

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR  
2023

OCTOBER 31, 2022.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 8367]

The Permanent Select Committee on Intelligence, to whom was referred the bill (H.R. 8367) to authorize appropriations for fiscal year 2023 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

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

(a) **SHORT TITLE.**—This Act may be cited as the “Intelligence Authorization Act for Fiscal Year 2023”.

(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—INTELLIGENCE ACTIVITIES**

Sec. 101. Authorization of appropriations.

Sec. 102. Classified schedule of authorizations.

Sec. 103. Intelligence community management account.

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

Sec. 201. Authorization of appropriations.

**TITLE III—GENERAL INTELLIGENCE COMMUNITY MATTERS**

Sec. 301. Restriction on conduct of intelligence activities.

Sec. 302. Increase in employee compensation and benefits authorized by law.

Sec. 303. Joint Intelligence Community Council.

Sec. 304. Required policy for minimum insider threat standards.

Sec. 305. Timely submission of classified intelligence budget justification materials.

Sec. 306. Unfunded priorities of the intelligence community.

Sec. 307. Submission of classified annexes to executive orders and other documents.

Sec. 308. Improvements to program on recruitment and training.

- Sec. 309. Measures to mitigate counterintelligence threats from proliferation and use of foreign commercial spyware.
- Sec. 310. Expansion of treatment of moving expenses.
- Sec. 311. Personnel vetting performance measures.
- Sec. 312. Proactive cybersecurity.
- Sec. 313. Limitation on availability of funds for Intelligence Community Management Account pending submission of report on domestic activities of intelligence community.

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

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

- Sec. 401. Modifications to responsibilities and authorities of Director of National Intelligence.
- Sec. 402. Annual submission to Congress of National Intelligence Priorities Framework.
- Sec. 403. Disposition of records of Office of the Director of National Intelligence.

##### Subtitle B—Central Intelligence Agency

- Sec. 411. Authority of Central Intelligence Agency to provide protection for certain personnel.
- Sec. 412. Notification of use of certain expenditure authorities.
- Sec. 413. Clarification of authorities relating to security personnel at Office of Director of National Intelligence facilities and installations.
- Sec. 414. Office of Workforce Support of Central Intelligence Agency.
- Sec. 415. Establishment of External Advisory Board for Talent for the Central Intelligence Agency.
- Sec. 416. Study on relationship between Central Intelligence Agency and Congress.
- Sec. 417. Historical Advisory Panel of Central Intelligence Agency.

##### Subtitle C—Elements of the Defense Intelligence Enterprise

- Sec. 421. Deputy Director for Defense Intelligence responsible for warfighter support.
- Sec. 422. Cover enhancement authorities.
- Sec. 423. Authority of Army counterintelligence agents to execute warrants and make arrests.
- Sec. 424. Inclusion of Space Force as element of intelligence community.
- Sec. 425. Military intelligence collection and analysis partnerships.
- Sec. 426. Intelligence assessment of effects of counterterrorism strikes.
- Sec. 427. Submission of certain legislative proposals.
- Sec. 428. Oversight of Defense Intelligence Agency culture.
- Sec. 429. Cyber intelligence surveillance reconnaissance information.
- Sec. 430. Information on cover activities of Department of Defense.

##### Subtitle D—Other Elements

- Sec. 441. Authorization relating to certain intelligence and counterintelligence activities of Coast Guard.
- Sec. 442. Study on personnel under Strategic Intelligence Partnership Program.
- Sec. 443. Assessment of handling of certain information relating to deliberations of Bureau of Industry and Security.

#### TITLE V—MATTERS RELATING TO EMERGING TECHNOLOGIES

##### Subtitle A—General Matters

- Sec. 501. Definitions.
- Sec. 502. Officials responsible for artificial intelligence policies of the intelligence community.

##### Subtitle B—Improvements Relating to Procurement

- Sec. 511. Additional transaction authority.
- Sec. 512. Offices of Commercial Integration.
- Sec. 513. Pilot program for designation of certain SBIR and STTR projects as Entrepreneurial Innovation Projects.
- Sec. 514. Reduction of barriers relating to contracts for artificial intelligence and other emerging technologies.
- Sec. 515. Compliance by the intelligence community with requirements of the Federal Acquisition Regulation relating to commercially available off-the-shelf items and commercial services.
- Sec. 516. Policy on required user adoption metrics in certain contracts for artificial intelligence software products.
- Sec. 517. Assessments relating to information technology and software systems.

##### Subtitle C—Reports

- Sec. 521. Reports on integration of artificial intelligence within intelligence community.
- Sec. 522. Report on potential benefits of establishment of ICWERX.
- Sec. 523. Requirements and report on workforce needs of intelligence community relating to science, technology, engineering, and mathematics, and related areas.

##### Subtitle D—Other Matters

- Sec. 531. Improvements to use of commercial software products.
- Sec. 532. Improvements to employees and managers relating to emerging technologies, software development, acquisition, and sustainment.

#### TITLE VI—MATTERS RELATING TO FOREIGN COUNTRIES

##### Subtitle A—Miscellaneous Authorities, Requirements, and Limitations

- Sec. 601. Notice of deployment or transfer of containerized missile systems by Russia, China, or Iran.
- Sec. 602. Intelligence community coordinator for Russian atrocities accountability.
- Sec. 603. Lead intelligence community coordinator for countering and neutralizing proliferation of Iran-origin unmanned aircraft systems.
- Sec. 604. Collaboration between intelligence community and Department of Commerce to counter foreign commercial threats.
- Sec. 605. Intelligence assessment on foreign weaponization of advertisement technology data.
- Sec. 606. Intelligence community assessment regarding Russian gray zone assets.
- Sec. 607. Intelligence assessment on effects of sanctions on Russia.

##### Subtitle B—Reports and Other Matters

- Sec. 611. Report on assessing will to fight.

- Sec. 612. Report on impact of Russia invasion of Ukraine on global food security.
- Sec. 613. Report on threat from hypersonic weapons.
- Sec. 614. Report on ordnance of Russia and China.
- Sec. 615. Report on activities of China and Russia targeting Latin America and the Caribbean.
- Sec. 616. Report on support provided by China to Russia.
- Sec. 617. Report on global CCP investment in port infrastructure.
- Sec. 618. Sense of Congress on provision of support by intelligence community for atrocity prevention and accountability.

#### TITLE VII—REPORTS AND OTHER MATTERS

- Sec. 701. Repeal of certain report requirements.
- Sec. 702. Increased intelligence-related engineering, research, and development capabilities of minority institutions.
- Sec. 703. Annual report on response to Government Accountability Office recommendations to intelligence community.
- Sec. 704. Annual report on efforts of the Federal Bureau of Investigation to identify and promote diverse candidates.
- Sec. 705. Reports on personnel vetting processes and progress under Trusted Workforce 2.0 initiative.
- Sec. 706. Reports relating to programs of record of National Geospatial-Intelligence Agency.
- Sec. 707. Plan regarding Social Media Data and Threat Analysis Center.
- Sec. 708. Report on use of publicly available social media information in personnel vetting determinations.
- Sec. 709. Report on strengthening workforce diversity planning and oversight.
- Sec. 710. Report on improving opportunities for women and minorities for promotions in the intelligence community.
- Sec. 711. Report on transition of National Reconnaissance Office to digital engineering environment.
- Sec. 712. Report on Department of Homeland Security intelligence enterprise.
- Sec. 713. Report on declassification efforts of Central Intelligence Agency.
- Sec. 714. Report on National Space Intelligence Center.
- Sec. 715. Report on implementation of Executive Order 13556, regarding controlled unclassified information.
- Sec. 716. Comptroller General of the United States compilation of unidentified aerospace-undersea phenomena records.
- Sec. 717. National Museum of Intelligence and Special Operations.
- Sec. 718. Technical corrections.

#### SEC. 2. DEFINITIONS.

In this Act:

- (1) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term “congressional intelligence committees” has the meaning given such term in section 3 of the National Security Act of 1947 (50 U.S.C. 3003).
- (2) INTELLIGENCE COMMUNITY.—The term “intelligence community” has the meaning given such term in section 3 of the National Security Act of 1947 (50 U.S.C. 3003).

## TITLE I—INTELLIGENCE ACTIVITIES

#### SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2023 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

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

#### SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS.—The amounts authorized to be appropriated under section 101 for the conduct of the intelligence activities of the elements listed in paragraphs (1) through (17) of section 101, are those specified in the classified Schedule of Authorizations prepared to accompany this Act.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—

- (1) AVAILABILITY.—The classified Schedule of Authorizations referred to in subsection (a) shall be made available to the Committee on Appropriations of

the Senate, the Committee on Appropriations of the House of Representatives, and to the President.

(2) **DISTRIBUTION BY THE PRESIDENT.**—Subject to paragraph (3), the President shall provide for suitable distribution of the classified Schedule of Authorizations referred to in subsection (a), or of appropriate portions of such Schedule, within the executive branch.

(3) **LIMITS ON DISCLOSURE.**—The President shall not publicly disclose the classified Schedule of Authorizations or any portion of such Schedule except—

(A) as provided in section 601(a) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (50 U.S.C. 3306(a));

(B) to the extent necessary to implement the budget; or

(C) as otherwise required by law.

**SEC. 103. INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated for the Intelligence Community Management Account of the Director of National Intelligence for fiscal year 2023 the sum of \$665,800,000.

(b) **CLASSIFIED AUTHORIZATION OF APPROPRIATIONS.**—In addition to amounts authorized to be appropriated for the Intelligence Community Management Account by subsection (a), there are authorized to be appropriated for the Intelligence Community Management Account for fiscal year 2023 such additional amounts as are specified in the classified Schedule of Authorizations referred to in section 102(a).

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

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

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund \$514,000,000 for fiscal year 2023.

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

**SEC. 301. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.**

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

**SEC. 302. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.**

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

**SEC. 303. JOINT INTELLIGENCE COMMUNITY COUNCIL.**

(a) **MEMBERSHIP.**—Subsection (b) of section 101A of the National Security Act of 1947 (50 U.S.C. 3022) is amended—

(1) by redesignating paragraph (8) as paragraph (9); and

(2) by inserting after paragraph (7) the following new paragraph:

“(8) The Director of the Central Intelligence Agency.”.

(b) **FUNCTIONS.**—Subsection (c) of such section is amended—

(1) in paragraph (1), by striking “; and” and inserting a semicolon;

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

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

“(3) ensuring that the intelligence community has efficient and effective mechanisms to receive and prioritize the intelligence needs of the departments and agencies of the United States Government that are not part of the intelligence community or the Department of Defense.”.

(c) **MEETINGS.**—Subsection (d) of such section is amended by striking “as the Director considers appropriate” and inserting “on an annual basis, or more frequently as the Director determines appropriate”.

**SEC. 304. REQUIRED POLICY FOR MINIMUM INSIDER THREAT STANDARDS.**

(a) **REQUIREMENT.**—Section 102A(f) of the National Security Act of 1947 (50 U.S.C. 3024(f)) is amended—

(1) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively; and

(2) by inserting after paragraph (7) the following new paragraph:

“(8)(A) The Director of National Intelligence shall ensure there is established a policy for minimum insider threat standards that is consistent with the Presidential memorandum of November 21, 2012, titled ‘National Insider Threat Policy and Minimum Standards for Executive Branch Insider Threat Programs’, or any successor thereto.

“(B) The head of each element of the intelligence community shall implement the policy under subparagraph (A) within that element, and, concurrent with the submission to Congress of budget justification materials in support of the budget of the President for a fiscal year that is submitted to Congress under section 1105(a) of title 31, United States Code, shall submit to Congress a certification as to whether the element is in compliance with such policy.

“(C) The Director shall conduct periodic audits to determine whether each element of the intelligence community is in compliance with the policy under subparagraph (A). The Director may refer any audit under this subparagraph to the Inspector General of the Intelligence Community, who shall conduct such audit on behalf of the Director.”.

(b) CONFORMING AMENDMENT.—Section 102A(x)(3) of such Act (50 U.S.C. 3024(x)(3)) is amended by inserting “, including the policy under subsection (f)(8),” after “policies of the intelligence community”.

**SEC. 305. TIMELY SUBMISSION OF CLASSIFIED INTELLIGENCE BUDGET JUSTIFICATION MATERIALS.**

Title V of the National Security Act of 1947 (50 U.S.C. 3091 et seq.) is amended by inserting after section 506I the following new section (and conforming the table of contents at the beginning of such Act accordingly):

**“SEC. 506J. CLASSIFIED INTELLIGENCE BUDGET JUSTIFICATION MATERIALS.**

“(a) TIMELY SUBMISSION.—At the same time as the President submits to Congress the budget for each fiscal year, the Director of National Intelligence shall submit to the congressional intelligence committees the classified intelligence budget justification materials for the element for that budget.

“(b) DEFINITIONS.—In this section:

“(1) The term ‘budget’ has the meaning given the term ‘budget of the President’ in section 506A.

“(2) The term ‘classified intelligence budget justification materials’ means, with respect to a fiscal year, the materials submitted to Congress by the Director of National Intelligence in support of the budget for that fiscal year that are classified or otherwise protected from public disclosure.”.

**SEC. 306. UNFUNDED PRIORITIES OF THE INTELLIGENCE COMMUNITY.**

Title V of the National Security Act of 1947 (50 U.S.C. 3091 et seq.), as amended by section 305, is further amended by adding at the end the following new section (and conforming the table of contents at the beginning of such Act accordingly):

**“SEC. 514. UNFUNDED PRIORITIES OF THE INTELLIGENCE COMMUNITY: ANNUAL REPORT.**

“(a) ANNUAL REPORT.—Not later than 10 days after the date on which the budget of the President for a fiscal year is submitted to Congress pursuant to section 1105 of title 31, United States Code, the head of each element of the intelligence community shall submit to the Director of National Intelligence and to the congressional intelligence committees a report on the unfunded priorities of the programs under the jurisdiction of such head.

“(b) ELEMENTS.—

“(1) IN GENERAL.—Each report under subsection (a) shall specify, for each unfunded priority covered by such report, the following:

“(A) A summary description of such priority, including the objectives to be achieved if such priority is funded (whether in whole or in part).

“(B) Whether such priority will satisfy a covert action or support collection against requirements identified in the National Intelligence Priorities Framework of the Office of the Director of National Intelligence (or any successor mechanism established for the prioritization of programs and activities), including a description of such requirements and the related prioritization level.

“(C) The additional amount of funds recommended in connection with the objectives under subparagraph (A).

“(D) Budget information with respect to the unfunded priority, including—

“(i) the appropriation account;

“(ii) the expenditure center; and

“(iii) the project and, if applicable, subproject.

“(2) PRIORITIZATION OF PRIORITIES.—Each report shall present the unfunded priorities covered by such report in overall order of urgency of priority among unfunded priorities.

“(c) UNFUNDED PRIORITY DEFINED.—In this section, the term ‘unfunded priority’, in the case of a fiscal year, means a program, activity, or mission requirement of an element of the intelligence community that—

“(1) is not funded in the budget of the President for the fiscal year as submitted to Congress pursuant to section 1105 of title 31, United States Code;

“(2) is necessary to fulfill a covert action or to satisfy an information requirement associated with the collection, analysis, or dissemination of intelligence that has been documented within the National Intelligence Priorities Framework; and

“(3) would have been recommended for funding by the head of the element of the intelligence community if—

“(A) additional resources had been available for the budget to fund the program, activity, or mission requirement; or

“(B) the program, activity, or mission requirement has emerged since the budget was formulated.”.

**SEC. 307. SUBMISSION OF CLASSIFIED ANNEXES TO EXECUTIVE ORDERS AND OTHER DOCUMENTS.**

(a) REQUIREMENT.—Title V of the National Security Act of 1947 (50 U.S.C. 3091 et seq.), as amended by section 306, is further amended by adding at the end the following new section (and conforming the table of contents at the beginning of such Act accordingly):

**“SEC. 515. SUBMISSION OF CLASSIFIED ANNEXES TO EXECUTIVE ORDERS AND OTHER DOCUMENTS.**

“(a) REQUIREMENT.—Not later than 7 days after the date on which the President issues or amends a covered document, the Director of National Intelligence shall submit to the congressional intelligence committees any classified annex accompanying that document if such annex contains a reference to any element of the intelligence community.

“(b) COVERED DOCUMENT DEFINED.—In this section, the term ‘covered document’ means any executive order, memorandum, or policy directive issued by the President, including national security Presidential memoranda and Presidential policy directives, or such successor memoranda and directives.”.

(b) INITIAL SUBMISSION.—Not later than 60 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the congressional intelligence committees each classified annex required under section 515 of the National Security Act, as added by subsection (a), in effect as of the date of enactment of this Act.

**SEC. 308. IMPROVEMENTS TO PROGRAM ON RECRUITMENT AND TRAINING.**

Section 1022 of the National Security Act of 1947 (50 U.S.C. 3222) is amended to read as follows:

**“SEC. 1022. PROGRAM ON RECRUITMENT AND TRAINING.**

“(a) PROGRAM.—

“(1) REQUIREMENT.—The Director of National Intelligence, in consultation with the heads of the elements of the intelligence community, shall carry out a program to ensure that selected individuals are provided funds for academic training (including with respect to both undergraduate and postgraduate education), or to reimburse for academic training previously obtained—

“(A) in capabilities, missions, or skillsets, especially in the fields of science, technology, mathematics, and engineering, to address workforce requirements in which the intelligence community is deficient or likely to be deficient in the future; or

“(B) for such individuals who have backgrounds or experiences that the Director has identified as being underrepresented in the intelligence community or likely to be underrepresented in the future.

“(2) COMMITMENT.—An individual selected for participation in the program shall commit to employment with an element of the intelligence community for a period that the Director determines is commensurate with the amount of funding provided to the individual under the program and under such terms and conditions as the Director considers appropriate.

“(3) DESIGNATION.—The program shall be known as the Pat Roberts Intelligence Scholars Program.

“(4) OUTREACH.—The Director, in consultation with the heads of the elements of the intelligence community, shall maintain a publicly available internet website on the program that describes—

- “(A) the intent of the program;
- “(B) the conditions and requirements for selection and participation;
- “(C) application instructions;
- “(D) the areas covered by the program pursuant to the review conducted under subsection (b)(2); and
- “(E) any other details the Director determines appropriate.

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

- “(1) establish such requirements relating to the academic training of participants as the Director considers appropriate to ensure that participants are prepared for employment as intelligence professionals; and
- “(2) on an annual basis, review the areas that will contribute to the capabilities, missions, and skillsets in which the intelligence community is deficient or is likely to be deficient in the future.

“(c) USE OF FUNDS.—Funds made available for the program under subsection (a) shall be used—

- “(1) to provide a monthly stipend for each month that a participant is pursuing a course of study;
- “(2) to pay the partial or full tuition or other appropriate education expenses of a participant for the completion of such course of study;
- “(3) to reimburse a participant for tuition or other appropriate education expenses paid by the participant before becoming an employee of an element of the intelligence community, including with respect to providing payments for student loans used for such tuition and expenses;
- “(4) to pay for books and materials that the participant requires or required to complete such course of study;
- “(5) to pay the expenses of the participant for travel requested by an element of the intelligence community in relation to such program; or
- “(6) for such other purposes the Director considers reasonably appropriate to carry out such program.”

**SEC. 309. MEASURES TO MITIGATE COUNTERINTELLIGENCE THREATS FROM PROLIFERATION AND USE OF FOREIGN COMMERCIAL SPYWARE.**

(a) FINDINGS.—Congress finds the following:

(1) The proliferation of foreign commercial spyware poses an acute and emergent threat to the national security of the United States.

(2) Foreign entities have developed and supplied foreign commercial spyware to other foreign governments that used these tools to maliciously target officials of the United States Government. Many of those foreign governments have, in service of their repressive activities, targeted journalists, businesspeople, activists, academics, and other persons.

(3) Furthermore, public reports suggest that foreign companies involved in the proliferation of foreign commercial spyware maintain close ties to foreign governments and their intelligence services. This close relationship between foreign governments and the companies selling foreign commercial spyware furthers the already substantial counterintelligence concerns for any end-user of these products, including potential end-users in the United States.

(4) To mitigate the grave counterintelligence threat posed by the rapid spread of these tools—as well as to improve the digital security of citizens of the United States, combat cyber threats, and mitigate unlawful surveillance—the United States on January 19, 2022, finalized a rule establishing controls on the export, reexport, or in-country transfer of certain items that can be used for malicious cyber activities.

(5) In furtherance of the same national security objectives, the Commerce Department on November 4, 2021, released a rule adding four foreign companies to the Entity List for engaging in activities that are contrary to the national security or foreign policy interests of the United States. This rule had the practical effect of preventing the listed companies from receiving American technologies.

(6) Subsequent public reports indicate that at least one of the four companies added to the Entity List attempted to evade these and other restrictions, and a private consultancy which oversees that company informed the European Parliament in 2022 that it could not confirm the blacklisted company is complying with all relevant laws and regulatory frameworks.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the intelligence community, with its unique authorities, foreign intelligence mission, analytical capabilities, and other capabilities, is best positioned to lead the efforts of the United States Gov-

ernment to mitigate the counterintelligence threats posed by the rapidly expanding ecosystem of foreign commercial spyware, including by devising and implementing strategies to protect personnel of the United States Government from being maliciously targeted.

(c) STATEMENT OF POLICY.—It shall be the policy of the United States to decisively act against counterintelligence threats posed by foreign commercial spyware, as well as the individuals who lead entities selling foreign commercial spyware and who are reasonably believed to be involved, have been involved, or pose a significant risk to being or becoming involved, in activities contrary to the national security or foreign policy interests of the United States.

(d) MEASURES TO MITIGATE COUNTERINTELLIGENCE THREATS.—Title XI of the National Security Act of 1947 (50 U.S.C. 3231 et seq.) is amended by inserting after section 1102 the following new section (and conforming the table of contents at the beginning of such Act accordingly):

**“SEC. 1102A. MEASURES TO MITIGATE COUNTERINTELLIGENCE THREATS FROM PROLIFERATION AND USE OF FOREIGN COMMERCIAL SPYWARE.**

“(a) ANNUAL ASSESSMENTS OF COUNTERINTELLIGENCE THREATS.—

“(1) REQUIREMENT.—Not later than March 1, 2023, and annually thereafter, the Director of National Intelligence, in coordination with the Director of the Central Intelligence Agency, the Director of the National Security Agency, and the Director of the Federal Bureau of Investigation, shall submit to the congressional intelligence committees a report containing an assessment of the counterintelligence threats and other risks to the national security of the United States posed by the proliferation of foreign commercial spyware. The assessment shall incorporate all credible data, including open-source information.

“(2) ELEMENTS.—Each report under paragraph (1) shall include the following, if known:

“(A) A list of the most significant foreign companies, as determined by the Director of National Intelligence, selling, leasing, or otherwise providing foreign commercial spyware, and associated foreign commercial entities, assessed by the intelligence community to be the most significant foreign actors in the global proliferation of foreign commercial spyware.

“(B) A description of the foreign commercial spyware marketed by the foreign companies identified under subparagraph (A) and an assessment by the intelligence community of the foreign commercial spyware.

“(C) An assessment of the counterintelligence risk to personnel of the intelligence community posed by such spyware.

“(D) Details of where each foreign company identified under subparagraph (A) is domiciled, as well as any foreign country in which the company has subsidiaries or resellers acting as the local agent on behalf of the foreign parent company.

“(E) A description of how each such foreign company is financed, where the foreign company acquired its capital, and the major investors in the foreign company.

“(F) An assessment by the intelligence community of any relationship between each such foreign company and a foreign government, including any export controls and processes to which the foreign company is subject.

“(G) To the extent such information is obtainable through clandestine collection or open source intelligence, a list of the foreign customers of each such foreign company, including the understanding by the intelligence community of the organizations and end-users within any foreign government that procured the spyware of that foreign company.

“(H) With respect to each foreign customer identified under subparagraph (G), an assessment by the intelligence community regarding how the foreign customer is using the spyware, including whether the spyware has been used to target personnel of the intelligence community.

“(I) With respect to the first report, a mitigation plan to reduce the exposure of personnel of the intelligence community to foreign commercial spyware.

“(J) With respect to each report following the first report, details of steps taken by the intelligence community since the previous report to implement measures to reduce the exposure of personnel of the intelligence community to foreign commercial spyware.

“(3) FORM.—Each report under paragraph (1) shall be submitted in classified form.

“(4) DISSEMINATION.—The Director of National Intelligence shall share each report under paragraph (1) with the heads of other appropriate Federal departments and agencies, including the President, the heads of all elements of the intelligence community, the Secretary of State, the Attorney General, the Direc-

tor of the Federal Bureau of Investigation, the Secretary of Commerce, and the heads of any other agencies the Director determines appropriate.

“(b) CLASSIFIED WATCHLIST.—

“(1) SUBMITTAL TO CONGRESS.—The Director of National Intelligence shall submit to the appropriate congressional committees a list of companies selling, leasing, or otherwise providing foreign commercial spyware that the Director determines are engaged in activities that pose a counterintelligence risk to personnel of the intelligence community.

“(2) UPDATES.—The Director shall update the list under paragraph (1) not less frequently than annually.

“(3) FORM.—Each list under paragraph (1) shall be submitted in classified form.

“(4) DISSEMINATION.—The Director of National Intelligence shall share each list under paragraph (1) with the heads of other appropriate Federal departments and agencies, including the President, the heads of all elements of the intelligence community, the Secretary of State, the Attorney General, the Director of the Federal Bureau of Investigation, the Secretary of Commerce, and the heads of any other agencies the Director determines appropriate.

“(c) AUTHORITY TO PROHIBIT PURCHASE OR USE BY INTELLIGENCE COMMUNITY.—

“(1) FOREIGN COMMERCIAL SPYWARE FROM FOREIGN SPYWARE COMPANY.—

“(A) IN GENERAL.—The Director of National Intelligence may prohibit any element of the intelligence community from procuring, leasing, or otherwise acquiring on the commercial market, or extending or renewing a contract to procure, lease, or otherwise acquire, foreign commercial spyware from a foreign spyware company.

“(B) CONSIDERATIONS.—In determining whether and how to exercise the authority under subparagraph (A), the Director of National Intelligence shall consider—

“(i) the assessment of the intelligence community of the counterintelligence threats or other risks to the United States posed by the foreign commercial spyware; and

“(ii) the assessment of the intelligence community of whether the foreign commercial spyware has been used to target United States Government personnel.

“(2) DOMESTIC COMPANY PROVIDING FOREIGN COMMERCIAL SPYWARE.—

“(A) AUTHORITY TO PROHIBIT PURCHASE.—The Director of National Intelligence may prohibit the purchase or use by the intelligence community of spyware from a domestic company if the Director determines that the spyware was originally sourced, in whole or in part, from a foreign company.

“(B) CONSIDERATIONS.—In considering whether and how to exercise the authority under subparagraph (A) with respect to spyware, the Director of National Intelligence shall consider—

“(i) whether the original owner or developer retains any of the physical property or intellectual property associated with the spyware;

“(ii) whether the original owner or developer has verifiably destroyed all copies of the data collected by or associated with the spyware;

“(iii) whether the personnel of the original owner or developer retain any access to data collected by or associated with the spyware;

“(iv) whether the use of the spyware requires the user to connect to an information system of the original owner or developer or of a foreign government; and

“(v) whether the spyware poses a counterintelligence risk to the United States or any other threat to the national security of the United States.

“(3) DOMESTIC COMPANY THAT HAS ACQUIRED FOREIGN COMMERCIAL SPYWARE.—

“(A) AUTHORITY.—The Director of National Intelligence may prohibit any element of the intelligence community from entering into any contract or other agreement for any purpose with a domestic company that has acquired, in whole or in part, any foreign commercial spyware.

“(B) CONSIDERATIONS.—In considering whether and how to exercise the authority under subparagraph (A) with respect to a domestic company that has acquired foreign commercial spyware, the Director of National Intelligence shall consider—

“(i) whether the original owner or developer of the spyware retains any of the physical property or intellectual property associated with the spyware;

“(ii) whether the original owner or developer of the spyware has verifiably destroyed all copies of the data collected by or associated with the spyware;

“(iii) whether the personnel of the original owner or developer of the spyware retain any access to data collected by or associated with the spyware;

“(iv) whether the use of the spyware requires the user to connect to an information system of the original owner or developer or of a foreign government; and

“(v) whether the spyware poses a counterintelligence risk to the United States or any other threat to the national security of the United States.

“(4) WAIVER AUTHORITY.—

“(A) IN GENERAL.—The head of an element of the intelligence community may request from the Director of National Intelligence the waiver of a prohibition made under paragraph (1), (2), or (3). The Director may issue such a waiver in response to such a request if—

“(i) such waiver is in the national security interest of the United States; and

“(ii) the Director submits to the congressional intelligence committees the notice described in subparagraph (B).

“(B) NOTICE.—Not later than 30 days after issuing a waiver under subparagraph (A), the Director of National Intelligence shall submit to the congressional intelligence committees notice of the waiver. Such notice shall include—

“(i) an identification of the head of the element of the intelligence community that requested the waiver;

“(ii) the rationale for issuing the waiver; and

“(iii) the considerations that informed the ultimate determination of the Director to issue the waiver.

“(5) TERMINATION OF PROHIBITION.—The Director of National Intelligence may terminate a prohibition made under paragraph (1), (2), or (3) at any time.

“(d) NOTIFICATIONS.—

“(1) IN GENERAL.—Not later than 30 days after the date on which the Director of National Intelligence exercises the authority to issue a prohibition under subsection (c), the Director of National Intelligence shall notify the congressional intelligence committees of such exercise of authority. Such notice shall include—

“(A) a description of the circumstances under which the prohibition was issued;

“(B) an identification of the company or product covered by the prohibition;

“(C) any information that contributed to the decision of the Director to exercise the authority, including any information relating to counterintelligence or other risks to the national security of the United States posed by the company or product, as assessed by the intelligence community; and

“(D) an identification of each element of the intelligence community to which the prohibition has been applied.

“(2) COUNTERINTELLIGENCE NOTIFICATIONS.—Not later than 30 days after the date on which an element of the intelligence community becomes aware that a Government-issued mobile device was targeted or compromised by foreign commercial spyware, the Director of National Intelligence, in coordination with the Director of the Federal Bureau of Investigation, shall notify the congressional intelligence committees of such determination, including—

“(A) the component of the element and the location of the personnel whose device was targeted or compromised;

“(B) the number of devices compromised or targeted;

“(C) an assessment by the intelligence community of the damage to national security of the United States resulting from any loss of data or sensitive information;

“(D) an assessment by the intelligence community of any foreign government, or foreign organization or entity, and, to the extent possible, the foreign individuals, who directed and benefitted from any information acquired from the targeting or compromise; and

“(E) as appropriate, an assessment by the intelligence community of the capacity and will of such governments or individuals to continue targeting personnel of the United States Government.

“(e) DEFINITIONS.—In this section:

“(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means—

“(A) the Committee on Foreign Affairs, the Committee on Armed Services, and the Permanent Select Committee on Intelligence of the House of Representatives; and

“(B) the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate.

“(2) DOMESTIC COMPANY.—The term ‘domestic company’ means a commercial entity, or any subsidiary or affiliate of the entity, incorporated or domiciled in the United States that—

“(A) sells, leases, or otherwise provides foreign commercial spyware, including by reason of—

“(i) taking ownership, in whole or in part, of a foreign spyware company; or

“(ii) entering into a partnership with a foreign spyware company; or

“(B) otherwise owns, leases, or has access to foreign commercial spyware.

“(3) FOREIGN COMMERCIAL SPYWARE.—The term ‘foreign commercial spyware’ means a tool (or set of tools) sold, leased, marketed, or otherwise provided as an end-to-end system originally developed or owned by a foreign spyware company that provides a purchaser remote access to information stored on or transiting through an electronic device connected to the internet, including end-to-end systems that—

“(A) allow malign actors to infect mobile and internet-connected devices with malware over both wireless internet and cellular data connections, including without any action required by the user of the device;

“(B) can record telephone calls and other audio;

“(C) track the location of the device; or

“(D) access and retrieve information on the device, including text messages, files, e-mails, transcripts of chats, contacts, photos, and browsing history.

“(4) FOREIGN SPYWARE COMPANY.—The term ‘foreign spyware company’ means an entity that is—

“(A) incorporated or domiciled outside the United States; and

“(B) not subject to the laws and regulations of the United States regulating the surveillance of citizens of the United States and foreign citizens.

“(5) GOVERNMENT-ISSUED MOBILE DEVICE.—The term ‘Government-issued mobile device’ means a smartphone, tablet, or laptop, or similar portable computing device, that is issued to personnel of the intelligence community by a department or agency of the United States Government for official use by the personnel.

“(6) UNITED STATES PERSON.—The term ‘United States person’ has the meaning given that term in Executive Order 12333 (50 U.S.C. 3001 note), or any successor order.”

(e) GOVERNMENT-ISSUED MOBILE DEVICES.—

(1) REQUIREMENT.—Not later than 120 days after the date of the enactment of this Act, the Director of National Intelligence shall—

(A) issue standards, guidance, best practices, and policies for elements of the intelligence community to protect Government-issued mobile devices from being compromised by foreign commercial spyware;

(B) survey elements of the intelligence community regarding the processes used by the elements to routinely monitor Government-issued mobile devices for known indicators of compromise associated with foreign commercial spyware; or

(C) submit to the appropriate congressional committees a report on the sufficiency of the measures in place to routinely monitor Government-issued mobile devices of appropriate personnel of the intelligence community for known indicators of compromise associated with foreign commercial spyware.

(2) FORM.—The report under subparagraph (B) may be submitted in classified form.

(3) PRIVATE SECTOR PARTNERSHIPS.—Section 904(d)(7) of the Counterintelligence Enhancement Act of 2002 (50 U.S.C. 3383(d)(7)) is amended by adding at the end the following new paragraph:

“(E) VULNERABILITIES FROM FOREIGN COMMERCIAL SPYWARE.—

“(i) CONSULTATION.—In carrying out efforts to secure Government-issued mobile devices, to consult with the private sector of the United States and reputable third-party researchers to identify vulnerabilities from foreign commercial spyware and maintain effective security measures for such devices.

“(ii) DEFINITIONS.—In this subparagraph, the terms ‘Government-issued mobile devices’ and ‘foreign commercial spyware’ have the mean-

ing given those terms in section 1102A of the National Security Act of 1947.”.

(f) IMPOSITION OF SANCTIONS AGAINST CERTAIN PERSONS ENGAGED IN PROLIFERATION OR USE OF FOREIGN COMMERCIAL SPYWARE.—

(1) DISCRETIONARY SANCTIONS.—The President may impose the sanctions described in paragraph (2) with respect to—

(A) a foreign company the President determines, based on credible evidence, to pose a counterintelligence or other risk to the national security of the United States, such as a company included on the watchlist required by subsection (b) of section 1102A of the National Security Act of 1947, as added to subsection (d).

(B) any foreign individual who—

(i) is a current or former senior executive officer employed by a company described in subparagraph (A); and

(ii) is responsible for or complicit in, or has directly or indirectly engaged in, the proliferation of foreign commercial spyware that could enable the targeting of United States Government officials or personnel of the intelligence community;

(C) any foreign individual who—

(i) is a current or former official of a foreign government or is acting for or on behalf of such official; and

(ii) is responsible for or complicit in, or has directly or indirectly engaged in, the targeting of United States Government officials or personnel of the intelligence community through the use of foreign commercial spyware; or

(D) any foreign person that has materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of—

(i) a foreign company selling, leasing, or otherwise providing foreign commercial spyware; or

(ii) the targeting of United States Government officials or personnel of the intelligence community through the use of foreign commercial spyware.

(2) SANCTIONS DESCRIBED.—The sanctions described in this paragraph are the following:

(A) BLOCKING OF PROPERTY.—The President shall exercise all of the powers granted to the President under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (except that the requirements of section 202 of such Act (50 U.S.C. 1701) shall not apply) to the extent necessary to block and prohibit all transactions in property and interests in property of a person determined by the President to be subject to paragraph (1) if such property and interests in property are in the United States, come within the United States, or come within the possession or control of a United States person.

(B) INADMISSIBILITY TO THE UNITED STATES AND REVOCATION OF VISA OR OTHER DOCUMENTATION.—

(i) INELIGIBILITY FOR VISA, ADMISSION, OR PAROLE.—In the case of a foreign person determined by the President to be subject to paragraph (1) who is an individual, the foreign person is—

(I) inadmissible to the United States;

(II) ineligible to receive a visa or other documentation to enter the United States; and

(III) otherwise ineligible to be admitted or paroled into the United States or to receive any other benefit under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(ii) CURRENT VISA REVOKED.—In the case of a foreign person determined by the President to be subject to paragraph (1) who is an individual, the visa or other entry documentation of the person shall be revoked, regardless of when such visa or other entry documentation is or was issued. A revocation under this subparagraph shall take effect immediately and automatically cancel any other valid visa or entry documentation that is in the person’s possession.

