorney General may initiate a civil proceeding in a district court of the  
4 United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the  
5 hearing and determination of such action and may, at any time before final determination, enter  
6 such restraining orders or prohibitions, or take such other action as is warranted, to prevent  
7 injury to the United States or to any person or class of persons for whose protection the action is  
8 brought.

9 **SEC. 338. NATIONAL INTELLIGENCE PROGRAM FUNDED ACQUISITIONS.**

10 The National Security Act of 1947 is amended by adding a new paragraph (4) to subsection (n)  
11 of section 102A (section 50 U.S.C. 403-1):

12 “(4) NATIONAL INTELLIGENCE PROGRAM FUNDED ACQUISITIONS. --In  
13 addition to the authority of the Director of National Intelligence under section 102A(n) of the  
14 National Security Act of 1947 to exercise the acquisition authorities referred to in the Central  
15 Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.), the Director is further authorized, for  
16 each acquisition undertaken by an agency or element of the intelligence community funded in  
17 whole or in the majority by the National Intelligence Program, to authorize intelligence  
18 community agencies or elements, or their respective departments, to exercise the acquisition  
19 authorities in sections 3 and 8(a) of the Central Intelligence Agency Act of 1949 (50 USC 403c  
20 and 403j(a)).

21 “(A) Each authorization to exercise these authorities may occur only after--

1 “(i) the head of an element of the intelligence community (without delegation)  
2 submits to the Office of the Director of National Intelligence a written request that  
3 includes the following:

4 (I) a description of the authorities required;

5 (II) an explanation of the need for each authority requested and reason why  
6 current authorities are insufficient; and

7 (III) certification that the requesting agency’s mission would be impaired  
8 absent the ability to use the requested authorities or would be  
9 significantly and measurably enhanced if the ability to use the  
10 requested authorities is granted, and

11 “(ii) The Director of National Intelligence, the Principal Deputy Director of  
12 National Intelligence, or a Deputy Director of National Intelligence designated in  
13 accordance with section 102A(n)(3)(B) of the National Security Act, issues a  
14 written authorization that includes the following:

15 (I) a clear description of the authorities authorized to be exercised;

16 (II) a justification to support the exercise of each identified authority.

17 “(B) Requests under subparagraph (A) from elements of the Intelligence Community that  
18 are within the Departments of Defense, State, Homeland Security, Treasury, Energy, or  
19 Justice must be transmitted in accordance with any procedures that the applicable  
20 Department may establish.

21 “(C) Authorizations that affect a class of acquisitions, rather than a single acquisition,  
22 shall not be made for a period exceeding three years, unless approved by the Director of  
23 National Intelligence, which approvals shall not exceed six years. All such authorizations

1 may be extended for successive three or six year periods, in accordance with procedures  
2 laid out in subparagraph (A).

3 “(D) OMB shall be notified in the event that Authorizations made under subparagraph  
4 (A) exceed \$50,000,000 annually.”

5 “(E) Requests and authorizations to exercise these authorities shall remain available  
6 within the Office of the Director of National Intelligence for a period of at least six years  
7 following the date of such authorization.”

8 “(F) Any request and authorization made under an authority referred to in subparagraph  
9 (A) may be made with respect to individual acquisitions, or with respect to a specific  
10 class of acquisitions defined in the request and authorization submitted in accordance  
11 with subparagraph (A).

12 (G) Nothing in this section shall alter or otherwise limit the authority of the Central  
13 Intelligence Agency to independently exercise its authorities under sections 3 and 8(a) of  
14 the Central Intelligence Agency Act of 1949 (50 USC 403c and 403j(a)).

15 **SEC. 339. RESERVE FOR INTELLIGENCE COMMUNITY CONTINGENCIES.**

16 (a) ESTABLISHMENT. – Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) as  
17 amended, is further amended by inserting after section 103G the following new section:

18 **“SECTION 103H. RESERVE FOR INTELLIGENCE COMMUNITY CONTINGENCIES**

19 “(a) IN GENERAL. – There is hereby established in the Community Management  
20 Account a Reserve for Contingencies Fund for the Intelligence Community.

21 “(b) ELEMENTS. -- The Reserve for Contingencies Fund for the Intelligence  
22 Community shall consist of amounts appropriated to the Reserve.

1 “(c) PERIOD OF AVAILABILITY.-- Funds appropriated for the Reserve for  
2 Contingencies Fund for the Intelligence Community shall remain available for one year.

3 “(d) AVAILABILITY OF FUNDS FOR EMERGENT NEEDS. – Subject to the approval  
4 and notification requirements in subsection (e), amounts in the Reserve for Contingencies  
5 Fund for the Intelligence Community –

6 “(1) shall be available to meet an emergent need or unforeseen requirement for  
7 intelligence or intelligence-related activities within the Intelligence Community for which  
8 funds were specifically authorized, reprogrammed or transferred, and the availability of  
9 amounts from the Reserve shall not be limited to such amounts as were previously  
10 authorized, reprogrammed or transferred for such activities; or

11 “(2) shall be available to meet an emergent need or unforeseen requirement within  
12 the Intelligence Community for other intelligence or intelligence-related activities.

13 “(f) APPROVAL AND NOTIFICATION REQUIREMENTS—Amounts in the Reserve  
14 for Contingencies for the Intelligence Community shall be available for obligation or  
15 expenditure –

16 “(1) after the use of such amounts for such activities has been approved by the  
17 Director of the Office of Management and Budget or his designee; and

18 “(2) after the Director of National Intelligence or his designee has, consistent with  
19 the provisions of section 502 and 503 of the National Security Act (50 U.S.C. 413a and  
20 413b), notified the congressional intelligence committees of the intention to utilize such  
21 amounts for such activities; after 15 calendar days has elapsed since such notification.

22 “(g) DIRECTOR OF NATIONAL INTELLIGENCE APPROVAL—Funds available  
23 under this section shall be used subject to the direction and approval of the Director of

1 National Intelligence or the Director's designee and in accordance with procedures issued  
2 by the Director.”.

3 “(h) SUNSET CLAUSE---The authority for the Reserve for Contingencies for the Intelligence  
4 Community will terminate on September 30, 2012.

5 (b) NO EFFECT ON THE CIA RESERVE FOR CONTINGENCIES.--Nothing in this section  
6 shall affect the reserve available for the Central Intelligence Agency.

7 (c) CLERICAL AMENDMENT--The table of contents in the first section of the National  
8 Security Act of 1947, as amended, is further amended by inserting after the item relating to  
9 section 103G the following new item:

10 “Sec. 103H. RESERVE FOR INTELLIGENCE COMMUNITY CONTINGENCIES.”.

11 **SEC. 340. ADDITIONAL FUNCTIONS FOR PROTECTIVE PERSONNEL OF THE**  
12 **CENTRAL INTELLIGENCE AGENCY.**

13 Section 5(a)(4) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f(a)(4)) is  
14 amended--

15 (1) by striking “and the protection of current and former agency personnel” and inserting “the  
16 protection of current and former Agency personnel”, and

17 (2) by striking the semicolon and inserting “, and the protection of the Director of National  
18 Intelligence;”.

19 **TITLE IV—MATTERS RELATING TO ELEMENTS OF THE**  
20 **INTELLIGENCE COMMUNITY**

21 **Subtitle A—Office of the Director of National Intelligence**

22 **SEC. 401. CLARIFICATION OF THE RESTRICTION AGAINST CO-LOCATION OF**  
23 **OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE**

1           **HEADQUARTERS AND LOCATION OF OFFICE OF THE DIRECTOR OF**  
2           **NATIONAL INTELLIGENCE HEADQUARTERS.**

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

4 (1) by striking “Commencing” and inserting “(1) Commencing”;

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

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

7 (4) by inserting before the period at the end thereof “as defined in section 3(4) of the National  
8 Security Act of 1947, as amended”; and

9 (5) by adding the following new paragraph:

10 “(2) The President may waive the limitation in paragraph (1) of this subsection if the President  
11 determines—

12 “(A) that waiver would be in the interest of national security; or,

13 “(B) that the additional cost of separate headquarters outweighs the potential benefits of the  
14 limitation.”

15 (b) Section 103 of the National Security Act of 1947, as amended, is further amended by adding  
16 at the end a new subsection:

17 “(f) **LOCATION OF THE OFFICE OF THE DIRECTOR OF NATIONAL**  
18 **INTELLIGENCE.—**

19 “The headquarters of the Office of the Director of National Intelligence may be located in the  
20 District of Columbia or elsewhere in the Washington Metropolitan Region, as that term is  
21 defined in section 8301 of title 40, United States Code.”

22 **SEC. 402. PROTECTION OF CERTAIN FILES OF THE OFFICE OF THE DIRECTOR**  
23 **OF NATIONAL INTELLIGENCE.**

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

3 “ SEC. 706. PROTECTION OF CERTAIN FILES OF THE OFFICE OF THE  
4 DIRECTOR OF NATIONAL INTELLIGENCE.

5 “(a) RECORDS FROM EXEMPTED OPERATIONAL FILES.—

6 “(1) Records disseminated or otherwise provided to an element of the Office of the Director  
7 of National Intelligence from the exempted operational files of elements of the intelligence  
8 community designated in accordance with Title VII of this Act, and any operational files created  
9 by the Office of the Director of National Intelligence that incorporate such records in accordance  
10 with paragraph (A)(ii) below, shall be exempted from the provisions of section 552 of Title 5,  
11 United States Code that require search, review, publication or disclosure in connection therewith,  
12 in any instance where--

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

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

20 “(B) the operational files from which such records have been obtained  
21 continue to remain designated as operational files exempted from section 552 of  
22 Title 5, United States Code.

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

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

12          “ (4) Notwithstanding the provisions of sections 701-705 of the National Security  
13          Act, records in the exempted operational files of the Central Intelligence Agency, the  
14          National Geospatial-Intelligence Agency, the National Reconnaissance Office, the  
15          National Security Agency or the Defense Intelligence Agency shall not be subject to the  
16          search and review provisions of section 552 of title 5 solely because they have been  
17          disseminated to an element or elements of the Office of the Director of National  
18          Intelligence, or referenced in operational files of the Office of the Director of National  
19          Intelligence and that are not disseminated beyond the Office of the Director of National  
20          Intelligence.”

21          “ (5)(A)Notwithstanding the provisions of sections 701-705 of the National  
22          Security Act, the incorporation of records from the operational files of the Central  
23          Intelligence Agency, the National Geospatial-Intelligence Agency, the National

1           Reconnaissance Office, the National Security Agency or the Defense Intelligence  
2           Agency, into operational files of the Office of the Director of National Intelligence shall  
3           not subject that record or the operational files of the Central Intelligence Agency, the  
4           National Geospatial-Intelligence Agency, the National Reconnaissance Office, the  
5           National Security Agency or the Defense Intelligence Agency to the search and review  
6           provisions of section 552 of title 5.

7           “(b) SEARCH AND REVIEW—

8                   “(1) Files in the Office of the Director of National Intelligence that are not exempted  
9                   under subsection (a) of this section which contain information derived or disseminated  
10                  from exempted operational files shall be subject to search and review.

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

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

20           “(c) EFFECT OF OTHER LAWS.-- The provisions of this section may not be  
21           superseded except by a provision of law that is enacted after the date of the enactment of this  
22           section and that specifically cites and repeals or modifies such provisions.

1           “(d) APPLICABILITY.-- The Director of National Intelligence will publish a regulation  
2 listing the specific elements within the Office of the Director of National Intelligence whose  
3 records can be exempted under this provision.

4           “(e) ALLEGATION; IMPROPER WITHHOLDING OF RECORDS; JUDICIAL  
5 REVIEW.—

6           “(1) Except as provided in paragraph (2), whenever any person who has requested agency  
7 records under section 552 of Title 5, United States Code, alleges that the Office of the Director  
8 of National Intelligence has withheld records improperly because of failure to comply with any  
9 provision of this section, judicial review shall be available under the terms set forth in  
10 section 552(a)(4)(B) of Title 5, United States Code.

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

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

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

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

1                   “(D)(i) When a complainant alleges that requested records were  
2                   improperly withheld because of improper exemption of operational files, the  
3                   Office of the Director of National Intelligence shall meet its burden under  
4                   section 552(a)(4)(B) of Title 5, United States Code, by demonstrating to the court  
5                   by sworn written submission that exempted operational files likely to contain  
6                   responsive records currently meet the criteria set forth in subsection (a) of this  
7                   section.

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

14                  “(E) In proceedings under subparagraphs (C) and (D), the parties may not  
15                  obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil  
16                  Procedure, except that requests for admissions may be made pursuant to rules 26  
17                  and 36.

18                  “(F) If the court finds under this subsection that the Office of the Director  
19                  of National Intelligence has improperly withheld requested records because of  
20                  failure to comply with any provision of this section, the court shall order the  
21                  Office to search and review the appropriate exempted operational file or files for  
22                  the requested records and make such records, or portions thereof, available in

1 accordance with the provisions of section 552 of Title 5, United States Code, and  
2 such order shall be the exclusive remedy for failure to comply with this section.

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

7 (f) CLERICAL AMENDMENT.-- The table of contents in the first section of the  
8 National Security Act of 1947 is amended by inserting the following new item:

9 “Sec. 706. Protection of Certain Files of the Office of the Director of National  
10 Intelligence.”.

11 **SEC. 403. MEMBERSHIP OF THE DIRECTOR OF NATIONAL INTELLIGENCE ON**  
12 **THE TRANSPORTATION SECURITY OVERSIGHT BOARD.**

13 Section 115(b)(1)(F) of title 49, United States Code, is amended by striking “The Director of the  
14 Central Intelligence Agency” and inserting “The Director of National Intelligence.”.

15 **SEC. 404. REPEAL OF CERTAIN AUTHORITIES RELATING TO THE OFFICE OF**  
16 **THE NATIONAL COUNTERINTELLIGENCE EXECUTIVE.**

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

19 (1) by striking subsections (d), (g)(3), (g)(4), (h), (i), and (j); and

20 (2) by redesignating subsections (e), (f), (g), (k),(l), and (m) as subsections (d), (e), (f),

21 (g), (h), and (i) respectively.

22 (b) CONFORMING AMENDMENTS.-- That section is further amended--

23 (1) in subsection (d), as redesignated by subsection (a)(2) of this section,

1 by striking “subsection (f)” each place it appears in paragraphs (1) and (2) and inserting  
2 “subsection (e)”;  
3 (2) in subsection (e)(1), as so redesignated, by striking “subsection(e)(1)” and inserting  
4 “subsection (d)(1)” and  
5 (3) in subsection (e)(2), as so redesignated, by striking “subsection  
6 (e)(2)” and inserting “subsection (d)(2)”.

7 **SEC. 405. BRINGING THE PUBLICATION OF THE NATIONAL**  
8 **COUNTERINTELLIGENCE STRATEGY INTO ALIGNMENT WITH THE**  
9 **POLICY AND STRATEGY OF THE DIRECTOR OF NATIONAL**  
10 **INTELLIGENCE AND MODIFYING THE FREQUENCY OF UPDATES AND**  
11 **REVISIONS TO THE NATIONAL COUNTERINTELLIGENCE STRATEGY.**

12 Paragraph (2) of Section 904(e) of the Counterintelligence Enhancement Act of 2002 [50 U.S.C.  
13 402c] is amended:

14 (1) by adding “The National Counterintelligence Strategy shall be revised or updated at  
15 least every three years and shall be aligned with the strategy and policies of the  
16 Director of National Intelligence.”.

17 (2) by striking “Assessment” and inserting “Assessments”

18 (3) by deleting “on an annual basis”

19 **SEC. 406. INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT TO**  
20 **ADVISORY COMMITTEES OF THE OFFICE OF THE DIRECTOR OF**  
21 **NATIONAL INTELLIGENCE.**

22 Section 4(b) of the Federal Advisory Committee Act (5 U.S.C. App. 2) is amended -

23 (1) in paragraph (1), by striking “or”;

1 (2) in paragraph (2), by striking the period and inserting “; or”; and

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

3 “(3) the Office of the Director of National Intelligence.”.

4 **SEC. 407. AWARD OF RANK TO MEMBERS OF THE SENIOR NATIONAL**  
5 **INTELLIGENCE SERVICE.**

6 Section 102A of the National Security Act of 1947 (50 U.S.C. 403–1), is amended by adding at  
7 the end the following:

8 AWARD OF RANK TO MEMBERS OF THE SENIOR NATIONAL INTELLIGENCE  
9 SERVICE.—

10 The President, after receiving the recommendations of the Director of National Intelligence, may  
11 award ranks to members of the Senior National Intelligence Service and other Intelligence  
12 Community senior civilian officers not already covered by such a rank award program in a  
13 manner consistent with the provisions of section 4507 of title 5, United States Code.”

14 **SEC. 408. APPLICATION OF CERTAIN FINANCIAL REPORTING**  
15 **REQUIREMENTS TO DIRECTOR OF NATIONAL INTELLIGENCE**

16 The Director of National Intelligence shall not be required to submit audited financial  
17 statements under section 3515 of title 31, United States Code for the Office of the Director of  
18 National Intelligence with respect to fiscal years 2009 through 2011.

19 **SEC. 409. TRAVEL ON ANY COMMON CARRIER FOR CERTAIN INTELLIGENCE**  
20 **COMMUNITY PERSONNEL.**

21 Section 116(b) of the National Security Act of 1947 (50 U.S.C. 404k(b)), as amended by  
22 Sections 1071(a)(1)(S), 1071(a)(3)(B), and 1072(a)(5) of the Intelligence Reform and Terrorism  
23 Prevention Act of 2004 (Public Law 108-458), is further amended by inserting before the period

1 the following: “, who may redelegate such functions to any officer or employee occupying any  
2 of the following positions (or successor positions) in the Central Intelligence Agency: the Deputy  
3 Director of the Central Intelligence Agency, the Associate Deputy Director of the Central  
4 Intelligence Agency, the Director for Intelligence, the Director for Support, the Director for  
5 Science and Technology, and the Director of the National Clandestine Service.”.

6 **Subtitle B—Central Intelligence Agency**

7 **SEC. 421. REPORT ON AUDITED FINANCIAL STATEMENTS PROGRESS.**

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

10 **SEC. 422. APPEALS FROM DECISIONS OF CENTRAL INTELLIGENCE AGENCY**  
11 **CONTRACTING OFFICERS**

12 (a) JURISDICTION.--Section 8(d) of the Contract Disputes Act of 1978 (41 U.S.C. 607(d)) is  
13 amended by adding at the end the following new sentence: “Notwithstanding any other  
14 provision of this section and any other provision of law, an appeal from a decision of a  
15 contracting officer of the Central Intelligence Agency relative to a contract made by that  
16 agency may be filed with whichever of the Armed Services Board of Contract Appeals or  
17 the Civilian Board of Contract Appeals is specified by the contracting officer as the  
18 Board to which such an appeal may be made; and the Board so specified shall have  
19 jurisdiction to decide that appeal.”

20 (b) EFFECTIVE DATE.--The provisions of this amendment shall be effective upon the  
21 enactment of this Act.

22 **SEC. 423. DEPUTY DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY.**

1 ESTABLISHMENT AND DUTIES OF THE POSITION OF DEPUTY DIRECTOR OF  
2 CENTRAL INTELLIGENCE AGENCY.--Title I of the National Security Act of 1947 (50  
3 U.S.C. 402 et seq.) is amended by adding after section 104A the following:“DEPUTY  
4 DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY”

5 “Sec. 104B. (a) DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE AGENCY.--There is a  
6 Deputy Director of the Central Intelligence Agency who shall be appointed by the President.”

7 “(b) DUTIES OF DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE AGENCY.--(1) The  
8 Deputy Director of the Central Intelligence Agency shall assist the Director of the Central  
9 Intelligence Agency in carrying out the duties and responsibilities of the Director of the Central  
10 Intelligence Agency.”

11 “(2) The Deputy Director of the Central Intelligence Agency shall act for, and exercise the  
12 powers of, the Director of the Central Intelligence Agency during the absence or disability of the  
13 Director of the Central Intelligence Agency, or during a vacancy in the position of Director of  
14 the Central Intelligence Agency.”.

15 (b) EXECUTIVE SCHEDULE LEVEL III.--Section 5314 of Title 5, United States Code, is  
16 amended by adding at the end the following new item:

17 “Deputy Director of the Central Intelligence Agency.”.

18 (c) EFFECTIVE DATE AND APPLICABILITY.--The amendments made by this section shall  
19 take effect on the date of the enactment of this Act and shall apply upon the earlier of--

20 (1) the date of the appointment by the President of an individual to serve as Deputy Director of  
21 the Central Intelligence Agency, except that the individual administratively performing the duties  
22 of the Deputy Director of the Central Intelligence Agency as of the date of the enactment of this

1 Act may continue to perform such duties until the individual appointed to the position of Deputy  
2 Director of the Central Intelligence Agency assumes the duties of such position; or  
3 (2) the date of the cessation of the performance of the duties of Deputy Director of the Central  
4 Intelligence Agency by the individual administratively performing such duties as of the date of  
5 the enactment of this Act.

6 **SEC. 424. PROTECTION AGAINST REPRISALS**

7 Section (e)(3)(B) of the CIA Inspector General Act (50 U.S.C. § 403q(e)(3)(B)) is amended by  
8 inserting “or providing such information” after “making such complaint.”

9 **SEC. 425. INSPECTOR GENERAL SUBPOENA POWER**

10 Section 17(e)(5)(A) of the CIA Inspector General Act (50 U.S.C. 403q(e)(5)(A)) is amended by  
11 inserting “in any medium (including electronically stored information, as well as any tangible  
12 thing)” after “other data.”

13 **SEC. 426. APPLICATION OF SEMIANNUAL REPORTING REQUIREMENTS WITH**  
14 **RESPECT TO EVALUATION REPORTS**

15 Section (d)(1) of the CIA Inspector General Act (50 U.S.C. § 403q(d)(1)) is amended by  
16 inserting “evaluation,” after “investigation,” in the final sentence.

17 **SEC. 427. TECHNICAL AMENDMENTS RELATING TO TITLES OF CENTRAL**  
18 **INTELLIGENCE AGENCY POSITIONS.**

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

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

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

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

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

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

9 (b) Title 10, United States Code.—Subsection (c) of section 528 of title 10, United States Code,  
10 is amended by striking “Associate Director of CIA for Military Affairs” and “Associate Director  
11 of the Central Intelligence Agency for Military Affairs” and inserting “Associate Director for  
12 Military Affairs, CIA or any successor position” and “Associate Director for Military Affairs,  
13 Central Intelligence Agency or any successor position” respectively.

14 **SEC. 428. TECHNICAL CORRECTION AND ADDITION OF DEPUTY DIRECTOR OF**  
15 **THE CENTRAL INTELLIGENCE AGENCY.**

16 Section 17(d)(3)(B)(i) of the CIA Inspector General Act (50 U.S.C. § 403q) is amended --by  
17 striking the word “advise” and substituting the word “advice”; and by inserting “Deputy Director  
18 of the Central Intelligence Agency” as the new subclause (I) of section (d)((3)(b)(ii), and  
19 renumbering subclause (I) as subclause (II); subclause (II) as subclause (III); subclause (III) as  
20 subclause (IV); subclause (IV) as subclause(V); and subclause (V) as subclause (VI).

21 **SEC. 429. MAINTENANCE AND DISPOSITION OF OFFICE OF DIRECTOR OF**  
22 **NATIONAL INTELLIGENCE RECORDS BY THE CENTRAL INTELLIGENCE**  
23 **AGENCY.**

1 The Central Intelligence Agency Act of 1949 (50 U.S.C. 403) is amended by adding--

2       “(a) Notwithstanding any other provision of law, the Central Intelligence Agency may  
3 maintain and dispose, on behalf of the Office of the Director of National Intelligence, any record  
4 related to an administrative or business activity of the Office of the Director of National  
5 Intelligence.

6       “(b) Whenever such records concern individual United States persons, they may be  
7 disclosed by the Central Intelligence Agency to the Office of the Director of National  
8 Intelligence, or by the Office of the Director of National Intelligence to the Central Intelligence  
9 Agency, without the person’s consent and without the maintenance of any accounting of such  
10 disclosures.

11       “(c) The Office of the Director of National Intelligence shall reimburse the Central  
12 Intelligence Agency for all actual (direct and indirect) costs incurred by the Agency in carrying  
13 out any of the actions authorized under this section.

14       “(d) Except as provided in subsection (b), nothing in this section limits the protection  
15 afforded any records or information by other provisions of law, including Freedom of  
16 Information Act exemptions, the Privacy Act of 1974, the National Security Act of 1947, as  
17 amended, and the Central Intelligence Agency Act of 1949, as amended.”

18 **SEC. 430. FOREIGN LANGUAGE PROFICIENCY REQUIREMENTS FOR CENTRAL**  
19 **INTELLIGENCE AGENCY OFFICERS.**

20 (a) IN GENERAL. – Section 104A(g) of the National Security Act of 1947 (50 U.S.C. 403-  
21 4a(g)) is amended—

22       (1) in paragraph 1, by striking the text after “an individual” and inserting “in the Directorate  
23 of Intelligence career service or the National Clandestine Service career service may not be

1 promoted into the Senior Intelligence Service of the Central Intelligence Agency unless the  
2 Director of the Central Intelligence Agency determines that the individual has foreign language  
3 test scores on record with the Central Intelligence Agency and meets a minimum foreign  
4 language proficiency that the Director of the Central Intelligence Agency considers appropriate  
5 for a Senior Intelligence Service officer”; and

6 (2) in paragraph 2, by striking “position or category of positions” each time it appears and  
7 inserting “position, category of positions, or occupation”.

8 (b) EFFECTIVE DATE. – Section 611(b) of the Intelligence Authorization Act for Fiscal Year  
9 2005 (Public Law 108-487; 50 U.S.C. 403-4a note) is amended –

10 (1) by striking “appointments” and inserting “promotions”; and

11 (2) by striking “that is one year after the date”.

12 (c) REPORT ON WAIVERS. – Section 611(c) of the Intelligence Authorization Act for Fiscal  
13 Year 2005 (Public Law 108-487) is amended –

14 (1) in the first sentence –

15 (i) by inserting “, categories of positions, or  
16 occupations” after “positions”; and

17 (ii) by striking “Directorate of Operations” and inserting “National Clandestine  
18 Service”; and

19 (2) in the second sentence, by striking “position or category of positions” and inserting  
20 “position, category of positions, or occupation.”