(iii) EXCEPTION TO COMPLY WITH INTERNATIONAL OBLIGATIONS.—Sanctions under this paragraph shall not apply with respect to a foreign person if admitting or paroling the person into the United States is necessary to permit the United States to comply with the Agreement regarding the Headquarters of the United Nations, signed at Lake Success June 26, 1947, and entered into force November 21, 1947, between

the United Nations and the United States, or other applicable international obligations.

(3) IMPLEMENTATION; PENALTIES.—

(A) IMPLEMENTATION.—The President may exercise all authorities provided under sections 203 and 205 of the International Emergency Economic Powers Act (50 U.S.C. 1702 and 1704) to carry out this subsection and shall issue such regulations, licenses, and orders as are necessary to carry out this subsection.

(B) PENALTIES.—Any person that violates, attempts to violate, conspires to violate, or causes a violation of this subsection or any regulation, license, or order issued to carry out subparagraph (A) shall be subject to the penalties provided for in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) to the same extent as a person that commits an unlawful act described in subsection (a) of that section.

(4) EXCEPTION RELATING TO IMPORTATION OF GOODS.—

(A) IN GENERAL.—The authorities to impose sanctions authorized under this subsection shall not include the authority to impose sanctions on the importation of goods.

(B) GOOD DEFINED.—In this paragraph, the term “good” means any article, natural or man-made substance, material, supply or manufactured product, including inspection and test equipment, and excluding technical data.

(5) TERMINATION.—The President may terminate the application of sanctions under this subsection at any time.

(g) REPORT ON HARMONIZATION AMONG FIVE EYES PARTNERSHIP.—

(1) REQUIREMENT.—Not later than 30 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the congressional intelligence committees a report on the potential for the United States to lead an effort to devise and implement a common approach with the Five Eyes Partnership to mitigate the counterintelligence risks posed by the proliferation of foreign commercial spyware, including by seeking commitments from partner countries of the Five Eyes Partnership to implement measures similar to the requirements under this section and section 1102A of the National Security Act of 1947 (50 U.S.C. 3231 et seq.), as added by this section.

(2) FORM.—The report under paragraph (1) shall be submitted in unclassified form, but may contain a classified annex, consistent with the protection of intelligence sources and methods.

(h) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Foreign Affairs, the Committee on Armed Services, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(B) the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate.

(2) FOREIGN COMMERCIAL SPYWARE; FOREIGN SPYWARE COMPANY; GOVERNMENT-ISSUED MOBILE DEVICE.—The terms “foreign commercial spyware”, “foreign spyware company”, and “Government-issued mobile device” have the meanings given those terms in section 1102A of the National Security Act of 1947 (50 U.S.C. 3231 et seq.), as added by this section.

(3) FIVE EYES PARTNERSHIP.—The term “Five Eyes Partnership” means the intelligence alliance comprising Australia, Canada, New Zealand, the United Kingdom, and the United States.

(4) FOREIGN PERSON.—The term “foreign person” means a person that is not a United States person.

(5) PERSON.—The term “person” means an individual or an entity (including a company).

**SEC. 310. EXPANSION OF TREATMENT OF MOVING EXPENSES.**

(a) DEDUCTION.—Section 217(k) of the Internal Revenue Code of 1986 is amended by inserting “or an employee or new appointee of the intelligence community (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 3003)) (other than a member of the Armed Forces of the United States) who moves pursuant to a change in assignment that requires relocation” after “to whom subsection (g) applies”.

(b) EXCLUSION FOR QUALIFIED MOVING EXPENSE REIMBURSEMENTS.—Section 132(g)(2) of the Internal Revenue Code of 1986 is amended by inserting “or an employee or new appointee of the intelligence community (as defined in section 3 of

the National Security Act of 1947 (50 U.S.C. 3003)) (other than a member of the Armed Forces of the United States) who moves pursuant to a change in assignment that requires relocation” after “change of station”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2021.

**SEC. 311. PERSONNEL VETTING PERFORMANCE MEASURES.**

(a) MEASURES.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence, acting as the Security Executive Agent, and in coordination with the Chair and other principals of the Council, shall develop performance measures to assess the vetting of personnel, including measures to assess continuous vetting and the quality of each phase of the security clearance process, including the initiation, investigation, and adjudication phases.

(b) REPORT.—

(1) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the congressional intelligence committees a report describing the performance measures developed under subsection (a).

(2) ELEMENTS.—The report under paragraph (1) shall include the following:

(A) A description of how departments and agencies of the United States Government have implemented Security Executive Agent Directive 6 titled “Continuous Evaluation” and related personnel vetting performance measures to ensure that implementation is efficient and effective, including the resources expended by each department or agency for continuous vetting and whether departments and agencies are identifying security-relevant information in a timely manner.

(B) A description of the performance measures the Director of National Intelligence and the Secretary of Defense use to assess the quality of each phase of the security clearance process, including initiation, investigation, adjudication, reinvestigation, and continuous vetting.

(C) How such performance measures meet key attributes for successful performance measures as described in the report of the Comptroller General of the United States titled “Personnel Vetting: Actions Needed to Implement Reforms, Address Challenges, and Improve Planning” (GAO–22–104093).

(D) Any impediments or constraints relating to the implementation of Security Executive Agent Directive 6 or the development of such performance measures to assess the quality of the clearance process.

(c) DEFINITIONS.—The terms “continuous vetting”, “Council”, and “Security Executive Agent” have the meanings given those terms in section 6601 of the Damon Paul Nelson and Matthew Young Pollard Intelligence Authorization Act for Fiscal Years 2018, 2019, and 2020 (50 U.S.C. 3352).

**SEC. 312. PROACTIVE CYBERSECURITY.**

(a) SURVEY OF ELEMENTS.—Pursuant to section 103G(b)(1) of the National Security Act (50 U.S.C. 3032(b)(1)), not later than 1 year after the date of the enactment of this Act, the Chief Information Officer of the Intelligence Community shall conduct a survey of each element of the intelligence community on the use by that element of proactive cybersecurity initiatives, continuous monitoring, and active defense techniques.

(b) REPORT BY CHIEF INFORMATION OFFICER.—

(1) REPORT.—Not later than 1 year after the date of the completion of the survey under subsection (a), the Chief Information Officer of the Intelligence Community shall submit to the congressional intelligence committees a report on proactive cybersecurity initiatives, continuous monitoring, and active defense techniques. Such report shall include the following:

(A) The results of the survey of each element of the intelligence community conducted under subsection (a), including—

(i) examples of any successes against attackers who unlawfully breached an information system of an element of the intelligence community; and

(ii) concerns, limitations, and associated recommendations relating to innovative uses of proactive cybersecurity initiatives.

(B) An analysis of the feasibility, costs, and benefits of consolidating oversight and implementation of such methods within the intelligence community, including whether such consolidation would significantly enhance defense.

(C) An analysis of any statutory or policy limitations on the ability of the Director of National Intelligence, or the head of any element of the intel-

ligence community, to carry out such methods on behalf of an element of the intelligence community or multiple such elements.

(D) An analysis of the relationships between and among the intelligence community, the Department of Defense, the Cybersecurity and Intelligence Security Agency of the Department of Homeland Security, national laboratories, and the private sector, and whether such relationships should be enhanced to protect national security systems of the intelligence community through proactive cybersecurity measures.

(E) With respect to active defense techniques, a discussion of the effectiveness of such techniques to protect the information systems of the elements of the intelligence community, any constraints that hinder such techniques, and associated recommendations.

(F) With respect to continuous monitoring, a discussion of—

(i) how an information system operates under normal and intended use, compared to how such system operates under a variety of adverse conditions and scenarios; and

(ii) the feasibility of the adoption of continuous monitoring among the intelligence community.

(G) Recommendations for legislative action and further resources relating to the successful use of proactive cybersecurity initiatives, deception environments, and continuous monitoring.

(2) FORM.—The report under paragraph (1) may be submitted in classified form.

(c) DEFINITIONS.—In this section:

(1) ACTIVE DEFENSE TECHNIQUE.—The term “active defense technique” means an action taken on an information system of an element of the intelligence community to increase the security of such system against an attacker, including—

(A) the use of a deception technology or other purposeful feeding of false or misleading information to an attacker accessing such system; or

(B) proportional action taken in response to an unlawful breach.

(2) CONTINUOUS MONITORING.—The term “continuous monitoring” means continuous experimentation conducted by an element of the intelligence community on an information system of such element to evaluate the resilience of such system against a malicious attack or condition that could compromise such system for the purpose of improving design, resilience, and incident response with respect to such system.

(3) DECEPTION TECHNOLOGY.—The term “deception technology” means an isolated digital environment, system, or platform containing a replication of an active information system with realistic data flows to attract, mislead, and observe an attacker.

(4) INTELLIGENCE COMMUNITY INFORMATION ENVIRONMENT.—The term “intelligence community information environment” has the meaning given the term in Intelligence Community Directive 121, or any successor document.

(5) NATIONAL LABORATORY.—The term “national laboratory” has the meaning given that term in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801).

(6) NATIONAL MANAGER FOR NATIONAL SECURITY SYSTEMS.—The term “National Manager for National Security Systems” means the Director of National Security, or successor official, serving as the National Manager for National Security Systems pursuant to National Security Directive 42, or any successor document.

(7) NATIONAL SECURITY SYSTEM.—The term “national security system” has the meaning given that term in section 3552 of title 44, United States Code.

(8) PROACTIVE CYBERSECURITY INITIATIVES.—The term “proactive cybersecurity initiatives” means actions performed periodically and continuously within an organization, focused on identifying and eliminating vulnerabilities within the network infrastructure, preventing security breaches, and evaluating the effectiveness of the business security posture in real-time, including threat hunting, endpoint and network monitoring, and cybersecurity awareness and training.

**SEC. 313. LIMITATION ON AVAILABILITY OF FUNDS FOR INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT PENDING SUBMISSION OF REPORT ON DOMESTIC ACTIVITIES OF INTELLIGENCE COMMUNITY.**

Of the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2023 for the Intelligence Community Management Account, 5 percent may not be obligated or expended until the date on which the Director of National Intelligence submits the report required by section 505(c) of the Intelligence Authorization Act for Fiscal Year 2022 (division X of Public Law 117–103; 50 U.S.C. 3112 note).

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

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

#### SEC. 401. MODIFICATIONS TO RESPONSIBILITIES AND AUTHORITIES OF DIRECTOR OF NATIONAL INTELLIGENCE.

Section 102A of the National Security Act of 1947 (50 U.S.C. 3024), as amended by section 304, is further amended—

(1) in subsection (c)—

(A) in paragraph (1)(A), by striking “guidance” and inserting “specific requirements”;

(B) in paragraph (3)(B), by inserting “establish specific requirements and” after “shall”; and

(C) in paragraph (5)(C), by striking “may” and inserting “shall”;

(2) in subsection (h)—

(A) in paragraph (1)(A)—

(i) by striking “encourage” and inserting “require”; and

(ii) by inserting “and apolitical” after “sound”; and

(B) by amending paragraph (3) to read as follows:

“(3) ensure that substantial differences in analytic judgment are fully considered, brought to the attention of policymakers, and documented in analytic products; and”;

(3) in subsection (i)—

(A) in paragraph (1), by inserting “establish and enforce policies to” after “shall”;

(B) in paragraph (2), by striking “guidelines” and inserting “requirements”; and

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

“(4) Each head of an element of the intelligence community shall ensure that any congressionally mandated report submitted to Congress by the head, other than such a report submitted solely to the congressional intelligence committees, shall be consistent with the protection of intelligence sources and methods in accordance with the policies established by the Director under paragraph (1), regardless of whether the provision of law mandating the report explicitly requires such protection.”; and

(4) in subsection (x)—

(A) in the matter preceding paragraph (1), by striking “the head of each department of the Federal Government that contains an element of the intelligence community and the Director of the Central Intelligence Agency” and inserting “the heads of the elements of the intelligence community”; and

(B) in paragraph (1)—

(i) in subparagraph (A), by striking “; and” and inserting a semicolon;

(ii) in subparagraph (B), by striking the semicolon and inserting “; and”;

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

“(C) each contract awarded by an element of the intelligence community includes provisions granting consent for the network monitoring by the element of any information technology network used to perform work under such contract, regardless of the classification level of such network.”.

#### SEC. 402. ANNUAL SUBMISSION TO CONGRESS OF NATIONAL INTELLIGENCE PRIORITIES FRAMEWORK.

(a) ANNUAL SUBMISSION.—Section 102A(p) of the National Security Act of 1947 (50 U.S.C. 3023(p)) is amended by inserting at the end the following new paragraph:

“(3) Not later than October 1 of each year, the Director of National Intelligence shall submit to the congressional intelligence committees a copy of the most recently updated National Intelligence Priorities Framework of the Office of the Director of National Intelligence (or any such successor mechanism).”.

(b) LIMITATION ON AVAILABILITY OF FUNDS FOR INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT.—Of the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2023 for the Intelligence Community Management Account, 5 percent may not be obligated or expended until the date on which the Director of National Intelligence submits the first copy required under paragraph (3) of such section 102A(p), as added by subsection (a).

**SEC. 403. DISPOSITION OF RECORDS OF OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.**

Section 1096(a) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 50 U.S.C. 3001 note) is amended—

(1) by inserting “(1)” before “Upon”;

(2) by adding at the end the following new sentence: “Any records of the Office of the Director of National Intelligence that are maintained by the agency as a service for the Office of the Director of National Intelligence under section 1535 of title 31, United States Code, (popularly known as the ‘Economy Act’) may be treated as the records of the agency when dispositioned as required by law, and any disclosure of such records between the two agencies shall not be subject to any otherwise applicable legal consent requirements or disclosure accounting requirements.”; and

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

“(2) The records of the Office of the Director of National Intelligence may not be dispositioned pursuant to paragraph (1) without the authorization of the Director of National Intelligence.”.

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

**SEC. 411. AUTHORITY OF CENTRAL INTELLIGENCE AGENCY TO PROVIDE PROTECTION FOR CERTAIN PERSONNEL.**

(a) **AUTHORITY.**—Paragraph (4) of section 5(a) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 3506(a)) is amended to read as follows:

“(4) Authorize personnel designated by the Director to carry firearms to the extent necessary for the performance of the Agency’s authorized functions, except that, within the United States, such authority shall be limited to the purposes of—

“(A) the training of Agency personnel and other authorized persons in the use of firearms;

“(B) the protection of classified materials and information;

“(C) the protection of installations and property of the Agency;

“(D) the protection of—

“(i) current and former Agency personnel and their immediate families;

“(ii) individuals nominated by the President to the position of Director (including with respect to an individual whom a President-elect (as defined in section 3(c) of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) has declared an intent to nominate) and their immediate families; and

“(iii) defectors and their immediate families, and other persons in the United States under Agency auspices; and

“(E) with respect to the Office of the Director of National Intelligence, the protection of—

“(i) installations and property of the Office of the Director of National Intelligence pursuant to section 15(a)(1);

“(ii) the Director of National Intelligence;

“(iii) current and former personnel of the Office of the Director of National Intelligence and their immediate families as the Director of National Intelligence may designate; and

“(iv) individuals nominated by the President to the position of Director of National Intelligence (including with respect to an individual whom a President-elect has declared an intent to nominate) and their immediate families;”.

(b) **CONFORMING AMENDMENT.**—Section 15(d)(1) of such Act (50 U.S.C. 3515(d)(1)) is amended by striking “designated by the Director under section 5(a)(4) to carry firearms for the protection of current or former Agency personnel and their immediate families, defectors and their immediate families, and other persons in the United States under Agency auspices,” and inserting the following: “designated by the Director to carry firearms under subparagraph (D) of section 5(a)(4) or clause (ii), (iii), or (iv) of subparagraph (E) of such section.”.

(c) **TECHNICAL AMENDMENT.**—Paragraphs (7) and (8) of section 5(a) of such Act (50 U.S.C. 3506(a)) are amended by adjusting the margins to conform with the other paragraphs in such section.

**SEC. 412. NOTIFICATION OF USE OF CERTAIN EXPENDITURE AUTHORITIES.**

(a) **CIA.**—Section 8 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 3510) is amended by adding at the end the following new subsection:

“(c) **NOTIFICATION.**—Not later than 30 days after the date on which the Director makes a novel or significant expenditure pursuant to subsection (a), the Director shall notify the Permanent Select Committee on Intelligence of the House of Rep-

representatives and the Select Committee on Intelligence of the Senate of such expenditure.”.

(b) OTHER ELEMENTS.—Section 102A of the National Security Act of 1947 (50 U.S.C. 3024), as amended by section 402, is further amended—

(1) in subsection (m)(1), by inserting before the period at the end the following: “, including with respect to the notification requirement under section 8(c) of such Act (50 U.S.C. 3510(c))”; and

(2) in subsection (n), by adding at the end the following new paragraph:

“(5) Any authority provided to the Director of National Intelligence or the head of an element of the intelligence community pursuant to this subsection to make an expenditure referred to in subsection (a) of section 8 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 3510) is subject to the notification requirement under subsection (c) of such section. If the Director of National Intelligence is required to make a notification for a specific expenditure pursuant to both this paragraph and paragraph (4)(G), the Director may make a single notification.”.

**SEC. 413. CLARIFICATION OF AUTHORITIES RELATING TO SECURITY PERSONNEL AT OFFICE OF DIRECTOR OF NATIONAL INTELLIGENCE FACILITIES AND INSTALLATIONS.**

(a) AUTHORITY OF CENTRAL INTELLIGENCE AGENCY SECURITY PERSONNEL.—

(1) AUTHORITY.—Section 15(a)(1) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 3515(a)(1)) is amended—

(A) in subparagraph (C), by striking “; and” and inserting a semicolon;

(B) by redesignating subparagraph (D) as subparagraph (E);

(C) by inserting after subparagraph (C) the following new subparagraph: “(D) within any facility or installation operated by the Director of National Intelligence; and”; and

(D) in subparagraph (E), as redesignated by subparagraph (B), by striking “subparagraph (C)” and inserting “subparagraph (C) or (D).”.

(2) RULES AND REGULATIONS.—Section 15(a)(4) of such Act (50 U.S.C. 3515(a)(4)) is amended—

(A) by striking “The rules” and inserting “(A) Except as provided in subparagraph (B), the rules”; and

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

“(B) With respect to the areas referred to in subparagraph (D) of paragraph (1), the rules and regulations enforced by such personnel and applicable to such areas shall be the rules and regulations prescribed by the Director, in coordination with the Director of National Intelligence.”.

(3) CONFORMING AMENDMENT.—Section 15(a)(2) of such Act (50 U.S.C. 3515(a)(2)) is amended by striking “(D)” and inserting “(E)”.

(b) AUTHORITY OF OFFICE OF DIRECTOR OF NATIONAL INTELLIGENCE SECURITY PERSONNEL.—Section 102A(m) of the National Security Act of 1947 (50 U.S.C. 3024(m)), as amended by section 412(b)(1), is further amended by adding at the end the following new paragraph:

“(3) In addition to the authority provided to the Director of the Central Intelligence Agency to authorize security personnel of the Central Intelligence Agency within, and in certain streets, sidewalks, and open areas with respect to, a facility or installation operated by the Director of National Intelligence under section 15(a) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 3515(a)), the Director of National Intelligence may exercise with respect to the security personnel of the Office of the Director of National Intelligence such authority to the same extent, and subject to the same conditions and limitations, that the Director of the Central Intelligence Agency may exercise such authority with respect to security personnel of the Central Intelligence Agency.”.

**SEC. 414. OFFICE OF WORKFORCE SUPPORT OF CENTRAL INTELLIGENCE AGENCY.**

(a) ESTABLISHMENT.—Not later than 120 days after the date of the enactment of this Act, the Director shall establish an office, to be known as the “Office of Workforce Support”, to provide independent support and advocacy for the physical and mental health and well-being of current and former officers, employees, and contractors of the Agency.

(b) DEPUTY DIRECTOR; ASSIGNED OFFICERS.—

(1) DEPUTY DIRECTOR.—The Director shall appoint a Deputy Director for Workforce Support as the head of the Office of Workforce Support, who shall report directly to the Director.

(2) FULL-TIME ASSIGNED OFFICERS.—To assist in performing the functions under subsection (c), the Director shall ensure there is assigned to the Office of Workforce Support not fewer than 10 officers of the Agency, who shall have no official duties other than duties related to such Office while so assigned.

(c) FUNCTIONS.—The functions of the Office of Workforce Support shall be, with respect to eligible individuals under subsection (e), as follows:

(1) Providing to such individuals independent and confidential advice and assistance, and advocating on behalf of such individuals, on matters relating to health and well-being, including with respect to physical health, mental health, retirement benefits, disability compensation, and other related programs and benefits for which the individual may be eligible (without regard to whether such programs and benefits are administered or funded by the United States Government or the private sector).

(2) Maintaining, and making available to such individuals, the following:

(A) A list of physicians and mental health care providers (including from the private sector, as applicable), who hold an appropriate security clearance, or are eligible to hold an appropriate security clearance, and are qualified to provide confidential services and support to such individuals.

(B) A list of private attorneys who hold an appropriate security clearance and are qualified to provide to such individuals confidential legal advice, including with respect to physical health, mental health, retirement benefits, disability compensation, and other related matters.

(d) **PROVISION OF SERVICES TO FORMER OFFICERS, EMPLOYEES, AND CONTRACTORS.**—In the case of an individual specified in subsection (e)(2), services under the Office of Workforce Support shall be provided upon the request of the individual.

(e) **ELIGIBILITY.**—An individual is eligible for receiving a service under the Office of Workforce Support if the individual is—

(1) an officer, employee, or contractor of the Agency; or

(2) a former officer, employee, or contractor of the Agency whose employment or contract with the Agency, as the case may be, concluded not more than 10 years prior to the date on which the individual seeks the service.

(f) **BRIEFINGS.**—On a biannual basis until the date of termination under subsection (g), the Director shall provide to the congressional intelligence committees a briefing on the status of the Office of Workforce Support, including on—

(1) the number of officers assigned to such Office pursuant to subsection (b)(2); and

(2) the number of eligible individuals under subsection (e) who have received services under such Office, and the type of services so received.

(g) **TERMINATION.**—The Office of Workforce Support shall terminate on the date that is 3 years after the date on which such Office is established.

**SEC. 415. ESTABLISHMENT OF EXTERNAL ADVISORY BOARD FOR TALENT FOR THE CENTRAL INTELLIGENCE AGENCY.**

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that—

(1) the Central Intelligence Agency plays one of the most critical roles in national defense;

(2) the intelligence provided by the officers of the Agency protects the United States;

(3) to carry out this mission, the Agency needs to attract, train, lead, and retain the most talented and diverse workforce possible;

(4) therefore, the Director must ensure the Agency is incorporating best practices from the private sector to hire, lead, manage, and retain the most important element of the organization, Agency personnel; and

(5) An External Advisory Board for Talent will provide the Agency an important mechanism to improve how the Agency recruits, leads, and manages Agency personnel.

(b) **ESTABLISHMENT.**—Not later than 180 days after the date of the enactment of this Act, the Director of the Central Intelligence Agency shall establish an advisory board for the Central Intelligence Agency, to be known as the “External Advisory Board for Talent” (in this section referred to as the “Board”).

(c) **DUTIES.**—The duties of the Board shall be to advise the Director and the head of the Talent Center of the Agency, or such successor organizational element, on—

(1) the most up-to-date best practices and innovations in the areas of hiring, leadership, management practices, and talent retention; and

(2) the fostering of a culture of continuous improvement within the Agency, whereby each successive generation of officers of the Agency become more effective leaders and improve the mission performance of the Agency organically and from within.

(d) **MEMBERSHIP.**—

(1) **COMPOSITION.**—The Board shall be composed of at least 7 members selected from a diverse range of private sector industries, each of whom shall be, in the determination of the Director, a highly accomplished executive or thought leader in the field of human resource management with a demonstrated history of leading, or advising, high-functioning organizations.

(2) **PAY.**—Each member of the Board shall be compensated at a rate prescribed by the Director for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Board.

(3) **TRAVEL EXPENSES.**—Each member of the Board may receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code, for travel between the residence of the member and the metropolitan Washington, D.C., area.

(e) **MEETINGS.**—On a basis that is at least quarterly until the date of termination under subsection (h), the Board shall hold a meeting with the Director to provide the views of the Board on the state of the Agency workforce, a summary of the minutes of which shall be distributed among the Agency workforce to ensure transparency.

(f) **IMPLEMENTATION OF RECOMMENDATIONS.**—

(1) **ASSISTANCE FROM TALENT CENTER.**—The head of the Talent Center of the Agency, or such successor organizational element, shall assist the Board in carrying out any studies necessary for the fulfilment of the duties of the Board and shall assist the Director in implementing any recommendations of the Board.

(2) **AUTHORITY OF DIRECTOR.**—The Director shall retain final authority with respect to the implementation of any such recommendations.

(g) **REPORTS AND BRIEFINGS.**—

(1) **ANNUAL REPORTS.**—On an annual basis until the date of termination under subsection (h), the Board shall submit to the Director and the congressional intelligence committees a report on the state of the Agency workforce.

(2) **PERIODIC BRIEFINGS.**—On a regular basis until the date of termination under subsection (h), the members of the Board shall provide briefings to the congressional intelligence committees, and the staff members of such committees.

(h) **TERMINATION.**—The Board shall terminate on the date that is 3 years after the date on which the Board is established.

(i) **DEFINITIONS.**—In this section, the terms “Agency” and “Director” have the meaning given those terms in section 1 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 3501).

**SEC. 416. STUDY ON RELATIONSHIP BETWEEN CENTRAL INTELLIGENCE AGENCY AND CONGRESS.**

(a) **FINDINGS.**—Congress finds the following:

(1) In 2008, the Center for the Study of Intelligence of the Central Intelligence Agency published an unclassified manuscript of a study titled “The Agency and the Hill: CIA’s Relationship with Congress, 1946-2004”.

(2) The study, organized thematically, provides a valuable primer for officials of the Agency, members of Congress, congressional staff, and the general public about the necessarily secret business of intelligence oversight.

(b) **STUDY.**—

(1) **REQUIREMENT.**—Not later than 2 years after the date of the enactment of this Act, the Director of the Central Intelligence Agency, acting through the Center for the Study of Intelligence, shall prepare a study, in book form, describing the relationship between the Central Intelligence Agency and Congress between 2004 and 2022. The Director shall ensure that the study is modeled on the manuscript described in subsection (a)(1), including with respect to the organizational structure.

(2) **ELEMENTS.**—The study under paragraph (1) shall document the following:

(A) Major legislation affecting the Agency.

(B) Programs and budget.

(C) Oversight of analysis.

(D) Oversight of collection.

(E) Oversight of covert action.

(F) Oversight of security and personnel matters.

(G) The process by which officials of the Agency are appointed by the President, by and with the advice and consent of the Senate.

(H) For each of the elements specified in subparagraphs (A) through (G), highlights of the principal issues before Congress and a discussion of how those issues were handled.

(I) Any other matters the Director determines appropriate.

(3) **SUBMISSION.**—The Director shall submit to the congressional intelligence committees the study prepared under paragraph (1).

(4) **FORM.**—The study under paragraph (1) shall be made in unclassified form, but the Director may submit to the congressional intelligence committees a classified annex.

**SEC. 417. HISTORICAL ADVISORY PANEL OF CENTRAL INTELLIGENCE AGENCY.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that Congress expresses its appreciation—

(1) to the Director of the Central Intelligence Agency for reconstituting the Historical Advisory Panel; and

(2) for the important work of the Historical Advisory Panel, especially for—

(A) the efforts of the Panel to aid with the declassification of materials that enrich the historical national security record; and

(B) the assistance of the Panel in liaison with the scholarly community.

(b) REPORTING REQUIREMENT.—The Historical Advisory Panel shall report directly to the Director of the Central Intelligence Agency.

(c) HISTORICAL ADVISORY PANEL DEFINED.—The term “Historical Advisory Panel” means the panel of the Central Intelligence Agency, regardless of the name of the panel, that assists in conducting declassification reviews and providing other assistance with respect to matters of historical interest.

## **Subtitle C—Elements of the Defense Intelligence Enterprise**

**SEC. 421. DEPUTY DIRECTOR FOR DEFENSE INTELLIGENCE RESPONSIBLE FOR WARFIGHTER SUPPORT.**

Section 137 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(e) The Secretary of Defense shall ensure that not fewer than one of the Deputy Directors for Defense Intelligence (or such successor positions) is responsible for warfighter support. An individual appointed to that position shall be a general or flag officer serving in a joint duty assignment.”.

**SEC. 422. COVER ENHANCEMENT AUTHORITIES.**

Part II of subtitle A of title 10, United States Code, is amended by inserting after chapter 88 the following new chapter (and conforming the table of chapters at the beginning of such part accordingly):

### **“CHAPTER 89—COVER ENHANCEMENT AUTHORITIES**

“Sec.

“1801. Definitions.

“1802. Cover enhancement authority.

“1803. Compensation.

“1804. Retirement benefits.

“1805. Health insurance benefits.

“1806. Life insurance benefits.

“1807. Exemption from certain requirements.

“1808. Taxation and social security.

“1809. Regulations.

“1810. Finality of decisions.

“1811. Subsequently enacted laws.

**“§ 1801. Definitions**

“In this chapter:

“(1) The term ‘designated employee’ means an employee of the Department of Defense designated by the Secretary of Defense under section 1802(b).

“(2) The term ‘designated member’ means a member of the armed forces designated by the Secretary of Defense under section 1802(b).

“(3) The term ‘Federal retirement system’ includes the Federal Employees’ Retirement System (including the Thrift Savings Plan).

“(4) The term ‘military retirement system’ includes military retired pay programs under chapters 61, 63, 65, and 67 of this title and the Survivor Benefit Plan established by chapter 73 of this title.

**“§ 1802. Cover enhancement authority**

“(a) AUTHORITY.—Notwithstanding any other provision of law, the Secretary of Defense may exercise the authorities under this chapter to protect from unauthorized disclosure—

“(1) intelligence operations of the Department of Defense;

“(2) the identities of undercover officers;

“(3) intelligence sources and methods; or

“(4) cover mechanisms.

“(b) DESIGNATION OF EMPLOYEES AND MEMBERS.—(1) Subject to paragraph (2), the Secretary of Defense may designate any employee of the Department of Defense or

member of the armed forces who is under cover to be an employee or a member to whom this chapter applies.

“(2) The Secretary of Defense may not designate more than 15 persons under paragraph (1) in a fiscal year unless the Secretary provides notice of the intent to designate more than 15 persons in such fiscal year to the congressional defense committees and the congressional intelligence committees (as such term is defined in section 3 of the National Security Act of 1957 (50 U.S.C. 3003)).

“(3) A designation may be made under this subsection with respect to any or all authorities exercised under this chapter.

“(c) INTERAGENCY COORDINATION AND SUPPORT.—Establishment of any such cover enhancement authority for intelligence operations of the Department of Defense shall be pre-coordinated using processes and procedures for intelligence community deconfliction mutually agreed upon by the Secretary of Defense and the Director of the Central Intelligence Agency.

#### “§ 1803. Compensation

“The Secretary of Defense may pay a designated employee or designated member salary, allowances, and other benefits in an amount and in a manner consistent with the cover of that employee or member, without regard to any limitation that is otherwise applicable to a Federal employee or member of the armed forces. A designated employee or designated member may accept, use, and, to the extent authorized by regulations prescribed under this chapter, retain any salary, allowances, and other benefits provided under this chapter.

#### “§ 1804. Retirement benefits

“(a) ESTABLISHMENT OF RETIREMENT SYSTEM.—The Secretary of Defense may establish, administer, contract for, or implement through another Federal department or agency, a cover retirement system for designated employees and designated members (and the spouse, former spouses, and survivors of such designated employees and designated members). A designated employee or designated member may not receive credit for service under the retirement system established under this paragraph and another Federal retirement system for the same time period.

“(b) CONVERSION TO OTHER FEDERAL RETIREMENT SYSTEM.—A designated employee or designated member participating in the retirement system established under subsection (a) may convert to coverage under the Federal retirement system or military retirement system that would otherwise apply to such employee or member at any appropriate time determined by the Secretary of Defense (including at the time of separation of service by reason of retirement), if the Secretary of Defense determines that the participation of the employee or member in the retirement system established under this subsection is no longer necessary to protect from unauthorized disclosure—

- “(1) intelligence operations;
- “(2) the identities of undercover officers;
- “(3) intelligence sources and methods; or
- “(4) cover mechanisms.

“(c) CONVERSION TREATMENT.—Upon a conversion under subsection (b)—

“(1) all periods of service under the retirement system established under this section shall be deemed periods of creditable service under the applicable Federal retirement system or military retirement system;

“(2) the Secretary of Defense shall transmit an amount for deposit in any applicable fund of that Federal retirement system or military retirement system that—

“(A) is necessary to cover all employee or member and agency contributions including—

“(i) interest as determined by the head of the agency administering the Federal retirement system or military retirement system into which the employee or member is converting; or

“(ii) in the case of an employee or member converting into the Federal Employee’s Retirement System or military retirement system, interest as determined under chapter 84 of title 5 or chapter 74 of this title, as the case may be; and

“(B) ensures that such conversion does not result in any unfunded liability to that fund; and

“(3) in the case of a designated employee or designated member who participated in an employee or member investment retirement system established under subsection (a) and is converted to coverage under the Federal retirement system or military retirement system, the Secretary of Defense may transmit any or all amounts of that designated employee or designated member in that employee or military investment retirement system (or similar part of that retirement system) to the Thrift Savings Fund.

“(d) TRANSMITTED AMOUNTS.—(1) Amounts described under subsection (c)(2) shall be paid from any fund the Secretary of Defense deems appropriate.

“(2) The Secretary of Defense may use amounts contributed by the designated employee or designated member to a retirement system established under subsection (a) to offset amounts paid under paragraph (1).

“(e) RECORDS.—The Secretary of Defense shall transmit all necessary records relating to a designated employee or designated member who converts to a Federal retirement system or military retirement system under subsection (b) (including records relating to periods of service which are deemed to be periods of creditable service under subsection (c)(1)) to the head of the agency administering that Federal retirement system or military retirement system.

**“§ 1805. Health insurance benefits**

“(a) IN GENERAL.—The Secretary of Defense may establish, administer, contract for, or implement through another Federal agency, a cover health insurance program for designated employees and designated members and eligible family members. A designated employee or designated member may not participate in the health insurance program established under this section and the program under chapter 89 of title 5 or chapter 55 of this title at the same time.

“(b) CONVERSION TO FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.—A designated employee participating in the health insurance program established under subsection (a) may convert to coverage under the program under chapter 89 of title 5, and a designated member participating in the program established under subsection (a) may convert to coverage under the program under chapter 55 of this title or chapter 17 of title 38, at any appropriate time determined by the Secretary of Defense (including at the time of separation of service by reason of retirement), if the Secretary of Defense determines that the participation of the employee or member in the health insurance program established under this subsection is no longer necessary to protect from unauthorized disclosure—

- “(1) intelligence operations;
- “(2) the identities of undercover officers;
- “(3) intelligence sources and methods; or
- “(4) cover mechanisms.

“(c) CONVERSION TREATMENT.—Upon a conversion of a designated employee under subsection (b)—

- “(1) the employee (and family, if applicable) shall be entitled to immediate enrollment and coverage under chapter 89 of title 5;
- “(2) any requirement of prior enrollment in a health benefits plan under chapter 89 of title 5 for continuation of coverage purposes shall not apply;
- “(3) the employee shall be deemed to have had coverage under chapter 89 of title 5 from the first opportunity to enroll for purposes of continuing coverage; and
- “(4) the Secretary of Defense shall transmit an amount for deposit in the Employees’ Health Benefits Fund that is necessary to cover any costs of such conversion.

“(d) TRANSMITTED AMOUNTS.—Any amount described under subsection (c)(4) shall be paid from any fund the Secretary of Defense deems appropriate.

“(e) ELIGIBLE FAMILY MEMBER DEFINED.—In this section, the term ‘eligible family member’ means—

- “(1) with respect to an employee, a member of a family as defined in section 8901 of title 5; and
- “(2) with respect to a member of the armed forces, a dependent as defined in section 1072 of this title.

**“§ 1806. Life insurance benefits**

“(a) IN GENERAL.—The Secretary of Defense may establish, administer, contract for, or implement through another Federal agency, a cover life insurance program for designated employees and designated members (and the family of such designated employees or designated members). A designated employee or designated member may not participate in the life insurance program established under this section and the program under chapter 87 of title 5 for the same time period.

“(b) CONVERSION TO FEDERAL EMPLOYEES GROUP LIFE INSURANCE PROGRAM.—A designated employee participating in the life insurance program established under subsection (a) may convert to coverage under the program under chapter 87 of title 5, and a designated member participating in the life insurance program established under subsection (a) may convert to coverage under the program under chapter 19 of title 38, at any appropriate time determined by the Secretary of Defense (including at the time of separation of service by reason of retirement), if the Secretary of Defense determines that the participation of the employee or member in the life

insurance program established under this section is no longer necessary to protect from unauthorized disclosure—

- “(1) intelligence operations;
- “(2) the identities of undercover officers;
- “(3) intelligence sources and methods; or
- “(4) cover mechanisms.