21 **SEC. 431. SECTION 5(a)(1) OF THE CENTRAL INTELLIGENCE AGENCY ACT OF**  
22 **1949.**

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

### 7 **Subtitle C—Other Elements**

#### 8 **SEC. 432. HOMELAND SECURITY INTELLIGENCE ELEMENTS.**

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

- (1) in subparagraph (H), by inserting “the Coast Guard,” after “the Marine Corps,”; and
- (2) in subparagraph (K), by striking “elements of the Department of Homeland Security”  
and all that follows through “Office of Intelligence of the Coast Guard.” and inserting  
“Office of Intelligence and Analysis of the Department of Homeland Security.”.

#### 9 **SEC. 433. AUTHORIZATION OF APPROPRIATIONS FOR COAST GUARD**

##### 10 **NATIONAL TACTICAL INTEGRATION OFFICE.**

11 Title 14, United States Code, is amended—

- 12 (1) in section 93(4), by striking “function” and inserting “function, including research,  
13 development, test, or evaluation related to intelligence systems and capabilities,” and
- 14 (2) in section 662(4), by striking “related to” and inserting “related to intelligence systems and  
15 capabilities or”.

#### 16 **SEC. 434. EXTENDING THE AUTHORITY OF THE FEDERAL BUREAU OF**

##### 17 **INVESTIGATION TO WAIVE MANDATORY RETIREMENT PROVISIONS.**

1 (a) CIVIL SERVICE RETIREMENT SYSTEM- Subsection (b) of section 8335 of title 5, United  
2 States Code, is amended--

3 (1) in the paragraph (2) enacted by section 112(a)(2) of the Department of Justice  
4 Appropriations Act, 2005 (title I of division B of Public Law 108-447; 118 Stat. 2868), by  
5 striking `2009' and inserting `2011'; and

6 (2) by striking the paragraph (2) enacted by section 2005(a)(2) of the Intelligence Reform  
7 and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3704).

8 (b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM- Subsection (b) of section 8425 of title  
9 5, United States Code, is amended--

10 (1) in the paragraph (2) enacted by section 112(b)(2) of the Department of Justice  
11 Appropriations Act, 2005 (title I of division B of Public Law 108-447; 118 Stat. 2868), by  
12 striking `2009' and inserting `2011'; and

13 (2) by striking the paragraph (2) enacted by section 2005(b)(2) of the Intelligence Reform  
14 and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3704).

15 **SEC. 435. FEDERAL BUREAU OF INVESTIGATION PARTICIPATION IN THE**  
16 **DEPARTMENT OF JUSTICE LEAVE BANK**

17 In Title 5, Section 6372, strike subsection (b) and insert the following:

18 "(b)(1) except as provided in subsection (b)(2) and notwithstanding any other provision  
19 of this subchapter, neither an excepted agency nor any individual employed in or under an  
20 excepted agency may be included in a leave bank program established under any of the  
21 preceding provisions of this subchapter.

22 "(b)(2) notwithstanding any other provision of law, the Director of the Federal Bureau of  
23 Investigation may authorize any individual or group of individuals employed in the Bureau to

1 participate in a leave bank program administered by the Department of Justice under this  
2 subchapter if in his judgment such participation will not adversely affect the protection of  
3 intelligence sources and methods."

4 **SEC. 436. DEFENSE INTELLIGENCE AGENCY EXPENDITURE AUTHORITY.**

5 Section 105 of the National Security Act of 1947 (50 U.S.C. 403-5(b)(5)) is amended---  
6 in subsection (b)(5), by inserting "and counterintelligence" after "human intelligence";  
7 by redesignating subsection (c) as subsection (d); and by inserting after subsection (b) the  
8 following:

9 " (c) EXPENDITURE OF FUNDS BY THE DEFENSE INTELLIGENCE AGENCY.—

10 The amounts made available to the Director of the Defense Intelligence Agency for human  
11 intelligence and counterintelligence activities may be expended for objects of a confidential,  
12 extraordinary, or emergency nature, without regard to the provisions of law or regulation relating  
13 to the expenditure of Government funds, if accounted for by a certificate made by the Director,  
14 Defense Intelligence Agency. Each such certificate shall be deemed a sufficient voucher for the  
15 amount therein certified."

16 **SEC. 437. APPROPRIATIONS FOR DEFENSE INTELLIGENCE ELEMENTS.**

17 (a) IN GENERAL. Chapter 21 of title 10, United States Code is amended by inserting after  
18 section 428 the following new section:

19 "§ 429. Appropriations for Defense intelligence elements

20 "(a) ACCOUNTS FOR APPROPRIATIONS FOR DEFENSE INTELLIGENCE  
21 ELEMENTS.—Notwithstanding any other provision of law and in addition to any other transfer  
22 authority available to the Department of Defense, the Secretary of Defense may transfer  
23 appropriations of the Department of Defense which are available to the Department of Defense

1 for intelligence, intelligence-related activities and communications, to an account or accounts  
 2 established by the Department of the Treasury for receipt of such transfers. Such an account or  
 3 accounts may also receive transfers from the Director of National Intelligence, and transfers and  
 4 reimbursements arising from transactions, as authorized by law, between the Defense  
 5 intelligence elements and other entities. Appropriation balances in such an account or accounts  
 6 may be transferred back to the account or accounts from which they originated as appropriation  
 7 refunds.

8 “(b) AVAILABILITY OF APPROPRIATIONS.-Appropriations transferred pursuant to  
 9 subsection (a) shall remain available for the same time period, and shall be available for the same  
 10 purposes, as the appropriations from which they were transferred.

11 “(c) DEFINITION.- As used in this section “Defense intelligence elements” means the  
 12 Department of Defense agencies, offices, and elements included within the definition of  
 13 “intelligence community” under paragraph (4) of section 3 of the National Security Act of 1947,  
 14 as amended, (50 U.S.C. 401a(4)).

15 (b) CLERICAL AMENDMENT.- The table of sections at the beginning of such chapter is  
 16 amended by inserting after the item for section 428 the following new item:

17 “429. Appropriations for Defense intelligence elements.”.

## 18 **TITLE V—TECHNICAL AMENDMENTS**

### 19 **SEC. 501. TECHNICAL CORRECTIONS TO THE NATIONAL SECURITY ACT AND** 20 **THE CENTRAL INTELLIGENCE AGENCY ACT.**

21 (a) Title I of the National Security Act of 1947, as amended by Title I of the Intelligence Reform  
 22 and Terrorism Prevention Act of 2004 (Public Law 108-458), is further amended--

23 (1) in section 102A (50 U.S.C. 403-1)--

1 (A) in subsection (d)(3), by striking “subparagraph  
2 (A)” and inserting “paragraph (1)(A)”;  
3 (B) in subsection (d)(5)(A), by striking “or personnel”;  
4 (C) in subsection (l)(2)(B), by striking “section” and inserting  
5 “paragraph”  
6 (D) in the heading before subsection (n), by striking “Acquisition  
7 Authorities” and inserting “Acquisition and Other Authorities”; and  
8 (2) in section 119(c)(2)(B) (50 U.S.C. 404o(c)(2)(B)), by striking “(h)” and inserting  
9 “(i)”.

10 (b) Section 7 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403h) is amended by  
11 striking “Commissioner of Immigration and Naturalization” and inserting “Secretary of  
12 Homeland Security”.

13 **SEC. 502. MULTIYEAR NATIONAL INTELLIGENCE PROGRAM.**

14 Section 1403 of the National Defense Authorization Act for Fiscal Year 1991, as amended, (50  
15 U.S.C. 404b) is amended--

16 (1) in the headings for the section and for subsection (a), and in subsection (a), by striking  
17 “foreign”;

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

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

21 **SEC. 503. REFERENCES TO MILITARY INTELLIGENCE PROGRAM AND**  
22 **RELATED ACTIVITIES.**

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

2 (1) in subsection (c)(3)(A)--

3 (A) by striking the word “budgets” and inserting “budget”; and

4 (B) by striking “Joint Military Intelligence Program and for Tactical Intelligence  
5 and Related Activities,” and inserting “Military Intelligence Program, or for any  
6 successor program or programs.”; and

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

9 **SEC. 504. TECHNICAL CORRECTIONS TO INTELLIGENCE REFORM AND**  
10 **TERRORISM PREVENTION ACT OF 2004.**

11 The Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458) is  
12 amended-

13 (1) in section 1016(e)(10)(B), by striking “Attorney General” the second time it appears  
14 and inserting “Department of Justice”;

15 (2) in section 1061(d)(4)(A), by striking “National Intelligence Director” and inserting  
16 “Director of National Intelligence”;

17 (3) in section 1071(e), by striking “(1)”;

18 (4) in the heading of section 1072(b), by inserting “Agency” after “Intelligence”;

19 (5) in section 2001-

20 (A) in subsection (c)(1), by inserting “of” between “Investigation” and “an  
21 institutional culture”

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

4 (C) in subsection (f), by striking the comma after “shall”; and

5 (6) in section 2006--

6 (A) in subsection (2), by striking “the”;

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

8 **SEC. 505. TECHNICAL CORRECTIONS TO THE EXECUTIVE SCHEDULE.**

9 (a) Section 5313 of title 5, United States Code, is amended by striking “Director of Central  
10 Intelligence” and inserting “Director of the Central Intelligence Agency”.

11 (b) Section 5314 of title 5, United States Code, is amended by striking “Deputy Directors of  
12 Central Intelligence (2).”.

13 (c) Section 5315 of title 5, United States Code, is amended by striking “General Counsel of the  
14 Office of the National Intelligence Director” and inserting “General Counsel of the Office of the  
15 Director of National Intelligence”.

16 **SEC. 506. DEFINITION OF INTELLIGENCE COMMUNITY.**

17 Section 3(4)(L) of the National Security Act of 1947 (50 U.S.C. 401a(4)(L)), is amended by  
18 striking “other” the second time it appears.

19 **SEC. 507. TECHNICAL AMENDMENT TO THE ELECTRONIC  
20 COMMUNICATIONS PRIVACY ACT.**

21 Section 2709(b)(1) of title 18, United States Code, is amended by inserting “, or electronic  
22 communication transactional records” after “toll billing records”.

1                   **TITLE VI—REORGANIZATION OF DIPLOMATIC**  
2                   **TELECOMMUNICATIONS SERVICE PROGRAM OFFICE**

3                   **SEC. 601. REORGANIZATION OF THE DIPLOMATIC TELECOMMUNICATIONS**  
4                   **SERVICE PROGRAM OFFICE.**

5                   (a) REORGANIZATION OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE  
6                   PROGRAMS OFFICE

7                   (1) IN GENERAL.—Subtitle B of title III of the Intelligence Authorization Act for Fiscal  
8                   Year 2001 (Public Law 106–567; 22 U.S.C. 7301 et seq.) is amended by striking sections  
9                   321, 322, 323, and 324, and inserting the following:

10                   “SEC. 321. DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM  
11                   OFFICE.

12                   “(a) REORGANIZATION.—The Diplomatic Telecommunications Service  
13                   (hereinafter in this subtitle referred to as ‘DTS’) shall be reorganized in  
14                   accordance with this subtitle.

15                   “(b) IN GENERAL.—The DTS encompasses the Diplomatic  
16                   Telecommunications Service Program Office (hereinafter in this subtitle referred  
17                   to as ‘DTS–PO’) and the DTS Network. The DTS Network is a worldwide  
18                   telecommunications network supporting all United States Government agencies  
19                   and departments operating from diplomatic and consular facilities abroad.

20                   “(c) PURPOSES.—The purpose and duties of DTS–PO is to implement a  
21                   program for the establishment and maintenance of a DTS Network capable of  
22                   providing multiple levels of service to meet the wide-ranging needs of all United  
23                   States Government agencies and departments operating from diplomatic and

1 consular facilities abroad, including national security needs for secure, reliable  
2 and robust communications capabilities.

3 “SEC. 322. ESTABLISHMENT OF THE DIPLOMATIC  
4 TELECOMMUNICATIONS SERVICE GOVERNANCE BOARD.

5 “(a) GOVERNANCE BOARD.—

6 “(1) ESTABLISHMENT.—There is hereby established the Diplomatic  
7 Telecommunications Service Governance Board (hereinafter in this  
8 subtitle referred to as the ‘Governance Board’) for the purpose of directing  
9 and overseeing the activities and performance of the DTS Program Office.  
10 The heads of the departments and agencies, designated by the Director of  
11 the Office of Management and Budget from among the departments and  
12 agencies that use the DTS Network, shall appoint the members of the  
13 Governance Board from the personnel of those departments and agencies  
14 so designated.

15 “(2) DESIGNATION OF AN EXECUTIVE AGENT.—The Director of  
16 the Office of Management and Budget shall also designate, from among  
17 the departments and agencies that use the DTS Network, the department or  
18 agency which shall be the DTS-PO Executive Agent.

19 “(3) REQUIREMENT FOR IMPLEMENTING ARRANGEMENTS.—

20 Subject to the requirements of this subtitle, the Governance Board shall  
21 determine the written implementing arrangements and other relevant and  
22 appropriate governance processes and procedures to manage, oversee,  
23 resource or otherwise administer DTS-PO. Such implementing

1 arrangements may be classified if appropriate in accordance with criteria  
2 established by applicable law or Executive Orders.

3 “(b) MEMBERSHIP.—

4 “(1) IN GENERAL.—

5 “(A) The Governance Board shall include voting members and  
6 nonvoting members.

7 “(B) The voting members shall consist of a Chair, who shall be  
8 designated by the Director of the Office of Management and  
9 Budget, and four other members from the departments and  
10 agencies that use the DTS Network.

11 “(C) The non-voting members shall be representative of DTS  
12 customer organizations and shall act in an advisory capacity.

13 “(c) CHAIR DUTIES AND AUTHORITIES.—The Governance Board Chair  
14 shall preside over all meetings and deliberations of the Governance Board and  
15 provide its Secretariat functions. The Governance Board Chair shall propose  
16 bylaws governing the operation of the Governance Board.

17 “(d) QUORUM, DECISIONS, MEETINGS.—A quorum of the Governance  
18 Board shall consist of the presence of the Chair and four voting members. The  
19 decisions of the Governance Board shall require a majority of the voting  
20 membership. Meetings will be convened at least four times each year to carry out  
21 its functions. The Chair or any voting member may convene a meeting of the  
22 Governance Board.

1           “(e) GOVERNANCE BOARD DUTIES AND AUTHORITIES.—The  
2           Governance Board shall have the following duties and authorities with respect to  
3           DTS–PO, in addition to any other duties and authorities granted to the Board  
4           pursuant to law:

5                   “(1) To approve and monitor DTS–PO’s plans, services, priorities,  
6                   policies, and pricing methodology for bandwidth costs and customer-  
7                   driven projects.

8                   “(2) To recommend to the DTS–PO Executive Agent the Governance  
9                   Board’s approval, disapproval, or modification of DTS–PO’s annual  
10                  budget requests.

11                  “(3) To review DTS–PO’s performance against approved plans, its  
12                  management activities and internal controls.

13                  “(4) To require from DTS–PO any plans, reports, documents and records  
14                  the Governance Board considers necessary to perform its oversight  
15                  responsibilities.

16                  “(5) To conduct and evaluate independent audits of DTS–PO.

17                  “(6) To approve or disapprove the Executive Agent’s nomination of the  
18                  Director of DTS–PO with a three-fifths majority vote of the Governance  
19                  Board.

20                  “(7) To recommend to the Executive Agent the replacement of the  
21                  Director of DTS–PO with a three-fifths majority vote of the Governance  
22                  Board.

1 “(f) NATIONAL SECURITY INTERESTS.—The Governance Board shall  
2 ensure that those enhancements of, and the provision of service for,  
3 telecommunication capabilities that involve the national security interests of the  
4 United States receive the highest prioritization.

5 “SEC. 323. FUNDING OF THE DIPLOMATIC TELECOMMUNICATION  
6 SERVICE.

7 “(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be  
8 appropriated such sums as may be necessary for the operations, maintenance,  
9 development, enhancement, modernization, and investment costs of the DTS  
10 Network and DTS–PO. Funds appropriated for allocation to DTS–PO shall be  
11 made available to DTS–PO for a period of two fiscal years.

12 “(b) CUSTOMER FEES.—DTS–PO shall charge customers for only those  
13 bandwidth costs attributable to the agency or department and for specific  
14 customer-driven projects, as set forth in section 322(e)(1), for which amounts  
15 have not been appropriated for allocation to DTS–PO. DTS–PO is authorized to  
16 directly receive customer payments and to invoice customers for the fees under  
17 this section either in advance of, or upon or after, providing the bandwidth or  
18 performing the specific customer-driven projects. Such funds received from DTS  
19 customers shall be made available to DTS–PO for a period of two fiscal years.’’.

20 (2) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 1 of the  
21 Intelligence Authorization Act for Fiscal Year 2001 (Public Law 106–567) is amended by  
22 striking the items relating to sections 321, 322, 323, and 324 and inserting the following:

23 “Sec. 321. Diplomatic Telecommunications Service Program Office.

1           “Sec. 322. Establishment of the Diplomatic Telecommunications Service  
2           Governance Board.

3           “Sec. 323. Funding of the Diplomatic Telecommunication Service.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) REPEAL OF SUSPENSION OF REORGANIZATION.—The Intelligence Authorization Act  
6 for Fiscal Year 2002 (Public Law 107–108; 22 U.S.C. 7301 note) is amended by striking section  
7 311.

8 (2) REPEAL OF REFORM.—The Admiral James W. Nance and Meg Donovan Foreign  
9 Relations Authorization Act, Fiscal Years 2000 and 2001 ((as enacted into law by section  
10 1000(a)(7) of Public Law 106–113 and contained in appendix G of that Act; 113 Stat. 1501A–  
11 405)) is amended by striking section 305.

12 (3) REPEAL OF REPORTING REQUIREMENTS.— Section 507(b) of the National Security  
13 Act of 1947 (50 U.S.C. 415b(b)) is amended—

14 (A) by striking paragraph (3); and

15 (B) by redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively.

## **SECTIONAL ANALYSES**

## **TITLE I--BUDGET AND PERSONNEL AUTHORIZATIONS**

### *Section 101. Authorization of appropriations.*

Section 101 lists the United States Government departments, agencies, and other elements for which the Act authorizes appropriations for intelligence and intelligence-related activities for fiscal year 2010.

### *Section 102. Classified Schedule of Authorizations.*

Section 102 makes clear that the details of the amounts authorized to be appropriated for intelligence and intelligence-related activities covered under this title for fiscal year 2010 are contained in a classified Schedule of Authorizations. The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President.

### *Section 103. Personnel ceiling adjustments.*

This provision authorizes the Director of National Intelligence (DNI) to exceed any existing personnel caps imposed by the Congress for Fiscal Year 2011 by as much as 5%. In the event the caps are exceeded, the DNI must notify the congressional intelligence committees after appropriate coordination within the Executive Branch. The provision also allows for contractor conversion and provides that those in student or trainee programs, reserve corps members or reemployed annuitants, detailees, joint duty participants, and those involved in long-term training will not count against any such caps.

In past years, the DNI supported a provision that would entirely remove end-strength ceilings for the Intelligence Community (IC). However, in recognition of congressional concerns related to this proposal, particularly those related to the size of the Office of the Director of National Intelligence (ODNI), Section 103 retains the personnel ceiling. Following an evaluation of the size of the ODNI and review of other issues related to the composition of the IC, it may be appropriate to seek relief from the personnel cap. It remains the long-term goal of the DNI to be able to manage the personnel budget of the IC without regard for any limitations such as caps on full-time equivalents (FTEs) or man-years, or any prescribed maximum number of employees. End-strength ceilings are inflexible, lead to increased use of contractors to perform necessary IC functions, and severely hinder the IC's joint duty and other programs. Managing to budget promotes the most efficient allocation of resources and allows the DNI the maximum flexibility to carry out the missions of the IC as required.

### *Section 104. Intelligence Community Management Account.*

Section 104 authorizes appropriations for the Community Management Account (CMA) of the Director of National Intelligence (DNI) for fiscal year 2011.

Section 104 does not include a provision contained in recent intelligence authorization legislation which limits the term of non-reimbursable details to the Office of the DNI (ODNI) to one year or less. Because the Intelligence Reform and Terrorism Prevention Act of 2004 provided the DNI with considerable flexibility to manage human resources, the old Community Management restriction regarding non-reimbursable details is too limiting. The one year restriction has unduly impeded the ODNI's ability to facilitate the rotation of Intelligence Community employees, especially those on joint duty assignments. Accordingly, Section 104 does not contain this restriction and Section 302 provides for a new term, not to exceed three years, of non-reimbursable details to the ODNI and other elements of the Intelligence Community funded through the National Intelligence Program.

Subsection (a) authorizes appropriations of \$\_\_\_\_,\_\_\_\_,000 for fiscal year 2011 for the activities of the CMA of the DNI. Subsection (a) also authorizes funds identified for advanced research and development to remain available for two years.

Subsection (b) authorizes additional appropriations for the CMA as specified in the classified Schedule of Authorizations and permits the additional funding amount to remain available through September 30, 2011, except for funds for research and development activities, which remain available through September 30, 2012.

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

### *Section 201. Authorization of appropriations.*

Section 201 authorizes appropriations in the amount of \$290,900,000 for fiscal year 2010 for the Central Intelligence Agency Retirement and Disability Fund.

### *Section 202. Technical modification to mandatory retirement provision of Central Intelligence Agency Retirement Act.*

Section 202 updates the Central Intelligence Agency Retirement Act provision on mandatory retirement to reflect the Agency's abolition of pay grades within the Senior Intelligence Service (SIS) and the Agency's adoption of SIS personal ranks. As part of the revised SIS program approved by the Director of Central Intelligence in February 2004, the Agency—effective 11 July 2004—adopted a single pay range for the SIS, thereby eliminating the six SIS pay grades. The CIA Executive Director subsequently approved an SIS personal rank structure comprising levels 1-6, effective 1 December 2005. The change made by Section 202 resolves the discrepancy between the prior version of Section 235(b)(1) of the CIA Retirement Act and the revised SIS structure.

## **TITLE III—GENERAL INTELLIGENCE COMMUNITY MATTERS**

### **Subtitle A—Personnel Matters**

*Section 301. Temporary appointment to fill vacancies in Presidentially-appointed and Senate-confirmed positions in the Office of the Director of National Intelligence.*

Section 301 adds a new subsection (e) to section 103 of the National Security Act of 1947. This new subsection would permit the President to temporarily fill vacancies in offices in the Office of the Director of National Intelligence (ODNI) that require Senate confirmation with an individual who serves in another element of the Intelligence Community. This provision is consistent with the recommendations of the National Commission on Terrorist Attacks Upon the United States (“the 9/11 Commission”), which noted that senior intelligence positions should be filled quickly and not left vacant for long periods of time.

In creating the ODNI, Congress envisioned an executive branch agency that would pull from the expertise of employees from the other sixteen elements of the Intelligence Community. Section 102A of the National Security Act, as amended, tasks the Director of National Intelligence (DNI) with developing personnel policies that “encourage and facilitate assignments and details of personnel to national intelligence centers [of the ODNI], and between elements of the intelligence community.” Moreover, the DNI is charged with developing regulations to “provide incentives for personnel of elements of the intelligence community to serve . . . on the staff of the Director of National Intelligence.”

A significant number of Office of the Director of National Intelligence (ODNI) personnel are detailed from other elements of the Intelligence Community (IC). Moreover, there are certain positions in the ODNI that are highly specialized. To that end, the ODNI may not have in place individuals who meet the requisite requirements of the Vacancies Act to serve in an acting capacity. Accordingly, the ODNI may be left with vacant senior level positions until such time as the President nominates someone for that position and the Senate confirms that nominee. In fact, the ODNI recently faced this problem in attempting to fill, on an acting basis, the Chief Information Officer for the Intelligence Community. Because this position requires a specialized skill set and the Office of the Chief Information Officer is small, there was no individual who satisfied the requirements of the Vacancies Act to serve in an acting capacity. Rather than leave this critical position vacant, the President should have the ability to temporarily appoint an individual from other IC elements who possesses the specialized skills and background necessary to fill this critical position.

Paragraphs (1) and (2) are based on 5 U.S.C. 3345(a)(1) and (a)(2) of the Vacancies Act. These provisions provide that (1) the first assistant of the office shall begin serving as the acting officer immediately and automatically upon the occurrence of the vacancy and (2) another officer who has already received senate confirmation may serve as the acting officer. In addition, both subsections incorporate the time limitations to serve in an acting capacity, generally limiting such acting appointment to no longer than 210 days.

*Section 302. Enhanced flexibility in details to elements of the Intelligence Community.*

This section permanently authorizes details on a reimbursable or non-reimbursable basis from any element of the government to the staff of an element of the Intelligence Community (IC) funded through the National Intelligence Program. Such details will be determined under

terms jointly agreed to by the heads of the concerned departments or agencies, but the terms shall be no longer than three years. This authority will provide flexibility for IC elements to receive support from other IC elements on a non-reimbursable basis for Community-wide activities where both elements would benefit from the detail.

*Section 303. Permanent authorization for the Pat Roberts Intelligence Scholars Program.*

This proposal provides permanent authorization for the Pat Roberts Intelligence Scholars Program (PRISP). PRISP, which was originally authorized as a pilot program pursuant to section 318 of the Intelligence Authorization Act for fiscal year 2004, has been continued under year-to-year appropriations. It has provided funds for the academic training of intelligence analysts and has been successful in helping to improve the analytical capabilities of the Intelligence Community (IC).

This proposal would also authorize the broader use of PRISP funds beyond intelligence analysis, to include funding of academic training for those with particular acquisition, scientific, technological, or other necessary intelligence-related skillsets. The proposal would permit PRISP participants to receive tuition, books, travel expenses, and a stipend.

Since its inception, PRISP has provided funds to over 500 individuals, with attrition of fewer than half a dozen program participants. IC elements are enthusiastic supporters of PRISP, as it gives them a great deal of flexibility to compete effectively with the private sector by offering scholarships and recruitment incentives, in the form of reimbursement of prior educational expenses, to recruit individuals who possess critical skills sought by the IC. Making PRISP permanent removes any ambiguity with regards to Congress' support for this important and successful program. Broadening the use of PRISP funds beyond intelligence analysts recognizes the important role that other professionals play in the intelligence enterprise.