“(c) CONVERSION TREATMENT.—Upon a conversion of a designated employee under subsection (b)—

“(1) the employee (and family, if applicable) shall be entitled to immediate coverage under chapter 87 of title 5;

“(2) any requirement of prior enrollment in a life insurance program under chapter 87 of title 5 for continuation of coverage purposes shall not apply;

“(3) the employee shall be deemed to have had coverage under chapter 87 of title 5 for the full period of service during which the employee would have been entitled to be insured for purposes of continuing coverage; and

“(4) the Secretary of Defense shall transmit an amount for deposit in the Employees’ Life Insurance Fund that is necessary to cover any costs of such conversion.

“(d) TRANSMITTED AMOUNTS.—Any amount described under subsection (c)(4) shall be paid from any fund the Secretary of Defense deems appropriate.

**“§ 1807. Exemption from certain requirements**

“The Secretary of Defense may exempt a designated employee or designated member from mandatory compliance with any Federal regulation, rule, standardized administrative policy, process, or procedure that the Secretary of Defense determines—

- “(1) would be inconsistent with the cover of that employee or member; and
- “(2) could expose that employee to detection as a Federal employee or that member as a member of the armed forces.

**“§ 1808. Taxation and social security**

“(a) IN GENERAL.—Notwithstanding any other provision of law, a designated employee or designated member—

“(1) shall file a Federal or State tax return as if that employee or member is not a Federal employee or member of the armed forces and may claim and receive the benefit of any exclusion, deduction, tax credit, or other tax treatment that would otherwise apply if that designated employee was not a Federal employee or that designated member was not a member of the armed forces, if the Secretary of Defense determines that taking any action under this subsection is necessary to protect from unauthorized disclosure—

- “(A) intelligence operations;
- “(B) the identities of undercover officers;
- “(C) intelligence sources and methods; or
- “(D) cover mechanisms; and

“(2) shall receive social security benefits based on the social security contributions made.

“(b) COMPENSATION FOR CERTAIN INCREASED TAX LIABILITY.—In the case of a designated employee or designated member who files a tax return as provided in subsection (a)(1), the Secretary may increase (on a grossed-up basis) the compensation of such employee or member under section 1803 to account for any increased income tax liability attributable to having so filed.

“(c) INTERNAL REVENUE SERVICE REVIEW.—The Secretary of Defense shall establish procedures to carry out this section. The procedures shall be subject to periodic review by the Internal Revenue Service.

**“§ 1809. Regulations**

“The Secretary of Defense shall prescribe regulations to carry out this chapter. The regulations shall ensure that the combination of salary, allowances, and benefits that an employee or member designated under this chapter may retain does not significantly exceed, except to the extent determined by the Secretary of Defense to be necessary to exercise the authority in this chapter, the combination of salary, allowances, and benefits otherwise received by employees or members not designated under this chapter.

**“§ 1810. Finality of decisions**

“Any determinations authorized by this chapter to be made by the Secretary of Defense or a designee of the Secretary shall be final and conclusive and may not be subject to review by any court.

**“§ 1811. Subsequently enacted laws**

“No law enacted after the effective date of this chapter shall affect the authorities and provisions of this chapter unless such law specifically refers to this chapter.”.

**SEC. 423. AUTHORITY OF ARMY COUNTERINTELLIGENCE AGENTS TO EXECUTE WARRANTS AND MAKE ARRESTS.**

(a) **AUTHORITY TO EXECUTE WARRANTS AND MAKE ARRESTS.**—Section 7377 of title 10, United States Code, is amended—

(1) in the section heading, by inserting “**and Army Counterintelligence Command**” before the colon; and

(2) in subsection (b)—

(A) by striking “any employee of the Department of the Army who is a special agent” and inserting the following: “any employee of the Department of the Army who is—

“(1) a special agent”;

(B) in paragraph (1), as designated by subparagraph (A), by striking the period at the end and inserting “; or”; and

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

“(2) a special agent of the Army Counterintelligence Command (or a successor to that command) whose duties include conducting, supervising, or coordinating counterintelligence investigations involving potential or alleged violations punishable under chapter 37, 113B, or 115 of title 18, and similar offenses punishable under this title.”.

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of chapter 747 of such title is amended by striking the item relating to section 7377 and inserting the following new item:

“7377. Civilian special agents of the Criminal Investigation Command and Army Counterintelligence Command: authority to execute warrants and make arrests.”.

**SEC. 424. INCLUSION OF SPACE FORCE AS ELEMENT OF INTELLIGENCE COMMUNITY.**

Section 3(4)(H) of the National Security Act of 1947 (50 U.S.C. 3003(4)(H)) is amended by inserting “the Space Force,” after “the Marine Corps,”.

**SEC. 425. MILITARY INTELLIGENCE COLLECTION AND ANALYSIS PARTNERSHIPS.**

(a) **USE OF APPROPRIATED FUNDS.**—The Director of the Defense Intelligence Agency may use not more than \$10,000,000 of appropriated funds available to the Defense Intelligence Agency for each fiscal year to pay for the expenses of partnerships with foreign countries, regional organizations with defense, intelligence, or security components, and security alliances of which the United States is a member for military intelligence collection and analysis activities.

(b) **USE OF FUNDS OTHER THAN APPROPRIATED FUNDS.**—Notwithstanding any other provision of law, the Director may use funds other than appropriated funds to pay for the expenses of partnerships with foreign countries, regional organizations with defense or security components, and security alliances of which the United States is a member for military intelligence collection and analysis activities, except that—

(1) no such funds may be expended, in whole or in part, by or for the benefit of the Defense Intelligence Agency for a purpose for which Congress had previously denied funds;

(2) proceeds from the sale of military intelligence collection and analysis items may be used only to purchase replacement items similar to the items that are sold; and

(3) the authority provided by this subsection may not be used to acquire items or services for the principal benefit of the United States.

(c) **LOGISTIC SUPPORT, SUPPLIES, AND SERVICES.**—Notwithstanding any other provision of law, the Director may exercise the authority under this section to pay for, or otherwise facilitate, the logistic support, supplies, and services associated with partnerships with foreign countries, regional organizations with defense or security components, and security alliances of which the United States is a member.

(d) **COORDINATION WITH SECRETARY OF STATE.**—The Director of the Defense Intelligence Agency shall coordinate the military intelligence collection and analysis activities funded pursuant to this section with the Secretary of State.

(e) **COORDINATION WITH DIRECTOR OF NATIONAL INTELLIGENCE.**—The Director of the Defense Intelligence Agency shall coordinate the military intelligence collection and analysis activities funded pursuant to this section with the Director of National Intelligence.

(f) **BUDGET EXHIBIT.**—With respect to each fiscal year in which this section is carried out, the Secretary of Defense shall ensure that the defense budget materials include a budget exhibit detailing the receipt and disbursements of funds to be used by the Director of the Defense Intelligence Agency under subsections (a) and (b).

## (g) SUNSET.—

(1) IN GENERAL.—Subject to paragraph (2), the authority to carry out this section shall terminate on the date that is 5 years after the date of the enactment of this Act.

(2) EXCEPTION.—A military intelligence collection and analysis activity for which funds have been obligated under this section before the date on which the authority to carry out this section terminates under paragraph (1) may continue until the completion of the activity.

## (h) DEFINITIONS.—In this section:

(1) DEFENSE BUDGET MATERIALS.—The term “defense budget materials” has the meaning given that term in section 231 of title 10, United States Code.

(2) MILITARY INTELLIGENCE COLLECTION AND ANALYSIS ACTIVITY.—The term “military intelligence collection and analysis activity” means—

(A) the conduct of a combined human intelligence and counterintelligence activity;

(B) the collection, processing, exploitation, analysis, and dissemination of all-source intelligence;

(C) the conduct of a foreign defense intelligence liaison relationship or defense intelligence exchange program; or

(D) the research, development, acquisition, and sustainment of an information technology system or telecommunication capability in support of an activity described in subparagraph (A), (B), or (C).

**SEC. 426. INTELLIGENCE ASSESSMENT OF EFFECTS OF COUNTERTERRORISM STRIKES.**

## (a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the intelligence community is responsible for ensuring that products compliant with analytic tradecraft are available to the operational elements of the Department of Defense;

(2) such products must be prepared with the rigor necessary to determine the status of a potential terrorist target, the role of the target, how critical the target is to the operations of a terrorist group, and the effect removing that individual would have on the strategic threat to the United States, United States persons overseas, members of the United States Armed Forces overseas, or facilities of the United States overseas; and

(3) the intelligence community is also responsible for assessing the strategic impact of counterterrorism strikes to determine whether the anticipated or desired impact on the terrorist group or network was achieved.

(b) INTELLIGENCE ASSESSMENT.—The Director of the Defense Intelligence Agency, in coordination with the directorates of intelligence of the combatant commands, shall produce an intelligence assessment of the effects of counterterrorism strikes conducted by the Armed Forces on targets outside of areas of active hostilities during the 5-year period preceding the date of the enactment of this Act.

## (c) ELEMENTS.—The assessment under subsection (b) shall include the following:

(1) With respect to the counterterrorism strikes covered by the assessment—

(A) the short- and long-term effects of the strike on the planned external operations of the respective terrorist group, particularly the operations targeting the United States, United States persons overseas, members of the United States Armed Forces overseas, or facilities of the United States overseas;

(B) the effects of the strike on the intent of the respective terrorist group to conduct external operations, particularly the operations targeting the United States, United States persons overseas, members of the United States Armed Forces overseas, or facilities of the United States overseas;

(C) the effects of the strike on the recruitment of the respective terrorist group;

(D) the effects of the strike on the local perception of the respective terrorist group, the host country, and the United States; and

(E) the effects of the strike on the capabilities of the host country to conduct operations against the targeted group.

(2) An identification of the number and quality of finished intelligence products that assessed the effects that a counterterrorism strike of the United States would have, or did have, against specific terrorist individuals or groups.

(3) Recommendations to improve the efficacy, accuracy, and timeliness of intelligence analysis to increase the strategic effect of counterterrorism strikes.

## (d) REPORT.—

(1) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Director shall submit to the appropriate congressional committees a report containing the intelligence assessment under subsection (b) and the judgments under paragraph (2).

(2) **JUDGMENTS.**—The report shall include the following judgments:

(A) What percentage of counterterrorism strikes covered by the intelligence assessment under subsection (b) had a short-term effect on the planned external operations of the respective terrorist group, particularly the operations targeting the United States, United States persons overseas, members of the United States Armed Forces overseas, or facilities of the United States overseas.

(B) What percentage of counterterrorism strikes covered by the intelligence assessment under subsection (b) had a long-term effect on the planned external operations of the respective terrorist group, particularly the operations targeting the United States, United States persons overseas, members of the United States Armed Forces overseas, or facilities of the United States overseas.

(C) A qualitative assessment of the effects of the counterterrorism strikes.

(3) **FORM.**—The report under paragraph (1) may be submitted in classified form, except that the judgments under paragraph (2) shall be in unclassified form.

(e) **DEFINITIONS.**—In this section:

(1) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means the following:

(A) The congressional intelligence committees.

(B) The congressional defense committees (as defined in section 101(a)(16) of title 10, United States Code).

(2) **COUNTERTERRORISM STRIKE.**—The term “counterterrorism strike” means an air strike conducted by the United States Armed Forces targeting a specific individual that is not a defensive strike conducted to reduce imminent danger to the United States Armed Forces or specifically designated partner forces of the United States.

(3) **EXTERNAL OPERATIONS.**—The term “external operations”, with respect to a terrorist group, means violent or lethal operations conducted outside the country or region of origin of the terrorist group.

**SEC. 427. SUBMISSION OF CERTAIN LEGISLATIVE PROPOSALS.**

(a) **REQUIREMENT.**—In submitting a covered legislative proposal, the Secretary of Defense shall also simultaneously submit to the congressional intelligence committees the proposal, including a brief explanation of the proposal.

(b) **FORM.**—A covered legislative proposal submitted under subsection (a) shall be submitted in unclassified form, but may contain a classified annex.

(c) **COVERED LEGISLATIVE PROPOSAL DEFINED.**—In this section, the term “covered legislative proposal” means a provision of legislation proposed by the Secretary of Defense to Congress that is approved by the Office of Management and Budget and involves the grant, expansion, modification, or cessation of authority involving the intelligence, intelligence-related, or tactical intelligence activities of the Department of Defense.

**SEC. 428. OVERSIGHT OF DEFENSE INTELLIGENCE AGENCY CULTURE.**

(a) **FINDINGS.**—Congress finds the following:

(1) The Defense Intelligence Agency has not taken sufficient steps to address an unhealthy culture at the Agency.

(2) In the report of the Permanent Select Committee on Intelligence of the House of Representatives accompanying H.R. 5412 of the 117th Congress (H. Rept. 117–156), the Committee mandated several reports and briefings for which the Defense Intelligence Agency failed to respond in a timely manner.

(3) The Agency has committed to improving Agency culture and leadership; however, actions taken to date fall short of addressing the permissive environment for management abuses.

(b) **MANDATORY PROVISION OF EXIT SURVEY OR INTERVIEW.**—

(1) **IN GENERAL.**—The Director of the Defense Intelligence Agency shall ensure that each employee of such Agency who leaves employment with such Agency (but not including any detail assignment) completes an exit survey or exit interview prior to such departure, to the extent practicable.

(2) **ANNUAL SUBMISSIONS TO CONGRESS.**—On an annual basis during the 3-year period beginning on the date of the enactment of this Act, the Director of the Defense Intelligence Agency shall submit to the congressional intelligence committees a written analysis of the results of the exit surveys or exit interviews completed pursuant to paragraph (1) during the year covered by the report together with a plan of the Director to address any issues identified pursuant to such results to improve retention and culture.

(c) **CONGRESSIONAL OVERSIGHT RELATING TO WORKFORCE CLIMATE SURVEYS.**—

(1) **NOTIFICATIONS OF AD-HOC WORKFORCE CLIMATE SURVEYS.**—Not later than 14 days after the date on which the Director of the Defense Intelligence Agency conducts an ad-hoc workforce climate survey (including in response to a specific incident or concern), the Director shall notify the congressional intelligence committees.

(2) **REPORTS ON FINAL RESULTS.**—Not later than 90 days after the date on which the Director of the Defense Intelligence Agency concludes the conduct of any workforce climate survey, the Director shall submit to the congressional intelligence committees a report containing the final results of such workforce climate survey. Such report shall include the following:

(A) The topic of the workforce climate survey, and the workforce level surveyed.

(B) The rationale for conducting the workforce climate survey.

(C) The measures in place to ensure the accessibility of the workforce climate survey.

(D) The lead official or entity conducting the workforce climate survey.

(E) Any actions the Director intends to take, or is considering, in response to the results of the workforce climate survey.

(3) **ACCESSIBILITY OF WORKFORCE CLIMATE SURVEYS.**—The Director of the Defense Intelligence Agency shall ensure that, to the extent practicable, and consistent with the protection of intelligence sources and methods, workforce climate surveys are accessible to employees of such Agency on classified and unclassified systems.

(d) **FEASIBILITY REPORT.**—Not later than 270 days after the date of enactment of this Act, the Director of the Defense Intelligence Agency shall submit to the congressional intelligence committees a report containing an analysis of the feasibility (including the anticipated cost, personnel requirements, necessary authorities, and such other matters as may be determined appropriate by the Director for purposes of analyzing feasibility) of—

(1) conducting 360-degree performance reviews among employees of the Defense Intelligence Agency; and

(2) including leadership suitability assessments (including personality evaluations, communication style assessments, and emotional intelligence aptitude assessments) for promotions of such employees to a position within grade GS-14 or above of the General Schedule.

(e) **WORKFORCE CLIMATE SURVEY DEFINED.**—In this section, the term “workforce climate survey”—

(1) means a workforce engagement or climate survey conducted at the agency, directorate, career field, or integrated intelligence center level, without regard to whether the survey is conducted on an annual or ad-hoc basis; and

(2) does not include an exit survey specified in subsection (b).

**SEC. 429. CYBER INTELLIGENCE SURVEILLANCE RECONNAISSANCE INFORMATION.**

(a) **QUARTERLY BRIEFINGS.**—On a quarterly basis, the Secretary of Defense shall provide to the appropriate congressional committees a briefing on, with respect to the period covered by the briefing, the intelligence activities occurring in cyberspace in support of current and future offensive cyberspace operations or defensive cyberspace operations.

(b) **ANNUAL CERTIFICATIONS.**—Not later than 180 days after the date of the enactment of this Act, and annually thereafter for 5 years, the Secretary of Defense shall certify to the appropriate congressional committees that, with respect to the period covered by the certification, the Secretary has reported to such committees all intelligence activities occurring in cyberspace in support of current and future offensive cyberspace operations or defensive cyberspace operations.

(c) **APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.**—In this section, the term “appropriate congressional committees” means the following:

(1) The congressional intelligence committees.

(2) The congressional defense committees (as defined in section 101(a)(16) of title 10, United States Code).

**SEC. 430. INFORMATION ON COVER ACTIVITIES OF DEPARTMENT OF DEFENSE.**

(a) **INFORMATION.**—Not less frequently than quarterly, the Secretary of Defense shall provide to the appropriate congressional committees information on the cover activities of the Department of Defense.

(b) **ELEMENTS.**—The Secretary shall ensure that the information provided under subsection (a) includes, with respect to the period covered by the information, the following:

(1) A detailed description of each cover activity or cover support activity provided by an element of the Department of Defense to an activity, operation, or

other initiative of the Department of Defense or other department or agency of the United States Government, including—

- (A) a description of the specific activity; and
  - (B) when such activity was approved or decommissioned.
- (2) Any other matters the Secretary determines appropriate.
- (c) FORM.—The information under subsection (a) may be provided in classified form.
- (d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” means—
- (1) the congressional intelligence committees; and
  - (2) the congressional defense committees (as defined in section 101(a)(16) of title 10, United States Code).

## Subtitle D—Other Elements

### SEC. 441. AUTHORIZATION RELATING TO CERTAIN INTELLIGENCE AND COUNTERINTELLIGENCE ACTIVITIES OF COAST GUARD.

(a) AUTHORIZATION.—Subject to subsection (b), and consistent with the policies, procedures, and coordination required pursuant to section 811 of the Counterintelligence and Security Enhancements Act of 1994 (50 U.S.C. 3381) and section 902 of the Counterintelligence Enhancement Act of 2002 (50 U.S.C. 3382), the Commandant of the Coast Guard may expend amounts made available for the intelligence and counterintelligence activities of the Coast Guard to conduct such an activity without regard to any other provision of law or regulation relating to the expenditure of Government funds, if—

- (1) the object of the activity is of a confidential, extraordinary, or emergency nature; and
  - (2) following each such expenditure, the Commandant submits to the congressional intelligence committees a certification that the object of the activity conducted was of a nature described in paragraph (1).
- (b) LIMITATION.—Of the funds made available for a fiscal year for the intelligence and counterintelligence activities of the Coast Guard, not more than 5 percent may be expended during the fiscal year under subsection (a) to conduct such activities in accordance with such subsection unless, for each intended expenditure in excess of such percentage—

- (1) the Commandant submits to the congressional intelligence committees a notification of the intent to expend the amounts; and
- (2) a period of 30 days has elapsed following the date on which the Commandant submits such notification.

(c) ANNUAL REPORT.—

(1) SUBMISSION.—Not later than December 1 of each year, the Commandant shall submit to the congressional intelligence committees a report on all expenditures during the preceding fiscal year under subsection (a).

(2) MATTERS.—Each report under paragraph (1) shall include, for each individual expenditure covered by such report that is in excess of the percentage specified in subsection (b) for the relevant fiscal year, the following:

- (A) A detailed description of the purpose of such expenditure.
- (B) The amount of such expenditure.
- (C) An identification of the approving authority for such expenditure.
- (D) A justification as to why other authorities available to the Coast Guard could not be used for such expenditure.
- (E) Any other matters the Commandant considers appropriate.

(d) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term “congressional intelligence committees” has the meaning given such term in section 3 of the National Security Act of 1947 (50 U.S.C. 3003).

(e) SUNSET.—This section shall cease to have effect on the date that is 3 years after the date of the enactment of this Act.

### SEC. 442. STUDY ON PERSONNEL UNDER STRATEGIC INTELLIGENCE PARTNERSHIP PROGRAM.

(a) STUDY.—The Director of National Intelligence and the Director of the Office of Intelligence and Counterintelligence of the Department of Energy, in consultation with the National Laboratories Directors’ Council, shall jointly conduct a study of the skills, recruitment, and retention of the personnel at the national laboratories who carry out projects under the Strategic Intelligence Partnership Program.

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

- (1) The degree to which the personnel at the national laboratories who carry out projects under the Strategic Intelligence Partnership Program have the req-

uisite training, skillsets, or expertise in critical science, technology, and engineering areas to support ongoing and anticipated projects under such Program, and the sufficiency of such personnel.

(2) Whether such personnel have compensation, benefits, and pay scales that are competitive with comparable roles in the private sector in the geographic market in which the relevant national laboratory is located.

(3) Any challenges associated with the retention of such personnel.

(4) The talent composition of such personnel, broken down by career phase and degree status, to include any relevant exit survey data.

(5) A description of current or previous programs enabling such personnel to rotate between elements of the intelligence community and the national laboratories, including the number of personnel on nonreimbursable or reimbursable assignment to an element of the intelligence community.

(6) The degree to which such projects and personnel support or augment other ongoing mission areas and capacities at the national laboratories.

(c) **RECOMMENDATIONS.**—Upon completing the study under subsection (a), the Directors shall jointly develop findings and recommendations based on the results of the study regarding the recruitment and retention of personnel at the national laboratories who carry out projects under the Strategic Intelligence Partnership Program, including with respect to the following:

(1) New or alternative business models, sponsorship arrangements, or work scope agreements.

(2) Extending eligibility for existing, or establishing new, recruitment, retention, or other career incentive programs, including student loan repayment and forgiveness programs, to such personnel.

(3) Initiating geographically flexible or remote work arrangements for such personnel.

(4) Enabling such personnel to participate in training at elements of the intelligence community, or obtain academic training at the National Intelligence University.

(5) Establishing new, or enhancing existing, opportunities for detailee or rotational programs among the intelligence community and the national laboratories.

(6) Using a compensation system modeled on the Cyber Talent Management System of the Department of Homeland Security for such personnel.

(7) Any other recommendations the Directors determine relevant.

(d) **REPORT.**—

(1) **REQUIREMENT.**—Not later than one year after the date of the enactment of this Act, the Directors shall jointly submit to the congressional intelligence committees a report containing the study under subsection (a) and the recommendations under subsection (c).

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

(e) **NATIONAL LABORATORIES DEFINED.**—In this section, the term “national laboratories” means—

(1) each national security laboratory (as defined in section 3281(1) of the National Nuclear Security Administration Act (50 U.S.C. 2471(1))); and

(2) each national laboratory of the Department of Energy.

**SEC. 443. ASSESSMENT OF HANDLING OF CERTAIN INFORMATION RELATING TO DELIBERATIONS OF BUREAU OF INDUSTRY AND SECURITY.**

(a) **INSPECTORS GENERAL ASSESSMENT.**—

(1) **REQUIREMENT.**—Not later than 270 days after the date of the enactment of this Act, the Inspector General of the Intelligence Community, in coordination with the Inspector General of the Department of Commerce, shall submit to the appropriate congressional committees an assessment of practices for handling covered information that may, in isolation or in aggregate, cause harm to the national security of the United States.

(2) **MITIGATION.**—The report under paragraph (1) shall include recommended steps, should any be necessary, to improve the secure handling of covered information, including with respect to whether the decisions and deliberations of the Bureau of Industry and Security of the Department of Commerce that involve covered information should be solely conducted on classified networks.

(3) **FORM.**—The report under paragraph (1) may be submitted in classified form, consistent with the protection of sources and methods.

(b) **DIRECTOR OF NATIONAL INTELLIGENCE ASSESSMENT.**—

(1) **REQUIREMENT.**—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall conduct an assessment of how covered information is transmitted, stored, and secured.

(2) **MATTERS INCLUDED.**—The assessment under paragraph (1) shall include—

- (A) the projected cost of installing classified information systems for use by the Bureau of Industry and Security; and
- (B) the feasibility of identifying secured office space for such systems.
- (3) SUBMISSION.—Not later than 210 days after the date of enactment of this Act, the Director shall submit to the appropriate congressional committees the findings of the assessment under paragraph (1).
- (c) DEFINITIONS.—In this section:
  - (1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—
    - (A) the congressional intelligence committees;
    - (B) the Committee on Energy and Commerce of the House of Representatives; and
    - (C) the Committee on Commerce, Science, and Transportation of the Senate.
  - (2) COVERED INFORMATION.—The term “covered information” means information provided by an element of the intelligence community to the Bureau of Industry and Security of the Department of Commerce as part of decisions or deliberations by the Bureau or information or material derived from classified deliberative or decisional interagency policy documents.

## **TITLE V—MATTERS RELATING TO EMERGING TECHNOLOGIES**

### **Subtitle A—General Matters**

#### **SEC. 501. DEFINITIONS.**

In this title:

- (1) EMERGING TECHNOLOGY COMPANY.—The term “emerging technology company” means a company that is in the business of maturing and selling technology that is in a developmental stage, or that may be developed during the 10-year period beginning on January 1, 2022, including with respect to biotechnology, quantum information science, future generation wireless technology, advanced materials, artificial intelligence, nanotechnology, microelectronics, space technology, renewable energy generation and storage, advanced computing, and human-machine interfaces.
- (2) SMALL- OR MEDIUM-SIZED EMERGING TECHNOLOGY COMPANY.—The term “small- or medium-sized emerging technology company” means an emerging technology company with fewer than 1,000 employees.

#### **SEC. 502. OFFICIALS RESPONSIBLE FOR ARTIFICIAL INTELLIGENCE POLICIES OF THE INTELLIGENCE COMMUNITY.**

- (a) SENSE OF CONGRESS.—It is the sense of Congress that—
  - (1) the intelligence community must rapidly adopt artificial intelligence into its workflows to compete with United States adversaries, and keep pace with and leverage commercial cutting-edge technologies;
  - (2) while pockets of success are present across the intelligence community, Congress is concerned that artificial intelligence has not scaled appropriately and continues to lag behind industry;
  - (3) broadly, Congress believes that the Director of National Intelligence should be primarily responsible for setting the policies and procedures as they relate to artificial intelligence adoption, acquiring any necessary common infrastructure such as training data, intelligence community-wide contracts for data labelers, cloud storage and compute capabilities, and other infrastructure necessary for intelligence community elements rapidly to adopt artificial intelligence; and
  - (4) the heads of the elements of the intelligence community should be primarily responsible for acquiring and developing agency-specific artificial intelligence applications, in coordination with the Director and the heads of the elements of the intelligence community, and assisting the Director with preparing the necessary infrastructure such as data, hardware, and software for the intelligence community to adopt artificial intelligence applications.
- (b) REQUIREMENT TO DEVELOP DEFINITION.—Section 309(a) of the Intelligence Authorization Act for Fiscal Year 2022 (50 U.S.C. 3316c(a)) is amended—
  - (1) by redesignating paragraphs (3) through (24) as paragraphs (4) through (25), respectively; and
  - (2) by inserting after paragraph (2) the following new paragraph:
    - “(3) Artificial intelligence.”.

(c) DIRECTOR OF NATIONAL INTELLIGENCE.—Section 102A(n) of the National Security Act of 1947 (50 U.S.C. 3024(n)), as amended by section 412(b)(2), is further amended by adding at the end the following new paragraph:

“(6) The Director of National Intelligence, in consultation with the heads of the elements of the intelligence community and the Director of Science and Technology, shall establish policies and procedures relating to the acquisition and use of artificial intelligence by the intelligence community, including with respect to data, computing, storage, and models necessary for the intelligence community to leverage, incorporate, adopt, and maintain artificial intelligence applications.”.

(d) DIRECTOR OF SCIENCE AND TECHNOLOGY.—

(1) DUAL-HATTED AS CHIEF TECHNOLOGY OFFICER.—Subsection (a) of section 103E of such Act (50 U.S.C. 3030) is amended by inserting at the end the following new sentence: “The Director of Science and Technology shall also serve as the Chief Technology Officer of the Office of the Director of National Intelligence.”.

(2) APPOINTMENT.—Subsection (b) of such section is amended to read as follows:

“(b) REQUIREMENT RELATING TO APPOINTMENT.—An individual appointed as Director of Science and Technology shall have a professional background and experience appropriate for the duties of the Director of Science and Technology. In making such appointment, the Director of National Intelligence shall give preference to an individual with varied professional experiences, including experience outside of the United States Government.”.

(3) POLICIES.—Such section is amended—

(A) by redesignating subsection (d) as subsection (f); and

(B) by inserting after subsection (c) the following new subsection:

“(d) POLICIES.—The Director of Science and Technology shall—

“(1) recommend to the Director of National Intelligence policies and procedures for the intelligence community relating to incorporating artificial intelligence in accordance with section 102A(n);

“(2) conduct reviews of the policies and procedures of the intelligence community relating to the adoption and integration of technology into the intelligence community, including with respect to, as appropriate—

“(A) incentives and policies relating to human resources;

“(B) incentives and policies relating to acquisition and contracting;

“(C) incentives and policies relating to financial management and budgeting; and

“(D) technology standards and policies;

“(3) make recommendations to the Director of National Intelligence with respect to the budgets of the elements of the intelligence community regarding the matters covered by this section, including with respect to reprogramming funds to carry out the intelligence community-wide artificial intelligence mission of the Director of National Intelligence;

“(4) coordinate with the Under Secretary of Defense for Research and Engineering on initiatives, policies, and programs carried out jointly between the intelligence community and the Department of Defense;

“(5) coordinate with the Director of the Office of Science and Technology Policy to promote intelligence community-specific requirements and perspectives within the initiatives of the Office of Science and Technology Policy; and

“(6) for purposes of integrating the priorities and requirements of the intelligence community into a broader national strategy on technology, coordinate with the heads of—

“(A) the National Institute for Standards and Technology;

“(B) the National Science Foundation; and

“(C) any other department or agency of the United States Government, federally funded research and development center, or other entity that the Director of Science and Technology determines appropriate.”.

(4) CLARIFICATION OF ROLE.—Such section is amended by inserting after subsection (d), as added by paragraph (3), the following new subsection:

“(e) CLARIFICATION OF ROLE.—The Director of Science and Technology may not have operational control over any program directly managed by an element of the intelligence community other than the Office of the Director of National Intelligence.”.

(e) CHIEF DATA OFFICER.—

(1) IN GENERAL.—The National Security Act of 1947 (50 U.S.C. 3001 et seq.) is amended by inserting after section 103J the following new section (and conforming the table of contents at the beginning of such Act accordingly):

**“SEC. 103K. CHIEF DATA OFFICER.**

“(a) **DIRECTOR OF SCIENCE AND TECHNOLOGY.**—There is a Chief Data Officer within the Office of the Director of National Intelligence who shall be appointed by the Director of National Intelligence. The Chief Data Officer is the Chief Data Officer of the Office of the Director of National Intelligence for purposes of section 3520 of title 44, United States Code.

“(b) **REQUIREMENT RELATING TO APPOINTMENT.**—An individual appointed as the Chief Data Officer shall have a professional background and experience appropriate for the duties of the Chief Data Officer. In making such appointment, the Director of National Intelligence shall give preference to an individual with varied professional experiences, including experience outside of the United States Government.

“(c) **DUTIES.**—In addition to any other functions and responsibilities specified in section 3520 of title 44, United States Code, the Chief Data Officer—

“(1) shall recommend to the Director of National Intelligence policies and procedures for the intelligence community regarding the acquisition and use of artificial intelligence with respect to the data needs of the intelligence community in support of adopting emerging technologies, in accordance with section 102A(n) and subject to the approval by the Director of National Intelligence, the Director of Science and Technology, and the Chief Information Officer;

“(2) shall conduct reviews of the policies and procedures of the intelligence community relating to data, including with respect to data curation, data labeling, data acquisition, data security, data interoperability, and data accessibility, except with respect to such policies and procedures established pursuant to a provision of law or executive order relating to the control, use, retention, collection, or dissemination of data;

“(3) shall conduct ongoing reviews of the data policies of the intelligence community, including to ensure that such policies promote interoperability and accessibility with commercial software providers, including by the promotion of open application programming interfaces;

“(4) shall coordinate with the Chief Data Officer of the Department of Defense and other relevant officials of the Department to ensure consistent data policies and, to the extent practicable and advisable, consistent standards and policies that ensure data is accessible between relevant elements of the intelligence community and the Department;

“(5) may make recommendations to the Director of National Intelligence, acting through the Chief Technology Officer, with respect to the budgets of the elements of the intelligence community regarding data, if such recommendations are—

“(A) consistent with the policies established by the Director; and

“(B) made in furtherance of accelerating the transition to digital business practices across the intelligence community, including with respect to the acquisition, curation, dissemination, and other data practices necessary to adopt artificial intelligence capabilities and other emerging technologies within the intelligence community; and

“(6) shall perform other such duties as may be prescribed by the Director of National Intelligence, the Director of Science and Technology, or specified by law.

“(d) **IDENTIFICATION OF CONFLICTS.**—Not later than 60 days after the date on which the Chief Data Officer identifies a policy of the intelligence community, including with respect to policies governing the access to data, that restricts the Chief Data Officer from carrying out subsection (c), the Chief Data Officer shall notify the Director of National Intelligence and the congressional intelligence committees of such policy and restriction.”.

(2) **INCUMBENT.**—The individual serving in the position of Chief Data Officer of the Office of the Director of National Intelligence as of the date of the enactment of this Act may continue to serve in such position without further appointment pursuant to section 103K of the National Security Act of 1947, as added by paragraph (1).

## **Subtitle B—Improvements Relating to Procurement**

**SEC. 511. ADDITIONAL TRANSACTION AUTHORITY.**

(a) **ADDITIONAL TRANSACTION AUTHORITY.**—The National Security Act of 1947 (50 U.S.C. 3001 et seq.), as amended by section 502, is further amended by inserting after section 102A the following new section (and conforming the table of contents at the beginning of such Act accordingly):

**“SEC. 102B. ADDITIONAL TRANSACTION AUTHORITY.**

“(a) IN GENERAL.—In addition to other acquisition authorities, the head of an element of the intelligence community may exercise the authorities under subsections (b), (c), and (d).

“(b) COOPERATIVE AGREEMENTS AND GRANTS.—The head of an element of the intelligence community may use cooperative agreements and grants, in accordance with chapter 63 of title 31, United States Code, to carry out basic, applied, and advanced research and development, and prototype projects in support of intelligence activities.

“(c) OTHER TRANSACTION AUTHORITY.—The head of an element of the intelligence community may enter into transactions (other than contracts, cooperative agreements, and grants) under the authority of this subsection to carry out basic, applied, and advanced research projects in support of intelligence activities.

“(d) AUTHORITY OF ELEMENTS OF THE INTELLIGENCE COMMUNITY TO CARRY OUT CERTAIN PROTOTYPE PROJECTS.—

“(1) AUTHORITY.—The head of an element of the intelligence community may, under the authority of subsection (c), enter into a transaction to carry out a prototype project in support of intelligence activities only if each party to the transaction, other than the Federal Government, is a covered contractor.

“(2) FOLLOW-ON PRODUCTION CONTRACTS OR TRANSACTIONS.—

“(A) IN GENERAL.—A transaction entered into under this subsection for a prototype project may provide for the award of a follow-on production contract or a follow-on production transaction to the participants in the transaction. A transaction includes all individual prototype subprojects awarded under the transaction to a consortium of United States industry and academic institutions.

“(B) FOLLOW-ON PRODUCTION CONTRACTS.—A follow-on production contract provided for in a transaction under subparagraph (A) may be awarded to the participants in the transaction without the use of any competitive procedure that would otherwise apply if the following criteria are satisfied:

“(i) The authorizing official of the relevant element of the intelligence community determines that Government users of the proposed production product or production service have been consulted.

“(ii) In the case of a proposed production product that is software, there are mechanisms in place for Government users to provide feedback to participants to the follow-on production contract.

“(iii) In the case of a proposed production product that is software, the follow-on production contract includes a requirement that, for the duration of such contract (or such other period of time as may be agreed to as a term of such contract)—

“(I) the participants provide to the head of the relevant element of the intelligence community the most up-to-date version of the production product that is available in the commercial marketplace; and

“(II) there are mechanisms in place for the participants to provide real-time updates to the production product.

“(C) FOLLOW-ON PRODUCTION TRANSACTIONS.—A follow-on production transaction provided for in a transaction under subparagraph (A) may be awarded to the participants in the transaction without the use of any competitive procedure that would otherwise apply.

“(e) RECOVERY OF FUNDS.—

“(1) IN GENERAL.—A cooperative agreement authorized by subsection (a) and a transaction authorized by subsection (c) or (d) may include a clause that requires a person to make payments to the Office of the Director of National Intelligence or any other element of the intelligence community as a condition for receiving support under the agreement or other transaction.