*Section 304. Intelligence officer education programs.*

The Intelligence Officer Training Program (IOTP) builds on two pilot programs that were authorized in previous years: the National Security Agency (NSA) "Pilot Program on Cryptologic Service Training," described in section 922 of the Defense Authorization Act for Fiscal Year (FY) 2005, Public Law 108-375, and the Director of Central Intelligence pilot program "Improvement of Equality of Employment Opportunities in the Intelligence Community." The purpose of IOTP is to encourage the preparation, recruitment, and retention of civilian personnel for careers in the Intelligence Community (IC). It will also help to ensure that the IC can better recruit and retain a workforce that is ethnically and culturally diverse so that it can accomplish its critical national security mission.

The program would consist of two parts. First, the program would provide financial assistance to individuals (through existing IC scholarship authorities) to pursue studies in critical language, analytic, scientific, technical, or other skills necessary to meet current or emerging needs of the IC. Second, building on the successful Centers for Academic Excellence Program established by the Office of the Director of National Intelligence (ODNI), IOTP would encourage colleges and universities from across the country to apply for grants to implement

academic programs which will help students to develop the critical skills required for careers in the IC.

Students attending participating colleges and universities and taking the prescribed courses of study could competitively apply for financial assistance including, but not limited to, a monthly stipend, tuition assistance, book allowances, and travel expenses. Students who receive a threshold amount of financial assistance, to be determined by the ODNI, would perform one year of obligated service in the IC for each academic year in which assistance is received. The ODNI would develop application requirements for students, which could include the successful completion of a security background investigation.

This proposal would make permanent the program to improve employment opportunities in the IC, originally authorized in 2004, which allowed the IC to give grants to academic institutions. With regards to the National Security Agency (NSA) pilot program, although it has been beneficial to NSA, its focus on cryptologic service at NSA no longer meets the plethora of the IC's critical skills requirements. The broader IOTP program envisions cohorts of students taking classes together specifically designed to help prepare them for careers in the IC while receiving a variety of financial assistance. In return, these students will be obligated to a period of service in the IC. The IOTP will help the IC accomplish the following: to establish and build partnerships with academic institutions which can help the IC build a workforce prepared for the challenges of the future; to improve analysis and foreign language capabilities, regional expertise, and science and technical innovations; to improve recruiting, hiring, and retention of first- and second-generation Americans with critical language and cultural knowledge; and to establish a means to ensure a continuous pool of qualified entry-level applicants to IC elements, tailored to the changing priorities of an evolving global IC enterprise.

Finally, this proposal would repeal the following programs that are either incorporated into or replaced by this program: the pilot project authorized by section 319 of the Intelligence Authorization Act for Fiscal Year 2004 (P.L. 108-177, 50 U.S.C. 403 note); the scholarship program authorized by section 1003 of the National Security Act, as amended (50 U.S.C. 441g-2); and the pilot program authorized by section 922 of Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (P.L. 108-375; 50 U.S.C. 402 note).

*Section 305. Enhancement of authority of the Director of National Intelligence for flexible personnel management among the elements of the Intelligence Community.*

This section would add three new subsections to the National Security Act of 1947, as amended, to make enhanced human capital flexibilities available to all IC agencies and elements, especially those Intelligence Community (IC) elements that still have employees covered by Title 5 of the United States Code. The Office of the Director of National Intelligence (ODNI) is pursuing policies that will create a "level playing field" with regard to personnel flexibilities across the IC. This proposal is a critical part of that broader effort. It is necessary to build a unified and cohesive IC workforce as well as ensure that some IC elements do not have a statutory advantage in their personnel management to the detriment of other IC elements.

Subsection (t) would authorize the Director of National Intelligence (DNI) to authorize, at the request of the head of the department or agency concerned, and in coordination with the Director of the Office of Personnel Management (OPM), an element or elements of the IC to convert current positions or establish new positions of that intelligence element in the “Intelligence Community excepted service,” if the department head determines such action is necessary to carry out the intelligence function of the department’s intelligence element. For the purpose of this proposal, “Intelligence Community excepted service” means the same coverage as is applicable to employees of the Office of the Director of National Intelligence.

We request the inclusion of subsection (t) because the employees of most IC agencies and elements (and the vast majority of IC employees) are in the “excepted” civil service because of their unique intelligence, investigative, and national security missions (with their attendant secrecy and security requirements). Employees in the excepted service are thus exempt from the requirements of the “competitive” civil service regarding appointment, assignment, promotion, demotion, and removal. However, the civilian employees of several IC elements (Department of Energy Office of Intelligence and Counterintelligence; Department of Homeland Security Office of Intelligence and Analysis and the U.S. Coast Guard; Department of State Bureau of Intelligence and Research; and Department of the Treasury Office of Intelligence and Analysis) are still covered under competitive service rules. These rules do not adequately take into account the IC’s stringent security clearance requirements, the requirement for secrecy with respect to organizational size, missions and functions, and the needs of these IC elements to have agile and responsive systems to hire and reassign employees, and, when necessary, remove unsuitable employees. In addition, the non-law enforcement IC employees of the Federal Bureau of Investigation and the Drug Enforcement Administration are currently in a version of the excepted service which does not provide as much flexibility as the IC excepted service.

This proposal would allow the heads of the departments in which these intelligence elements reside to convert their intelligence employees to the excepted service. There are two safeguard mechanisms included in this proposal. First, conversion or establishment of IC excepted service positions could not be imposed by the DNI. Rather, such action would be requested by a department head with an intelligence element, and done in coordination with the Director of OPM. Second, an individual currently employed by an intelligence element could refuse conversion to the Intelligence Community excepted service.

Subsection (u) would grant broad authority to the DNI to authorize, at the request of the head of the department or agency concerned, and for those matters that fall under Title 5 of the United States Code, in coordination with the Director of OPM, an element or elements of the Intelligence Community to adopt compensation, performance management, and scholarship authority that have been authorized for any other element of the IC if the DNI determines that such adoption would improve the management and performance of the IC. The DNI would be required to notify the congressional intelligence committees at least 60 days before any such adopted authority is to take effect.

We request the inclusion of Subsection (u) to allow the heads of the departments with intelligence elements with employees still covered by Title 5 to take advantage of the greater compensation and classification authorities of IC elements, such as the ODNI, to implement the

National Intelligence Civilian Compensation Program. The authority could have broader application for other flexibilities in areas such as civilian deployment incentives and benefits, scholarships, and certain types of pay incentives (such as foreign incentive pay).

Subsection (v) would authorize the DNI to authorize, at the request of the head of the department or agency concerned, and in coordination with the Directors of OPM and the Office of Management and Budget, an element or elements of the Intelligence Community to fix the rate of basic pay for positions which require an extremely high level of expertise and which are critical to the accomplishment of an important mission. Rates of pay in excess of level II of the Executive Schedule would require the approval of the DNI; rates of pay in excess of level I of the Executive Schedule would require the approval of the President, or approval as otherwise authorized by law. This authority is similar to that given to the Director of the Office of Personnel Management to fix the rates of pay for critical positions under 5 U.S.C. 5377.

We request the inclusion of subsection (v) to allow the heads of the departments with intelligence elements to attract, appoint, and retain eminent experts who possess cutting edge skills and world-class knowledge in fields of critical importance to the mission of the IC. Many of these individuals will not come to work for the executive branch for the compensation which is offered under the government's standard pay schedules.

This section does not apply to the Central Intelligence Agency (CIA). CIA employees are already in the excepted service, and the Agency has the authorities described in subsections (u) and (v) pursuant to Section 8 of the Central Intelligence Agency Act.

## **Subtitle B—Reporting Requirements**

### *Section 321. Report on foreign industrial espionage*

This section would modify 50 U.S.C. Section 2170b(b)(1) and (2) to require the submission of the Report to Congress on Foreign Economic Collection and Industrial Espionage every two years, instead of annually. Changing this requirement will do nothing to impede congressional oversight of this very important topic because the information contained in the report varies only slightly from year to year. For example, the major actors, the techniques they employ, and the technologies they steal – the primary topics of the Annual Report – were exactly the same in the 2006 and 2007 Annual Reports. Moreover, the existing understandings between the Intelligence Community and the Congress will ensure that the congressional intelligence committees remain fully and currently informed of any developments in this area during the interim periods.

Even though the data has been unchanging over this time frame, producing the report is nevertheless a major, resource-intensive undertaking. More than 20 US Government agencies commit significant resources to collecting the data, drafting the report, coordinating it across the Community, and shepherding it through the production process. These resources would be better employed in tracking other counterintelligence threats.

### *Section 322. Elimination of reporting requirement on financial intelligence on terrorist assets.*

Section 322 proposes to eliminate the requirement in 50 U.S.C. 404m(a) that the Department of the Treasury submit a semi-annual report to the congressional intelligence oversight committees on the U.S. Government's operations against terrorist financial networks. The Department of the Treasury (Treasury) asserts that this reporting requirement has served its purpose and become unnecessary for the reasons set forth below.

When section 342 of the Intelligence Authorization Act for Fiscal Year 2003 amended the National Security Act of 1947 with this reporting requirement, the Treasury Department was receiving little information about terrorist financing from other U.S. law enforcement and intelligence agencies. Congress attempted to remedy the situation by requiring other agencies to provide relevant terrorist financing information to the Treasury for inclusion in this report.

Since the creation of the Office of Intelligence and Analysis (OIA) in 2004, Treasury has become far better integrated into the Intelligence Community (IC), and the Department has developed significantly closer ties with its law enforcement partners. OIA now has comprehensive arrangements with various intelligence, law enforcement, and military organizations, which have resulted in far greater information sharing and coordination. For example, OIA now works jointly with the Federal Bureau of Investigation (FBI), both at FBI Headquarters and field office levels, on terrorist financing investigations. In addition, during the past year, OIA has developed closer ties with the Central Intelligence Agency.

In 2005, OIA hired a full time Requirements Officer, who has increased Treasury's profile in the Intelligence Community requirements process by aggressively delivering requirements and evaluations on behalf of all Treasury entities to the IC. In these requirements submissions, Treasury includes comprehensive background information, as well as detailed statements of Treasury's intelligence gaps, to help focus the IC on Treasury's requirements. In response to Treasury's detailed requests, the IC has increased its level of tailored support to Treasury, making this report unnecessary.

*Section 323. Repeal of certain reporting requirements.*

Section 323 cancels outdated and duplicative statutory reporting requirements. As part of an overall effort to reduce the number of outdated and duplicative reports to the Congress, the Intelligence Community also will seek agreement from the interested congressional committees to cancel other reporting requirements that originated in committee and conference reports and annexes to bills considered in one or both houses.

## **Subtitle C—Other Matters**

*Section 331. Restriction on conduction of intelligence activities.*

Section 331 states that authorization of appropriations for an activity does not grant authorization for any intelligence activity that is not otherwise permitted under the Constitution or laws of the United States.

*Section 332. Modification of availability of funds for different intelligence activities.*

Section 332 replaces the “unforeseen requirements” standard that applies to reprogrammings of funds, which is set forth in Section 504(a)(3)(B) of the National Security Act, with a more precise standard consistent with Section 102A(d)(5)(A)(ii) of the National Security Act. The new standard would enhance the flexibility and capability of intelligence agencies to reprogram funds to meet higher-priority mission requirements.

Section 332 conforms the text of Section 504(a)(3)(B) of the National Security Act of 1947 (50 U.S.C. 414(a)(3)(B), governing the funding of intelligence activities) with the more specific text provided in Section 102A(d)(5)(A)(ii) of the National Security Act of 1947 (governing the transfer and reprogramming by the Director of National Intelligence (DNI) of certain intelligence funding). This conforming amendment replaces the “unforeseen requirements” standard set forth in Section 504(a)(3)(B) of the National Security Act with a clearer standard to govern reprogrammings of funds authorized for a different intelligence or intelligence-related activity.

Under this new standard, a reprogramming would be authorized if, in addition to the other requirements of Section 504(a)(3), the new use of funds would “support an emergent need, improve program effectiveness, or increase efficiency.” This modification brings the standard for reprogrammings of intelligence funding into conformity with the standards applicable to reprogrammings and transfers under Section 102A of the National Security Act of 1947. The modification preserves congressional oversight of proposed reprogrammings and transfers while enhancing the Intelligence Community’s ability to carry out missions and functions vital to national security.

*Section 333. Strengthening access to information.*

Section 333 provides statutory authority for the Director of National intelligence (DNI) to use National Intelligence Program (NIP) funds to expeditiously address deficiencies or requirements that arise in intelligence information sharing capabilities and to facilitate the development and deployment of systems of common concern that are designed to enhance the collection, processing, analysis, exploitation, and dissemination of national intelligence. The requested authority would help improve the sharing of information from non-Intelligence Community government components, including fusion centers. Some of the broad applications for the requested authority include better integration of data networks, common tool sets, common information standards, and common information security safeguards, to include Identity Management systems.

Section 333 adds a new section 102A(g) to the National Security Act of 1947 (50 U.S.C. 403-1) that gives authority to the DNI to provide appropriately authorized and appropriated funds, services, or equipment to develop, field, operate, and maintain systems of common concern that address intelligence and national intelligence information sharing requirements, even, or especially if, the requirements arise outside the normal budget or requirements cycle. In

addition, this proposal gives authority to a receiving department or agency to accept and use DNI funds, services, or equipment.