“(2) ACCOUNTING FOR RECOVERED FUNDS.—The amount of any payment received by the Federal Government pursuant to a requirement imposed under paragraph (1) may be credited to the appropriate account for research and development or procurement. Amounts so credited shall be merged with other funds in the account and shall be available for the same purposes and the same period for which other funds in such account are available.

“(f) EDUCATION.—The Director of National Intelligence and the heads of the elements of the intelligence community shall ensure that management, technical, and contracting personnel of the elements of the intelligence community who are involved in the award or administration of transactions under subsection (c) or (d), or alternative acquisition pathways, are afforded opportunities for adequate education and training relating to such award or administration.

“(g) AGREEMENTS OFFICERS.—To ensure adequate availability of staff warranted as Agreements Officers, by not later than October 1, 2024, at least 50 percent of the contracting staff within the intelligence community that hold at least some responsibility for buying technology shall have received the appropriate training to become warranted as Agreements Officers, who are given authority to execute and administer the agreements, grants, and transactions authorized by this section.

“(h) DELEGATION REQUIRED.—The Director of National Intelligence and the heads of the elements of the intelligence community shall, to the maximum extent practicable, delegate the authority to make a determination or decision referred to in this section to the official responsible for technology adoption in the relevant element of the intelligence community, regardless of whether such official serves in an acquisition position.

“(i) DEFINITIONS.—In this section:

“(1) COMMERCIAL PRODUCT.—The term ‘commercial product’ has the meaning given that term in section 103 of title 41, United States Code.

“(2) COMMERCIAL SERVICE.—The term ‘commercial service’ has the meaning given that term in section 103a of title 41, United States Code.

“(3) COVERED CONTRACTOR.—The term ‘covered contractor’ means a contractor of an element of the intelligence community that is a small- or medium-sized emerging technology company.

“(4) EMERGING TECHNOLOGY COMPANY.—The term ‘emerging technology company’ means a company that is in the business of maturing and selling technology that is in a developmental stage, or that may be developed during the 10-year period beginning on January 1, 2022, including with respect to biotechnology, quantum information science, future generation wireless technology, advanced materials, artificial intelligence, nanotechnology, microelectronics, space technology, renewable energy generation and storage, advanced computing, and human-machine interfaces.

“(5) PRODUCTION PRODUCT.—The term ‘production product’ means any commercial product that is not a prototype or development product and is intended to provide capability to the United States Government at scale as determined by the authorizing official of the relevant element of the intelligence community.

“(6) PRODUCTION SERVICE.—The term ‘production service’ means any commercial service that is not a prototype or development service and is intended to provide capability to the United States Government at scale as determined by the authorizing official of the relevant element of the intelligence community.

“(7) SMALL- OR MEDIUM-SIZED EMERGING TECHNOLOGY COMPANY.—The term ‘small- or medium-sized emerging technology company’ means an emerging technology company with fewer than 1,000 employees.”

(b) GUIDANCE.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall issue guidance for carrying out the amendments made by subsection (a).

#### SEC. 512. OFFICES OF COMMERCIAL INTEGRATION.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) Congress is concerned that the administrative and technical burdens on small- and medium-sized emerging technology companies to do business with the intelligence community is inadvertently precluding the most cutting-edge, advanced companies from contracting with the United States Government;

(2) this dynamic has significant negative consequences for United States national security, including United States global technological competitiveness in the fields of artificial intelligence, quantum computing, and advanced manufacturing, among others;

(3) some such companies have attempted still to contract with the intelligence community by spending valuable capital and time on government affairs experts to navigate the challenges of integrating into the intelligence community, yet, the administrative and technical burdens of contracting with the intelligence community are often too high even for the companies that are able to afford this consulting;

(4) Congress believes that the United States Government has both an obligation and an opportunity to assist these technology companies navigate the hurdles it takes to work with the intelligence community to ensure that the Federal Government benefits from the best that the private sector has to offer; and

(5) doing so will help cultivate an ecosystem of cutting-edge technology companies that can provide products and services that are essential to the missions of the intelligence community, and advance the goal of ensuring United States adversaries do not outpace the United States in these critical fields.

(b) PLAN FOR ESTABLISHMENT.—

(1) SUBMISSION.—Not later than 1 year after the date of the enactment of this Act, the Director of National Intelligence, in coordination with the heads of the elements of the intelligence community, shall submit to the congressional intelligence committees a plan for the establishment of an office within each element, to be known as the “Office of Commercial Integration” of that element, for the purpose of providing administrative assistance to covered contractors.

(2) ELEMENTS.—The plan under paragraph (1) shall include the following:

(A) A proposal for the designation of a senior official of the Office of the Director of National Intelligence who shall be responsible for the coordination across the Offices of Commercial Integration.

(B) Guidelines requiring each Director of Commercial Integration to share best practices and other information, and coordinate, with the other Directors of Commercial Integration.

(C) A timeline of the steps necessary to establish each Office of Commercial Integration by the date that is not later than 2 years after the date of the enactment of this Act.

(D) An assessment of the personnel requirements, and any other resource requirements, necessary to establish each Office of Commercial Integration by such date, including an identification of—

(i) each Director of Commercial Integration;

(ii) the amount of personnel necessary for the establishment of each Office of Commercial Integration; and

(iii) the necessary qualifications of any such personnel.

(E) Policies regarding the types of administrative assistance that may be provided to covered contractors by each Office of Commercial Integration, taking into account the role of such assistance as an incentive for emerging technology companies to enter into contracts with the heads of the elements of the intelligence community. In developing such policies, the Director of National Intelligence shall prioritize assistance to reduce administrative burdens faced by preferred contractors.

(F) Eligibility criteria for determining the types of covered contractors that may receive administrative assistance provided by each Office of Commercial Integration.

(G) Guidelines that outline, with respect to a contract, at what stage covered contractors determined eligible pursuant to the criteria specified in subparagraph (F) may receive such administrative assistance.

(H) Policies regarding outreach efforts to be conducted by each Director of Commercial Integration with respect to such eligible covered contractors.

(I) Policies regarding how the intelligence community will coordinate with the Director of the Federal Bureau of Investigation to provide proactive counterintelligence risk analysis and assistance to private entities.

(J) Such other intelligence community-wide policies as the Director of National Intelligence may prescribe relating to the improvement of commercial integration (and the coordination of such improvements) by and among the elements of the intelligence community.

(c) DEADLINE FOR ESTABLISHMENT.—Not later than 2 years after the date of the enactment of this Act, each head of an element of the intelligence community shall establish within that element, in accordance with the plan under subsection (b), an Office of Commercial Integration of that element.

(d) STAFF; DETAILEES.—

(1) STAFF.—Each Director of Commercial Integration may appoint personnel as the Director determines appropriate.

(2) DETAILEES.—Upon request of a Director of Commercial Integration, the head of any Federal department of agency may detail, on a reimbursable basis, any of the personnel of such department or agency to the Office of Commercial Integration concerned.

(3) EXPERTISE.—In appointing personnel under paragraph (1) and accepting detailed personnel pursuant to paragraph (2), each Director of Commercial Integration shall seek to appoint and accept personnel with expertise in a range of disciplines necessary for the accelerated integration of commercial technologies into the intelligence community (as determined by the Director), including expertise in the administrative burdens associated with the following:

(A) Authorization to operate certifications.

(B) Contracting.

(C) Facility clearances.

(D) Security clearances.

(e) REPORTS REQUIRED.—

(1) REPORTS.—Not later than 2 years after the date of the enactment of this Act, and annually thereafter for 3 years, each Director of Commercial Integra-

tion shall submit to the congressional intelligence committees a report on the status of the Office of Commercial Integration concerned, including the following, with respect to the year covered by the report:

- (A) A description of the assistance offered by the Director.
- (B) A description of the methods by which the Director advertised such assistance.
- (C) Any updates to the policies of such Office.
- (D) Statistics on the types of covered contractors that received administrative assistance provided by such Office, and the extent of the use of the assistance by such covered contractors.
- (E) A summary of any successes relating to administrative assistance provided by such Office.
- (F) Recommendations on how to improve the efficiency or effectiveness of such Office.
- (G) An identification of any additional resources or authorities necessary for such Office to fulfill the duties of the Office.

(2) COORDINATION.—In carrying out paragraph (1), each Director of Commercial Integration shall coordinate with the senior official designated pursuant to subsection (b)(2)(A).

(f) DEFINITIONS.—In this section:

- (1) COVERED CONTRACTOR.—The term “covered contractor” has the meaning given that term in section 514(c).
- (2) DIRECTOR OF COMMERCIAL INTEGRATION.—The term “Director of Commercial Integration” means the head of an Office of Commercial Integration.
- (3) OFFICE OF COMMERCIAL INTEGRATION CONCERNED.—The term “Office of Commercial Integration concerned”, with respect to a Director of Commercial Integration, means the Office of Commercial Integration of which that Director is head.
- (4) PREFERRED CONTRACTOR.—The term “preferred contractor” means a contractor described in section 514(c)(4).

**SEC. 513. PILOT PROGRAM FOR DESIGNATION OF CERTAIN SBIR AND STTR PROJECTS AS ENTREPRENEURIAL INNOVATION PROJECTS.**

(a) PILOT PROGRAM.—The Director of National Intelligence shall carry out a pilot program to more effectively transition eligible projects that present the potential to meet the operational needs of covered elements of the intelligence community to Phase III through the designation of eligible projects as Entrepreneurial Innovation Projects.

(b) DESIGNATION.—

(1) IN GENERAL.—Under the pilot program under subsection (a), each head of a covered element of the intelligence community, in consultation with the Director of National Intelligence, shall designate not fewer than 5 eligible projects per year as Entrepreneurial Innovation Projects.

(2) REQUIRED CRITERIA.—The head of a covered element of the intelligence community may designate an eligible project as an Entrepreneurial Innovation Project under paragraph (1) if the head determines the eligible project meets the following criteria:

- (A) The eligible project demonstrates the potential to—
  - (i) advance the national security capabilities of the United States;
  - (ii) provide new technologies or processes, or new applications of existing technologies, that will enable new alternatives to existing programs, systems, and initiatives of the intelligence community;
  - (iii) provide future cost savings; or
  - (iv) significantly reduce the time to deliver capabilities to the intelligence community.
- (B) Any other criteria that the head determines appropriate.

(3) MITIGATION OF CONFLICTS OF INTEREST.—Each head of a covered element of the intelligence community, in consultation with the Director of National Intelligence, shall establish procedures designed to mitigate, to the greatest extent practicable, organizational conflicts of interest relating to the designation of projects under paragraph (1), including conflicts of interest from within a department or agency of the United States Government for which the designation and successful completion of an Entrepreneurial Innovation Project may represent a competing alternative to an existing or proposed program or other activity of such department or agency.

(4) APPLICATIONS.—An eligible project seeking a designation under paragraph (1) shall submit to the head of the covered element of the intelligence community from which such designation is sought an application containing—

- (A) an explanation as to how the eligible project meets the criteria specified in paragraph (2); and

(B) such other information as the head, in consultation with the Director of National Intelligence, considers appropriate.

(5) REVOCATION OF DESIGNATION.—If the head of a covered element of the intelligence community that previously designated a project under paragraph (1) determines such project no longer meets the required criteria specified in paragraph (2), or that the technology that is the subject of such project has become irrelevant, such head may revoke the Entrepreneurial Innovation Project designation for such project.

(c) BENEFITS OF DESIGNATION.—

(1) INCLUSION IN MULTIYEAR NATIONAL INTELLIGENCE PROGRAM PLAN.—The Director of National Intelligence shall include in the relevant multiyear national intelligence program plan submitted to Congress under section 1403 of the National Defense Authorization Act for Fiscal Year 1991 (50 U.S.C. 3301) the estimated expenditures of each designated project.

(2) INCLUSION UNDER SEPARATE HEADING.—The designating head shall ensure that each designated project is included under a separate heading in the relevant multiyear national intelligence program plan submitted to Congress under such section 1403 of the National Defense Authorization Act for Fiscal Year 1991 (50 U.S.C. 3301).

(3) CONSIDERATION IN PROGRAMMING AND BUDGETING.—Each designated project shall be taken into consideration by the designating head in the programming and budgeting phases of the intelligence planning, programming, budgeting, and evaluation process.

(d) REPORTS TO CONGRESS.—

(1) ANNUAL REPORTS.—On an annual basis for each fiscal year during which the pilot program under subsection (a) is carried out, concurrently with the submission of the budget of the President for that fiscal year under section 1105(a) of title 31, United States Code, the Director of National Intelligence shall submit to the appropriate congressional committees a report that includes the following:

(A) A description of each designated project.

(B) A summary of the potential of each designated project, as specified in subsection (b)(2)(A).

(C) For each designated project, a description of the progress made toward delivering on such potential.

(D) A description of the progress made toward inclusion of the designated project in the future-years intelligence program.

(E) Such other information on the status of such pilot program as the Director considers appropriate.

(2) FINAL REPORT.—In the final report submitted under paragraph (1) prior to the date of termination under subsection (e), the Director of National Intelligence shall include a recommendation on whether to extend the pilot program under subsection (a) and the appropriate duration of such extension, if any.

(e) TERMINATION DATE.—The authority to carry out the pilot program under subsection (a) shall terminate on December 31, 2027.

(f) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the congressional intelligence committees;

(B) the Committee on Small Business of the House of Representatives;

and

(C) the Committee on Small Business and Entrepreneurship of the Senate.

(2) COVERED ELEMENT OF THE INTELLIGENCE COMMUNITY.—The term “covered element of the intelligence community” means the following:

(A) The Office of the Director of National Intelligence.

(B) The Central Intelligence Agency.

(C) The National Security Agency.

(D) The National Geospatial-Intelligence Agency.

(E) The National Reconnaissance Office.

(3) DESIGNATED PROJECT.—The term “designated project” means a project that has been designated as an Entrepreneurial Innovation Project under the pilot program under subsection (a) and for which such designation has not been revoked under subsection (b)(5).

(4) DESIGNATING HEAD.—The term “designating head” means, with respect to the designation of a project as an Entrepreneurial Innovation Project under the pilot program under subsection (a), the head of the covered element of the intelligence community making such designation.

(5) **ELIGIBLE PROJECT.**—The term “eligible project” means a project for which a small business concern has completed a Phase II SBIR or STTR award.

(6) **PHASE II; PHASE III; SBIR; STTR.**—The terms “Phase II”, “Phase III”, “SBIR”, and “STTR” have the meanings given such terms in section 9(e) of the Small Business Act (15 U.S.C. 638(e)).

(7) **SMALL BUSINESS CONCERN.**—The term “small business concern” has the meaning given such term under section 3 of the Small Business Act (15 U.S.C. 632).

**SEC. 514. REDUCTION OF BARRIERS RELATING TO CONTRACTS FOR ARTIFICIAL INTELLIGENCE AND OTHER EMERGING TECHNOLOGIES.**

(a) **FINDINGS; SENSE OF CONGRESS.**—

(1) **FINDINGS.**—Congress finds the following:

(A) Authorizations to operate are essential to maintaining network and system security.

(B) However, Congress is concerned that the executive branch does not have a user-friendly platform or process to adjudicate and review authority to operate applications.

(C) Nor is the executive branch resourced to meet the demand for authority to operate certifications from commercial vendors, leading to lengthy delays to bring commercial solutions into government networks and systems.

(D) These barriers handicap the executive branch when contracting for cutting-edge technologies.

(2) **SENSE OF CONGRESS.**—It is the sense of Congress that—

(A) the intelligence community and the Secretary of Defense should develop a resourcing plan to address these issues, including developing common platforms for applications and requirements to be shared with industry, and a process for authority to operate certification reciprocity across the Department of Defense and the intelligence community, with the appropriate safeguards;

(B) easing these administrative costs and burdens helps cultivate an ecosystem that incentivizes small- and medium-sized emerging technology companies to work with the Federal Government, which is essential for the United States to compete globally for technology supremacy;

(C) sensitive compartmented information facilities are often requirements for companies that wish to conduct business with the intelligence community;

(D) unfortunately, the process to accredit and certify a facility as a sensitive compartmented information facility is time consuming and expensive, which further raises the barriers to entry for small- and medium-sized emerging technology companies; and

(E) lowering those barriers is an important function of the intelligence community to gain access to the cutting-edge technology offered by such companies.

(b) **PROTOCOL ON AUTHORITY TO OPERATE CERTIFICATIONS.**—

(1) **PROTOCOL.**—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence, in coordination with the Secretary of Defense, shall develop and submit to the appropriate congressional committees a protocol setting forth policies and procedures relating to authority to operate certifications held by commercial providers.

(2) **ELEMENTS.**—The protocol under paragraph (1) shall include, at a minimum, the following:

(A) A policy that ensures reciprocal recognition among the elements of the intelligence community and the Department of Defense of authority to operate certifications held by commercial providers. Such reciprocal recognition shall be limited to authority to operate certifications for systems that store or provide access to data classified at an equal or higher classification level.

(B) Procedures under which a commercial provider that is a contractor of an element of the intelligence community or the Department of Defense and holds an authority to operate certification for a system that relates to the contract concerned may provide to head of such element or the Secretary of Defense, as the case may be, the most recently updated version of any software, data, or application under such system without being required to submit an application for a new or renewed authority to operate certification.

(C) Procedures for the automated review, renewal, and revocation of authority to operate certifications held by commercial providers, subject to such conditions as may be prescribed by the Director of National Intelligence, in coordination with the Secretary of Defense.

(D) Standard documentation requirements for commercial providers submitting applications for authority to operate certifications. Such requirements shall be—

(i) established jointly by the Director of National Intelligence and the Secretary of Defense; and

(ii) except as provided in paragraph (3), uniform across the Department of Defense and the elements of the intelligence community for each appropriate level of security.

(E) A requirement to establish a joint portal of the Office of the Director of National Intelligence and the Department of Defense for the maintenance of records, applications, and system requirements for authority to operate certifications. Such portal shall be designed to store unclassified information, but may provide for the storage of classified information to the extent determined necessary by the Director of National Intelligence and the Secretary of Defense.

(F) A workforce plan that addresses the shortage of personnel of the intelligence community who are authorized to grant an authority to operate certification, including recommendations by the Director of National Intelligence for increased pay and other incentives to recruit and retain such personnel.

(G) Policies and procedures to ensure coordination across the elements of the intelligence community with respect to the protocol under paragraph (1), including a requirement for—

(i) the Director of National Intelligence to designate an official to lead such coordination across the intelligence community; and

(ii) the head of each element of the intelligence community to designate an official of the element to oversee the implementation of such protocol with respect to the element.

(H) Procedures to ensure data security and safety with respect to the implementation of the protocol under paragraph (1).

(I) A proposed timeline for the implementation of the protocol under paragraph (1) by the deadline specified in such paragraph.

(3) EXCEPTION TO STANDARD DOCUMENTATION REQUIREMENTS.—The Director of National Intelligence and the Secretary of Defense may jointly establish non-uniform documentation requirements for commercial providers submitting applications for authority to operate certifications, in addition to the requirements specified in paragraph (2)(D), only if, prior to such establishment, the Director and Secretary provide to the appropriate congressional committees a briefing on why such additional requirements are necessary.

(4) DEFINITIONS.—In this subsection:

(A) The term “appropriate congressional committees” means—

(i) the congressional intelligence committees; and

(ii) the Committees on Armed Services of the House of Representatives and the Senate.

(B) The term “authority to operate certification” means, with respect to a system, a formal designation by a designated approving authority that authorizes the operation of the system by a Federal department or agency and includes an acknowledgment that the Federal department or agency accepts the risk of such operation.

(C) The term “contract concerned”, with respect to a contractor of an element of the intelligence community or the Department of Defense, means the contract entered into by that contractor with the head of the element or the Secretary of Defense, as the case may be.

(c) PLAN TO EXPAND SENSITIVE COMPARTMENTED INFORMATION FACILITY ACCESS BY CERTAIN CONTRACTORS.—

(1) PLAN; BRIEFING.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence and the Secretary of Defense, in consultation with the heads of such other elements of the intelligence community as the Director of National Intelligence may determine appropriate, shall jointly—

(A) develop a plan to expand access by covered contractors to sensitive compartmented information facilities for the purpose of providing covered contractors with a facility to securely perform work under covered contracts; and

(B) provide to the appropriate congressional committees a briefing on such plan.

(2) MATTERS.—The plan under paragraph (1) shall include the following:

(A) An overview of the existing sensitive compartmented information facilities, if any, that may be repurposed for the purpose specified in paragraph (1).

(B) An assessment of the feasibility of building additional sensitive compartmented information facilities for such purpose.

(C) An assessment of the relative costs and benefits of repurposing existing, or building additional, sensitive compartmented information facilities for such purpose.

(D) The eligibility criteria for determining which covered contractors may be granted access to sensitive compartmented information facilities for such purpose.

(E) An estimate of the maximum number of covered contractors that may be provided access to sensitive compartmented information facilities for such purpose, taking into account the matters specified in subparagraphs (A) and (B).

(F) Policies to ensure the efficient and narrow use of sensitive compartmented information facilities for such purpose, including a timeline for the length of such use by a covered contractor and a detailed description of the process to terminate access to the sensitive compartmented information facility by a covered contractor upon—

(i) the expiration of the covered contract of the covered contractor; or

(ii) a determination that the covered contractor no longer has a need for such access to fulfill the terms of such contract.

(G) Pricing structures for the use of sensitive compartmented information facilities by covered contractors for the purpose specified in paragraph (1). Such pricing structures—

(i) may include free use (for the purpose of incentivizing future covered contracts), with the potential for pricing to increase dependent on the length of the covered contract, the size of the covered contractor, and the need for such use; and

(ii) shall ensure that the cumulative cost for a covered contractor to rent and independently certify a sensitive compartmented information facility for such purpose does not exceed the market average for the Director of National Intelligence or the Secretary of Defense to build, certify, and maintain a sensitive compartmented information facility.

(H) A security plan for vetting each covered contractor prior to the access of a sensitive compartmented information facility by the covered contractor for the purpose specified in paragraph (1), and an assessment of potential security concerns regarding such access.

(I) A proposed timeline for the expansion of access to sensitive compartmented information facilities in accordance with paragraph (1).

(J) Such other matters as the Director of National Intelligence or the Secretary of Defense considers relevant to such expansion.

(3) ELIGIBILITY CRITERIA FOR COVERED CONTRACTORS.—Under the eligibility criteria specified in subparagraph (D)—

(A) unless the Director of National Intelligence determines the source of the financing of a covered contractor poses a national security risk, such source of financing may not be taken into consideration in making a determination as to the eligibility of the covered contractor; and

(B) preference shall be given to any preferred contractor described in paragraph (4).

(4) PREFERRED CONTRACTORS.—A preferred contractor described in this paragraph is a covered contractor—

(A) that is a small business concern that has a Phase I or Phase II SBIR award for a project under a covered contract and demonstrates a need for access to a sensitive compartmented information facility with respect to such ongoing project; or

(B) the covered contract of which is a contract entered into with the Director of AFWERX of the Air Force (or such successor program), the Director of the Defense Innovation Unit of the Department of Defense, or the head of any other program or element of the Federal Government with a focus on technology or innovation.

(5) DEFINITIONS.—In this subsection:

(A) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(i) the congressional intelligence committees; and

(ii) the Committees on Armed Services of the House of Representatives and the Senate.

(B) COVERED CONTRACT.—The term “covered contract” means a contract entered into by a covered contractor with the head of an element of the intelligence community or the Secretary of Defense that relates to the development of technology solutions for the intelligence community or the Department of Defense, as the case may be.

(C) COVERED CONTRACTOR.—The term “covered contractor” means a contractor of the intelligence community or the Department of Defense that the Director of National Intelligence determines is a small- or medium-sized technology company in an early stage of developing technology solutions pursuant to a covered contract.

(D) PHASE I; PHASE II; SBIR.—The terms “Phase I”, “Phase II”, and “SBIR” have the meanings given those terms in section 9(e) of the Small Business Act (15 U.S.C. 638(e)).

(E) SMALL BUSINESS CONCERN.—The term “small business concern” has the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632).

(d) REPORTS ON EXPANSION OF SECURITY CLEARANCES FOR CERTAIN CONTRACTORS.—

(1) REPORTS.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter for 3 years, the Director of National Intelligence shall submit to the congressional intelligence committees a report on the extent to which security clearance requirements delay, limit, or otherwise disincentivize emerging technology companies from entering into contracts with the United States Government.

(2) MATTERS.—Each report under paragraph (1) shall include the following:

(A) Statistics on the periods of time between the submission of applications for security clearances by employees of emerging technology companies and the grant of such security clearances, disaggregated by the size of the respective company.

(B) The number of security clearances granted to employees of small- or medium-sized emerging technology companies during the period covered by the report.

(C) The number of applications for security clearances submitted by employees of emerging technology companies that have yet to be adjudicated as of the date on which the report is submitted.

(D) A projection, for the year following the date on which the report is submitted, of the number of security clearances necessary for employees of emerging technology companies to perform work on behalf of the intelligence community during such year, and an assessment of the capacity of the intelligence community to meet such demand.

(E) An identification of each occurrence, during the period covered by the report, in which an emerging technology company withdrew from or declined to accept a contract with the United States Government on the sole basis of delays, limitations, or other issues involving security clearances, and a description of the types of business the United States Government has lost as a result of such occurrences.

(F) Recommendations for expediting the grant of security clearances to employees of emerging technology companies, including with respect to any additional resources, authorities, or personnel that the Director of National Intelligence determines may be necessary for such expedition.

(3) FORM.—Each report under paragraph (1) may be submitted in classified form, but if so submitted shall include an unclassified executive summary.

(4) PROPOSAL CONCURRENT WITH BUDGET SUBMISSION.—At the time that the President submits to Congress the budget for fiscal year 2024 pursuant to section 1105 of title 31, United States Code, the Director of National Intelligence shall submit to the congressional intelligence committees a proposal to improve the capacity of the workforce responsible for the investigation and adjudication of security clearances, with the goal of reducing the period of time specified in paragraph (2)(A) to less than 60 days. Such proposal shall include an identification of any resources the Director determines necessary to expand the number of individuals authorized to conduct polygraphs on behalf of the intelligence community, including by furnishing necessary training to such individuals.

**SEC. 515. COMPLIANCE BY THE INTELLIGENCE COMMUNITY WITH REQUIREMENTS OF THE FEDERAL ACQUISITION REGULATION RELATING TO COMMERCIALLY AVAILABLE OFF-THE-SHELF ITEMS AND COMMERCIAL SERVICES.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) parts 10 and 12 of the Federal Acquisition Regulation broadly require departments and agencies of the United States Government to conduct market research to determine whether commercially available off-the-shelf items, non-

developmental items, or commercial services are available that could meet the requirements of the department or agency;

(2) the requirements under such parts 10 and 12, among other important goals, reduce administrative costs and allow expedited acquisition and deployment of such items and services;

(3) however, such departments and agencies too often contract for custom products, rather than buying existing commercial products and adapting those as necessary, which creates a fundamental compliance issue; and

(4) the intelligence community should adopt a culture shift to ensure better compliance with such parts 10 and 12.

(b) POLICY.—

(1) REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act, the Director of National Intelligence shall implement a policy to ensure that each element of the intelligence community complies with parts 10 and 12 of the Federal Acquisition Regulation with respect to any procurement.

(2) ELEMENTS.—The policy under paragraph (1) shall include the following:

(A) Written criteria for an element of the intelligence community to evaluate when a procurement of a covered item or service is permissible, including—

(i) requiring the element to conduct an independent market analysis to determine whether a commercially available off-the-shelf item, nondevelopmental item, or commercial service is viable; and

(ii) a description of the offeror for such covered item or service and how the covered item or service to be acquired will be integrated into existing systems of the intelligence community.

(B) If an element of the intelligence community enters into a contract for artificial intelligence or other emerging technologies that is a covered item or service, not later than 45 days before entering into such contract, the head of the element shall notify the congressional intelligence committees in writing of the intent to enter into such contract, including a brief summary of—

(i) the justification for not using a commercially available off-the-shelf item, nondevelopmental item, or commercial service; and

(ii) the independent market analysis conducted under subparagraph

(A).

(C) A detailed set of performance incentives for the acquisition personnel of the intelligence community that—

(i) prioritizes and rewards adherence to parts 10 and 12 of the Federal Acquisition Regulation; and

(ii) incentivizes reliance by the intelligence community on commercially available off-the-shelf items, nondevelopmental items, or commercial services and incentivizes such personnel that enter into contracts for covered items or services only when necessary.

(D) Methods to ensure the coordination across the elements of the intelligence community in carrying out the policy, including by designating an official of each element to ensure implementation and incentives for elements to share best practices for entering into contracts for covered items or services.

(E) On an annual basis, the head of each element of the intelligence community shall certify in writing to the congressional intelligence committees that each contract involving software development that was awarded during the year covered by the certification was awarded in adherence to section 3453 of title 10, United States Code, and such parts 10 and 12, as applicable.

(F) Any other incentives for the acquisition personnel of the intelligence community that the Director determines appropriate to improve the use of commercially available off-the-shelf items, nondevelopmental items, and commercial services in contracts for emerging technologies, including with respect to pay incentives, time off for training, and nonmonetary awards.

(3) SUBMISSION.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the congressional intelligence committees—

(A) the policy developed under paragraph (1); and

(B) a plan to implement the policy not later than 1 year after the date of such enactment.

(4) MARKET ANALYSIS.—In carrying out the independent market analysis pursuant to paragraph (1)(A)(ii), the Director may enter into a contract with an independent market research group with qualifications and expertise to find

available commercially available off-the-shelf items, nondevelopmental items, or commercial services to meet the needs of the intelligence community.

(c) ANNUAL REPORTS.—

(1) REQUIREMENT.—Not later than 2 years after the date of the enactment of this Act, and annually thereafter for 3 years, the Director, in consultation with the head of each element of the intelligence community, shall submit to the congressional intelligence committees a report on the policy developed under subsection (a).

(2) ELEMENTS.—Each report under paragraph (1) shall include, with respect to the period covered by the report, the following:

(A) An evaluation of the success of the policy, including with respect to the progress the elements have made in complying with parts 10 and 12 of the Federal Acquisition Regulation.

(B) A comparison of the number of contracts that were awarded for commercially available off-the-shelf items, nondevelopmental items, or commercial services versus the number awarded for covered items or services.

(C) A description of how any market analyses are conducted pursuant to subsection (a)(1)(A)(ii).

(D) Any recommendations to improve compliance with such parts 10 and 12.

(d) DEFINITIONS.—In this section:

(1) COMMERCIALLY AVAILABLE OFF-THE-SHELF ITEM; COMMERCIAL SERVICE; NONDEVELOPMENTAL ITEM.—The terms “commercially available off-the-shelf item”, “commercial service”, and “nondevelopmental items” have the meanings given, respectively, in subchapter I of division A of title 41, United States Code.

(2) COVERED ITEM OR SERVICE.—The term “covered item or service” means a product, system, or service that is not a commercially available off-the-shelf item, a commercial service, or a nondevelopmental item.

**SEC. 516. POLICY ON REQUIRED USER ADOPTION METRICS IN CERTAIN CONTRACTS FOR ARTIFICIAL INTELLIGENCE SOFTWARE PRODUCTS.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) it is critical that the intelligence community acquire products that can be integrated, to the highest extent possible, within existing workflows and personnel capabilities;

(2) one step toward that goal is ensuring that products procured by the intelligence community have user-adoption metrics, which allow programmers and vendors to assess the effectiveness of a given product to an intelligence community user;

(3) requiring such metrics also incentivizes vendors to incorporate training and adoption programs into their products, as opposed to contracts which simply sell an application to the intelligence community with no customer success feature built in; and

(4) in addition, this data is critical to informing decisions about the continued use of a product, including relating to whether a prototype will transition from development to an enterprise-wide contract or program of record.

(b) POLICY.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall establish a policy containing the following:

(1) With respect to a contract or other agreement entered into between the head of an element of the intelligence community and a commercial provider for the acquisition of a covered product for users within the intelligence community—

(A) a requirement that each such contract or other agreement include, as a term of the contract or agreement, a commitment by the commercial provider to furnish a means of collecting user adoption metrics for assessing the adoption of the covered product by such users; and

(B) a requirement that the head assess the user adoption of the covered product through such means.

(2) Such exceptions to the requirements under paragraph (1) as may be determined appropriate by the Director.

(c) REPORTS.—

(1) SUBMISSION.—Not later than 1 year after the date on which the Director of National Intelligence establishes the policy under subsection (b), and annually thereafter for 3 years, the Director, in coordination with the heads of the elements of the intelligence community, shall submit to the congressional intelligence committees a report on the user adoption metrics for each covered product acquired using, in whole or in part, funds made available under the National Intelligence Program.

(2) **MATTERS.**—Each report under paragraph (1) shall include, with respect to the year covered by the report, the following:

(A) A detailed description of the effectiveness of the policy under subsection (b), including a cost-benefit analysis of such policy.

(B) A summary of the user adoption metrics collected pursuant to such policy for each program referred to in paragraph (1).

(C) An identification of any instance in which the head of an element of the intelligence community determined that requiring a commitment to furnish a means of collecting user adoption metrics as a term of a contract or agreement pursuant to such policy was not practicable pursuant to an exception specified in subsection (b)(2) and, as a result, did not require such commitment.

(D) A justification for the continuation of the use of any covered product acquired by the head of an element of the intelligence community that the head has determined, pursuant to an assessment required under subsection (b)(1)(B), was not sufficiently adopted by users or otherwise received negative user feedback.

(E) Any other matters, including any relevant recommendations, determined appropriate by the Director.

(3) **TIMING.**—Each report under paragraph (1) shall be submitted prior to the date of the presentation of the consolidated National Intelligence Program budget for the year covered by the report to the President for approval pursuant to section 102A(c) of the National Security Act of 1947 (50 U.S.C. 3024).

(d) **DEFINITIONS.**—In this section:

(1) **COVERED PRODUCT.**—The term “covered product” means a commercial software product that involves artificial intelligence.

(2) **NATIONAL INTELLIGENCE PROGRAM.**—The term “National Intelligence Program” has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 3003).

**SEC. 517. ASSESSMENTS RELATING TO INFORMATION TECHNOLOGY AND SOFTWARE SYSTEMS.**

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that—

(1) the intelligence community continues to rely heavily on legacy information technology systems and software;

(2) transitioning these systems as appropriate to modern software as a service, cloud-based, and open-source systems is a priority;

(3) in many instances, there are no incentives to make such a transition due to the cost, complexity, administrative hurdles, and user adoption challenges with any such transition; and

(4) therefore, it is imperative for the intelligence community to create incentives to ensure that its systems evolve with industry and remain competitive with foreign adversaries of the United States.

(b) **ASSESSMENTS REQUIRED.**—

(1) **INTELLIGENCE COMMUNITY-WIDE BASELINE ASSESSMENT.**—Not later than 1 year after the date of the enactment of this Act, the Director of National Intelligence, in consultation with the heads of the elements of the intelligence community, shall complete an assessment of the information technology and software systems of each element of the intelligence community, to review whether such systems integrate new and emerging technology and, as appropriate, make recommendations to decommission or replace outdated systems. Such assessment shall include, with respect to each such system, an evaluation of the following:

(A) The usability of the system.

(B) Whether the system is the most up-to-date version of the system available.

(C) The compatibility of the system with new and emerging technology.

(D) The costs and benefits of using an alternative system in lieu of the system, including the financial cost of transitioning to such an alternative system and any technical or administrative barriers to such transition.

(E) Such other matters as may be determined appropriate by the Director.

(2) **ASSESSMENTS UPON ENTRY INTO, RENEWAL, OR EXTENSION OF CERTAIN CONTRACTS.**—Not later than 60 days after the date on which the head of an element of the intelligence community enters into, renews, or extends a contract for the acquisition of an information technology or software system, the Director of National Intelligence shall conduct an assessment of such system in accordance with paragraph (1), including by evaluating each of the matters specified in subparagraphs (A) through (E) of such paragraph, with respect to such system.

- (c) **GUIDANCE.**—The Director shall issue to the heads of the elements of the intelligence community guidance to—
- (1) incentivize each such head to adopt and integrate new and emerging technology within information technology and software systems of the element and to decommission and replace outdated systems, including through potential funding enhancements; and
  - (2) incentivize, and hold accountable, personnel of the intelligence community with respect to the integration of new and emerging technology within such systems, including through the provision of appropriate training programs and evaluations.
- (d) **SUBMISSIONS TO CONGRESS.**—
- (1) **REPORT ON ASSESSMENT RESULTS.**—Not later than 60 days after the date on which the Director completes the assessment under subsection (b)(1), the Director shall submit to the appropriate congressional committees a report containing the results of such assessment.
  - (2) **SUBMISSION OF GUIDANCE.**—Not later than 60 days after the date on which the Director issues the guidance under subsection (c), the Director shall submit to the appropriate congressional committees a copy of such guidance.
- (e) **APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.**—In this section, the term “appropriate congressional committees” means—
- (1) the congressional intelligence committees; and
  - (2) the Committees on Appropriations of the House of Representatives and the Senate.