Section 333 specifically gives the DNI the authority, not found in Section 102A(d) of the National Security Act, to provide funds to non-NIP activities for the purpose of addressing critical gaps in intelligence and national intelligence information sharing capabilities. Without this authority, the development and implementation of necessary intelligence and national intelligence information sharing capabilities could be delayed due to an agency's lack of authority to accept or use such DNI-funded systems, lack of current-year funding, or augmentation of appropriations concerns.

This provision would also enhance the DNI's ability to engage in enterprise licensing that across the Community. The Office of the Director of National Intelligence (ODNI) has had the opportunity to establish and purchase enterprise licenses for several products but could not proceed due to the concern that the ODNI would be supplementing other agencies' budgets by making purchases on behalf of the Intelligence Community (IC). Specifically, when the ODNI attempted to purchase software products that would improve and speed certification and accreditation for IC computer systems and that would help map and monitor IC networks, contract and budget specialists determined that the ODNI could not make the purchase for the Community; each member would have to pay its "fair share."

The events surrounding the attempted bombing of Flight 253 emphasize the need for the creative development and deployment of systems that will enhance the processing, analysis, exploitation, and dissemination of national intelligence throughout the IC and beyond. Section 333 will permit the DNI to fund the systems that will facilitate this innovation throughout those elements of the government responsible for maintaining our national security.

*Section 334. Extension to the Intelligence Community of authority to delete information about receipt and disposition of foreign gifts and decorations.*

Section 334 provides to the heads of Intelligence Community (IC) elements the same exemption from certain reporting requirements under 5 U.S.C. 7342 as the Central Intelligence Agency (CIA) and the Office of the Director of National Intelligence (ODNI) have. This section only applies to certain reporting requirements because receipt of gifts still must comply with all applicable ethics laws and regulations.

Current law generally requires that detailed information about the receipt of foreign gifts be reported, including the source of the gift. In addition, some of this information subsequently is published in the Federal Register. Revealing the source of a gift given in the context of a foreign intelligence relationship would compromise the relationship and undermine national security.

To resolve this dilemma, the law provided an exemption to the former Director of Central Intelligence (DCI) from reporting information about foreign gifts, when the publication of the information could adversely affect United States intelligence sources. A similar exemption was extended to the Director of National Intelligence (DNI) and the Director of the Central

Intelligence Agency (D/CIA) in section 1079 of the Intelligence Reform and Terrorism Prevent Act of 2004.

Section 334 amends existing law to provide to the heads of the each IC element the same limited exemption from specified public reporting requirements that is currently authorized for the DNI and the D/CIA. The national security concerns that prompted the initial DCI exemption, and the more recent exemptions for the DNI and the D/CIA, apply with equal weight to other IC elements: The publication of certain information relating to foreign gifts or decorations provided to employees of IC agencies could adversely affect United States intelligence sources.

Section 334 modernizes IC business practices by facilitating the protection of sources and methods while permitting the appropriate reporting of gift information required under other authorities.

*Section 335. Authority for the Director of National Intelligence Open Source Center to Accept from Individual Volunteers Certain Needed Translation Services on an Unpaid, Gratuitous Basis When in the Interests of National Security.*

This section will allow the Director of National Intelligence Open Source Center (DNI OSC) to accept the services of qualified private individuals with language skills in order to better meet Intelligence Community (IC) requirements involving the translation into English of foreign-language open source and/or unclassified items of material that otherwise would not be translated. This authority will maximize the Center's ability to exploit open sources by making use of a cadre of outside persons with language skills needed to serve important national security interests. This proposal is consistent with the National Intelligence Strategy, which emphasizes innovative means to address national security challenges.

The DNI OSC envisions employing gratuitous service agreements for two specific purposes: (1) to develop a ready surge capacity to respond to temporary peaks in demand for translations in a given language, and (2) to address a scarcity of qualified translators with mission critical language skills.

The IC has acknowledged a capability gap in mission critical languages and has employed new recruitment approaches and monetary incentives for proficiency in designated hard languages. Section 335 will strengthen the DNI OSC's foreign language capabilities, including those in critical languages such as Farsi, Arabic, and Chinese

The Open Source Center conducted a test pilot employing three individuals with gratuitous service agreements to support the DNI OSC China Program with occasional translations and preparation of translation summaries. The individuals processed material that otherwise would not have been translated, and the items produced were of substantive value. Legal concerns related to unlawful augmentation of appropriations have constrained DNI OSC from continuing this pilot on a long term basis or expanding it, absent this proposed statutory authority.

While there are existing statutory exceptions to the general prohibition against Executive agencies' acceptance of voluntary services, none of those exceptions applies to the acceptance of uncompensated translation services. For example, while section 1013 of the National Security Act does provide limited authority to accept voluntary services, it is limited in its application to the Foreign Languages Program and thus is not sufficient to cover the translation services that are the subject of this proposal.

*Section 336. Exemption of the dissemination of terrorist identity information from the Freedom of Information Act.*

Section 336 establishes that terrorist identity information and terrorist identifiers that are maintained for terrorist screening or authorized counterterrorism purposes shall be exempt from disclosure under the Freedom of Information Act. This section is designed to encourage the dissemination of information vital to those both inside and outside the Intelligence Community who are charged with maintaining our national security. Facilitating this kind of exchange between elements of the federal government, as well as between the federal government and state, local and tribal homeland security authorities and first responders, is vital to the detection and prevention of terrorist attacks such as the attempted destruction of Flight 253.

For the purposes of this section, "terrorist identity information" encompasses information of the National Counterterrorism Center (NCTC) or the Terrorist Screening Center (TSC) that would reveal if a person is or is not a known or suspected terrorist or within the network of contacts or support of a known or suspected terrorist; information relating to inclusion of a known or suspected terrorist in the Terrorist Identities Datamart Environment (TIDE) or the Terrorist Screening Database (TSDB) or other screening databases; and TSDB information that is shared with federal, state, local, tribal, and territorial partners, foreign officials and entities, and private sector entities, as appropriate.

*Section 337. Preventing misuse of the name, initials, or seal of the Office of the Director of National Intelligence or the Intelligence Community and the unauthorized manufacture and sale of Intelligence Community medals*

This provision would add a new section to the National Security Act. Subsection (a) of the provision would protect the official name, initials, or seal of the Office of the Director of National Intelligence or the Intelligence Community from misuse for any unauthorized purpose. It would also prohibit the manufacture, shipment, importation or offering for sale of Intelligence Community medals, or colorable imitations thereof, without written authorization from the Director of National Intelligence. Subsection (b) authorizes the use of injunctive relief to halt the practices described in subsection (a).

*Section 338. National Intelligence Program funded acquisitions.*

Section 338 allows the Director of National Intelligence (DNI) to authorize agencies and elements in the Intelligence Community (IC), for acquisitions funded in whole or in majority part (greater than 50%) by the National Intelligence Program (NIP), to exercise the acquisition authorities found in Section 3 and Section 8(a) of the Central Intelligence Agency Act of 1949

(50 U.S.C. 403c and 50 U.S.C. 403j(a)) and referred to in Section 102A(n) of the National Security Act. By authorizing all elements of the IC to take advantage of the DNI's special acquisition authorities, where justified by the IC element and approved by the DNI, this provision will help to ensure effective acquisition support, improve mission accomplishment, and avoid mission impairment.

It is important to note that the proposal is not a delegation of the DNI's special authorities; under the proposal, an appropriate Office of the Director of National Intelligence (ODNI) official must make a written finding before an IC element can use these special authorities. The request must describe the authorities required, explain the need for the authority and why current authorities are insufficient, and include a certification that the element's mission would be impaired absent the ability to use the requested authorities or significantly enhanced if the ability to use the requested authorities is granted.

The ODNI's approval would clearly describe the authorization, to include findings to support the exercise of these authorities. Authorizations that affect a class of acquisitions, rather than a single acquisition, shall be made for an initial period not to exceed three years, unless approved by the Director of National Intelligence, who may authorize such acquisitions for a period of six years. Authorizations made by the Principal Deputy Director of National Intelligence and the Director of National Intelligence may be extended for successive three and six year periods, respectively, provided that the procedures described in paragraph 4(A) of the text are followed. These limitations will ensure that justifications for use of these special authorities remain valid and necessary. When authorizations to use this authority exceed \$50 million in a given year, the Office of Management and Budget shall be notified.

The proposal also provides that Department Heads may specify how any requests will be submitted to the ODNI. This ensures that Department Heads are included in the process if they desire.

This proposal is not intended to alter or limit the authority of the Central Intelligence Agency to exercise its existing authority under the Central Intelligence Agency Act of 1949 [50 USC 403c and 403j(a)], or to alter or limit the authority of the Director of National Intelligence to exercise its acquisition authorities under Section 102A(n) of the National Security Act (50 USC Section 403-1(n)).

### *Section 339. Reserve for Intelligence Community Contingencies.*

Section 339 creates a fund, or "reserve" within the Community Management Account to enable the Director of National Intelligence (DNI) to address emergent needs and unforeseen requirements within the National Intelligence Program, and not just the Office of the Director of National Intelligence (ODNI). The fund would be funded through appropriations. Monies in the fund would be available for one year, and the authorization will have a sunset clause of September 30, 2012, establishing the reserve as a pilot program. Use of the fund would require approval of OMB and notification to the congressional intelligence committees.

Emergent needs and unforeseen requirements may arise within the entire range of intelligence activities. They might include expanding or amending information technology

systems to improve information sharing, exploiting a fleeting collection opportunity, adding funds to a system development or acquisition program to prevent a costly schedule delay, improving analytic tradecraft or tools to tackle an emerging challenge, or funding unique collection opportunities.

The DNI can and often does use his reprogramming authority to address unforeseen requirements; however, reprogramming actions can be too slow, or too costly: Reprogramming actions can be time consuming, typically requiring 2 to 3 months for internal Executive branch approval/consultation and congressional notification. A modest reserve, however, would enable the DNI to address time-critical problems more quickly than the current reprogramming process and with less disruption to ongoing activities. If the ODNI is to be an agile and responsive organization, a reserve for contingencies is a necessity.

The Reserve for Intelligence Community Contingencies is similar, in some respects, to the reserve available to the Central Intelligence Agency (CIA), which provides the CIA with the flexibility required to address contingencies as they arise. This new section provides similar flexibility to the DNI, and the ODNI anticipates developing procedures similar to those currently established for Central Intelligence Agency's Reserve for Contingencies.

Nothing in the section would affect the CIA's Reserve for Contingencies.

*Section 340. Additional functions for protective personnel of the Central Intelligence Agency.*

Section 340 amends Section 5(a)(4) of the Central Intelligence Agency (CIA) Act of 1949 (50 U.S.C. 403f(a)(4)), which authorizes protective functions by designated security personnel who serve on CIA protective details. This provision authorizes the Director of the CIA, on the request of the Director of National Intelligence (DNI), to make CIA protective detail personnel available to the DNI.

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

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

*Section 401. Clarification of restriction against co-location of Office of Director of National Intelligence Headquarters and location of Office of Director of National Intelligence Headquarters.*

Section 401 clarifies that the ban on co-location of the Office of the Director of National Intelligence (ODNI) with any other Intelligence Community element, which was slated to take effect on 1 October 2008, applies to the co-location of the headquarters of each. Section 401 also provides that the President may waive the ban if the President determines a waiver is in the interests of national security, or if the President determines that the cost of providing for separate facilities is not warranted. Finally, this section provides a statutory exemption that the ODNI headquarters need not be located within the District of Columbia.

Section 401 affords flexibility to ensure that the ODNI or its various components may be located in the most appropriate facility or facilities. Because the ODNI handles some of the most sensitive intelligence information within the U.S. Government, it is important that the ODNI have the highest level of physical and technical security possible.

The ODNI has located its headquarters where it is separate and apart from the headquarters of the various Intelligence Community (IC) elements. However, considering the difficulty and cost of finding or building a facility that meets the appropriate physical and technical security standards, the President must have the discretion to locate any or all components of the ODNI in one or more existing IC facilities if doing so would be in the interests of the national security.

This provision would also authorize the President to waive the ban on co-location where the cost of providing separate facilities is unwarranted. This could be the case where it may be prudent or convenient for communications or logistical purposes to locate an element of the ODNI near the headquarters of another element of the IC. If co-location would be a more cost-effective solution, and if the additional cost of separate headquarters did not support the potential benefits of the limitation (such as avoiding any real or apparent confusion of the identity or authorities of the two entities), the President should have the authority to waive the ban on co-location.

In addition, ODNI's security requirements as an IC agency and the limited remaining office space within the District of Columbia necessitate an exemption from any requirement that the ODNI be located within the District of Columbia.

Whether existing statutory language requires that federal government executive agency headquarters should be located in the District of Columbia, absent a statutory exemption to the contrary, is unclear. The relevant statutes require only that the District of Columbia shall be the "seat of government of the United States" (4 U.S.C. 71) and that all offices attached to the seat of government shall be exercised "in the District of Columbia, and not elsewhere, except as otherwise expressly provided by law" (4 U.S.C. 72). (The location of Washington, D.C. as the "seat of government" dates back to July 16, 1790, when George Washington and the First Congress enacted a law designating the District of Columbia as the seat of government for the new nation.)