## Subtitle C—Reports

### SEC. 521. REPORTS ON INTEGRATION OF ARTIFICIAL INTELLIGENCE WITHIN INTELLIGENCE COMMUNITY.

- (a) **SENSE OF CONGRESS.**—It is the sense of Congress that—
- (1) artificial intelligence and other emerging technologies must be incorporated into the intelligence community at a pace that matches industry and is competitive with United States adversaries;
  - (2) while collaboration can and does occur in instances, Congress is concerned that the United States is not integrated enough across disciplines to further this essential mission; and
  - (3) while each intelligence community element is pursuing artificial intelligence adoption by either establishing new offices or surging resources to existing offices, there is not a single office or official at each intelligence community element that has the authority to oversee artificial intelligence adoption at the agency, and can serve as the coordinator for interagency cooperation.
- (b) **REPORT BY DIRECTOR OF NATIONAL INTELLIGENCE.**—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence, in coordination with the heads of the elements of the intelligence community, shall submit to the congressional intelligence committees a report on the efforts of the intelligence community to develop, acquire, adopt, and maintain artificial intelligence across the intelligence community to improve intelligence collection across the collection spectrum and optimize internal work flows. Such report shall contain a separate review of each such element that includes, with respect to the element, the following:
- (1) A description of the authorities of the element relating to the use of artificial intelligence, and whether the element lacks any resources or authorities necessary to accelerate the adoption by the element of artificial intelligence solutions, including commercial products involving artificial intelligence.
  - (2) A description of the organizational roles, responsibilities, and authorities for any senior officials of the element charged with accelerating the adoption by the element of artificial intelligence solutions, and whether the head of the element lacks any resources or authorities to hire the personnel necessary to so accelerate the adoption.
  - (3) An identification of the senior official of the element responsible for overseeing and coordinating efforts relating to artificial intelligence across the intelligence community, including through the integration of the acquisition, technology, human capital, and financial management aspects necessary for the adoption of artificial intelligence solutions.
  - (4) An assessment, conducted by the Inspector General of the Intelligence Community, of the efforts of the head of the element to acquire and adopt commercial products involving artificial intelligence and in particular, the efforts of such head to acquire and adopt such products in a timely manner.

(5) An assessment, conducted by the Inspector General of the Intelligence Community, of any administrative or technical barriers to the accelerated adoption of artificial intelligence by the element, including any such barriers to the efforts specified in paragraph (4). Such assessment shall be disaggregated by, and include input from, organizational units of the element that focus on the following:

- (A) Acquisitions and contracting.
- (B) Personnel and workforce matters.
- (C) Financial management and budgeting.
- (D) Operations and capabilities.

(6) An assessment, conducted by the Inspector General of the Intelligence Community, of the efforts of the head of the element to coordinate across the intelligence community for the purpose of ensuring the adoption of best practices, sharing of information, and efficient use of resources relating to artificial intelligence, including an identification by such head of any administrative or technical barriers to such coordination, and recommendations for improving such coordination. With respect to the review of the Office of the Director of National Intelligence, such assessment shall also include a specific assessment of how the Director of National Intelligence, in consultation with the Director of Science and Technology and the Chief Data Officer, oversees, or plans to oversee, such coordination.

(c) ANNUAL REPORTS BY DIRECTOR OF SCIENCE AND TECHNOLOGY.—

(1) REPORTS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter for 3 years, the Director of Science and Technology, in coordination with the Chief Data Officer with respect to the matters specified in paragraph (3), and in consultation with the Director of National Intelligence and the heads of the elements of the intelligence community, shall submit to the congressional intelligence committees a report on the progress of the adoption of artificial intelligence within the intelligence community.

(2) MATTERS.—Each report under paragraph (1) shall include, with respect to the year covered by the report, the following:

(A) A detailed description of the progress of each element of the intelligence community in the adoption and maintenance of artificial intelligence during such year, including a description of any—

- (i) artificial intelligence programs or systems adopted or decommissioned by the element;
- (ii) contracts entered into by the head of the element with small- or medium-sized emerging technology companies for commercial products involving artificial intelligence;
- (iii) efforts carried out by the head of the element for coordination across the intelligence community on artificial intelligence-related matters; and
- (iv) relevant positions established or filled within the element.

(B) A description of any policies of the intelligence community issued during such year that relate to the adoption of artificial intelligence within the intelligence community, including an assessment of the compliance with such policies by the elements of the intelligence community.

(C) A list of recommendations by the Director of Science and Technology for the efficient, accelerated, and comprehensive adoption of artificial intelligence across the intelligence community during the year following the year covered by the report, including any technological advances in artificial intelligence that the intelligence community should leverage from industry actors.

(D) An overview of the advances of foreign adversaries in the field of artificial intelligence, and steps that may be taken to ensure the United States Government outpaces foreign adversaries in such field.

(E) Any gaps in resource or authorities, or other administrative or technical barriers, to the adoption of artificial intelligence by the intelligence community.

(F) Such other matters as the Director of Science and Technology may determine appropriate.

(3) ENTRY BY CHIEF DATA OFFICER.—Each report under paragraph (1) shall include an entry by the Chief Data Officer that addresses each of the matters specified in paragraph (2) with respect to the organization of data for the accelerated adoption of artificial intelligence solutions.

SEC. 522. REPORT ON POTENTIAL BENEFITS OF ESTABLISHMENT OF ICWERX.

(a) REPORT.—Not later than 180 days after the date of enactment of this Act, the Director of National Intelligence shall submit to the congressional intelligence com-

mittees an assessment of whether the intelligence community would benefit from the establishment of an organization to be known as “ICWERX”, the mission and activities of which would incorporate lessons learned from AFWERX of the Air Force (or such successor program), the Defense Innovation Unit of the Department of Defense, and other programs and elements of the Federal Government with a focus on technology or innovation.

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

(1) A review of the avenues for small- and medium-sized emerging technology companies to provide to the intelligence community artificial intelligence or other technology solutions, including an identification, for each of the 5 years preceding the year in which the report is submitted, of the annual number of such companies that have provided the intelligence community with such solutions.

(2) A review of the processes by which the heads of the elements of the intelligence community acquire and transition commercial research of small- and medium-sized emerging technology companies in a prototype or other early developmental stage.

(3) An assessment of—

(A) whether the intelligence community is postured to incorporate the technological innovations of emerging technology companies, including in software and hardware; and

(B) any areas in which the intelligence community lacks resources, authorities, personnel, expertise, or institutional mechanisms necessary for such incorporation.

(4) An assessment of the potential costs and benefits associated with the establishment of ICWERX in accordance with subsection (a).

**SEC. 523. REQUIREMENTS AND REPORT ON WORKFORCE NEEDS OF INTELLIGENCE COMMUNITY RELATING TO SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS, AND RELATED AREAS.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) increasing the talent diversity, density, and expertise for critical fields in the intelligence community is essential to accelerating the incorporation, integration, and maintenance of emerging technologies into the workflows and business practices of the intelligence community;

(2) Congress is concerned that the intelligence community has not yet conducted a baseline assessment of what talent currently exists within the intelligence community, and where gaps prevent the intelligence community from meeting the technology demands in the next decade;

(3) Congress is aware that the Director of National Intelligence is starting the process to lead a needs assessment across the intelligence community and encourages all elements of the intelligence community to work expeditiously with the Director to develop that detailed assessment; and

(4) this type of needs assessment should be institutionalized and built into the future human capital strategy for the next generation of intelligence officers and officials.

(b) REQUIREMENTS.—The Director of National Intelligence, in coordination with the Chief Technology Officer and the Chief Human Capital Officer of the Office of the Director of National Intelligence, shall—

(1) develop an organizational management plan for the adoption and maintenance of artificial intelligence across the intelligence community; and

(2) require that each head of an element of the intelligence community, with respect to such element—

(A) develop a plan for the recruitment of personnel to positions the primary duties of which involve the integration, maintenance, or use of artificial intelligence (and the retention and training of personnel serving in such positions);

(B) develop a plan for—

(i) the review and evaluation, on a continuous basis, of the expertise necessary to accelerate the adoption of artificial intelligence and other emerging technology solutions; and

(ii) the update of efforts to recruit and retain personnel with such expertise; and

(C) coordinate and share information and best practices relating to such recruitment and retention within the element and across the intelligence community.

(c) REPORT.—

(1) SUBMISSION.—Not later than January 1, 2024, the Director of National Intelligence, in coordination with the Chief Technology Officer and the Chief Human Capital Officer of the Office of the Director of National Intelligence,

shall submit to the congressional intelligence committees a report on the workforce needs of the intelligence community relating to artificial intelligence, cybersecurity, and other science, technology, engineering, and mathematics areas.

(2) ELEMENTS.—The report under paragraph (1) shall include the following:

(A) A detailed description of the organizational management plan under subsection (b)(1).

(B) With respect to each element of the intelligence community, the following:

(i) A detailed breakdown of the personnel of the element serving in positions the primary duties of which involve the integration, maintenance, or use of artificial intelligence, including (for each such position) the title of the position, the office under which the position is organized, and the approximate percent of time personnel serving in the position spend carrying out such duties under the position, as compared to carrying out other duties under the position.

(ii) A detailed description of the plan of the head of the element under subsection (b)(2)(A), including an identification of any official responsible for coordinating recruitment, retention, and training for the element under such plan.

(iii) A detailed description of the plan of the head of the element under subsection (b)(2)(B).

(iv) A detailed description of the methods by which the head coordinates and shares information and best practices under subsection (b)(2)(C), including an identification of any official responsible for such coordination and sharing for the element.

(v) Such other matters as the Director of National Intelligence may determine appropriate.

(C) An assessment of any gaps in the organizational management plan specified in subsection (b)(1), including, for each element of the intelligence community, an identification of any additional roles, positions, expertise, or authorities necessary for the adoption and maintenance of artificial intelligence by that element.

(D) An assessment of the quality and sustainability of the talent pipeline of the intelligence community with respect to talent in cybersecurity and other science, technology, engineering, and mathematics areas. Such assessment shall include the following:

(i) An assessment of the priorities of the intelligence community with respect to cybersecurity and other science, technology, engineering, and mathematics areas, and the personnel necessary to address such priorities.

(ii) A summary of the education, recruitment, and retention programs (including skills-based training and career and technical educational programs) available to personnel of the intelligence community, regardless of whether such programs are administered by the head of an element of the intelligence community or the head of another Federal department or agency, and an analysis of how such programs support the quality and sustainability of such talent pipeline.

(iii) A description of the relevant authorities available to the heads of the elements of the intelligence community to support the quality and sustainability of such talent pipeline.

(iv) An assessment of any gaps in authorities, resources, recruitment or retention incentives, skills-based training, or educational programs, that may negatively affect the quality or sustainability of such talent pipeline.

(d) INFORMATION ACCESS.—The heads of the elements of the intelligence community shall furnish to the Chief Technology Officer and the Chief Human Capital Officer of the Office of the Director of National Intelligence such information as may be necessary for the development of the report under subsection (c).

## Subtitle D—Other Matters

### SEC. 531. IMPROVEMENTS TO USE OF COMMERCIAL SOFTWARE PRODUCTS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) systems integration is a critical part of incorporating emerging technologies into the intelligence community;

(2) unfortunately, Congress understands that there remains an uneven approach across the intelligence community for contracting and executing system integration;

(3) such disparate policies lead to added administrative costs for both the intelligence community and commercial vendors, and inhibit integration and operationalization in a coordinated, efficient way;

(4) further, as a result of a lack of a cohesive policy, some contracts do not always adhere to the best practices of commercial software as a service product, or are executed by legacy contractors who create added expenses and sustainment costs, among other issues; and

(5) including standardized terms across intelligence community contracts can help reduce administrative and technical barriers to systems integration, make such integration more efficient and effective, and ensure that each contract comports with best practices and standard commercial software as a service feature.

(b) PROCUREMENT OF COMMERCIAL SOFTWARE PRODUCTS.—

(1) POLICY.—Not later than January 1, 2024, the Director of Science and Technology of the Office of the Director of National Intelligence, in consultation with the heads of the elements of the intelligence community, shall recommend to the Director of National Intelligence an intelligence community-wide policy to ensure that the procurement of commercial software products by the intelligence community is carried out in accordance with best practices.

(2) ELEMENTS.—The policy under paragraph (1) shall include the following:

(A) Guidelines for the heads of the elements of the intelligence community to determine which contracts for commercial software products are covered by the policy, including with respect to agreements, authorizations to operate, and other acquisition activities.

(B) Guidelines for using standardized terms in such contracts, modeled after commercial best practices, including common procedures and language regarding—

(i) terms for who is responsible for system integration under the contract;

(ii) a timeline required for system integration;

(iii) a mechanism included in each contract to ensure the ability of the vendor to provide continuous updates and version control for the software;

(iv) a mechanism included in each contract that allows the United States Government to receive and use the latest updates for the software and receive such updates in near real-time;

(v) automatic technological mechanisms for security and data validation, including security protocols that are predicated on commercial best practices; and

(vi) procedures to provide incentives, and a technical framework, for system integration for new commercial software solutions to fit within existing workflows and information technology infrastructure.

(C) Guidelines to ensure coordination of the policy throughout the intelligence community, including identifying the officials in each element of the intelligence who are responsible for enforcing the policy.

(3) REPORT.—Not later than January 1, 2025, and annually thereafter, the Director of National Intelligence shall submit to the congressional intelligence committees a report on the policy recommended under paragraph (1), including the following with respect to the period covered by the report:

(A) An evaluation of compliance with such policy by the elements of the intelligence community.

(B) An identification of the elements of such policy that achieve the goal referred to in paragraph (1), and the elements of such policy that fail to achieve such goal, including any concerns with system integration.

(C) Recommendations to better coordinate system integration throughout the intelligence community using best practices.

(D) For each element of the intelligence community—

(i) a description by the head of the element of specific successes and concerns in contracting for, and incorporating, system integration; and

(ii) recommendations to improve the recommended policy.

(c) CODE-FREE ARTIFICIAL INTELLIGENCE ENABLEMENT TOOLS.—

(1) POLICY.—Not later than 1 year after the date of the enactment of this Act, the Director of National Intelligence, in consultation with the Director of Science and Technology and the heads of the elements of the intelligence community that the Director of National Intelligence determines appropriate, shall implement a policy to promote the intelligence community-wide use of code-free artificial intelligence enablement tools.

(2) ELEMENTS.—The policy under paragraph (1) shall include the following:

(A) A detailed set of incentives for using code-free artificial intelligence enablement tools.

(B) A plan to ensure coordination throughout the intelligence community, including by designating an official of each element of the intelligence community to oversee implementation of the policy and such coordination.

(3) SUBMISSION.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the congressional intelligence committees the proposed policy under paragraph (1), including a detailed plan and timeline for carrying out the incentives described in paragraph (2)(A).

(4) ANNUAL REPORTS OR BRIEFINGS.—Not later than 1 year after commencing the implementation of the policy under paragraph (1), and annually thereafter for 3 years, the Director of National Intelligence, in consultation with the Director of Science and Technology and the heads of the elements of the intelligence community that the Director of National Intelligence determines appropriate, shall submit to the congressional intelligence committees a report, or provide to such committees a briefing, that—

(A) details the success of the policy;

(B) includes statistics on the progress of the intelligence community in implementing code-free artificial intelligence enablement tools; and

(C) contains any recommendations for improvements or enhancements to the policy.

(d) CODE-FREE ARTIFICIAL INTELLIGENCE ENABLEMENT TOOLS DEFINED.—In this section, the term “code-free artificial intelligence enablement tools” means software that provides an environment where visual drag-and-drop applications or similar tools allow 1 or more individuals to program applications without linear coding.

**SEC. 532. IMPROVEMENTS TO EMPLOYEES AND MANAGERS RELATING TO EMERGING TECHNOLOGIES, SOFTWARE DEVELOPMENT, ACQUISITION, AND SUSTAINMENT.**

(a) CADRE OF EXPERTS.—

(1) ESTABLISH OF CADRE.—Not later than January 1, 2024, the Director of National Intelligence, acting through the Director of Science and Technology, shall establish a cadre of personnel who are experts in emerging technologies, software development, systems integration, and acquisition, to improve the adoption by the intelligence community of commercial solutions for emerging technologies.

(2) STRUCTURE.—The Director of Science and Technology—

(A) shall ensure the cadre has the appropriate number of members;

(B) shall establish an appropriate leadership structure and office within which the cadre shall be managed; and

(C) shall determine the appropriate officials to whom members of the cadre shall report.

(3) RESPONSIBILITIES.—The cadre of personnel authorized under paragraph (1) shall be responsible for—

(A) assisting the Director of Science and Technology with continuing to develop and evolve intelligence community-wide policies, rules, and procedures to accelerate the adoption of emerging technologies, including with respect to artificial intelligence, machine learning, and software development and systems integration into the intelligence community;

(B) assisting elements of the intelligence community with software development and acquisition;

(C) establishing training requirements for acquisition professionals within the intelligence community to increase the number of acquisition experts, with a particular emphasis on—

(i) the principles contained in the TechFAR Handbook for Procuring Digital Services Using Agile Processes of the U.S. Digital Service; and

(ii) the requirements under parts 10 and 12 of the Federal Acquisition Regulation, in accordance with the protocol of the Director of National Intelligence relating to such parts pursuant to section 515; and

(D) other functions as the Director of Science and Technology determines appropriate based on the evolving needs of identifying, incorporating, and maintaining evolving technology in the intelligence community.

(4) ASSIGNMENT.—The Director of Science and Technology shall establish processes to assign members of the cadre to provide—

(A) expertise on matters relating to software development, integration, acquisition, and sustainment; and

(B) support for appropriate programs or activities of the intelligence community.

(5) ADMINISTRATION.—

(A) IN GENERAL.—The Director of Science and Technology, in coordination with the President of the Defense Acquisition University and in consultation with academia and industry, shall develop a career path, including

training, development opportunities, exchanges, and talent management programs, for the cadre. The Director of Science and Technology may use existing personnel and acquisition authorities to establish the cadre, as appropriate, including—

- (i) section 9903 of title 5, United States Code;
- (ii) authorities relating to services contracting;
- (iii) the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4701 et seq.); and
- (iv) authorities relating to exchange programs with industry.

(B) ASSIGNMENTS.—Civilian and military personnel from within the intelligence community may be assigned to serve as members of the cadre.

(6) FUNDING.—The Director of Science and Technology may use amounts made available under the National Intelligence Program for the purpose of recruitment, training, and retention of members of the cadre, including by using such amounts to pay salaries of newly hired members of the cadre for up to 3 years.

(7) COORDINATION.—The Director of Science and Technology shall coordinate with the Under Secretary of Defense for Acquisition and Sustainment and the Under Secretary of Defense for Research and Engineering to ensure that the programs, policies, rules, and regulations relating to the cadre of the intelligence community and the cadre of the Department of Defense are consistent and streamlined.

(8) REPORTS.—On an annual basis, the Director of Science and Technology shall submit to the congressional intelligence committees a report on the cadre, including, with respect to the period covered by the report, the following:

- (A) The number of experts onboarded as part of the cadre and the backgrounds and expertise of the experts.
- (B) The number of experts required for the cadre.
- (C) The training requirements for the cadre.
- (D) A comprehensive assessment of the value of the cadre to carry out this section, including details on specific work the cadre is carrying out to facilitate faster adoption of emerging technologies into the intelligence community.

(b) TRAINING.—

(1) TRAINING CURRICULUM.—The Secretary of Defense and the Director of National Intelligence, in consultation with the President of the Defense Acquisition University and the heads of the elements of the intelligence community that the Secretary and Director determine appropriate, shall jointly establish a training curriculum for acquisition officials within the Department of Defense and the intelligence community focused on improving the understanding and awareness of contracting authorities and procedures for the acquisition of emerging technologies. The Secretary and the Director shall ensure that the curriculum substantially relies on the principles contained in the TechFAR Handbook for Procuring Digital Services Using Agile Processes of the U.S. Digital Service.

(2) PROVISION OF TRAINING.—The Director shall ensure that the training curriculum under paragraph (1) is provided to each element of the intelligence community.

(3) REPORT.—Not later than January 1, 2023, the Secretary and the Director shall jointly submit to the congressional intelligence committees a report containing an update on the status of the curriculum under paragraph (1).

(c) EXECUTIVE EDUCATION ACTIVITIES.—

(1) ESTABLISHMENT.—Not later than January 1, 2024, the Director of National Intelligence, in coordination with the heads of the elements of the intelligence community, shall establish executive education activities on emerging technologies for appropriate managers within the intelligence community who are members of the Senior Intelligence Service or are paid at the GS–13, GS–14, or GS–15 levels. The activities shall be specifically designed to prepare new and existing managers on relevant technologies and how these technologies may be applied to the intelligence community.

(2) PARTICIPATION.—The Director, in coordination with the heads of the elements of the intelligence community, shall develop a plan for managers described in paragraph (1) to participate in the education activities established under such paragraph. The Director shall ensure that—

- (A) the plan is tailored to each individual element of the intelligence community; and
- (B) not later than 2 years after the establishment of the education activities, all such managers are required to certify that the managers have successfully completed the education activities.

(3) REPORT.—Not later than January 1, 2023, the Director shall submit to the congressional intelligence committees a report containing an update on the executive education activities under paragraph (1). The report shall include the following:

- (A) An overview of—
  - (i) who participated in the activities;
  - (ii) what technologies were included in the activities and how those technologies were identified; and
  - (iii) what other efforts are underway to ensure that the leadership of the intelligence community is able to identify, incorporate, and maintain the most advanced technology in executing the missions of the intelligence community.
- (B) An identification of other incentives, activities, resources, and programs that the Director determines may be necessary to ensure that the managers described in paragraph (1) are generally trained in the most advanced technologies.

## TITLE VI—MATTERS RELATING TO FOREIGN COUNTRIES

### Subtitle A—Miscellaneous Authorities, Requirements, and Limitations

#### SEC. 601. NOTICE OF DEPLOYMENT OR TRANSFER OF CONTAINERIZED MISSILE SYSTEMS BY RUSSIA, CHINA, OR IRAN.

Section 501 of the Intelligence Authorization Act for Fiscal Year 2016 (division M of Public Law 114–113; 129 Stat. 2923) is amended—

- (1) by striking “the Russian Federation” each place it appears and inserting “a covered country”;
- (2) by striking “Club-K container missile system” each place it appears and inserting “missile launcher disguised as or concealed in a shipping container”;
- (3) in subsection (a)(1)—
  - (A) by striking “deploy, the” and inserting “deploy, a”; and
  - (B) by striking “the Russian military” and inserting “the military of the covered country”;
- (4) by striking subsection (c) and inserting the following new subsection:

“(c) DEFINITIONS.—In this section:

“(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means the following:

- “(A) The congressional intelligence committees.
- “(B) The Committees on Armed Services of the House of Representatives and the Senate.
- “(C) The Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

“(2) COVERED COUNTRY.—The term ‘covered country’ means the following:

- “(A) Russia.
- “(B) China.
- “(C) Iran.
- “(D) North Korea.”; and

- (5) in the heading, by striking “CLUB-K CONTAINER MISSILE SYSTEM BY THE RUSSIAN FEDERATION” and inserting “CONTAINERIZED MISSILE SYSTEM BY RUSSIA OR CERTAIN OTHER COUNTRIES” and amending the item relating to section 501 in the table of sections to read accordingly.

#### SEC. 602. INTELLIGENCE COMMUNITY COORDINATOR FOR RUSSIAN ATROCITIES ACCOUNTABILITY.

(a) INTELLIGENCE COMMUNITY COORDINATOR FOR RUSSIAN ATROCITIES ACCOUNTABILITY.—

(1) DESIGNATION.—Not later than 30 days after the date of the enactment of this Act, the Director of National Intelligence shall designate a senior official of the Office of the Director of National Intelligence to serve as the intelligence community coordinator for Russian atrocities accountability (in this section referred to as the “Coordinator”).

(2) DUTIES.—The Coordinator shall oversee the efforts of the intelligence community relating to the following:

(A) Identifying, and (as appropriate) disseminating within the United States Government, intelligence relating to the identification, location, or activities of foreign persons suspected of playing a role in committing Russian atrocities in Ukraine.

(B) Identifying analytic and other intelligence needs and priorities of the intelligence community with respect to the commitment of such Russian atrocities.

(C) Addressing any gaps in intelligence collection relating to the commitment of such Russian atrocities and developing recommendations to address any gaps so identified, including by recommending the modification of the priorities of the intelligence community with respect to intelligence collection.

(D) Collaborating with appropriate counterparts across the intelligence community to ensure appropriate coordination on, and integration of the analysis of, the commitment of such Russian atrocities.

(E) Identifying intelligence and other information that may be relevant to preserve evidence of potential war crimes by Russia, consistent with the public commitments of the United States to support investigations into the conduct of Russia.

(F) Ensuring the Atrocities Early Warning Task Force and other relevant departments and agencies of the United States Government receive appropriate support from the intelligence community with respect to the collection, analysis, preservation, and, as appropriate, dissemination, of intelligence related to Russian atrocities in Ukraine.

(3) **PLAN REQUIRED.**—Not later than 30 days after the date of enactment of this Act, the Director of National Intelligence shall submit to the congressional intelligence committees—

(A) the name of the official designated as the Coordinator pursuant to paragraph (1); and

(B) the strategy of the intelligence community for the collection of intelligence related to Russian atrocities in Ukraine, including a detailed description of how the Coordinator shall support, and assist in facilitating the implementation of, such strategy.

(4) **ANNUAL REPORT TO CONGRESS.**—

(A) **REPORTS REQUIRED.**—Not later than May 1, 2023, and annually thereafter until May 1, 2026, the Director of National Intelligence shall submit to the congressional intelligence committees a report detailing, for the year covered by the report—

(i) the analytical findings and activities of the intelligence community with respect to Russian atrocities in Ukraine; and

(ii) the recipients of information shared pursuant to this section for the purpose of ensuring accountability for such Russian atrocities, and the date of any such sharing.

(B) **FORM.**—Each report submitted under subparagraph (A) may be submitted in classified form, consistent with the protection of intelligence sources and methods.

(C) **SUPPLEMENT.**—The Director of National Intelligence may supplement an existing reporting requirement with the information required under subparagraph (A) on an annual basis to satisfy that requirement with prior notification of intent to do so to the congressional intelligence committees.

(b) **DEFINITIONS.**—In this section:

(1) **ATROCITY.**—The term “atrocities” means a war crime, crime against humanity, genocide, or crime of aggression.

(2) **COMMIT.**—The term “commit”, with respect to an atrocity, includes the planning, committing, aiding, and abetting of such atrocity.

(3) **FOREIGN PERSON.**—The term “foreign person” means a person that is not a United States person.

(4) **RUSSIAN ATROCITY.**—The term “Russian atrocity” means an atrocity that is committed by an individual who is—

(A) a member of the armed forces, or the security or other defense services, of the Russian Federation;

(B) an employee of any other element of the Russian Government; or

(C) an agent or contractor of an individual specified in subparagraph (A) or (B).

(5) **UNITED STATES PERSON.**—The term “United States person” has the meaning given that term in section 105A(c) of the National Security Act of 1947 (50 U.S.C. 3039).

(c) **SUNSET.**—This section shall cease to have effect on the date that is 4 years after the date of the enactment of this Act.

**SEC. 603. LEAD INTELLIGENCE COMMUNITY COORDINATOR FOR COUNTERING AND NEUTRALIZING PROLIFERATION OF IRAN-ORIGIN UNMANNED AIRCRAFT SYSTEMS.**

(a) **COORDINATOR.**—

(1) **DESIGNATION.**—Not later than 30 days after the date of enactment of this Act, the Director of National Intelligence shall designate an official from an element of the intelligence community to serve as the lead intelligence community coordinator for countering and neutralizing the proliferation of Iran-origin unmanned aircraft systems (in this section referred to as the “Coordinator”).

(2) **PLAN.**—Not later than 120 days after the date on which the Coordinator is designated under paragraph (1), the Coordinator shall—

(A) develop a comprehensive plan of action, driven by intelligence information, for countering and neutralizing the threats posed by the proliferation of Iran-origin unmanned aircraft systems; and

(B) provide to the congressional intelligence committees a briefing on such plan of action.

(3) **FINAL REPORT.**—

(A) **SUBMISSION.**—Not later than January 1, 2024, the Director of National Intelligence shall submit to the congressional intelligence committees a final report on the activities and findings of the Coordinator.

(B) **MATTERS.**—The report under subparagraph (A) shall include the following:

(i) An assessment of the threats posed by Iran-origin unmanned aircraft systems, including the threat to facilities and personnel of the United States Government in the greater Middle East, particularly in the areas of such region that are located within the area of responsibility of the Commander of the United States Central Command.

(ii) A detailed description of intelligence sharing efforts, as well as other joint efforts driven by intelligence information, with allies and partners of the United States, to assist in countering and neutralizing such threats.

(iii) Recommendations for any changes in United States policy or legislative authorities to improve the capacity of the intelligence community to assist in countering and neutralizing such threats.

(C) **FORM.**—The report under subparagraph (A) may be submitted in classified form.

(b) **COLLABORATION WITH FIVE EYES PARTNERSHIP AND ISRAEL.**—Taking into account the findings of the final report under subsection (a)(3), the Director of National Intelligence shall seek to—

(1) develop and implement a common approach among the Five Eyes Partnership toward countering the threats posed by Iran-origin unmanned aircraft systems, including by leveraging the unique intelligence capabilities and information of the members of the Five Eyes Partnership; and

(2) intensify cooperation with Israel for the purpose of countering Iran-origin unmanned aircraft systems, including by strengthening and expanding existing cooperative efforts conducted pursuant to section 1278 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 133 Stat. 1702; 22 U.S.C. 8606 note).

(c) **DEFINITIONS.**—In this section:

(1) **FIVE EYES PARTNERSHIP.**—The term “Five Eyes Partnership” means the intelligence alliance comprising Australia, Canada, New Zealand, the United Kingdom, and the United States.

(2) **UNMANNED AIRCRAFT SYSTEM.**—The term “unmanned aircraft system” includes an unmanned powered aircraft (including communication links and the components that control the unmanned aircraft), that—

(A) does not carry a human operator;

(B) may fly autonomously or be piloted remotely;

(C) may be expendable or recoverable; and

(D) may carry a lethal payload or explode upon reaching a designated location.

(d) **SUNSET.**—This section shall cease to have effect on the date on which the final report is submitted under subsection (a)(3).

**SEC. 604. COLLABORATION BETWEEN INTELLIGENCE COMMUNITY AND DEPARTMENT OF COMMERCE TO COUNTER FOREIGN COMMERCIAL THREATS.**

(a) **WORKING GROUP.**—

(1) **ESTABLISHMENT.**—Unless the Director of National Intelligence and the Secretary of Commerce make the joint determination specified in subsection (b), the Director and the Secretary, in consultation with the head of any other department or agency of the United States Government determined appropriate by the Director or the Secretary, shall jointly establish a working group to

counter foreign commercial threats (in this section referred to as the “Working Group”).

(2) MEMBERSHIP.—The composition of the Working Group may include any officer or employee of a department or agency of the United States Government determined appropriate by the Director or the Secretary.

(3) DUTIES.—The duties of the Working Group shall be the following:

(A) To identify current foreign commercial threats.

(B) To identify probable future foreign commercial threats.

(C) To discuss opportunities to address the harm to the national security of the United States arising out of foreign commercial threats.

(D) To identify goods, services, or intellectual property that, if produced by, offered by, sold by, licensed by, or otherwise distributed under the control of, the United States, would mitigate the foreign commercial threat.

(4) MEETINGS.—Not later than 30 days after the date of the enactment of this Act, and on a regular basis that is not less frequently than quarterly thereafter until the date of termination under paragraph (5), the Working Group shall meet.

(5) TERMINATION.—Beginning on the date that is 2 years after the date of the establishment under paragraph (1), the Working Group may be terminated upon the Director of National Intelligence and the Secretary of Commerce jointly—

(A) determining that termination of the Working Group is appropriate; and

(B) submitting to the appropriate congressional committees a notification of such determination (including a description of the justification for such determination).

(6) REPORTS.—

(A) SUBMISSION TO CONGRESS.—Not later than 60 days after the date of the enactment of this Act, and biannually thereafter until the date of termination under paragraph (5), the Working Group shall submit to the appropriate congressional committees a report on the activities of the Working Group.

(B) MATTERS.—Each report under subparagraph (A) shall include a description of the following:

(i) Any current foreign commercial threats identified by the Working Group.

(ii) Any future foreign commercial threats identified by the Working Group.

(iii) The strategy of the United States Government, if any, to mitigate any current foreign commercial threats or future foreign commercial threats so identified.

(iv) The plan of the intelligence community to provide to the Department of Commerce and other nontraditional customers of the intelligence community support in addressing foreign commercial threats.

(v) Any other significant activity of the Working Group.

(b) OPTION TO DISCHARGE OBLIGATION THROUGH OTHER MEANS.—If the Director of National Intelligence and the Secretary of Commerce make a joint determination that the requirements of the Working Group under subsection (a) (including the duties under paragraph (3) and the reporting requirement under paragraph (6) of such subsection) may be appropriately filled by an existing entity or structure, and submit to the congressional intelligence committees a notification of such determination (including a description of the justification for such determination), the Director and Secretary may task such entity or structure with such requirements in lieu of establishing the Working Group.

(c) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the congressional intelligence committees;

(B) the Committee on Energy and Commerce of the House of Representatives; and

(C) the Committee on Commerce, Science, and Transportation of the Senate.

(2) FOREIGN ADVERSARY.—The term “foreign adversary” means the following:

(A) China.

(B) Iran.

(C) North Korea.

(D) Russia.

(E) Any other foreign country that the Director of National Intelligence or the Secretary of Commerce designates for purposes of this section.

(3) **FOREIGN COMMERCIAL THREAT.**—The term “foreign commercial threat” means a scenario in which a rare commercial item or service is produced by, offered by, sold by, licensed by, or otherwise distributed under the control of a foreign adversary in a manner that may provide the foreign adversary leverage over an intended recipient by—

(A) withholding, or threatening to withhold, the rare commercial item or service; or

(B) creating reliance on the rare commercial item or service as essential to the safety, health, or economic well-being of the intended recipient.

(4) **RARE COMMERCIAL ITEM OR SERVICE.**—The term “rare commercial item or service” means a good, service, or intellectual property that is not widely available for distribution.

**SEC. 605. INTELLIGENCE ASSESSMENT ON FOREIGN WEAPONIZATION OF ADVERTISEMENT TECHNOLOGY DATA.**

(a) **ASSESSMENT.**—The Director of National Intelligence shall conduct an intelligence assessment of the counterintelligence risks of, and the exposure of intelligence community personnel to, tracking by foreign adversaries through advertisement technology data.

(b) **REPORT.**—Not later than 60 days after the date of the enactment of this Act, the Director shall submit to the congressional intelligence committees a report on the intelligence assessment under subsection (a).

(c) **ADVERTISEMENT TECHNOLOGY DATA DEFINED.**—In this section, the term “advertisement technology data” means commercially available data derived from advertisement technology that is used, or can be used, to geolocate individuals or gain other targeting information on individuals.

**SEC. 606. INTELLIGENCE COMMUNITY ASSESSMENT REGARDING RUSSIAN GRAY ZONE ASSETS.**

(a) **INTELLIGENCE COMMUNITY ASSESSMENT REGARDING RUSSIAN GRAY ZONE ASSETS.**—

(1) **INTELLIGENCE COMMUNITY ASSESSMENT.**—The Director of National Intelligence, acting through the National Intelligence Council, shall produce an intelligence community assessment that contains—

(A) a description of the gray zone assets of Russia;

(B) an identification of any opportunities to hold such gray zone assets at risk, as a method of influencing the behavior of Russia; and

(C) an assessment of the risks and potential benefits, with respect to the interests of the United States, that may result from the seizure of such gray zone assets to hold the assets at risk.

(2) **CONSIDERATIONS.**—In identifying opportunities to hold a gray zone asset of Russia at risk under paragraph (1)(B), the National Intelligence Council shall consider the following:

(A) The effect on civilians of holding the gray zone asset at risk.

(B) The extent to which the gray zone asset is substantially state-owned or substantially controlled by Russia.

(C) The likelihood that holding the gray zone asset at risk will influence the behavior of Russia.

(D) The likelihood that holding the gray asset at risk, or degrading the asset, will affect any attempt of Russia to use force to change existing borders or undermine the political independence or territorial integrity of any state, including Ukraine.

(E) Such other factors as the National Intelligence Council may determine appropriate.

(3) **APPENDIX.**—The intelligence community assessment under paragraph (1) shall include an appendix that contains a list of the categories of gray zone assets of Russia, with specific examples of—

(A) gray zone assets in each category; and

(B) for each such gray zone asset listed, the ways in which Russia uses the asset to advance its gray zone activities.

(4) **SUBMISSION.**—The Director, consistent with the protection of sources and methods, shall submit to the congressional intelligence committees the intelligence community assessment under paragraph (1).

(5) **FORM.**—The intelligence community assessment under paragraph (1) shall be submitted in unclassified form, but may contain a classified annex.

(b) **DEFINITIONS.**—In this section:

(1) **GRAY ZONE ACTIVITY.**—The term “gray zone activity” has the meaning given that term in section 825 of the Intelligence Authorization Act for Fiscal Year 2022 (Public Law 117–103).