Both the Central Intelligence Agency (CIA), an independent establishment under 5 U.S.C. 104 and like the ODNI an element of the IC, and the Department of Defense (DoD), an executive department under 5 U.S.C. 101 containing IC elements, occupy headquarters campuses in the nearby Washington, D.C. region. Congress granted both CIA (located in McLean, VA) and DoD (located in Arlington, VA) statutory exemptions to permit these agencies to occupy headquarters space outside the District of Columbia. By securing headquarters space immediately outside Washington, D.C., CIA and DoD are able to provide for physical security of their headquarters and to reserve enough space to meet future needs while remaining close to the seat of government.

*Section 402. Protection of certain files of the Office of the Director of National Intelligence.*

Section 402 adds a new section 706 to the National Security Act of 1947, to exempt specific categories of Office of the Director of National Intelligence (ODNI) files from the search, review, and disclosure provisions of the Freedom of Information Act (FOIA) (5 U.S.C. 552). This exemption parallels and reinforces the statutory operational files FOIA exemptions already granted to five of the main Intelligence Community (IC) elements: the Central Intelligence Agency (CIA), the National Geospatial-Intelligence Agency (NGA), the National Reconnaissance Office (NRO), the National Security Agency (NSA), and the Defense Intelligence Agency (DIA). The exemption provided by new section 204 preserves the statutory framework for existing operational files exemptions and removes any uncertainty about whether those exemptions are lost by sharing the sensitive information contained in such files with the ODNI. As a result, this new provision will help to facilitate information sharing between government agencies, a key objective of the Director of National Intelligence (DNI)

In order to carry out its authorized duties and responsibilities under section 102A of the National Security Act of 1947, as amended, the ODNI will receive intelligence and intelligence-related information from existing operational files and create new records that include or use such information. The ODNI has received, and expects to continue to receive, broad FOIA requests for IC documents that would require a search of such operational files within the ODNI. ODNI-received ‘operational files’ information and ODNI material that includes or is derived from existing ‘operational files’ information warrant the same search, review and disclosure exemption under FOIA as the same sensitive information in CIA, NGA, NRO, NSA and DIA operational files. (*See* Sections 701-705 of the National Security Act of 1947, as amended [50 U.S.C. 431, 432, 432a, 432b, and 432c].) Furthermore, the ‘‘operational files’’ in the originating agency should not lose their exemption as a result of providing records from those files to the ODNI.

In order to maintain the nexus between exempt operational files created in the ODNI with the originating exempt operational files, this provision contains a requirement that the operational files created in the ODNI shall be similar in nature to the originating operational files from which the record was disseminated or provided, as such files are defined in Title VII of this Act. The DNI will promulgate regulations to implement this authority within the ODNI.

*Section 403. Membership of the Director of National Intelligence on the Transportation Security Oversight Board.*

Section 403 substitutes the Director of National Intelligence (DNI) or the DNI’s designee as a member of the Transportation Oversight Board under 49 U.S.C. 115(b)(1), in place of the Director of the Central Intelligence Agency (D/CIA) or the D/CIA’s designee.

*Section 404. Repeal of certain authorities relating to the Office of the National Counterintelligence Executive.*

Section 404 makes technical corrections to eliminate certain independent administrative authorities that had been vested in the National Counterintelligence Executive (NCIX) when that official was appointed by and reported to the President. Those authorities are unnecessary,

redundant, and anomalous, and could or would undercut the authorities of the Director of National Intelligence (DNI), now that the NCIX is to be appointed by and under the authority, direction, and control of the DNI.

*Section 405. Bringing the publication of the National Counterintelligence Strategy into alignment with the policy and strategy of the Director of National Intelligence and modifying the frequency of updates and revisions to the National Counterintelligence Strategy.*

This provision amends the Counterintelligence Enhancement Act of 2002 to require that the National Counterintelligence Strategy be revised or updated at least every three years and that it align with the policy and strategy of the Director of National Intelligence (DNI). It will bring the production of the National Counterintelligence Strategy into conformity with the standard set forth for executive agencies in Section 3 of the Government Performance Results Act of 1993 (5 U.S.C. Section 306(b)).

The current requirement to produce this multi-year Strategy on an annual basis is not an efficient or effective use of limited resources and does not enable synchronicity with the strategic planning efforts of the DNI. This proposed amendment will ensure that the content of the Strategy aligns with the substantive policies and strategy of the DNI. It will further enable, whenever possible, the Strategy to be produced in tandem with the DNI's development of strategic planning documents such as the National Intelligence Strategy (issued in 2005 and 2009).

*Section 406. Inapplicability of Federal Advisory Committee Act to advisory committees of the Office of the Director of National Intelligence.*

This provision would amend the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, to provide the same exemption applicable to the advisory committees of the Central Intelligence Agency (CIA) to those advisory committees utilized by the Director of National Intelligence (DNI).

Congress enacted the FACA to regulate the use of advisory committees throughout the Federal government. FACA sets forth the responsibilities of the Executive branch with regard to such committees and outlines procedures and requirements for them. For example, under FACA, Federal agencies sponsoring advisory committees ordinarily open advisory meetings to the public, and, subject to the Freedom of Information Act, make available for public inspection papers and records, including detailed minutes of each meeting. While there are provisions within FACA to close the proceedings to discuss classified information, groups created to advise the DNI often have to engage on issues demanding immediate responses, and encouraging the free flowing exchange of classified information between committee members is integral to the production of the kind of candid, forthright dialogue that will engender the best possible advice for the DNI. For advisory committees dealing with extremely sensitive subject matter, such as those that are utilized by the Director of the CIA and the DNI, FACA requirements may have a "chilling effect" on the dissemination of information within those groups and thus inhibit their ability to perform the function for which they were created.

*Section 407. Award of rank to members of the Senior National Intelligence Service.*

This proposal adds a new subsection to section 102A of the National Security Act to authorize Presidential Rank awards to members of the Senior National Intelligence Service (SNIS) in the Office of the Director of National Intelligence (ODNI) and to other Intelligence Community (IC) senior civilian officers not already covered by such a Rank award program.

Presidential Rank Awards were established in 1978 to honor high-performing Senior Executive Service (SES) career government employees. The Central Intelligence Agency and other elements of the IC were exempted by statute from the SES, and thus employees of those agencies were not eligible for Presidential Rank Awards. Legislation enacted since 1978 has opened the eligibility for Presidential Rank Awards to senior civilian officers of exempt agencies, including the Federal Bureau of Investigation, the Drug Enforcement Administration, and members of the Defense Intelligence Senior Executive Service. This proposal would make members of the SNIS and other senior civilian officers not already covered by such a program to eligible to receive these awards.

*Section 408. Application of certain financial reporting standards to the Office of the Director of National Intelligence.*

Section 408 delays the applicability to the Director of National Intelligence (DNI) of the audited financial reporting requirements of 31 U.S.C. 3515. This grace period gives the DNI the necessary time to establish a financial management system for the Office of the Director of National Intelligence (ODNI) that can generate financial statements to meet the prescribed legal and audit standards.

Ordinarily, section 3515 requires certain Federal agencies, including the ODNI, to prepare and submit to the Congress and the Director of the Office of Management and Budget (D/OMB), not later than 1 March of each year, an audited financial statement for the preceding fiscal year. The Accountability of Tax Dollars Act of 2002, Public Law 107-289, amended 31 U.S.C. 3515, and gave the D/OMB the authority to waive the audited financial reporting requirements for up to two fiscal years for any newly covered Executive agency. Section 3515 subsequently was amended to permit the D/OMB to waive the reporting requirements for a covered agency if the budget authority for that agency did not exceed \$25 million in the given fiscal year and if the D/OMB determined that there was an absence of risk associated with the agency's operations. The D/OMB cannot use this limited waiver authority to grant a grace period to the ODNI. Therefore, Section 408 would exempt the ODNI from the requirements of section 3515 for fiscal year 2011.

The former Community Management Staff (CMS) took significant strides to address financial management issues, and Section 408 will permit the DNI adequate time to complete CMS' diligent efforts to establish an ODNI financial management system. This system is critical to the ODNI's generation of audited financial statements that satisfy generally accepted accounting principles, applicable laws, and financial regulations.

*Section 409. Travel on any common carrier for certain Intelligence Community personnel.*

Section 409 authorizes the Director of the Central Intelligence Agency (CIA), with respect to CIA employees, to delegate the specified travel-related authority to the Deputy Director and Associate Deputy Director of the Central Intelligence Agency and to the Director for Intelligence, the Director for Support, the Director for Science and Technology, and the Director of the National Clandestine Service of the Agency.

### **Subtitle B—Central Intelligence Agency**

#### *Section 421. Report on Audited Financial Statements Progress.*

Section 421 repeals the requirement that the Director of the Central Intelligence Agency (CIA) submit to the congressional intelligence committees an annual report describing the activities being undertaken to ensure that financial statements of the CIA can be audited in accordance with applicable law and requirements of the Office of Management and Budget. The report is unnecessary and duplicative now that the CIA has submitted and will continue to submit audited financial statements in accordance with section 3515 of title 31, United States Code.

#### *Section 422. Appeals from decisions of Central Intelligence Agency contracting officers.*

Section 422 amends current law by providing that an appeal from a decision of a Central Intelligence Agency contracting officer may be appealed to whichever of the Armed Services Board of Contract Appeals or the Civilian Board of Contract Appeals is specified by the contracting officer as the Board to which such an appeal may be made; and the Board so specified shall have jurisdiction to decide that appeal.

#### *Section 423. Deputy Director of the Central Intelligence Agency.*

Section 423 adds provisions to the National Security Act that: establish in statute the position of Deputy Director of the Central Intelligence Agency (DD/CIA); specify that the President shall appoint the DD/CIA; and specify the duties of the DD/CIA. Section 423 also places the position of DD/CIA at Level III of the Executive Schedule. Finally, Section 423 provides for when the amendments that it makes shall take effect.

#### *Section 424. Protection against Reprisals.*

Section (e)(3) of the Central Intelligence Agency (CIA) Inspector General Act authorizes the CIA Inspector General to receive and investigate complaints and information. Currently, section (e)(3)(B) addresses reprisal, or threat of reprisal for making a complaint; the amendment clarifies that the protections also apply as to information provided to the Inspector General by Agency employees.

#### *Section 425. Inspector General subpoena power*

This provision parallels section 9, Subpoena Power, of the Inspector General Reform Act of 2008, Public Law 110-409, which amends section 6(a)(4) of the Inspector General Act of

1978 (5 U.S.C. App.). The amendment is intended to clarify the subpoena authority of the Central Intelligence Agency Inspector General as it relates to electronically stored information.

*Section 426. Application of semiannual reporting requirements with respect to evaluation reports*

In addition to investigation, inspection, and audit reports, Central Intelligence Agency Office of the Inspector General (OIG) written products include reports of other evaluations, such as special reviews. The amendment includes evaluations in OIG Congressional semiannual reporting requirements.

*Section 427. Technical amendments relating to titles of Central Intelligence Agency positions.*

Section 427 corrects now-outdated references to the Executive Director, Deputy Director for Operations, Deputy Director for Intelligence, Deputy Director for Administration, and Deputy Director for Science and Technology in Section 17(d)(3)(B)(ii) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(d)(3)(B)(ii)). The technical amendments of this section reflect changes of the position titles of the Executive Director to Assistant Deputy Director, the Deputy Director for Operations to Director of the National Clandestine Service, the Deputy Director for Intelligence to the Director for Intelligence, the Deputy Director for Administration to Director for Support, and the Deputy Director for Science and Technology to the Director for Science and Technology.

*Section 428. Technical correction and addition of Deputy Director of the Central Intelligence Agency.*

The amendment adds the Deputy Director of the Central Intelligence Agency as an official subject to the immediate reporting requirements set forth at Section (d)(3)(B)(ii) of the CIA Inspector General Act, as the position is not subject to appointment by the President, by and with the advice and consent of the Senate. This amendment also makes a technical correction, by changing the word “advise” to “advice.”

*Section 429. Maintenance and disposition of Office of Director of National Intelligence records by the Central Intelligence Agency*

This provision adds a new section to the Central Intelligence Agency Act of 1949 (CIA Act) which authorizes the Central Intelligence Agency (CIA) to maintain and disposition records related to the administrative and business activities of the Office of the Director of National Intelligence (ODNI).

When the ODNI was first established, it requested that certain ODNI records related to ODNI administrative and business activities be maintained and dispositioned by the CIA on behalf of the ODNI, since the ODNI did not have the financial, administrative, and technical capabilities to do so at that time. This arrangement resulted in the co-location of information related to the ODNI’s activities with information related to the CIA’s activities and missions within the CIA’s existing information systems.

This new section of the Central Intelligence Agency Act would provide the CIA with specific authority to maintain and disposition, on behalf of and at the direction of the ODNI, the information related to the administrative and business activities of the ODNI, notwithstanding any other provision of law (e.g., 5 U.S.C. 552a, 44 U.S.C. 3301 et seq.). This legislation would ensure that CIA and ODNI processes and procedures are legally compliant, notwithstanding any law to the contrary regarding the management of information in federal agencies.

*Section 430. Foreign language proficiency requirements for Central Intelligence Agency officers*

Amending section 104A(g) of the National Security Act of 1947 (50 U.S.C. 403-4a(g)) will help to tie the need for foreign language skills to officers in specific occupations where language is most important, rather than to specific positions. This will eliminate the need for the Director of the Central Intelligence Agency (CIA) to approve waivers for promotions of officers in certain positions (e.g., Attorney; Human Resource Officer) who are assigned to positions in the Directorate of Intelligence or the National Clandestine Service – officers to whom this requirement was not intended to apply.