(2) **GRAY ZONE ASSET.**—The term “gray zone asset”—

(A) means an entity or proxy that is controlled, in whole or in part, by a foreign adversary of the United States and is used by such foreign adversary in connection with a gray zone activity; and

(B) includes a state-owned enterprise of a foreign adversary that is so used.

**SEC. 607. INTELLIGENCE ASSESSMENT ON EFFECTS OF SANCTIONS ON RUSSIA.**

(a) **REQUIREMENT.**—Not later than 120 days after the date of the enactment of this Act, the Assistant Secretary of the Treasury for Intelligence and Analysis, in consultation with other departments and agencies of the United States Government that the Assistant Secretary determines appropriate, shall submit to the appropriate congressional committees an intelligence assessment on the effects of the financial and economic sanctions the United States, and the allies and partners of the United States, have imposed on Russia following its further unjustified incursion into Ukrainian territory on February 24, 2022.

(b) **ELEMENTS.**—The assessment under subsection (a) shall include the following:

(1) An analysis of the effects of sanctions on the economy of Russia and on individual sectors, entities, and persons.

(2) Methodologies for assessing the effects of different categories of financial and economic sanctions and export controls on the targets of the sanctions, including with respect to specific industries, entities, individuals, or transactions.

(3) A discussion of sanctions that had significant effects based on the methodologies under paragraph (2).

(4) A discussion of sanctions that had no measurable effects based on the methodologies under paragraph (2).

(5) A description of measures that the Russian Government has introduced to mitigate the effects of sanctions and an analysis of the efficacy of such measures.

(6) A projection of the effects of sanctions in the short- and long-term following the date of the assessment.

(7) A description of evasion techniques used by the Russian Government, entities, and persons covered by the sanctions, and by other governments, entities, and persons who have assisted in the use of such techniques, in response to the sanctions.

(8) An enumeration of—

(A) the known governments, entities, and persons who have assisted in the use of evasion techniques described in paragraph (7); and

(B) the types of transactions for which assistance has been provided.

(c) **FORM.**—The intelligence assessment under subsection (a) may be submitted in classified form, but if so submitted shall include an unclassified executive summary, consistent with the protection of sources and methods.

(d) **APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.**—In this section, the term “appropriate congressional committees” means—

(1) the congressional intelligence committees;

(2) the Committee on Foreign Affairs and the Committee on Finance of the House of Representatives; and

(3) the Committee on Foreign Relations and the Committee on Finance of the Senate.

## **Subtitle B—Reports and Other Matters**

**SEC. 611. REPORT ON ASSESSING WILL TO FIGHT.**

(a) **FINDINGS.**—Congress finds the following:

(1) According to a study by the RAND corporation, “will to fight” is poorly analyzed and the least understood aspect of war.

(2) In testimony before the Select Committee on Intelligence of the Senate in May 2022, top intelligence officials of the United States indicated that although the intelligence community accurately anticipated Russia’s invasion of Ukraine, the intelligence community did not accurately assess the will of Ukrainian forces to fight in opposition to a Russian invasion or that the Ukrainian forces would succeed in averting a rapid Russian military occupation of Kyiv.

(3) According to the RAND corporation, the intelligence community estimated that the Afghan government’s forces could hold out against the Taliban for as long as 2 years if all ground forces of the United States were withdrawn. This estimate was revised in June 2021 to reflect an intelligence community view that Afghanistan’s military collapse could come in 6 to 12 months. In August 2021, the Afghan government fell within days after the ground forces of the United States were withdrawn.

(4) Similarly, the rapid advance of the Islamic State in Iraq and Syria and near-total collapse of the Iraqi Security Forces in 2014 appeared to take the policymakers of the United States by surprise.

(5) The apparent gaps in these analyses had important implications for policy decisions of the United States toward Russia and Afghanistan, and suggest a need for further examination of how the intelligence community assesses a foreign military's will to fight.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence, acting through the National Intelligence Council, and in coordination with the heads of the elements of the intelligence community that the Director determines appropriate, shall submit to the appropriate congressional committees a report examining the extent to which analyses of the military will to fight and the national will to fight informed the all-source analyses of the intelligence community regarding how the armed forces and governments of Ukraine, Afghanistan, and Iraq would perform at key junctures.

(c) ELEMENTS.—The report under subsection (b) shall include the following:

(1) The methodology of the intelligence community for measuring the military will to fight and the national will to fight of a foreign country.

(2) The extent to which analysts of the intelligence community applied such methodology when assessing the military will to fight and the national will to fight of—

(A) Afghanistan following the April 2021 announcement of the full withdrawal of the United States Armed Forces;

(B) Iraq in the face of the rapid emergence and advancement in 2014 of Islamic State in Iraq and Syria; and

(C) Ukraine and Russia during the initial phase of the invasion and march toward Kyiv by Russia in February 2022.

(3) The extent to which—

(A) the assessments described in paragraph (2) depended on the observations of personnel of the United States Armed Forces who had trained Afghan, Iraqi, and Ukrainian armed forces; and

(B) such observations reflected any standardized, objective methodology.

(4) Whether shortcomings in assessing the military will to fight and the national will to fight may have affected the capacity of the intelligence community to provide “early warning” about the collapse of government forces in Iraq and Afghanistan.

(5) The extent to which “red teaming” was used to test the assessments described in paragraph (2).

(6) The extent to which dissenting opinions of intelligence analysts were highlighted in final written products presented to senior policymakers of the United States.

(7) The extent to which analysts and supervisors adhered to the policies, procedures, directives, and best practices of the intelligence community.

(8) Recommendations for analyses by the intelligence community going forward to incorporate lessons learned and enhance the quality of future analytical products to more accurately reflect the military will to fight and the national will to fight and improve the capacity of the intelligence community to accurately predict the success or failure of the armed forces of a foreign country.

(d) ANNEX.—In submitting the report under subsection (b) to the congressional intelligence committees, the Director shall also include an accompanying annex, which shall be classified, providing an inventory of the following:

(1) Collection gaps and challenges that may have affected the analysis of the collapse of government forces in Iraq and Afghanistan.

(2) Actions that the Director of National Intelligence has taken to mitigate such gaps and challenges.

(e) FORM.—The report under subsection (b) may be submitted in classified form, but if so submitted, shall include an unclassified summary of key findings, consistent with the protection of intelligence sources and methods.

(f) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means the following:

(A) The congressional intelligence committees.

(B) The Committee on Foreign Affairs and the Committee on Armed Services of the House of Representatives.

(C) The Committee on Foreign Relations and the Committee on Armed Services of the Senate.

(2) MILITARY WILL TO FIGHT.—The term “military will to fight” means, with respect to the military of a country, the disposition and decision to fight, act, or persevere as needed.

(3) NATIONAL WILL TO FIGHT.—The term “national will to fight” means, with respect to the government of a country, the resolve to conduct sustained military and other operations for an objective even when the expectation of success decreases or the need for significant political, economic, and military sacrifices increases.

**SEC. 612. REPORT ON IMPACT OF RUSSIA INVASION OF UKRAINE ON GLOBAL FOOD SECURITY.**

(a) REQUIREMENT.—Not later than 180 days after the date of enactment of this Act, the Director of National Intelligence, in coordination with the Assistant Secretary of State for Intelligence and Research and other heads of elements of the intelligence community as the Director determines appropriate, shall submit to the congressional intelligence committees a report on the implications of Russia’s invasion of Ukraine on global food insecurity and the impact on national security.

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

(1) An assessment of global food insecurity resulting from Russia’s invasion of Ukraine, including—

(A) the potential for political instability as a result of such food insecurity;

(B) the implications for national security; and

(C) a description of which regions are at greatest risk of such food insecurity.

(2) An assessment of whether Russia has taken intentional steps to cause a global food shortage.

(3) An assessment of whether Russia, China, or any other foreign actor has the capability to weaponize food supply or cause disruptions in global food supply to serve geopolitical purposes.

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

**SEC. 613. REPORT ON THREAT FROM HYPERSONIC WEAPONS.**

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the congressional intelligence committees a report containing an assessment of the threat to the United States from hypersonic weapons in light of the use of such weapons by Russia in Ukraine.

(b) ELEMENTS.—The assessment under subsection (a) shall include the following:

(1) The information learned by the United States regarding the hypersonic weapons capabilities of Russia.

(2) Insights into the doctrine of Russia regarding the use of hypersonic weapons.

(3) An assessment of how foreign countries view the threat of hypersonic weapons.

(4) An assessment of the degree to which the development of missiles with similar capabilities as hypersonic weapons used by Russia would enhance or reduce the ability of the United States to deter Russia from threatening the national security of the United States.

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

**SEC. 614. REPORT ON ORDNANCE OF RUSSIA AND CHINA.**

(a) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Director of the Defense Intelligence Agency shall submit to the congressional intelligence committees and the congressional defense committees a report on ordnance of Russia and China, including the technical specificity required for the safe handling and disposal of such ordnance.

(b) COORDINATION.—The Director shall carry out subsection (a) in coordination with the head of any element of the Defense Intelligence Enterprise that the Director determines appropriate.

(c) DEFINITIONS.—In this section:

(1) CONGRESSIONAL DEFENSE COMMITTEES.—The term “congressional defense committees” has the meaning given that term in section 101(a) of title 10, United States Code.

(2) DEFENSE INTELLIGENCE ENTERPRISE.—The term “Defense Intelligence Enterprise” has the meaning given that term in section 426(b) of title 10, United States Code.

**SEC. 615. REPORT ON ACTIVITIES OF CHINA AND RUSSIA TARGETING LATIN AMERICA AND THE CARIBBEAN.**

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence, acting through the National Intelligence Council, shall submit to the congressional intelligence committees a report on activities undertaken by China and Russia in Latin America and the Caribbean that are in-

tended to increase the influence of China and Russia, respectively, therein. Such report shall include a description of the following:

- (1) Foreign malign influence campaigns by China and Russia targeting Latin America and the Caribbean.
  - (2) Financial investments intended to increase Chinese or Russian influence in Latin America and the Caribbean.
  - (3) Efforts by China and Russia to expand diplomatic, military, or other ties to Latin America and the Caribbean.
  - (4) Any other activities determined appropriate by the Director.
- (b) MATTERS.—With respect to the description of foreign malign influence campaigns under subsection (a), the report shall include an assessment of the following:
- (1) The objectives of any such campaign.
  - (2) The themes and messaging used in any such campaign.
  - (3) The scale and nature of the threat posed by any such campaign.
  - (4) The effect of such threat on the national security, diplomatic, military, or economic interests of the United States.
  - (5) Any gaps in the intelligence collection or analysis of the intelligence community with respect to such threat, and recommendations for the mitigation of any such gaps.
  - (6) Opportunities for the heads of the intelligence community, or other relevant United States Government entities, to identify, disrupt, or counter the campaigns specified in subsection (a).
- (c) FORM.—The report under subsection (a) shall be submitted in unclassified form, but may include a classified annex.
- (d) DEFINITIONS.—In this section:

(1) FOREIGN MALIGN INFLUENCE.—The term “foreign malign influence” means any hostile effort undertaken by, at the direction of, or on behalf of or with the substantial support of, the government of a foreign country with the objective of influencing, through overt or covert means—

(A) the political, military, economic, or other policies or activities of the government of the country that is the target of the hostile effort, including any election within such target country; or

(B) the public opinion within such target country.

(2) LATIN AMERICA AND THE CARIBBEAN.—The term “Latin America and the Caribbean” means the countries and non-United States territories of South America, Central America, the Caribbean, and Mexico.

**SEC. 616. REPORT ON SUPPORT PROVIDED BY CHINA TO RUSSIA.**

(a) REQUIREMENT.—Not later than 90 days after the date of the enactment of this Act, and every 180 days thereafter, consistent with the protection of intelligence sources and methods, the Director of National Intelligence, in consultation with the heads of elements of the intelligence community that the Director determines appropriate, shall submit to the appropriate congressional committees a report on whether and how China, including with respect to the Government of the People’s Republic of China, the Chinese Communist Party, any Chinese state-owned enterprise, and any other Chinese entity, has provided support to Russia with respect to the unprovoked invasion of and full-scale war by Russia against Ukraine.

(b) MATTERS INCLUDED.—The report under subsection (a) shall include a discussion of support provided by China to Russia with respect to—

(1) helping the Government of Russia or Russian entities evade or circumvent sanctions by the United States or multilateral sanctions and export controls;

(2) deliberately inhibiting onsite United States Government export control end-use checks, including interviews and investigations, in China;

(3) providing Russia with any technology, including semiconductors classified as EAR99, that supports Russian intelligence or military capabilities;

(4) establishing economic or financial arrangements that will have the effect of alleviating the effect of sanctions by the United States or multilateral sanctions; and

(5) providing any material, technical, or logistical support, including to Russian military or intelligence agencies and state-owned or state-linked enterprises.

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

(d) SUNSET.—The requirement to submit the report under subsection (a) shall terminate on the earlier of—

(1) the date on which the Director of National Intelligence determines the conflict in Ukraine has ended; or

(2) the date that is 2 years after the date of the enactment of this Act.

(e) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” means—

- (1) the congressional intelligence committees;
- (2) the Committee on Foreign Affairs and the Committee on Financial Services of the House of Representatives; and
- (3) the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate.

**SEC. 617. REPORT ON GLOBAL CCP INVESTMENT IN PORT INFRASTRUCTURE.**

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence, in consultation with the Secretary of State and the Secretary of Defense, shall submit to the appropriate congressional committees a report documenting all Chinese investment in port infrastructure globally, during the period beginning on January 1, 2012, and ending on the date of the submission of the report, and the commercial and economic implications of such investments. The report shall also include the following:

(1) A review of existing and potential or planned future Chinese investments, including investments by government entities, and state-owned enterprises, in port infrastructure at such ports.

(2) Any known Chinese interest in establishing a military presence at or near such ports.

(3) An assessment of China’s current and potential future ability to leverage commercial ports for military purposes and the implications of such ability for the national and economic security of the United States.

(b) FORM.—The report required by subsection (a) shall be submitted in unclassified form but may include a classified annex produced consistent with the protection of sources and methods.

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” means—

- (1) the congressional intelligence committees;
- (2) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives; and
- (3) the Committee on Armed Services and the Committee on Foreign Relations of the Senate.

**SEC. 618. SENSE OF CONGRESS ON PROVISION OF SUPPORT BY INTELLIGENCE COMMUNITY FOR ATROCITY PREVENTION AND ACCOUNTABILITY.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that the efforts of the United States Government regarding atrocity prevention and response through interagency coordination, such as the Atrocity Warning Task Force, are critically important and that the Director of National Intelligence and the Secretary of Defense should, as appropriate, do the following:

(1) Require each element of the intelligence community to support the Atrocity Warning Task Force in its mission to prevent genocide and atrocities through policy formulation and program development by—

(A) collecting and analyzing intelligence identified as an atrocity, as defined in the Elie Wiesel Genocide and Atrocities Prevention Act of 2018 (Public Law 115–441; 132 Stat. 5586);

(B) preparing unclassified intelligence data and geospatial imagery products for coordination with appropriate domestic, foreign, and international courts and tribunals prosecuting persons responsible for crimes for which such imagery and intelligence may provide evidence (including genocide, crimes against humanity, and war crimes, including with respect to missing persons and suspected atrocity crime scenes); and

(C) reassessing archived geospatial imagery containing indicators of war crimes, other atrocities, forced disappearances, and atrocity crime scenes.

(2) Continue to make available inputs to the Atrocity Warning Task Force for the development of the Department of State Atrocity Early Warning Assessment and share open-source data to support pre-atrocity and genocide indicators and warnings to the Atrocity Warning Task Force.

(3) Provide the President and Congress with recommendations to improve policies, programs, resources, and tools relating to atrocity intelligence collection and interagency coordination.

(4) Regularly consult and participate with designated interagency representatives of relevant agencies and departments of the United States Government.

(5) Ensure resources are made available for the policies, programs, and tools relating to atrocity intelligence collection and coordination with the Atrocity Warning Task Force.

(b) DEFINITIONS.—In this section:

(1) ATROCITIES.—The term “atrocities” has the meaning given that term in section 6 of the Elie Wiesel Genocide and Atrocities Prevention Act of 2018 (Public Law 115–441; 132 Stat. 5586).

(2) ATROCITY CRIME SCENE.—The term “atrocity crime scene” means 1 or more locations that are relevant to the investigation of an atrocity, including buildings or locations (including bodies of water) where physical evidence may be collected relating to the perpetrators, victims, and events of the atrocity, such as mass graves and other sites containing deceased individuals.

## TITLE VII—REPORTS AND OTHER MATTERS

### SEC. 701. REPEAL OF CERTAIN REPORT REQUIREMENTS.

(a) ANNUAL FEDERAL DATA MINING REPORT.—The Federal Agency Data Mining Reporting Act of 2007 (42 U.S.C. 2000ee–3) is repealed.

(b) REPORTS ON SECURITY SERVICES OF THE PEOPLE’S REPUBLIC OF CHINA IN THE HONG KONG SPECIAL ADMINISTRATIVE REGION.—Section 1107A of the National Security Act of 1947 (50 U.S.C. 3237a) is amended—

(1) by repealing such section; and

(2) by amending the table of sections in title IX by striking the item relating to section 1107A.

(c) ANNUAL UPDATE TO REPORT ON FOREIGN WEAPONIZATION OF DEEPFAKES AND DEEPFAKE TECHNOLOGY.—Section 5709 of the National Defense Authorization Act for Fiscal Year 2020 (50 U.S.C. 3369a) is amended—

(1) by striking subsection (d); and

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

### SEC. 702. INCREASED INTELLIGENCE-RELATED ENGINEERING, RESEARCH, AND DEVELOPMENT CAPABILITIES OF MINORITY INSTITUTIONS.

(a) PLAN.—

(1) REQUIREMENT.—The Director of National Intelligence shall develop a plan to promote intelligence-related engineering, research, and development activities at covered institutions for the purpose of contributing toward the research necessary to achieve the intelligence advantage of the United States.

(2) ELEMENTS.—The plan under paragraph (1) shall include the following:

(A) An assessment of opportunities to support engineering, research, and development at covered institutions in computer sciences, including artificial intelligence, quantum computing, and machine learning, synthetic biology, and an assessment of opportunities to support the associated workforce and physical research infrastructure of such institutions.

(B) An assessment of opportunities to enhance the ability of covered institutions—

(i) to participate in intelligence-related engineering, research, and development activities; and

(ii) to effectively compete for intelligence-related engineering, research and development contracts in support of the most urgent research requirements of the intelligence community.

(C) An assessment of the activities and investments the Director determines necessary—

(i) to expand opportunities for covered institutions to partner with other research organizations and educational institutions that the intelligence community frequently partners with to conduct research; and

(ii) to increase participation of covered institutions in intelligence-related engineering, research, and development activities.

(D) Recommendations identifying actions that may be taken by the Director, Congress, covered institutions, and other organizations to increase participation of such institutions in intelligence-related engineering, research, and development activities and contracts.

(E) Specific goals, incentives, and metrics to increase and measure the capacity of covered institutions to address the engineering, research, and development needs of the intelligence community.

(3) CONSULTATION.—In developing the plan under paragraph (1), the Director shall consult with covered institutions and other departments or agencies of the United States Government or private sector organizations that the Director determines appropriate.

(4) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Director shall submit to the congressional intelligence committees, and make publicly available on the internet website of the Director, a report containing the plan under paragraph (1).

(b) **ACTIVITIES TO SUPPORT RESEARCH AND ENGINEERING CAPACITY.**—Subject to the availability of appropriations for such purpose, the Director may establish a program to award contracts, grants, or other agreements, on a competitive basis, and to perform other appropriate activities, for any of the following purposes:

(1) Developing the capability, including the workforce and the research infrastructure, for covered institutions to more effectively compete for intelligence-related engineering, research, and development activities and contracts.

(2) Any other purposes the Director determines appropriate to enhance the capabilities of covered institutions to carry out intelligence-related engineering, research, and development activities and contracts.

(c) **INCREASED PARTNERSHIPS BETWEEN IARPA AND COVERED INSTITUTIONS.**—The Director shall establish goals and incentives to encourage the Intelligence Advanced Research Projects Activity to—

(1) partner with covered institutions to advance the research and development needs of the intelligence community through partnerships and collaborations with the Intelligence Advanced Research Projects Activity; and

(2) if the Director determines appropriate, foster the establishment of similar relationships between such institutions and other organizations that have partnerships with the Intelligence Advanced Research Projects Activity.

(d) **COVERED INSTITUTION DEFINED.**—In this section, the term “covered institution” means the following:

(1) A part B institution (as defined in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061)).

(2) An institution of higher education (as defined in section 101 of the Higher Education Act of 1965(20 U.S.C. 1001)) not covered by paragraph (1) at which not less than 50 percent of the total student enrollment consists of students from ethnic groups that are underrepresented in the fields of science and engineering, as determined by the Director of National Intelligence.

**SEC. 703. ANNUAL REPORT ON RESPONSE TO GOVERNMENT ACCOUNTABILITY OFFICE RECOMMENDATIONS TO INTELLIGENCE COMMUNITY.**

(a) **ANNUAL REPORT.**—Not later than October 31, 2023, and annually thereafter until October 31, 2028, the Director of National Intelligence shall submit to the congressional intelligence committees a report, consolidated from each element of the intelligence community, regarding the status of responses to the recommendations made by the Comptroller General to the Director or to the other heads of the elements of the intelligence community.

(b) **ELEMENTS.**—Each report under subsection (a) shall include the following:

(1) A list of any open recommendations as of September 30 of the year in which the report is submitted (using a unique identifier for each open recommendation).

(2) A description of the actions the Director or the other heads of the elements of the intelligence community have taken, alone or in coordination with other departments or agencies of the United States Government, to implement or otherwise respond to each such open recommendation.

(3) Of such open recommendations, a list of any recommendations (using a unique identifier for each recommendation) with which the Director or the other heads of the elements of the intelligence community do not concur and intend to take no action to implement, including a detailed justification for each such determination.

(c) **OPEN RECOMMENDATION DEFINED.**—In this section, the term “open recommendation” means a recommendation that the Comptroller General has not designated as closed.

**SEC. 704. ANNUAL REPORT ON EFFORTS OF THE FEDERAL BUREAU OF INVESTIGATION TO IDENTIFY AND PROMOTE DIVERSE CANDIDATES.**

(a) **STATISTICAL REPORT.**—

(1) **REQUIREMENT.**—Not later than 90 days after the date of the enactment of this Act, and annually thereafter through 2027, the Director of the Federal Bureau of Investigation shall submit to the appropriate congressional committees, and make publicly available on the internet website of the Director, a statistical report on the status of the efforts of the Federal Bureau of Investigation to identify and promote diverse candidates.

(2) **ELEMENTS.**—Each report under paragraph (1) shall include, with respect to the year covered by the report, tables of figures that break down, by race and gender, the following:

(A) With respect to each covered position—

(i) the total number of Special Agents, and the percentage of Special Agents, who apply to such positions;

- (ii) the total number of Special Agents, and the percentage of Special Agents, who are interviewed for such positions;
- (iii) the total number of Special Agents, and the percentage of Special Agents, who are selected for such positions; and
- (iv) the average number of times a Special Agent applied for such position before selection.
- (B) With respect to GS-14 and GS-15 positions—
  - (i) the total number of individuals in such positions, and the percentage of such individuals, who retired; and
  - (ii) the total number of individuals in such positions, and the percentage of such individuals, who retired early.
- (b) DEFINITIONS.—In this section:
  - (1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—
    - (A) the congressional intelligence committees; and
    - (B) the Committees on the Judiciary and the Committees on Appropriations of the House of Representatives and the Senate.
  - (2) COVERED POSITION.—The term “covered position” means, with respect to positions in the Federal Bureau of Investigation, the following:
    - (A) Federal Bureau of Investigation Headquarters Supervisory Special Agent program manager.
    - (B) Field Supervisory Special Agent.
    - (C) Assistant Special Agent in Charge.
    - (D) Special Agent in Charge.
    - (E) Senior executive.
  - (3) SENIOR EXECUTIVE.—The term “senior executive” means, with respect to positions in the Federal Bureau of Investigation, the following:
    - (A) Deputy Assistant Director.
    - (B) Assistant Director.
    - (C) Executive Assistant Director.
    - (D) Associate Deputy Director.
    - (E) Deputy Director.

**SEC. 705. REPORTS ON PERSONNEL VETTING PROCESSES AND PROGRESS UNDER TRUSTED WORKFORCE 2.0 INITIATIVE.**

(a) REPORTS.—Not later than September 30, 2023, and annually thereafter until September 30, 2027, the Security Executive Agent, in coordination with the Chair and other Principals of the Council, shall submit to the congressional intelligence committees a report on the personnel vetting processes of the United States Government.

(b) ELEMENTS.—Each report under subsection (a) shall include, with respect to the preceding fiscal year, the following:

(1) An analysis of the timeliness, costs, and other related information for the initiations, investigations (including initial investigations and periodic reinvestigations), and adjudications of personnel security clearances. Such analysis shall include the following:

(A) The average periods of time taken (from the date of the submission of a completed security clearance application to the date of the ultimate disposition and notification to the subject and the employer of the subject) by each authorized investigative agency and authorized adjudicative agency to initiate investigations, conduct investigations, and adjudicate security clearances, as compared with established timeliness objectives.

(B) The number of initial investigations and periodic reinvestigations initiated and adjudicated by each authorized investigative agency and authorized adjudicative agency.

(C) The number of initial investigations and periodic reinvestigations carried over to the fiscal year covered by the report from a prior fiscal year by each authorized investigative agency and authorized adjudicative agency.

(D) The number of initial investigations and periodic reinvestigations that resulted in a denial or revocation of a security clearance by each authorized adjudicative agency.

(E) The costs to the executive branch relating to personnel security clearance initiations, investigations, adjudications, revocations, and continuous vetting with respect to such clearances.

(F) A discussion of any impediments, including with respect to resources, personnel, or authorities, to the timely processing of personnel security clearances.

(G) The number of individuals who hold a personnel security clearance and are enrolled in a program of continuous vetting with respect to such

clearance, and the numbers and types of adverse actions taken by each authorized adjudicative agency as a result of such continuous vetting.

(H) The number of personnel security clearances awaiting or under investigation (including initial investigation and periodic reinvestigation) by the Director of the Defense Counterintelligence and Security Agency and each authorized investigative agency.

(I) Such other information as the Security Executive Agent may determine appropriate, including any recommendations to improve the timeliness and efficiency of personnel security clearance initiations, investigations, and adjudications.

(2) An analysis of the status of the implementation of the Trusted Workforce 2.0 initiative sponsored by the Council, including the following:

(A) A list of the policies issued by the Council for the Trusted Workforce 2.0 initiative, and a list of expected issuance dates for planned policies of the Council for such initiative.

(B) A list of the departments and agencies of the executive branch that have identified a senior implementation official to be accountable for the implementation of the Trusted Workforce 2.0 initiative, in accordance with the memorandum on transforming Federal personnel vetting issued by the Assistant to the President for National Security Affairs on December 14, 2021, including an identification of the position of such senior implementation official within the respective department or agency.

(C) A list of the departments and agencies of the executive branch that have submitted implementation plans, and subsequent progress reports, with respect to the Trusted Workforce 2.0 initiative, as required by the memorandum specified in subparagraph (B).

(D) A summary of the progress that the departments and agencies of the executive branch have made implementing the Trusted Workforce 2.0 initiative.

(3) An analysis of the transfers between, and reciprocal recognition among, the heads of the departments and agencies of the executive branch of security clearance background investigations and determinations and other investigations and determinations relating to personnel vetting (including with respect to trust, suitability, fitness, credentialing, and access). Such analysis shall include, with respect to such investigations and determinations, the following:

(A) The number of employees for whom a prior such investigation or determination was recognized and accepted by the head of a department or agency without the head requiring additional investigative or adjudicative steps, disaggregated by department or agency.

(B) The number of employees for whom a prior such investigation or determination was not recognized or accepted by the head of a department or agency without the head requiring additional investigative or adjudicative steps, disaggregated by department or agency.

(C) The reasons most frequently cited by such heads for the failure to recognize or accept a prior such investigation or determination, disaggregated by department or agency.

(D) The average number of days for the head of a department or agency to recognize and accept a prior such investigation or determination (from the date the head initiates the process to consider the prior investigation or determination for recognition and acceptance, to the date the head makes a final determination on such recognition and acceptance), disaggregated by agency.

(4) A discussion of any impediments, constraints, and opportunities relating to—

(A) the timeliness of the personnel security clearance process across the United States Government;

(B) the implementation of the Trusted Workforce 2.0 initiative; or

(C) the transfer and reciprocal recognition of determinations relating to personnel vetting between and among departments and agencies.

(c) DEFINITIONS.—In this section:

(1) AUTHORIZED ADJUDICATIVE AGENCY; AUTHORIZED INVESTIGATIVE AGENCY; PERSONNEL SECURITY INVESTIGATION; PERIODIC REINVESTIGATION.—The terms “authorized adjudicative agency”, “authorized investigative agency”, “personnel security investigation”, and “periodic reinvestigation” have the meanings given those terms in section 3001(a) of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 3341(a)).

(2) CONTINUOUS VETTING; COUNCIL; SECURITY EXECUTIVE AGENT.—The terms “continuous vetting”, “Council”, and “Security Executive Agent” have the meanings given those terms in section 6601 of the Damon Paul Nelson and Matthew

Young Pollard Intelligence Authorization Act for Fiscal Years 2018, 2019, and 2020 (50 U.S.C. 3352).

**SEC. 706. REPORTS RELATING TO PROGRAMS OF RECORD OF NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY.**

(a) FINDINGS.—Congress finds the following:

(1) The National Geospatial-Intelligence Agency has struggled to identify the programs and activities of the Agency, to include significant, enduring programs determined by the Agency to be “programs of record”, comprehensively and in a fashion that enables budget auditability and oversight by the Office of the Director of National Intelligence, the Office of Management and Budget, and the congressional intelligence committees.

(2) The National Geospatial-Intelligence Agency has rebuffed repeated requests by the House Permanent Select Committee on Intelligence to furnish to such Committee the definition for the term “program of record” used by the Agency.

(b) REPORTS REQUIRED.—

(1) REPORT TO CONGRESSIONAL INTELLIGENCE COMMITTEES.—Not later than 30 days after the date of the enactment of this Act, the Director of the National Geospatial-Intelligence Agency, consistent with the protection of intelligence sources and methods, shall submit to the congressional intelligence committees a report on the programs and activities of the Agency. Such report shall include, at a minimum, the following:

(A) An identification of any definition for the term “program of record” used by the Agency during the period beginning October 1, 2017, and ending on the date of the submission of the report.

(B) A detailed description of each current program and activity of the Agency, including each current program of record of the Agency.

(C) A detailed explanation of how funding and other information relating to each such program of record or other program or activity may be located within the budget justification materials submitted to Congress.

(2) REPORT TO CONGRESSIONAL INTELLIGENCE AND DEFENSE COMMITTEES.—Not later than 30 days after the date of the enactment of this Act, the Director of the National Geospatial-Intelligence Agency, consistent with the protection of intelligence sources and methods, shall submit to the appropriate congressional committees a report on the programs and activities of the Agency that are funded in full or in part under the Military Intelligence Program. Such report shall include, at a minimum, the following:

(A) An identification of any definition for the term “program of record” used by the Agency during the period beginning October 1, 2017 and ending on the date of the submission of the report.

(B) A detailed description of each current program and activity of the Agency funded in full or in part under the Military Intelligence Program, including each current program of record of the Agency funded in full or in part under the Military Intelligence Program.

(C) A detailed explanation of how funding and other information relating to each such program of record or other program or activity funded in full or in part under the Military Intelligence Program may be located within the budget justification materials submitted to Congress.

(3) FORM.—Each report under this subsection may be submitted in classified form, but if so submitted shall include an unclassified executive summary.

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” means—

(1) the congressional intelligence committees; and

(2) the congressional defense committees (as defined in section 101(a)(16) of title 10, United States Code).

**SEC. 707. PLAN REGARDING SOCIAL MEDIA DATA AND THREAT ANALYSIS CENTER.**

(a) PLAN.—Not later than 90 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the congressional intelligence committees a plan to operationalize the Social Media Data and Threat Analysis Center in accordance with section 5323 of the Damon Paul Nelson and Matthew Young Pollard Intelligence Authorization Act for Fiscal Years 2018, 2019, and 2020 (division E of Public Law 116–92; 50 U.S.C. 3369).

(b) ELEMENTS.—The plan under subsection (a) shall include a description of how the Social Media Data and Threat Analysis Center shall—

(1) coordinate with social media companies and other public-facing internet-based platforms to determine—

(A) what categories of data and metadata are useful indicators of internet-based foreign malign influence activities; and

(B) how such data and metadata may be shared effectively with the Center while protecting the privacy and civil liberties of United States users of social media platforms and other public-facing internet-based platforms; and

(2) develop criteria under which social media companies and other public-facing internet-based platforms shall share indicators of internet-based foreign malign influence activities with the Center, including a description of—

(A) the timeliness and consistency of such sharing of indicators;

(B) the categories of indicators to be shared; and

(C) the protection of privacy, civil liberties, and constitutionally protected activities of users of social media platforms and other public-facing internet-based platforms.

**SEC. 708. REPORT ON USE OF PUBLICLY AVAILABLE SOCIAL MEDIA INFORMATION IN PERSONNEL VETTING DETERMINATIONS.**

(a) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence, in coordination with other heads of the elements of the intelligence community that the Director determines appropriate, and in consultation with the other principal members of the Council, shall submit to the congressional intelligence committees a report regarding the current and planned use of publicly available social media information in the personnel vetting and security clearance processes.

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

(1) A description of how departments and agencies of the United States Government have implemented Security Executive Agent Directive 5 titled “Collection, Use, and Retention of Publicly Available Social Media Information in Personnel Security Background Investigations and Adjudications”, and relevant agency implementing guidance, including Department of Defense Instruction 1325.06 titled “Handling Protest, Extremist, and Criminal Gang Activities among Members of the Armed Forces”.

(2) A description of how the use of publicly available social media in personnel vetting determinations and security clearance investigations and adjudications is, or will be, captured in the National Background Investigation Services system and other information technology systems used in the personnel vetting process.

(3) A description of how publicly available social media information is used, and will be used, in continuous vetting and security clearances processes and insider threat programs.

(4) A description of any privacy or civil liberties concerns with the use of publicly available social media information in personnel vetting or security clearance determinations, including a discussion of the risks, benefits, and drawbacks of allowing for the voluntary provision of, or voluntary access to, nonpublicly available social media information in the regular course of personnel vetting and security clearance processes.

(5) A discussion of the extent to which officials and entities of the United States Government responsible for privacy and civil liberties matters, including the Chief of the Office of Civil Liberties, Privacy, and Transparency of the Office of the Director of National Intelligence and the civil liberties officers of departments and agencies of the United States Government, are involved in the development and operation of programs to use social media information in personnel vetting and security clearance processes.

(6) A discussion of any impediments, constraints, risks, or drawbacks relating to the use of publicly available social media information in personnel vetting and security clearance processes, including—

(A) challenges associated with implementation of Security Executive Agent Directive 5, Department of Defense Instruction 1325.06, and other relevant guidance;

(B) the resources required, including with respect to personnel, funding, and information systems, to gather, assess, and make use of such information; and

(C) an analysis of the costs and benefits of the use of publicly available social media information.

(7) An implementation plan for the future use of publicly available social media information, based on relevant findings under paragraphs (1) through (6).

(c) **DEFINITIONS.**—The terms “continuous vetting”, “Council”, and “Security Executive Agent” have the meanings given those terms in section 6601 of the Damon Paul Nelson and Matthew Young Pollard Intelligence Authorization Act for Fiscal Years 2018, 2019, and 2020 (50 U.S.C. 3352).

**SEC. 709. REPORT ON STRENGTHENING WORKFORCE DIVERSITY PLANNING AND OVERSIGHT.**

(a) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence, in coordination with the heads of the elements of the intelligence community, shall submit to the congressional intelligence committees a report discussing steps to enhance the strategic planning for, measure the progress of, and assess barriers to workforce diversity in the intelligence community.

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

(1) A discussion of existing, updated, or new guidance requiring all elements of the intelligence community to maintain current and complete diversity strategic plans that contain specific objectives, timeframes, and responsibilities.

(2) A discussion of progress made by individual elements toward maintaining such plans.

(3) A discussion of existing, updated, or new guidance to ensure individual elements develop performance measures to assess the contribution of activities toward achieving diversity goals and overall progress.

(4) A discussion of progress made by individual elements toward developing measures to assess progress toward achieving diversity management efforts.

(5) A discussion of existing, updated, or new guidance ensuring that each element routinely identifies and takes steps toward eliminating barriers to workforce diversity.

(6) A discussion of steps taken by the Director to ensure that individual elements are routinely completing required assessments to identify and eliminate barriers to diversity.

(7) A discussion of steps taken by the Director to establish specific implementation objectives and timeframes for the elements that support intelligence community-wide diversity goals to ensure the elements are held accountable for making progress.