Amending section 611(b) of the Intelligence Authorization Act for Fiscal Year 2005 (Public Law 108-487; 50 U.S.C. 403-4a note) would modify the effective date of the provision of law addressing foreign language proficiency for certain senior level positions in the CIA; it would take effect immediately upon promotion, rather than one year after the effective date of the amendment.

Amending Section 611(c) of the Intelligence Authorization Act for Fiscal Year 2005 (Public Law 108-487) will make technical changes needed to delete reference made to the “Directorate of Operations,” as this Directorate no longer exists within the CIA. It would replace this term with the currently-existing “National Clandestine Service.” This change would further clarify that the report submitted to Congress with respect to foreign language proficiency for certain senior level positions in the CIA would identify positions, categories of positions, or occupations, rather than just positions.

These changes brought about by this provision would capture the CIA’s true needs as they relate to foreign language proficiency by placing an emphasis on skills proficiency specific to the needs of the Directorate of Intelligence or the National Clandestine Service. Additionally, these changes will give the Director of the CIA the flexibility to determine the level of proficiency and the combination of skills needed for an SIS level officer specific to mission needs and that officer’s particular occupation.

*Section 431. Section 5(a)(1) of the Central Intelligence Agency Act of 1949.*

Section 431 amends section 5(a)(1) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f(a)(1)) by striking repealed references to duties and responsibilities of the Director of Central Intelligence (DCI) in the National Security Act of 1947 and replacing those references

with a general reference to functions and activities of the Central Intelligence Agency as “authorized by law”.

### **Subtitle C—Other Elements**

#### *Section 432. Homeland Security intelligence elements.*

This provision affirms that both the Coast Guard and the Office of Intelligence and Analysis of the Department of Homeland Security are elements of the Intelligence Community.

Prior to the enactment of section 1073 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3638, 3693-94 (2004)), the intelligence element of the Coast Guard was an independent member of the Intelligence Community and, like the other intelligence elements of the armed forces, responsible for the full range of intelligence activity. Section 1073, however, amended section 3(4) of the National Security Act of 1947 (50 U.S.C. § 401a) in such a manner as to obscure the standing of the intelligence element of the Coast Guard. This proposal eliminates this ambiguity by returning the language of section 3(4) of the 1947 Act to a pre-2004 state.

#### *Section 433. Authorization of appropriations for Coast Guard National Tactical Information Office.*

On July 30, 2008, the President issued an amendment to Executive Order 12333, which directed, *inter alia*, that the intelligence and counterintelligence elements of the Coast Guard “monitor the development, procurement, and management of tactical intelligence systems and equipment, and conduct related research, development, and test and evaluation activities....”

The Coast Guard National Tactical Integration Office (NTIO)—the Coast Guard counterpart to the Tactical Exploitation of National Capabilities programs in each of the military services—explores the use of national intelligence systems in support of operations of Coast Guard tactical maritime, air, and shore units. The Coast Guard NTIO has been identified as the most effective and efficient means by which to give full effect to the presidential directive. However, to achieve this end, the NTIO requires research and development appropriation authorization authority. This proposal is intended to address this limitation within the context of the Coast Guard’s existing research and development (R&D) authority.

#### *Section 434. Extending the authority of the Federal Bureau of Investigation to waive mandatory retirement provisions.*

On December 31, 2009, provisions of Title 5 (Section 8335(b)(2) and Section 8425(b)(2)) that provided temporary authority to the Director of the Federal Bureau of Investigation to exempt FBI employees from mandatory retirement until age 65 (if such an exemption would be in the public interest) expired. This provision would extend this waiver authority until December 31, 2011, allowing more experienced agents to continue to utilize their expertise in furtherance of U.S. national security objectives.

Section 8335 is a Civil Service Retirement System (CSRS) provision, while section 8425 relates to employees covered under the Federal Employee Retirement System (FERS).

*Section 435. Federal Bureau of Investigation participation in the Department of Justice leave bank.*

This provision would allow employees of the Federal Bureau of Investigation (FBI) to participate in the Department of Justice’s Voluntary Leave Bank Program, which allows federal employees to donate to and to receive donations from a leave “bank” to cover absences necessitated by extraordinary medical conditions. While the law permits all other Department of Justice (DoJ) components to participate in DoJ’s leave bank, it does not currently allow participation by FBI employees, even though the FBI is generally considered to be a part of the Department of Justice.

While 5 U.S.C. Section 6372(c) allows excepted agencies such as the FBI to establish their own voluntary leave bank programs, it would not be cost effective to do so in this case. Allowing FBI employees to become part of the established DoJ leave bank program would promote efficiency and would have a positive effect on the morale of FBI employees.

*Section 436. Defense Intelligence Agency expenditure authority.*

The Defense Intelligence Agency (DIA) currently uses 10 U.S.C. 127 authorities (Extraordinary and Emergency Expenses/”E&EE”) to expend funds for confidential military purposes, including critical intelligence gathering functions. The current E&EE authorities, allocated to DIA by the Secretary of Defense, are limited by an overall amount of E&EE authority provided to the Department by Congress. In recent years, the authority provided to DIA has been inadequate to meet current mission requirements.

Since 2001, DIA’s human intelligence and overt collection activities have increased significantly. These activities and the Defense Attaché program are core DIA missions, prescribed both in Title 50 and Executive Order 12333, and they should not be limited in scope by special funding authorities. In addition, while some of these expenditures are properly characterized as “extraordinary” they are predictable and therefore not “emergency” in nature.

*Section 437. Appropriations for Defense intelligence elements.*

This provision authorizes the Secretary of Defense to transfer Defense appropriations into an account or accounts established by the Department of the Treasury for receipt of such funds. These accounts may receive transfers and reimbursement from transactions between the Defense intelligence elements and other entities, and the Director of National Intelligence may also transfer funds into these accounts.

## **TITLE V—TECHNICAL AMENDMENTS**

*Section 501. Technical corrections to the National Security Act and the Central Intelligence Agency Act.*

Section 501 corrects several inadvertent technical anomalies in the National Security Act of 1947 arising from the amendments made to that Act by the Intelligence Reform and Terrorism Prevention Act of 2004.

The first correction clarifies that the funds referred to in section 102A(d)(3) of the National Security Act are those noted in section 102A(d)(1)(A) of the Act (i.e., funds made available under the National Intelligence Program).

The second correction removes the extraneous reference to “personnel” in section 102A(d)(5)(A) of the National Security Act, as that Act was amended by the Intelligence Reform and Terrorism Prevention Act of 2004. Section 102A(d) of the National Security Act addresses the transfer and reprogramming of funds by the Director of National Intelligence (DNI), whereas section 102A(e) addresses the transfer of personnel by the DNI.

The third correction clarifies that the regulations that the DNI may issue under section 102A(l)(2)(B) of the National Security Act are regulations to carry out the promotion rate provisions in section 102A(l)(2)(A) of the Act.

The fourth correction deletes an erroneous cross-reference to the “dispute resolution” subsection of section 119 of the National Security Act and substitutes the intended cross-reference to the “Directorate of Intelligence” subsection of section 119.

The fifth correction changes the heading of subsection 102A(n) from “Acquisition Authorities” to “Acquisition and Other Authorities” to more adequately describe its function.

Section 501 also corrects a dated reference to the Commissioner of Immigration and Naturalization in the Central Intelligence Agency Act of 1949 and changes the reference to the Secretary of Homeland Security. The Homeland Security Act of 2002 abolished the position of the Commissioner of Immigration and Naturalization and transferred its responsibilities to the Secretary of Homeland Security.

#### *Section 502. Multiyear National Intelligence Program.*

Section 502 updates the “multiyear national intelligence program” provision to incorporate and reflect organizational and nomenclature changes made by the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458).

#### *Section 503. References to Military Intelligence Program and related activities.*

Until Fiscal Year 2007, the Defense Department’s intelligence efforts were funded through the Joint Military Intelligence Program (JMIP) and the Tactical Intelligence and Related Activities (TIARA). The Defense Department since has abandoned these resource structures in favor of the new Military Intelligence Program (MIP), which is designed to ensure that the Defense Department, the Director of National Intelligence (DNI), and the Congress each have

the transparency and insight required to assess the allocation of resources to meet Defense intelligence requirements.

The Intelligence Reform and Terrorism Prevention Act directed that the DNI participate in the development of the annual JMIP and TIARA budgets, and it required the Secretary of Defense to consult with the DNI prior to transfer or reprogramming of JMIP funds. The text that appears in section 503 changes the references from “JMIP” and “TIARA” to the new “MIP.”

*Section 504. Technical corrections to the Intelligence Reform and Terrorism Prevention Act of 2004.*

Section 504 corrects a number of inadvertent technical errors in the specified sections of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458).

Paragraph (1) amends section 1016(e)(10)(B) by striking “Attorney General” the second time it appears and replacing it with “Department of Justice. Thus, the information sharing provision of section 1016(e)(10) is made consistent by references to agency heads in the first sentence and agencies and departments in the second.

Paragraph (2) amends section 1061(d)(4)(A) to use the correct term for the head of the Intelligence Community, “Director of National Intelligence.”

Paragraph (3) strikes a superfluous “(1)” in section 1071(e).

Paragraph (4) corrects the title of the Central Intelligence Agency Act in the heading of section 1072(b).

Paragraph (5) corrects section 2001 by inserting an inadvertently omitted “of”; corrects the title of the Director of National Intelligence and replaces the reference to “section 112(e)” with a broader and clearer reference to “applicable law”; and strikes a superfluous comma in subsection 2001(f)

Paragraph (6) makes technical corrections to section 2006 by striking two unnecessary uses of the word “the.”

*Section 505. Technical corrections to the Executive Schedule.*

Section 505 makes several technical corrections to the Executive Schedule. This section clarifies that the position of the Director of the Central Intelligence Agency (D/CIA) is at Level II of the Executive Schedule. It is, of course, the case that section 1081 of the Intelligence Reform and Terrorism Prevention Act of 2004, when read in conjunction with section 1015 of that Act, has the legal effect of substituting the “Director of the Central Intelligence Agency” for the previous reference in 5 U.S.C. 5313 to “Director of Central Intelligence”. This amendment reinforces that the D/CIA is an Executive Schedule Level II position, and it removes the need to track and trace through multiple other provisions to reach that conclusion. Section 505 also strikes the outdated references to the Deputy Directors of Central Intelligence in

5 U.S.C. 5314, and corrects the erroneous reference to the “General Counsel to the National Intelligence Director” in 5 U.S.C. 5315.

*Section 506. Definition of Intelligence Community.*

Section 506 further amends section 3(4)(L) of the National Security Act of 1947, as amended by section 1073 of the Intelligence Reform and Terrorism Prevention Act of 2004, to strike the redundant occurrence of the term “other” from the definition of “intelligence community”.

*Section 507. Technical amendment to the Electronic Communications Privacy Act.*

This is a technical amendment to correct the inadvertent omission of “electronic communication transactional records” from 18 U.S.C. 2709(b)(1). The amendment brings subsection (b)(1) of the Electronic Communications Privacy Act (ECPA) into technical conformity with subsection (a). Subsection (a) requires an electronic communication service provider to provide, *inter alia*, “electronic communication transactional records” upon receipt of a valid National Security Letter (NSL). Subsection (b) allows the Federal Bureau of Investigation (FBI) to request in an NSL toll billing records information and other information described in subsection (a), but a reference to “electronic communication transactional records” was left out of subsection (b), even though inclusion of these transactional records is plainly contemplated by the language of subsection (a). This provision does not substantively change 18 U.S.C. 2709(b); it merely clarifies the FBI’s existing authority under 18 U.S.C. 2709(a).

Such records include all those records identifying the origin, routing or destination of electronic communications with regard to an identified account or individual.

## **TITLE VI—REORGANIZATION OF DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE**

*Section 601. Reorganization of the Diplomatic Telecommunications Program Office.*

Section 321 of the Intelligence Authorization Act for FY2001 provided for the reorganization of the Diplomatic Telecommunications Service Program Office (DTS-PO). That reorganization was suspended for one year by the Intelligence Authorization Act for Fiscal Year 2002 (Section 311 of Public Law 107-108) and for an additional year pursuant to the Intelligence Authorization Act for Fiscal Year 2003 (Section 351 of Public Law 107-306). In the Intelligence Authorization Act for Fiscal Year 2004, the last Intelligence Authorization bill that was enacted, Section 371 provided that the reorganization of DTS-PO would be suspended until 60 days after “the congressional committees of jurisdiction...are notified...that the operational framework for the office has been terminated.”

This provision specifically amends Title III of the Intelligence Authorization Act for Fiscal Year 2001, repealing provisions relating to the re-organization of the DTS-PO and setting forth a new operational framework under which the DTS-PO shall be governed and funded. It

establishes a central governance and oversight mechanism, the Diplomatic Telecommunications Service Governance Board, lays out various Board procedures, and authorizes the promulgation of supplemental written implementing arrangements as needed to facilitate the management and administration of DTS-PO. It also authorizes such appropriations for DTS-PO as may be necessary for the operations, maintenance, development, enhancement, and modernization of the DTS-PO network.

Section 601 is a good government measure that will help to ensure that a communications network that facilitates the exchange of information between Foreign Service personnel is secure and is maintained efficiently.