**SEC. 710. REPORT ON IMPROVING OPPORTUNITIES FOR WOMEN AND MINORITIES FOR PROMOTIONS IN THE INTELLIGENCE COMMUNITY.**

(a) **REPORT.**—Not later than 120 days after the date of the enactment of this Act, the Director of National Intelligence, acting through the Chief Human Capital Officer of the Intelligence Community, and in consultation with other heads of the elements of the intelligence community, shall submit to the congressional intelligence committees a consolidated report on specific steps taken by each element of the intelligence community to—

(1) enhance opportunities for women and minorities for promotions across all mission categories of the intelligence community; and

(2) reduce the gap among gender, racial, and ethnic categories at senior levels of the intelligence community.

(b) **STRATEGIC PLAN.**—The report under subsection (a) shall contain a strategic plan from each element of the intelligence community on the following:

(1) Overcoming any barriers or obstacles identified in the report.

(2) Proposing new or enhanced mentoring programs or similar workplace forums to support women and minority officers of the intelligence community who are interested in or may qualify for potential promotion opportunities or similar career advancements.

(3) Recommending additional steps and initiatives to achieve diversity among senior roles in the intelligence community.

(4) Addressing gaps in relevant tools, resources, or authorities.

(c) **SUPPLEMENT NOT SUPPLANT.**—The report under subsection (a) shall supplement the annual report required under section 5704(c) of the Damon Paul Nelson and Matthew Young Pollard Intelligence Authorization Act for Fiscal Years 2018, 2019, and 2020 (50 U.S.C. 3334b(c)).

**SEC. 711. REPORT ON TRANSITION OF NATIONAL RECONNAISSANCE OFFICE TO DIGITAL ENGINEERING ENVIRONMENT.**

(a) **FINDINGS.**—Congress finds the following:

(1) Potential foreign adversaries are outpacing the United States in the fielding of new generations of space systems that dull the edge the United States has enjoyed in space.

(2) A digital engineering environment, also known as digital systems engineering, reduces the time to field new space systems.

(3) Digital engineering environment tools enable the rapid iterations of requirements and architectures into digital system depictions capable of use by private industry to further the design and development of space systems.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that, to maintain a competitive advantage in space, the National Reconnaissance Office should transition to a

digital engineering environment by not later than 3 years after the date of the enactment of this Act.

(c) REPORT.—

(1) SUBMISSION.—Not later than 180 days after the date of the enactment of this Act, the Director of the National Reconnaissance Office shall submit to the appropriate congressional committees a report that contains the following:

(A) A plan for the transition of the National Reconnaissance Office to a digital engineering environment.

(B) An identification of the date by which such transition shall be completed.

(C) A description of the metrics the Director plans to use to measure progress made with respect to such transition and resulting efficiencies gained.

(D) A description of the initial pilot programs of the National Reconnaissance Office relating to digital engineering and the plans to expand such pilot programs in scale and scope with respect to acquisitions carried out under such pilot programs.

(E) A description of any training requirements or certifications necessary to advance a digital engineering environment within the National Reconnaissance Office.

(F) A description of how the Director plans to incorporate input and best practices from private industry to facilitate and accelerate the transition of the National Reconnaissance Office to a digital engineering environment.

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

(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” means—

(1) the congressional intelligence committees; and

(2) the congressional defense committees (as defined in section 101(a)(16) of title 10, United States Code).

**SEC. 712. REPORT ON DEPARTMENT OF HOMELAND SECURITY INTELLIGENCE ENTERPRISE.**

(a) REPORT ON INTELLIGENCE ACTIVITIES.—Consistent with section 501 of the National Security Act of 1947 (50 U.S.C. 3091), not later than 150 days after the date of the enactment of this Act, the Chief Intelligence Officer of the Department of Homeland Security shall submit to the appropriate congressional committees a report that includes the following:

(1) A comprehensive account of any intelligence activity conducted during the period beginning on January 1, 2018, and ending on the date of the report, by any component of the Department of Homeland Security intelligence enterprise.

(2) With respect to each such intelligence activity, a description of the activity, including, at a minimum, a description of—

(A) the nature of the activity;

(B) the component undertaking the activity;

(C) the legal authority for such activity; and

(D) the source of funding for such activity.

(3) A description of any finished intelligence product, or intelligence information report, produced or contributed to by a component of the Department of Homeland Security intelligence enterprise during the period specified in paragraph (1).

(4) An identification of any external or internal guidelines, policies, processes, practices, or programs governing the collection, retention, analysis, or dissemination by such a component of information regarding United States citizens, lawful permanent residents of the United States, or individuals located within the United States.

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

(c) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means the following:

(A) The congressional intelligence committees.

(B) The Committee on Homeland Security of the House of Representatives.

(C) The Committee on Homeland Security and Governmental Affairs of the Senate.

(2) DEPARTMENT OF HOMELAND SECURITY INTELLIGENCE ENTERPRISE.—The term “Department of Homeland Security intelligence enterprise” means the primary mechanism for the integration and management of the intelligence programs, projects, and activities of the Department of Homeland Security and includes the following components:

- (A) The Cybersecurity and Infrastructure Security Agency.
- (B) The Federal Emergency Management Agency.
- (C) The Transportation Security Administration.
- (D) The United States Citizenship and Immigration Services.
- (E) The United States Customs and Border Protection.
- (F) The United States Immigration and Customs Enforcement.

**SEC. 713. REPORT ON DECLASSIFICATION EFFORTS OF CENTRAL INTELLIGENCE AGENCY.**

Not later than 270 days after the date of the enactment of this Act, the Inspector General of the Central Intelligence Agency shall submit to the congressional intelligence committees a report on the declassification efforts of the Central Intelligence Agency. Such report shall include—

- (1) an identification of the resources that are dedicated to such efforts; and
- (2) an assessment as to whether such resources are sufficient.

**SEC. 714. REPORT ON NATIONAL SPACE INTELLIGENCE CENTER.**

(a) **REPORT.**—Not later than March 1, 2023, the Director of National Intelligence, in coordination with the Chief of Space Operations, shall submit to the appropriate congressional committees a report on the National Space Intelligence Center.

(b) **MATTERS INCLUDED.**—The report under subsection (a) shall include the following:

(1) A description of the status of the National Space Intelligence Center since the activation of the Center and the implications of the Center being aligned under a Field Command rather than a field operating agency aligned to the Director of Intelligence, Surveillance, and Reconnaissance of the Space Force.

(2) A review of the ability of the Center to address the full set of national space intelligence analytical demands (including with respect to acquisition and operational mission requirements of the Space Force, the Department of Defense, the intelligence community, and other national customers) while being assigned as a subordinate to Space Operations Command, a Field Command, including—

- (A) an assessment of the ability of the Center to respond to the broadest space intelligence requirements as compared to a service specific need; and
- (B) a review specifically addressing any perceived mission misalignment, potential mitigating measures, or other structural organization concerns.

(3) An assessment of—

- (A) the current resourcing posture, including any additional personnel required as a result of subordination to a Field Command; and
- (B) the resourcing posture if the Center were aligned to the Director of Intelligence, Surveillance, and Reconnaissance of the Space Force as described in paragraph (1).

(4) Lessons learned since unit activation, including with respect to—

- (A) organizational efficiencies and inefficiencies;
- (B) financial implications;
- (C) organizational redundancy;
- (D) parity mismatch and synergies with other service intelligence centers; and
- (E) lessons learned through comparisons to other service intelligence centers organized as a field operating agency and aligned under the senior intelligence officer of the respective Armed Force.

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

(d) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—In this section, the term “appropriate congressional committees” means the following:

- (1) The congressional intelligence committees.
- (2) The congressional defense committees (as defined in section 101(a)(16) of title 10, United States Code).

**SEC. 715. REPORT ON IMPLEMENTATION OF EXECUTIVE ORDER 13556, REGARDING CONTROLLED UNCLASSIFIED INFORMATION.**

(a) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence and the Under Secretary of Defense for Intelligence and Security, in coordination with the heads of other elements of the intelligence community, shall submit to the congressional intelligence committees a report on the implementation by the intelligence community of Executive Order 13556, regarding controlled unclassified information.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that—

- (1) during the period when the National Security Council conducts a review of the dissemination controls with respect to national security information, the

elements of the intelligence community should pause the implementation of Executive Order 13556; and

(2) Executive Order 13556 should be repealed.

**SEC. 716. COMPTROLLER GENERAL OF THE UNITED STATES COMPILATION OF UNIDENTIFIED AEROSPACE-UNDERSEA PHENOMENA RECORDS.**

(a) **COMPILATION REQUIRED.**—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall—

(1) commence a review of the records and documents of the intelligence community, oral history interviews, open source analytic analysis, interviews of current and former government officials, classified and unclassified national archives (including those records any third party obtained pursuant to section 552 of title 5, United States Code (commonly known as the “Freedom of Information Act” or “FOIA”)), and such other relevant historical sources as the Comptroller General considers appropriate; and

(2) for the period beginning on January 1, 1947, and ending on the date on which the Comptroller General completes activities under this subsection, compile and itemize a complete historical record of the intelligence community’s involvement with unidentified aerospace-undersea phenomena, including successful or unsuccessful efforts to identify and track unidentified aerospace-undersea phenomena, efforts to recover or transfer related technologies to United States-based industry or National Laboratories, and any intelligence community efforts to obfuscate, manipulate public opinion, hide, or otherwise provide unclassified or classified misinformation about unidentified aerospace-undersea phenomena or related activities, based on the review conducted under paragraph (1).

(b) **REPORT.**—

(1) **IN GENERAL.**—Not later than 180 days after the date on which the Comptroller General completes the compilation and itemization required by subsection (a)(2), the Comptroller General shall submit to Congress a report summarizing the historical record described in such subsection.

(2) **RESOURCES.**—The report submitted under paragraph (1) shall include citations to the resources relied upon and instructions as to how the resources can be accessed.

(3) **FORM.**—The report submitted under paragraph (1) shall be submitted in unclassified form, but may include a classified annex as necessary.

(c) **COOPERATION OF INTELLIGENCE COMMUNITY.**—The heads of elements of the intelligence community whose participation the Comptroller General determines necessary to carry out subsections (a) and (b), including the Director of National Intelligence, the Under Secretary of Defense for Intelligence and Security, and the Director of the Unidentified Aerospace Undersea Phenomena Joint Program Office, shall fully cooperate with the Comptroller General and provide to the Comptroller General such information as the Comptroller General determines necessary to carry out such subsections.

(d) **ACCESS TO RECORDS OF THE NATIONAL ARCHIVES AND RECORDS ADMINISTRATION.**—The Archivist of the United States shall make available to the Comptroller General such information maintained by the National Archives and Records Administration, including classified information, as the Comptroller General considers necessary to carry out subsections (a) and (b).

**SEC. 717. NATIONAL MUSEUM OF INTELLIGENCE AND SPECIAL OPERATIONS.**

(a) **RECOGNITION.**—The privately funded museum to honor the intelligence community and special operations forces that is planned to be constructed in Ashburn, Virginia, may be recognized, upon completion, as the “National Museum of Intelligence and Special Operations”.

(b) **PURPOSES.**—The purposes of recognizing the National Museum of Intelligence and Special Operations under subsection (a) are to—

(1) commemorate the members of the intelligence community and special operations forces who have been critical to securing the Nation against enemies of the United States for nearly a century;

(2) preserve and support the historic role that the intelligence community and special operations forces have played, and continue to play, both in secrecy as well as openly, to keep the United States and its values and way of life secure; and

(3) foster a greater understanding of the intelligence community and special operations forces to ensure a common understanding, dispel myths, recognize those who are not otherwise able to be publicly recognized, and increase science, technology, engineering, and mathematics education through museum programs designed to promote more interest and greater diversity in recruiting with respect to the intelligence and special operations career field.

**SEC. 718. TECHNICAL CORRECTIONS.**

(a) NATIONAL SECURITY ACT OF 1947.—The National Security Act of 1947 (50 U.S.C. 3001 et seq.), as amended by section 511, is further amended as follows:

(1) In section 105(a)(1) (50 U.S.C. 3038(a)(1)), by striking “chairman” and inserting “Chairman”.

(2) In section 113B(b) (50 U.S.C. 3049a(b))—

(A) in paragraph (1)(A), by striking “Under Secretary of Defense for Intelligence” and inserting “Under Secretary of Defense for Intelligence and Security”; and

(B) in paragraph (4), by striking “section 226 of the Homeland Security Act of 2002 (6 U.S.C. 147)” and inserting “section 2208 of the Homeland Security Act of 2002 (6 U.S.C. 658)”.

(3) In section 118(a) (50 U.S.C. 3055(a)), by striking “a annual” and inserting “an annual”.

(4) In section 301(j) (50 U.S.C. 3071(j)), by striking “and includes” and inserting “and including”.

(5) In section 506G(c) (50 U.S.C. 3103(c)), by striking “pursuant section” and inserting “pursuant to section”.

(6) In section 507(a)(1) (50 U.S.C. 3106(a)(1)), by striking “Generals” and inserting “General”.

(7) In section 1024(g)(7)(A) (50 U.S.C. 3224(g)(7)(A)), by striking “places” and inserting “place”.

(8) In section 1104(b)(1)(B) (50 U.S.C. 3234(b)(1)(B)), by striking the period at the end and inserting a semicolon.

(b) DAMON PAUL NELSON AND MATTHEW YOUNG POLLARD INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEARS 2018, 2019, AND 2020.—The Damon Paul Nelson and Matthew Young Pollard Intelligence Authorization Act for Fiscal Years 2018, 2019, and 2020 (division E of Public Law 116–92) is amended—

(1) in section 5704(b)(1) (50 U.S.C. 3334b(b)(1)), by striking “, and subject to paragraph (3)”;

(2) in section 6316 (50 U.S.C. 3334b note), by striking “congressional committees” and inserting “congressional intelligence committees”; and

(3) in section 6604 (50 U.S.C. 3352c), by striking “subsections (b) and (c)” both places it appears and inserting “subsections (a) and (b)”.

(c) INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2012.—Section 309(a)(5) of the Intelligence Authorization Act for Fiscal Year 2012 (50 U.S.C. 3334e) is amended by striking “section 3542(b)” and inserting “section 3552”.

(d) PUBLIC INTEREST DECLASSIFICATION ACT OF 2000.—The Public Interest Declassification Act of 2000 (50 U.S.C. 3355 et seq.) is amended—

(1) in section 703(a)(2) (50 U.S.C. 3355a(a)(2)), by striking “Executive Order 12958” and inserting “Executive Order 13526”;

(2) in section 704(e)(3) (50 U.S.C. 3355b(e)(3)), by striking the comma before “shall”;

(3) in section 705(c) (50 U.S.C. 3355c(c)), by striking “section 103(c)(6) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(6))” and inserting “section 102A(i) of the National Security Act of 1947 (50 U.S.C. 3024(i))”; and

(4) in section 706 (50 U.S.C. 3355d), by striking “Executive Order No. 12958” both places it appears and inserting “Executive Order 13526”.

**SECTION-BY-SECTION ANALYSIS**

The following is a section-by-section summary of H.R. 8367, the Intelligence Authorization Act for Fiscal Year 2023 (the Act).

**TITLE I—INTELLIGENCE ACTIVITIES***Section 101. Authorization of appropriations*

Section 101 specifies that the Act authorizes appropriations for intelligence and intelligence-related activities of the Intelligence Community for Fiscal Year 2023.

*Section 102. Classified Schedule of Authorizations*

Section 102 provides that the amounts authorized to be appropriated for intelligence and intelligence-related activities for Fiscal Year 2023 are contained in the classified Schedule of Authorizations, which shall be made available to the Committees on Appro-

priations of the Senate and the House of Representatives and to the President.

*Section 103. Intelligence Community Management Account*

Section 103 authorizes appropriations for the Intelligence Community Management Account of the Director of National Intelligence for Fiscal Year 2023.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

*Section 201. Authorization of appropriations*

Section 201 authorizes appropriations for the Central Intelligence Agency Retirement and Disability Fund for Fiscal Year 2023.

TITLE III—GENERAL INTELLIGENCE COMMUNITY MATTERS

*Section 301. Restriction on conduct of intelligence activities*

Section 301 provides that the authorization of appropriations in the Act shall not be deemed to constitute authority for the conduct of any intelligence activity that is not otherwise authorized by the Constitution or the laws of the United States.

*Section 302. Increase in employee compensation and benefits authorized by law*

Section 302 states that appropriations authorized in the Act for salary, pay, retirement, and other benefits for federal employees may be increased by such additional amounts as may be necessary for increases in such compensation or benefits authorized by law.

*Section 303. Joint Intelligence Community Council*

Section 303 adds the Director of the CIA as a statutory member of the Joint Intelligence Community Council (JICC); updates the JICC's functions to include ensuring that the Intelligence Community identifies and prioritizes the intelligence needs of non-intelligence and non-defense U.S. government agencies; and requires the JICC to meet on at least an annual basis.

*Section 304. Required policy for minimum insider threat standards*

Section 304 requires the DNI to ensure there is an Intelligence Community-wide policy for minimum insider threat standards that is consistent with the Presidential memorandum related to insider threats, dated November 21, 2012. Section 304 further requires the head of each Intelligence Community element to implement that policy and to annually certify to Congress that it has implemented that policy. Section 304 further directs the DNI to conduct periodic audits to confirm each element is in compliance with the policy.

*Section 305. Timely submission of classified intelligence budget justification materials*

Section 305 requires the DNI to submit to the congressional intelligence committees the classified budget justification materials for each element of the Intelligence Community at the same time the President submits the annual budget request to Congress.

*Section 306. Unfunded priorities of the intelligence community*

Section 306 requires the head of each element of the Intelligence Community, not later than 10 days after the date on which the President submits the annual budget request to Congress, to submit to the DNI and to the congressional intelligence committees a report on the unfunded priorities of the programs under the jurisdiction of that element. Section 306 further specifies the contents of what must be included in that report.

*Section 307. Submission of classified annexes to executive orders and other documents*

Section 307 requires the DNI, not later than 7 days after the President issues or amends an executive order, memorandum, or policy directive, to submit to the congressional intelligence committees any accompanying classified annex that references any element of the Intelligence Community. Section 307 further directs the DNI to submit all such classified annexes in effect on the date of enactment of the Act to the congressional intelligence committees within 60 days of the date of enactment.

*Section 308. Improvements to program on recruitment and training*

Section 308 requires the DNI to carry out the Pat Roberts Intelligence Scholars Program, which provides funds—for full or partial tuition, a monthly stipend, student loan repayment assistance, books and materials, travel expenses, and other purposes the DNI considers appropriate—to individuals enrolled in undergraduate or graduate education, or to reimburse individuals for education previously obtained, in fields in which the Intelligence Community is deficient, or for individuals who have backgrounds or experiences that the DNI has identified as being underrepresented in the Intelligence Community. Section 308 further provides that an individual selected for participation in the program shall commit to employment with an Intelligence Community element for a period that the DNI determines is commensurate with the funding provided to that individual.

*Section 309. Measures to mitigate counterintelligence threats from proliferation and use of foreign commercial spyware*

Section 309 directs the DNI to provide to the congressional intelligence committees—and appropriately disseminate within the U.S. government—an annual, classified Intelligence Community assessment of the threat posed by foreign spyware; provide to the congressional intelligence committees—and appropriately disseminate within the U.S. government—a classified, regularly-updated “watchlist” identifying foreign spyware companies whose activities pose a counterintelligence risk to the Intelligence Community; and notify Congress if Intelligence Community personnel are targeted by foreign commercial spyware.

Section 309 further grants the DNI authority to prohibit an Intelligence Community element from procuring foreign commercial spyware from a foreign spyware company or from a U.S. company marketing spyware that originated from a foreign source.

Section 309 further grants the President authority to impose sanctions on foreign spyware companies and their officers, foreign officials, or foreign individuals that use spyware against U.S. offi-

cials, and directs the DNI to explore a common approach to combatting foreign spyware among Five Eyes Partners.

*Section 310. Expansion of treatment of moving expenses*

Section 310 amends Section 217 of the Internal Revenue Code to authorize Intelligence Community employees to claim a tax deduction for moving expenses paid or incurred in the event of a change in assignment that requires relocation. Section 310 further amends Section 132 of the Internal Revenue Code to exclude from gross income any amount received, directly or indirectly, by an Intelligence Community employee from an Intelligence Community employer as a payment for, or reimbursement of, moving expenses that would be deductible under Section 217 if they were directly paid or incurred by the employee. Section 310 provides for these changes to take effect in taxable years beginning after December 31, 2021.

*Section 311. Personnel vetting performance measures*

Section 311 requires the DNI, in coordination with the Security, Suitability, and Credentialing Performance Accountability Council, to develop performance measures to assess the vetting of personnel, including measures to assess continuous vetting and the quality of each phase of the security clearance process. Section 311 further requires the DNI to submit to the congressional intelligence committees a report describing those performance measures and providing additional information.

*Section 312. Proactive cybersecurity*

Section 312 directs the Chief Information Officer of the Intelligence Community to survey each element of the Intelligence Community on its use of proactive cybersecurity initiatives, continuous monitoring, and active defense techniques. Section 312 further requires the CIO to submit a report to the congressional intelligence committees that includes the results of that survey; a discussion of benefits, concerns, and recommendations relating to the use of proactive cybersecurity initiatives; and other specified information.

*Section 313. Limitation on availability of funds for Intelligence Community Management Account pending submission of report on domestic activities of intelligence community*

Section 313 provides that, of the funding authorized to be appropriated for the Fiscal Year 2023 Intelligence Community Management Account, 5 percent of that funding may not be obligated or expended until the DNI submits the report required by Section 505(c) of the Intelligence Authorization Act for Fiscal Year 2022 (P.L. 117–103), relating to domestic activities undertaken by each element of the Intelligence Community.

TITLE IV—MATTERS RELATING TO ELEMENTS OF THE INTELLIGENCE COMMUNITY

SUBTITLE A—OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

*Section 401. Modifications to responsibilities and authorities of Director of National Intelligence*

Section 401 makes modifications to the responsibilities and authorities of the DNI. Section 401 directs the DNI to provide specific

requirements—rather than guidance—to the heads of Intelligence Community elements as they develop their respective portions of the National Intelligence Program budget request; directs the DNI to implement policies and procedures that require sound and apolitical analytical methods and tradecraft throughout the Intelligence Community; and requires the DNI to ensure that substantial differences in analytic judgments are documented in analytic products.

Section 401 further requires each Intelligence Community element to ensure that any congressionally-mandated report it submits to Congress, other than a report submitted solely to the congressional intelligence committees, is done so in a manner consistent with the protection of intelligence sources and methods, regardless of whether the law mandating the report explicitly requires such protection.

Section 401 further requires that each contract awarded by an element of the Intelligence Community include a provision granting consent for the monitoring by the element of any information technology network used to perform work under such contract, regardless of the classification level of such network.

*Section 402. Annual submission to Congress of National Intelligence Priorities Framework*

Section 402 requires the DNI to annually submit the most-recent National Intelligence Priorities Framework to the congressional intelligence committees. Section 402 further provides that, of the funding authorized to be appropriated for the Fiscal Year 2023 Intelligence Community Management Account, 5 percent may not be obligated or expended until the DNI makes its first submission.

*Section 403. Disposition of records of Office of the Director of National Intelligence*

Section 403 amends Section 1096 of the Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108–458) to clarify the authorities and restrictions applicable to any executive branch agency that provides records maintenance services to the Office of the Director of National Intelligence.

SUBTITLE B—CENTRAL INTELLIGENCE AGENCY

*Section 411. Authority of Central Intelligence Agency to provide protection for certain personnel*

Section 411 expands the list of individuals for whom the CIA is authorized to provide armed protection to include an individual nominated to the position of Director of the CIA and their immediate family, and an individual nominated to the position of Director of National Intelligence and their immediate family.

*Section 412. Notification of use of certain expenditure authorities*

Section 412 requires the Director of the CIA to notify the congressional intelligence committees no more than 30 days after the Director makes a novel or significant expenditure pursuant to Section 8 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 3510). Section 412 further extends the same notification requirement to the DNI.

*Section 413. Clarification of authorities relating to security personnel at Office of Director of National Intelligence facilities and installations*

Section 413 enhances the CIA's authority to exercise law enforcement authority in order to protect ODNI facilities. Section 413 further authorizes the DNI to exercise law enforcement authority at ODNI facilities.

*Section 414. Office of Workforce Support of Central Intelligence Agency*

Section 414 requires the Director of the CIA to establish an Office of Workforce Support to provide independent support and advocacy for the physical and mental health of current and former officers, employees, and contractors. Section 414 further requires the DCIA to appoint a Deputy Director for Workforce Support who reports directly to the DCIA, and to ensure that at least 10 CIA officers are assigned full-time to staff the office. Section 414 further provides that the functions of the office shall include to furnish independent and confidential assistance to eligible individuals on matters relating to their physical health, mental health, the programs and benefits available to them, and doctors and attorneys who may be able to further assist them. Section 414 further provides that authority for the office will sunset after three years.

*Section 415. Establishment of External Advisory Board for Talent for the Central Intelligence Agency*

Section 415 requires the Director of the CIA to establish an External Advisory Board for Talent that will advise the DCIA and the head of the CIA Talent Center on the most up-to-date practices and innovations in the areas of hiring, leadership, management practices, and talent retention. Section 415 further requires the board to consist of at least seven private sector leaders, to be chosen by the DCIA, to be paid at a rate prescribed by the DCIA, to meet at least quarterly, and to provide the DCIA and the head of the Talent Center with regular briefings and reports. Section 415 further provides that the board will sunset after three years.

*Section 416. Study on relationship between Central Intelligence Agency and Congress*

Section 416 requires the CIA's Center for the Study of Intelligence to prepare and publish an examination of the CIA's relationship with Congress from 2004 to 2022. This would be a follow-on work to a previous publication, entitled *The CIA's Relationship with Congress, 1946–2004*. The new volume will cover major intelligence-related legislation, oversight of collection and covert action, historically significant events, and other topics.

*Section 417. Historical Advisory Panel of Central Intelligence Agency*

Section 417 expresses support for the reconstitution of the CIA's Historical Advisory Panel—which assists in conducting declassification reviews and provides other assistance with respect to matters of historical interest—and requires the panel to report directly to the Director of the CIA.

## SUBTITLE C—ELEMENTS OF THE DEFENSE INTELLIGENCE ENTERPRISE

*Section 421. Deputy Director for Defense Intelligence responsible for warfighter support*

Section 421 requires the Secretary of Defense to ensure that at least one of the Deputy Directors for Defense Intelligence is responsible for warfighter support and the individual appointed to that position is a general or flag officer serving in a joint duty assignment.

*Section 422. Cover enhancement authorities*

Section 422 provides the Secretary of Defense with additional authorities to protect from unauthorized disclosure the intelligence operations of the Department of Defense, the identities of undercover officers, intelligence sources and methods, and cover mechanisms.

*Section 423. Authority of Army counterintelligence agents to execute warrants and make arrests*

Section 423 provides Army Counterintelligence Command special agents with the authority to execute warrants and make arrests in national security cases. It mirrors the statutory authority provided to agents within the Army Criminal Investigation Division, the Air Force Office of Special Investigations, and the Naval Criminal Investigative Service, and is intended to enhance the Army's ability to mitigate national security threats, including espionage, sabotage, and international terrorism.

*Section 424. Inclusion of Space Force as element of intelligence community*

Section 424 codifies the intelligence element of the U.S. Space Force as an element of the U.S. Intelligence Community in the National Security Act of 1947.

*Section 425. Military intelligence collection and analysis partnerships*

Section 425 provides the DIA with the authority, with certain limitations, to use non-appropriated funds to pay for the expenses of partnerships with foreign countries, regional organizations, and security alliances for military intelligence collection and analysis activities. Section 425 further provides the DIA with authority to use up to \$10 million of appropriated funds annually to pay for such expenses.

*Section 426. Intelligence assessment of effects of counterterrorism strikes*

Section 426 requires the Director of the DIA, in coordination with the directorates of intelligence of the combatant commands, to produce an intelligence assessment of the various effects of counterterrorism strikes conducted by the U.S. military on targets outside of areas of active hostilities within the past five years, including recommendations on ways to improve the efficacy, accuracy, and timeliness of intelligence analysis to enhance the strategic effect of counterterrorism strikes. Section 426 further requires the Director of the DIA to submit a report to the congressional in-

telligence and defense committees containing the assessment and providing additional information.

*Section 427. Submission of certain legislative proposals*

Section 427 requires the Secretary of Defense to submit any covered legislative proposal—defined as a provision of legislation that is proposed by the Secretary of Defense to Congress, that has been approved by the Office of Management and Budget, and that involves the intelligence, intelligence-related, or tactical intelligence activities of the Department of Defense—to the congressional intelligence committees, in addition to the congressional defense committees.

*Section 428. Oversight of Defense Intelligence Agency culture*

Section 428 requires the Director of the DIA to take steps to improve workplace culture and workforce morale by, among other things, requiring the DIA to report to Congress on steps it is taking to address concerns raised by current DIA employees in workforce climate surveys and by departing DIA employees in exit surveys or interviews.

*Section 429. Cyber intelligence surveillance reconnaissance information*

Section 429 directs the Secretary of Defense, on a quarterly basis, to provide briefings to the congressional intelligence and defense committees on intelligence activities in cyberspace conducted in support of current or future offensive or defensive cyberspace operations. Section 429 further requires the Secretary of Defense to annually certify to those committees that the Secretary has reported all such activities to the committees.

*Section 430. Information on cover activities of Department of Defense*

Section 430 directs the Secretary of Defense, on at least a quarterly basis, to report cover activities of the Department of Defense to the congressional intelligence and defense committees.

SUBTITLE D—OTHER ELEMENTS

*Section 441. Authorization relating to certain intelligence and counterintelligence activities of Coast Guard*

Section 441 provides the Commandant of the Coast Guard with the authority to spend funds in a confidential manner for emergency or extraordinary expenses. The ability to forego standard, publicly-available accounting and reporting procedures provides flexibility and stability to Coast Guard counterintelligence operations and mirrors the accounting processes of other intelligence agencies. Section 441 further requires the Commandant to provide annual reports to Congress detailing its use of this authority. Section 441 further provides that this authority will sunset after three years.

*Section 442. Study on personnel under Strategic Intelligence Partnership Programs*

Section 442 requires the DNI and the Director of the Office of Intelligence and Counterintelligence of the Department of Energy, in consultation with the National Laboratories Directors' Council, to jointly conduct a study of the skills, recruitment, and retention of the personnel at the national laboratories who carry out projects under the Strategic Intelligence Partnership Program. Section 442 further requires the Directors to develop recommendations based on the results of the study. Section 442 further requires the Directors to submit a report to the congressional intelligence committees containing both the study and the recommendations.

*Section 443. Assessment of handling of certain information relating to deliberations of Bureau of Industry and Security*

Section 443 requires the Inspector General of the Intelligence Community, in coordination with the Inspector General of the Department of Commerce, to submit to Congress an assessment of practices for handling covered information—defined, in part, as information provided by an element of the intelligence community to the Bureau of Industry and Security of the Department of Commerce—that may cause harm to U.S. national security. Section 443 further requires the DNI to conduct an assessment of how covered information is transmitted, stored, and secured, and to provide that assessment to Congress.

TITLE V—MATTERS RELATING TO EMERGING TECHNOLOGY

SUBTITLE A—GENERAL MATTERS

*Section 501. Definitions*

Section 501 provides the definition of terms used elsewhere in Title V.

*Section 502. Officials responsible for artificial intelligence policies of the intelligence community*

Section 502 expresses the Sense of Congress that the Intelligence Community must rapidly adopt artificial intelligence into its workflows to compete with adversaries and keep pace with and leverage commercial cutting-edge technologies; requires the DNI and the Under Secretary of Defense for Intelligence and Security to publish a definition of the term “artificial intelligence”; and requires the DNI, in consultation with the Director of Science and Technology and the heads of the Intelligence Community elements, to establish policies and procedures relating to the acquisition and use of artificial intelligence by the Intelligence Community.

Section 502 further provides that the Director of Science and Technology will be dual-hatted as the Chief Technology Officer of the ODNI, and requires the Director of Science and Technology to perform a variety of functions related to artificial intelligence and other technologies.

Section 502 statutorily creates a Chief Data Officer within the ODNI to be appointed by the DNI and establishes the duties of the

Chief Data Officer (in addition to the functions set forth in 44 U.S.C. 3520).

SUBTITLE B—IMPROVEMENTS RELATING TO PROCUREMENT

*Section 511. Additional transaction authority*

Section 511 provides a range of express acquisition and assistance authorities, including Other Transaction Authority, to the ODNI to execute its research and development mission, and makes those authorities available across the Intelligence Community for research, development, and prototype activities.

*Section 512. Offices of Commercial Integration*

Section 512 requires the head of each Intelligence Community element, within two years of the date of enactment of the Act, to establish an Office of Commercial Integration, which will assist small- and medium-sized emerging technology companies in navigating the administrative and technical burdens associated with contracting with the Intelligence Community. Section 512 provides certain authorities related to the staffing of these offices, and requires the DNI to submit various plans and reports in connection with this statutory requirement.

*Section 513. Pilot program for designation of certain SBIR and STTR projects as Entrepreneurial Innovation Projects*

Section 513 requires the DNI to carry out a pilot program to more effectively transition eligible Small Business Innovation Research (SBIR) projects that present the potential to meet the operational needs of certain Intelligence Community elements to Phase III (commercialization) through the designation of eligible projects as Entrepreneurial Innovation Projects. Section 513 further provides that, under the pilot program, each element head will designate at least five projects per year as Entrepreneurial Innovation Projects.

*Section 514. Reduction of barriers relating to contracts for artificial intelligence and other emerging technologies*

Section 514 requires the DNI, in coordination with the Secretary of Defense, to develop and submit to Congress a protocol setting forth policies and procedures relating to authority to operate certifications held by commercial providers. Section 514 further requires the DNI and the Secretary of Defense to develop, and brief Congress on, a plan to expand access by covered contractors to sensitive compartmented information facilities (SCIFs). Section 514 further requires the DNI to annually submit, for the next three years, a report to the congressional intelligence committees on the extent to which security clearance requirements delay, limit, or otherwise discourage emerging technology companies from entering into contracts with the U.S. government.

*Section 515. Compliance by the intelligence community with requirements of the Federal Acquisition Regulation relating to commercially available off-the-shelf items and commercial services*

Section 515 requires the DNI to implement a policy to ensure that each Intelligence Community element complies with parts 10 and 12 of the Federal Acquisition Regulation with respect to procurement, which broadly require the U.S. government to conduct market research to determine whether commercially available off-the-shelf items, non-developmental items, or commercial services are available that could meet government requirements.

*Section 516. Policy on required user adoption metrics in certain contracts for artificial intelligence software product*

Section 516 requires the DNI to establish a policy that generally requires a contract, entered into by an element of the Intelligence Community and a commercial provider, to include (1) a commitment by the provider to furnish a means of collecting user adoption metrics for assessing the adoption of the product by users within the Intelligence Community, and (2) a requirement that the element assess the user adoption of the product through such means. Section 516 further requires the DNI to annually submit to the congressional intelligence committees, for three years, a report on the user adoption metrics for each product acquired using National Intelligence Program funds.

*Section 517. Assessments relating to information technology and software systems*

Section 517 requires the DNI to complete, and to provide to Congress, an assessment of the information technology and software systems of each Intelligence Community element to review whether such systems integrate new and emerging technology and, as appropriate, to make recommendations to decommission or replace outdated systems. Section 517 further requires the DNI—within 60 days of the head of an Intelligence Community element entering into, renewing, or extending a contract for the acquisition of an information technology or software system—to conduct a similar assessment for the system in question.

SUBTITLE C—REPORTS

*Section 521. Reports on integration of artificial intelligence within intelligence community*

Section 521 requires the DNI to submit to the congressional intelligence committees a report on the efforts of each Intelligence Community element to develop, acquire, adopt, and maintain artificial intelligence across the intelligence community to improve intelligence collection across the collection spectrum and optimize internal work flows.

*Section 522. Report on potential benefits of establishment of ICWERX*

Section 522 requires the DNI to submit to the congressional intelligence committees an assessment of whether the Intelligence Community would benefit from the establishment of an organiza-

tion to be known as “ICWERX,” the mission and activities of which would incorporate lessons learned from AFWERX of the Air Force, the Defense Innovation Unit of the Department of Defense, and other programs of the federal government with a focus on technology or innovation.

*Section 523. Requirements and report on workforce needs of intelligence community relating to science, technology, engineering, and math, and related areas*

Section 523 directs the DNI, in coordination with the Chief Technology Officer and the Chief Human Capital Officer of the ODNI, (1) to develop an organizational management plan to adopt and maintain artificial intelligence across the Intelligence Community, and (2) to require that the head of each Intelligence Community element develop a plan to recruit and retain personnel for positions involving artificial intelligence. Section 523 further requires the DNI to submit to the congressional intelligence committees a report on the workforce needs of the Intelligence Community relating to artificial intelligence, cybersecurity, and other STEM areas, including a detailed description of the organizational management plan.

SUBTITLE D—OTHER MATTERS

*Section 531. Improvements to use of commercial software products*

Section 531 requires the Director of Science and Technology of the ODNI to recommend to the DNI an Intelligence Community-wide policy to ensure that the procurement of commercial software products by the Intelligence Community is carried out in accordance with best practices. Section 531 further requires the DNI, in consultation with the Director of Science and Technology of the ODNI, to implement a policy to promote the Intelligence Community-wide use of code-free artificial intelligence enablement tools. Section 531 further requires the DNI to provide various reports and briefings to the congressional intelligence committees about the implementation of these policies.

*Section 532. Improvements to employees and managers relating to emerging technologies, software development, acquisition, and sustainment*

Section 532 requires the DNI, acting through the Director of Science and Technology, to establish a cadre of personnel who are experts in emerging technologies, software development, systems integration, and acquisition, in order to improve the adoption by the Intelligence Community of commercial solutions for emerging technologies. Section 532 further describes the responsibilities, administration, and training and education of this cadre of personnel.

TITLE VI—MATTERS RELATING TO FOREIGN COUNTRIES

*Section 601. Notice of deployment or transfer of containerized missile systems by Russia, China, or Iran*

Section 601 updates current law to require DNI notification to Congress when the IC has intelligence that Russia, China, North Korea, or Iran has deployed or transferred—or plans to deploy or transfer—a missile launcher disguised as, or concealed in, a shipping container.

*Section 602. Intelligence community coordinator for Russian atrocities accountability*

Section 602 requires the DNI to designate a senior official within Intelligence Community to serve as the Intelligence Community Coordinator for Russian Atrocities Accountability in order to identify and disseminate intelligence relating to Russian atrocities in Ukraine. Section 602 further requires the DNI to submit reports to Congress detailing the efforts overseen by the Coordinator. Section 602 sunsets four years after enactment.

*Section 603. Lead intelligence community coordinator for countering and neutralizing proliferation of Iran-origin unmanned aircraft system*

Section 603 directs the DNI to designate a coordinator for Intelligence Community efforts to counter and neutralize the proliferation of Iran-origin unmanned aircraft systems, to implement a common approach with Five Eyes partners toward this threat, and to intensify cooperation with Israel. Section 603 sunsets after the submission of a final report on the activities of the coordinator.

*Section 604. Collaboration between intelligence community and Department of Commerce to counter foreign commercial threats*

Section 604 requires the DNI and the Secretary of Commerce to create a working group of U.S. government officials to identify current and probable foreign commercial threats; assess ways to address the harm to U.S. national security arising from those threats; identify goods, services, or intellectual property that—if produced or otherwise distributed by the U.S.—could mitigate the foreign commercial threat; and prepare reports for Congress on the conclusions of the working group. Section 604 defines a foreign commercial threat as a scenario where a rare good or service is controlled by a foreign adversary—including China, Russia, Iran, or North Korea—in a manner that may provide the foreign adversary with leverage over the United States.

*Section 605. Intelligence assessment on foreign weaponization of advertisement technology data*

Section 605 requires the DNI to submit a report to the congressional intelligence committees that assesses the counterintelligence risks posed by, and the exposure of Intelligence Community personnel to, tracking by foreign adversaries through advertisement technology data, which can be used to geolocate or gain other targeting information on individuals.

*Section 606. Intelligence community assessment regarding Russian gray zone assets*

Section 606 requires the DNI, acting through the National Intelligence Council, to submit to the congressional intelligence committees an Intelligence Community assessment that describes Russia's "gray zone" assets and identifies opportunities to hold those assets at risk as a way to influence Russia's behavior. Gray zone activities fall between ordinary statecraft and open warfare, and are carried out with the intent to advance one's interests without provoking a military response.

*Section 607. Intelligence assessment on effects of sanctions on Russia*

Section 607 requires an intelligence assessment, led by the Assistant Secretary of the Treasury for Intelligence and Analysis, on the effects of sanctions imposed by the U.S. and its allies and partners on Russia following Russia's invasion of Ukraine, including an assessment of efforts taken by Russia and others to evade or mitigate those sanctions.

*Section 611. Report on assessing will to fight*

Section 611 requires the DNI, acting through the National Intelligence Council, to submit a report to Congress examining whether, and to what degree, Intelligence Community analyses of the military and national "will to fight" informed all-source analyses of how the armed forces and governments of Ukraine, Afghanistan, and Iraq would perform at key junctures.

*Section 612. Report on impact of Russia invasion of Ukraine on global food security*

Section 612 requires the DNI to submit a report to the congressional intelligence committees on the implications of Russia's invasion of Ukraine for global food insecurity and U.S. national security.

*Section 613. Report on threat from hypersonic weapons*

Section 613 requires the DNI to submit a report to the congressional intelligence committees on the threat posed to U.S. national security by the use of hypersonic weapons by U.S. adversaries, in light of Russia's use of such weapons in Ukraine.

*Section 614. Report on ordnance of Russia and China*

Section 614 requires the Director of the DIA to submit a report to the congressional intelligence and defense committees on ordnance of Russia and China, including the technical specificity required for the safe handling and disposal of such ordnance.

*Section 615. Report on activities of China and Russia targeting Latin America and the Caribbean*

Section 615 requires the DNI, acting through the National Intelligence Council, to submit a report to the congressional intelligence committees regarding China and Russia's activities designed to increase their influence in Latin America and the Caribbean, including any malign influence campaigns targeted at countries in the region.

*Section 616. Report on support provided by China to Russia*

Section 616 requires periodic Intelligence Community reports regarding whether and how China has provided support to Russia's invasion of Ukraine, including any steps taken by China to help Russia evade sanctions or to otherwise support Russia's war effort.

*Section 617. Report on global CCP investment in port infrastructure*

Section 617 requires the DNI to submit a report to Congress that documents all Chinese investment in port infrastructure globally, assesses the ability of China to leverage commercial ports for mili-

tary purposes, and describes the implications for U.S. national security and economic security.

*Section 618. Sense of Congress on provision of support by intelligence community for atrocity prevention and accountability*

Section 618 expresses the Sense of Congress that U.S. government efforts regarding atrocity prevention and response are critically important. Section 618 further urges the DNI and the Secretary of Defense to require each element of the Intelligence Community to support the Atrocity Warning Task Force and to take other efforts to enhance atrocity prevention and response.

TITLE VII—REPORTS AND OTHER MATTERS

*Section 701. Repeal of certain report requirements*

Section 701 repeals several periodic reports required by earlier acts of Congress.

*Section 702. Increased intelligence-related engineering, research, and development capabilities of minority institutions*

Section 702 requires the DNI to develop a plan to promote intelligence-related engineering, research, and development activities at minority serving institutions of higher learning in order to contribute toward the research necessary to sustain and strengthen the intelligence advantage of the United States. Section 702 further requires the DNI to encourage the Intelligence Advanced Research Projects Activity (IARPA) to partner with such institutions.

*Section 703. Annual report on response to Government Accountability Office recommendations to intelligence community*

Section 703 requires the DNI to submit annual reports to the congressional intelligence committees, consolidated from each element of the Intelligence Community, regarding the status of responses to recommendations made by the Comptroller General to the DNI or to the other heads of the elements of the Intelligence Community, including a list of relevant recommendations that the Comptroller General has not closed, a description of actions that have been taken to implement open recommendations, and a list of open recommendations that the Director or another element head does not intend to implement.

*Section 704. Annual report on efforts of the Federal Bureau of Investigation to identify and promote diverse candidates*

Section 704 requires the FBI Director to annually submit to Congress, through 2027, a statistical report on the status of efforts by the FBI to identify and promote diverse candidates.

*Section 705. Reports on personnel vetting processes and progress under Trusted Workforce 2.0 initiative*

Section 705 requires the DNI, in coordination with the Security, Suitability, and Credentialing Performance Accountability Council, to submit an annual report to the congressional intelligence committees, through 2027, on the personnel vetting process of the U.S. government, including an analysis of the timeliness and cost of the security clearance process, an analysis of the implementation of the

Trusted Workforce 2.0 initiative, an analysis of the transfer and reciprocal recognition of security clearance determinations, and a description of impediments, constraints, and opportunities.

*Section 706. Reports relating to programs of record of National Geospatial-Intelligence Agency*

Section 706 requires the Director of NGA to submit to the congressional intelligence committees a report on the programs and activities of NGA. Section 706 further requires the Director of NGA to submit to the congressional intelligence and defense committees a report on the programs and activities of NGA that are funded under the Military Intelligence Program.

*Section 707. Plan regarding Social Media Data and Threat Analysis Center*

Section 707 requires the DNI to submit to the congressional intelligence committees a plan to operationalize the statutorily-required Social Media Data and Threat Analysis Center. Section 707 requires the plan to include, among other things, a description of how the center will coordinate with social media companies and other public-facing internet-based platforms to determine what categories of data and metadata are useful indicators of internet-based foreign malign influence activities, and how such data and metadata may be shared effectively with the center while protecting the privacy and civil liberties of U.S. persons.

*Section 708. Report on use of publicly available social media information in personnel vetting determinations*

Section 708 requires the DNI to submit a report to the congressional intelligence committees on the current and planned use of publicly available social media information in the personnel vetting and security clearance processes, including a discussion of the risks, benefits, and drawbacks of allowing for the voluntary provision of, or voluntary access to, non-publicly available social media information in the personnel vetting process, and a discussion of the extent to which U.S. government officials and entities responsible for privacy and civil liberties matters are involved in programs to use social media information in the personnel vetting process.

*Section 709. Report on strengthening workforce diversity planning and oversight*

Section 709 requires the DNI to submit a report to the congressional intelligence committees discussing the steps that Intelligence Community elements are taking, or planning to take, to enhance the strategic planning for workforce diversity, to measure the progress of workforce diversity, and to overcome barriers to workforce diversity.

*Section 710. Report on improving opportunities for women and minorities for promotions in the intelligence community*

Section 710 requires the DNI, acting through the Chief Human Capital Officer of the Intelligence Community, to prepare a consolidated report for the congressional intelligence committees on specific steps taken by each Intelligence Community element to en-

hance opportunities for women and minorities and to reduce the gap among gender, racial, and ethnic categories at senior levels of the Intelligence Community. Section 710 further requires the report to contain a strategic plan from each element on how it will address these challenges.

*Section 711. Report on transition of National Reconnaissance Office to digital engineering environment*

Section 711 expresses the Sense of Congress that the NRO should transition to a digital engineering environment within three years. Section 711 further requires the Director of the NRO to submit a report to the congressional intelligence and defense committees that contains a transition plan and provides other relevant information.

*Section 712. Report on Department of Homeland Security intelligence enterprise*

Section 712 requires the Chief Intelligence Officer of DHS to submit a report to Congress that includes a comprehensive account of any intelligence activities conducted by any component of DHS's intelligence enterprise between 2018 and the present.

*Section 713. Report on declassification efforts of Central Intelligence Agency*

Section 713 requires the CIA Inspector General to submit a report to the congressional intelligence committees on the declassification efforts of the CIA, including an identification of the resources that are dedicated to such efforts and an assessment of whether such resources are sufficient.

*Section 714. Report on National Space Intelligence Center*

Section 714 requires the DNI, in coordination with the Chief of Space Operations, to submit a report to the congressional intelligence and defense committees regarding the National Space Intelligence Center (NSIC), including the implications of NSIC being aligned under a Field Command rather than a field operating agency aligned to the Director of Intelligence, Surveillance, and Reconnaissance of the Space Force.

*Section 715. Report on implementation of Executive Order 13556, regarding controlled unclassified information*

Section 715 requires the DNI and the Under Secretary of Defense for Intelligence and Security to submit a report to the congressional intelligence committees on the implementation of Executive Order 13556 (November 4, 2010), regarding controlled unclassified information. Section 715 further expresses the Sense of Congress that (1) during the time period in which the National Security Council conducts a review of the dissemination controls with respect to national security information, the Intelligence Community should pause implementation of the executive order, and (2) the executive order should be repealed.

*Section 716. Comptroller General of the United States compilation of unidentified aerospace-undersea phenomena records*

Section 716 directs the Comptroller General to review, compile, and prepare a public report on historical information in the possession of the Intelligence Community that could help explain unidentified aerospace-undersea phenomena (UAPs).

*Section 717. National Museum of Intelligence and Special Operations*

Section 717 authorizes a privately-funded museum in Ashburn, Virginia to be recognized, upon completion, as the “National Museum of Intelligence and Special Operations.”

*Section 718. Technical Corrections*

Section 718 makes certain technical corrections to the National Security Act of 1947; the Intelligence Authorization Act for Fiscal Years 2018, 2019, and 2020; the Intelligence Authorization Act for Fiscal Year 2012; and the Public Interest Declassification Act of 2000.

#### PURPOSE

The purpose of H.R. 8367, the Intelligence Authorization Act for Fiscal Year 2023 (the Act), is to authorize the intelligence and intelligence-related activities of the United States Government for Fiscal Year 2023.

#### CLASSIFIED ANNEX AND COMMITTEE INTENT

The classified annex to this bill includes the classified Schedule of Authorizations, as well as directive and explanatory language. The classified Schedule of Authorizations is incorporated directly into the Act by Section 102 of the Act and has the legal status of public law. Elements of the Intelligence Community shall strictly comply with all Committee direction and other guidance contained in the classified annex.

The classified annex, including the classified Schedule of Authorizations, will be made available for review by all Members of the House of Representatives on conditions set by the Committee at the time of its consideration of H.R. 8367.

#### SCOPE OF COMMITTEE REVIEW

The Act authorizes United States intelligence and intelligence-related activities within the jurisdiction of the Committee, including the National Intelligence Program (NIP), the Military Intelligence Program (MIP), and the Information Systems Security Program (ISSP).

The NIP consists of those intelligence activities of the United States Government that provide the President, other Executive Branch officials, and Congress with national intelligence on broad strategic concerns bearing on U.S. national security. The NIP funds activities of the Office of the Director of National Intelligence; the Central Intelligence Agency, including the CIA Retirement and Disability System; certain intelligence, counterintelligence, and intelligence-related activities of the Department of Defense, including

the Defense Intelligence Agency, the National Security Agency, the National Geospatial-Intelligence Agency, and the National Reconnaissance Office; and the intelligence elements of the Department of Energy; the Department of Homeland Security, including the U.S. Coast Guard; the Department of Justice, including the Federal Bureau of Investigation and the Drug Enforcement Administration; the Department of State; and the Department of the Treasury.

The MIP consists of those intelligence activities of the United States Government that provide the President, other Executive Branch officials, and Congress with military intelligence bearing on U.S. national security, including the tactical intelligence and intelligence-related activities of the Department of Defense. The MIP funds certain activities of the Army, Navy, Marine Corps, Air Force, Space Force, Special Operations Command, the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Security Agency, the National Reconnaissance Office, and other elements of the Department of Defense.

The Committee has exclusive or concurrent legislative and oversight jurisdiction of these activities—and exclusive jurisdiction to review and study the sources and methods of the Intelligence Community.

#### COMMITTEE COMMENTS AND DIRECTION

##### *Anomalous Health Incidents*

The Committee is committed to ensuring that all Intelligence Community (IC) personnel, and their dependents, who experience anomalous health incidents (AHIs) receive thorough and timely medical treatment and are appropriately compensated in accordance with the Helping American Victims Afflicted by Neurological Attacks Act of 2021 (the HAVANA Act; Public Law 117–46). Congress unanimously approved the HAVANA Act in order to empower the Central Intelligence Agency and the Department of State to fairly compensate AHI victims, cognizant of the fact that such victims often suffer from difficult-to-characterize injuries. Therefore, the Committee urges the IC to implement the HAVANA Act in the spirit that Congress intended, by making relief available as soon as possible to those who need it.

The Committee is further committed to ensuring that all IC employees, including AHI victims, receive the highest quality medical care. The Committee reminds the IC of its expectation that medical diagnoses and treatment must be provided only by qualified medical professionals, free from outside interference.

To help AHI victims obtain health services and navigate the HAVANA Act compensation process, Section 414 of the Act requires the Director of the CIA to establish an Office of Workforce Support to provide eligible IC personnel, including AHI victims, with independent and confidential assistance on matters relating to their physical health, mental health, the programs and benefits available to them, and doctors and attorneys who may be able to further assist them.

##### *Defense Attaché Ranks and Selection Process*

The Senior Defense Official/Defense Attaché (SDO/DATT) is the principal Department of Defense (DoD) official in a U.S. diplomatic

mission as designated by the Secretary of Defense and the senior diplomatically-accredited DoD officer assigned to the mission. Defense attachés play a critical role in our nation's bilateral and multilateral engagements overseas. The Committee is concerned about the DoD's recent decision to downgrade the rank for numerous SDO/DATT billets, including billets in countries of significant strategic importance to the United States. Particularly in rank-conscious countries, these downgrades may degrade the SDO/DATT's ability to constructively engage with senior host nation counterparts, to fulfill their role as the Secretary of Defense's principal representative, and to advance U.S. security interests.

Therefore, not later than March 1, 2023, the Undersecretary of Defense for Intelligence and Security, in coordination with the Director of the Defense Intelligence Agency, shall brief the Committee on the potential adverse impact of these downgrades and on the DoD's broader strategy to empower SDO/DATTs.

Separately, the Committee has registered concerns regarding the attaché selection process, especially below the SDO/DATT level. For example, service-specific attachés and assistant attachés do not undergo a standardized selection process, do not require review or concurrence by the Defense Intelligence Agency (DIA)—which manages and trains the Defense Attaché Service—and often serve only a single overseas tour. This disjointed strategy results in uneven attaché capabilities and the perception that tours as an attaché are not career enhancing for the highest performing officers.

Therefore, not later than October 11, 2023, the Director of the DIA, in coordination with the Intelligence Directors of the Army, Navy, Air Force, Marine Corps, Coast Guard, and Space Force, and in consultation with the Department of State, shall develop and brief the Committee on standardized selection and evaluation criteria for attaché candidates, including SDO/DATTs, service-specific attachés, and assistant attachés.

#### *Open-Source Intelligence*

The Committee believes that policymakers' need for high-quality analysis informed by open-source intelligence (OSINT) will continue to rise. The OSINT mission has become more complex due to the increasing volume of information that needs to be accessed and analyzed. The Director of the CIA is the functional manager for the OSINT intelligence discipline. The Committee was disappointed that the Fiscal Year 2023 budget request for the CIA's Open Source Enterprise (OSE) did not include new investments in OSINT capabilities. The Committee has authorized additional funding to enable OSE to implement its plan to increase capability for the CIA and the broader IC.

#### *Report on Potential Establishment of Open Translation and Analysis Center*

Not later than June 30, 2023, the Director of National Intelligence, in coordination with the Secretary of State and the head of any element of the Intelligence Community the DNI deems appropriate, shall submit to the Committee a report—in classified form with an unclassified summary—analyzing the need for, the advisability of, and the feasibility of establishing an entity that would, consistent with the protection of intelligence sources and

methods, provide policymakers and the public with increased insight into open source foreign language material. The primary function of the entity would be to translate, analyze, and contextualize publicly available foreign language documents, including government documents, from foreign countries of strategic interest to the United States for the purpose of enhancing policymaker and public understanding of foreign governments, militaries, economies, and cultures. The report may recommend alternatives to a new entity, such as housing these functions in an existing entity or making any existing open source analysis more broadly available to policymakers and the public. If the report determines a need for a new entity, it shall also specify the most feasible and advisable legal structure for a new entity and its relationship to the United States Government.

*Intelligence Community Role in Documenting Russian Atrocities*

In the course of its unjustified invasion of Ukraine, Russia has committed numerous apparent war crimes, including the execution of civilians, the intentional targeting of civilian infrastructure, unlawful detentions, and forced deportations of civilians to Russia. Culpability for these actions may rise to the highest levels of the Russian military and government.

Section 602 of the Act establishes an Intelligence Community Coordinator for Russian Atrocities Accountability in order to identify and disseminate intelligence relating to Russian atrocities in Ukraine.

This provision reflects the view of the Committee that the Intelligence Community (IC), due to its unique capabilities and resources, and consistent with the protection of intelligence sources and methods, has a significant role to play in collecting, analyzing, and—at the direction of U.S. policymakers—appropriately disseminating to other U.S. government agencies, foreign governments, international bodies, and international tribunals atrocity-related intelligence.

*Unclassified Workspaces*

Not later than June 30, 2023, the Director of National Intelligence shall submit to the Committee a report regarding the use of unclassified workspaces by Intelligence Community (IC) employees. The report shall include: (1) a description of the IC's current use of unclassified workspaces in the United States, broken down by IC element; (2) a description of any IC plans or pilot initiatives to study or identify additional unclassified workspaces for IC employee use in the United States; (3) an identification of potential unclassified workspaces that are geographically distributed across the United States, including facilities that are already owned, leased, or managed by IC elements or by non-IC agencies and departments of the United States Government, including the armed forces and the national laboratories; (4) a description of the types of work that IC employees currently perform, or in the future might perform, in unclassified workspaces; and (5) an assessment of the demand for, the benefits and risks of, and the costs associated with the IC maintaining unclassified workspaces, including for the benefit of newly hired IC employees whose security clearance adjudications are pending, the benefit to IC employees who seek re-

location, telework, or geographic flexibilities; and any counterintelligence risks.

*End-Use Monitoring of U.S.-Origin Defense Articles and Services*

The unauthorized use by a foreign government of U.S.-origin defense articles or defense services, including to target civilians, contravenes U.S. interests and values. Likewise, the transfer by a foreign government of U.S.-origin defense articles or services to unauthorized recipients, including China or Russia, poses a serious risk to U.S. national security. The Intelligence Community (IC) has a key role to play in ensuring that U.S. policymakers have accurate and timely information regarding whether U.S. defense articles and services are being used by their intended recipients and for their intended purpose.

Therefore, not later than June 30, 2023, the Director of National Intelligence shall submit to the Committee a report regarding IC support to the Department of State, the Department of Defense, and other relevant policymakers to strengthen end-use monitoring for U.S.-origin defense articles and services. The report should include, at minimum, (1) a detailed description of current efforts by the IC to collect, analyze, and disseminate intelligence for IC customers, including Congress, related to end-use monitoring; (2) an assessment of any meaningful intelligence gaps that exist notwithstanding the IC's current efforts; and (3) an assessment of the need for, the advisability of, and the feasibility of the IC enhancing and prioritizing its efforts to collect, analyze, and disseminate intelligence for IC customers, including Congress, related to end-use monitoring, including by having the DNI designate a senior IC official to serve as lead IC coordinator responsible for overseeing an inter-agency effort to identify and fill gaps in all-source intelligence collection, analysis, and dissemination related to end-use monitoring.

*Food Security*

Section 612 requires the Director of National Intelligence (DNI) to submit a report to the congressional intelligence committees on the implications of Russia's invasion of Ukraine for global food insecurity and U.S. national security, including an assessment of whether Russia, China, or any other foreign nation has the ability and the will to disrupt the global food supply to serve geopolitical purposes.

Separately, not later than March 31, 2023, the Director of National Intelligence, the Assistant Secretary of State for Intelligence and Research, and the head of any other Intelligence Community element that the DNI deems appropriate shall provide a broader briefing to the Committee on the IC's analysis of global food security and its implications for U.S. national security. As part of that briefing, briefers should be prepared to discuss the effects of increased production and consumption of alternative proteins, as defined in in H.R. 7468 (117th Congress), on long-term U.S. national security interests.

COMMITTEE CONSIDERATION

The Committee marked up H.R. 8367 on July 20, 2022. Chairman Schiff offered an amendment in the nature of a substitute,

which the Committee adopted by unanimous consent. No other amendments were offered, and the bill as amended was approved and ordered to be reported to the House by voice vote.

#### OVERSIGHT FINDINGS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Act and its accompanying classified annex result from open and closed hearings, briefings, and other oversight activities conducted by the Committee pursuant to clause 2(b)(1) of rule X.

#### GENERAL PERFORMANCE GOALS AND OBJECTIVES

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the general goals and objectives of H.R. 8367 are to authorize the intelligence and intelligence-related activities of the United States Government for Fiscal Year 2023. The Act and its accompanying classified annex reflect in detail the Committee's specific performance goals and objectives.

#### APPLICABILITY TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this Act to the legislative branch where the Act relates to terms and conditions of employment or access to public services or accommodations. H.R. 8367 does not relate to terms and conditions of employment or access to public services or accommodations.

#### DUPLICATION OF FEDERAL PROGRAMS

In accordance with clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, no provision of this Act establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

#### DISCLOSURE OF DIRECTED RULE MAKINGS

This Act does not direct the completion of any specific rule makings within the meaning of section 551 of title 5, United States Code.

#### FEDERAL ADVISORY COMMITTEE ACT STATEMENT

The Act does not establish or authorize the establishment of an advisory committee within the definition of section 5(b) of the appendix to title 5, United States Code.

#### EARMARK IDENTIFICATION

This bill does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the House of Representatives.

## ESTIMATE OF COSTS

On August 1, 2022, the Committee transmitted this bill to the Congressional Budget Office and requested an estimate of the costs incurred in carrying out the unclassified provisions, including any federal mandates.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

**NATIONAL SECURITY ACT OF 1947**

## SHORT TITLE

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

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## DEFINITIONS

SEC. 3. As used in this Act:

(1) The term “intelligence” includes foreign intelligence and counterintelligence.

(2) The term “foreign intelligence” means information relating to the capabilities, intentions, or activities of foreign gov-

ernments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

(3) The term “counterintelligence” means information gathered, and activities conducted, to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

(4) The term “intelligence community” includes the following:

(A) The Office of the Director of National Intelligence.

(B) The Central Intelligence Agency.

(C) The National Security Agency.

(D) The Defense Intelligence Agency.

(E) The National Geospatial-Intelligence Agency.

(F) The National Reconnaissance Office.

(G) Other offices within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs.

(H) The intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, *the Space Force*, the Coast Guard, the Federal Bureau of Investigation, the Drug Enforcement Administration, and the Department of Energy.

(I) The Bureau of Intelligence and Research of the Department of State.

(J) The Office of Intelligence and Analysis of the Department of the Treasury.

(K) The Office of Intelligence and Analysis of the Department of Homeland Security.

(L) Such other elements of any department or agency as may be designated by the President, or designated jointly by the Director of National Intelligence and the head of the department or agency concerned, as an element of the intelligence community.

(5) The terms “national intelligence” and “intelligence related to national security” refer to all intelligence, regardless of the source from which derived and including information gathered within or outside the United States, that—

(A) pertains, as determined consistent with any guidance issued by the President, to more than one United States Government agency; and

(B) that involves—

(i) threats to the United States, its people, property, or interests;

(ii) the development, proliferation, or use of weapons of mass destruction; or

(iii) any other matter bearing on United States national or homeland security.

(6) The term “National Intelligence Program” refers to all programs, projects, and activities of the intelligence community, as well as any other programs of the intelligence community designated jointly by the Director of National Intelligence and the head of a United States department or agency or by the President. Such term does not include programs, projects, or activities of the military departments to acquire intelligence

solely for the planning and conduct of tactical military operations by United States Armed Forces.

(7) The term “congressional intelligence committees” means—

- (A) the Select Committee on Intelligence of the Senate;
- and
- (B) the Permanent Select Committee on Intelligence of the House of Representatives.

#### TITLE I—COORDINATION FOR NATIONAL SECURITY

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##### JOINT INTELLIGENCE COMMUNITY COUNCIL

SEC. 101A. (a) JOINT INTELLIGENCE COMMUNITY COUNCIL.—There is a Joint Intelligence Community Council.

(b) MEMBERSHIP.—The Joint Intelligence Community Council shall consist of the following:

- (1) The Director of National Intelligence, who shall chair the Council.
- (2) The Secretary of State.
- (3) The Secretary of the Treasury.
- (4) The Secretary of Defense.
- (5) The Attorney General.
- (6) The Secretary of Energy.
- (7) The Secretary of Homeland Security.
- (8) *The Director of the Central Intelligence Agency.*

[(8)] (9) Such other officers of the United States Government as the President may designate from time to time.

(c) FUNCTIONS.—The Joint Intelligence Community Council shall assist the Director of National Intelligence in developing and implementing a joint, unified national intelligence effort to protect national security by—

- (1) advising the Director on establishing requirements, developing budgets, financial management, and monitoring and evaluating the performance of the intelligence community, and on such other matters as the Director may request[; and];
- (2) ensuring the timely execution of programs, policies, and directives established or developed by the Director[.]; and
- (3) *ensuring that the intelligence community has efficient and effective mechanisms to receive and prioritize the intelligence needs of the departments and agencies of the United States Government that are not part of the intelligence community or the Department of Defense.*

(d) MEETINGS.—The Director of National Intelligence shall convene meetings of the Joint Intelligence Community Council [as the Director considers appropriate] *on an annual basis, or more frequently as the Director determines appropriate.*

(e) ADVICE AND OPINIONS OF MEMBERS OTHER THAN CHAIRMAN.—(1) A member of the Joint Intelligence Community Council (other than the Chairman) may submit to the Chairman advice or an opinion in disagreement with, or advice or an opinion in addition to, the advice presented by the Director of National Intelligence to the President or the National Security Council, in the role of the Chairman as Chairman of the Joint Intelligence Com-

munity Council. If a member submits such advice or opinion, the Chairman shall present the advice or opinion of such member at the same time the Chairman presents the advice of the Chairman to the President or the National Security Council, as the case may be.

(2) The Chairman shall establish procedures to ensure that the presentation of the advice of the Chairman to the President or the National Security Council is not unduly delayed by reason of the submission of the individual advice or opinion of another member of the Council.

(f) RECOMMENDATIONS TO CONGRESS.—Any member of the Joint Intelligence Community Council may make such recommendations to Congress relating to the intelligence community as such member considers appropriate.

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#### RESPONSIBILITIES AND AUTHORITIES OF THE DIRECTOR OF NATIONAL INTELLIGENCE

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

(A) to the President;

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

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

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

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

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

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

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

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

(B) based on budget proposals provided to the Director of National Intelligence by the heads of agencies and organizations within the intelligence community and the heads of their respective departments and, as appropriate, after obtaining the

advice of the Joint Intelligence Community Council, develop and determine an annual consolidated National Intelligence Program budget; and

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

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

(3)(A) The Director of National Intelligence shall participate in the development by the Secretary of Defense of the annual budget for the Military Intelligence Program or any successor program or programs.

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

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

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

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

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

(D) Consistent with subparagraph (C), the Director of National Intelligence shall ensure that the programs and activities that are part of the National Intelligence Program, including those of the

Federal Bureau of Investigation, are structured and executed in a manner than enables budget traceability.

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

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

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

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

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

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

(A) to another such program;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) A transfer or reprogramming may be made without regard to a limitation set forth in clause (iv) or (v) of subparagraph (A) if the transfer has the concurrence of the head of the department involved or the Director of the Central Intelligence Agency (in the case of the Central Intelligence Agency). The authority to provide such concurrence may only be delegated by the head of the department involved or the Director of the Central Intelligence Agency (in the case of the Central Intelligence Agency) to the deputy of such officer.

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

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

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

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

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

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

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

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

- (i) the personnel are being transferred to an activity that is a higher priority intelligence activity; and
- (ii) the transfer supports an emergent need, improves program effectiveness, or increases efficiency.

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

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

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

(3)(A) In addition to the number of full-time equivalent positions authorized for the Office of the Director of National Intelligence for a fiscal year, there is authorized for such Office for each fiscal year an additional 100 full-time equivalent positions that may be used only for the purposes described in subparagraph (B).

(B) Except as provided in subparagraph (C), the Director of National Intelligence may use a full-time equivalent position authorized under subparagraph (A) only for the purpose of providing a temporary transfer of personnel made in accordance with paragraph (2) to an element of the intelligence community to enable such element to increase the total number of personnel authorized for such element, on a temporary basis—

(i) during a period in which a permanent employee of such element is absent to participate in critical language training; or

(ii) to accept a permanent employee of another element of the intelligence community to provide language-capable services.

(C) Paragraph (2)(B) shall not apply with respect to a transfer of personnel made under subparagraph (B).

(D) For each of the fiscal years 2010, 2011, and 2012, the Director of National Intelligence shall submit to the congressional intelligence committees an annual report on the use of authorities under this paragraph. Each such report shall include a description of—

(i) the number of transfers of personnel made by the Director pursuant to subparagraph (B), disaggregated by each element of the intelligence community;

(ii) the critical language needs that were fulfilled or partially fulfilled through the use of such transfers; and

(iii) the cost to carry out subparagraph (B).

(4) It is the sense of Congress that—

(A) the nature of the national security threats facing the United States will continue to challenge the intelligence community to respond rapidly and flexibly to bring analytic resources to bear against emerging and unforeseen requirements;

(B) both the Office of the Director of National Intelligence and any analytic centers determined to be necessary should be fully and properly supported with appropriate levels of personnel resources and that the President's yearly budget requests adequately support those needs; and

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

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

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

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

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

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

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

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

(i) insofar as the President so directs;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7)(A) The Director of National Intelligence shall, if the Director determines it is necessary, or may, if requested by a congressional intelligence committee, conduct an accountability review of an element of the intelligence community or the personnel of such element in relation to a failure or deficiency within the intelligence community.

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

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

(ii) If the head of such element does not implement a recommendation made by the Director under clause (i), the head of such element shall submit to the congressional intelligence committees a notice of the determination not to implement the recommendation, including the reasons for the determination.

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

(8)(A) *The Director of National Intelligence shall ensure there is established a policy for minimum insider threat standards that is consistent with the Presidential memorandum of November 21, 2012, titled "National Insider Threat Policy and Minimum Standards for Executive Branch Insider Threat Programs", or any successor thereto.*

*(B) The head of each element of the intelligence community shall implement the policy under subparagraph (A) within that element, and, concurrent with the submission to Congress of budget justification materials in support of the budget of the President for a fiscal year that is submitted to Congress under section 1105(a) of title 31, United States Code, shall submit to Congress a certification as to whether the element is in compliance with such policy.*

*(C) The Director shall conduct periodic audits to determine whether each element of the intelligence community is in compliance with the policy under subparagraph (A). The Director may refer any audit under this subparagraph to the Inspector General of the Intelligence Community, who shall conduct such audit on behalf of the Director.*

**[(8)]** (9) The Director of National Intelligence shall perform such other intelligence-related functions as the President may direct.

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

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

(A) establish uniform security standards and procedures;

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

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

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

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

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

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

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

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

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

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

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

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

(1) implement policies and procedures—

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

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

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

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

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

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

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

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

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

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

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

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

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

*(4) Each head of an element of the intelligence community shall ensure that any congressionally mandated report submitted to Congress by the head, other than such a report submitted solely to the congressional intelligence committees, shall be consistent with the protection of intelligence sources and methods in accordance with the policies established by the Director under paragraph (1), regardless of whether the provision of law mandating the report explicitly requires such protection.*

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

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

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

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

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

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

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

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

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

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

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

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

and

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

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

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

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

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

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

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

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

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

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

(D) The mechanisms prescribed under subparagraph (A) and any other policies of the Director—

(i) may not require an employee of an office of inspector general for an element of the intelligence community, including the Office of the Inspector General of the Intelligence Community, to rotate to a position in an office or organization of such an element over which such office of inspector general exercises jurisdiction; and

(ii) shall be implemented in a manner that exempts employees of an office of inspector general from a rotation that may impact the independence of such office.

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

(B) Mechanisms that establish requirements for education and training pursuant to paragraph (3)(B)(iii) may apply with respect to members of the uniformed services who are assigned to an ele-

ment of the intelligence community funded through the National Intelligence Program, but such mechanisms shall not be inconsistent with personnel policies and education and training requirements otherwise applicable to members of the uniformed services.

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

(D) Assignment to the Office of the Director of National Intelligence of commissioned officers of the Armed Forces shall be considered a joint-duty assignment for purposes of the joint officer management policies prescribed by chapter 38 of title 10, United States Code, and other provisions of that title.

(m) ADDITIONAL AUTHORITY WITH RESPECT TO PERSONNEL.—(1) In addition to the authorities under subsection (f)(3), the Director of National Intelligence may exercise with respect to the personnel of the Office of the Director of National Intelligence any authority of the Director of the Central Intelligence Agency with respect to the personnel of the Central Intelligence Agency under the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.), and other applicable provisions of law, as of the date of the enactment of this subsection to the same extent, and subject to the same conditions and limitations, that the Director of the Central Intelligence Agency may exercise such authority with respect to personnel of the Central Intelligence Agency, *including with respect to the notification requirement under section 8(c) of such Act (50 U.S.C. 3510(c))*.

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

(3) *In addition to the authority provided to the Director of the Central Intelligence Agency to authorize security personnel of the Central Intelligence Agency within, and in certain streets, sidewalks, and open areas with respect to, a facility or installation operated by the Director of National Intelligence under section 15(a) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 3515(a)), the Director of National Intelligence may exercise with respect to the security personnel of the Office of the Director of National Intelligence such authority to the same extent, and subject to the same conditions and limitations, that the Director of the Central Intelligence Agency may exercise such authority with respect to security personnel of the Central Intelligence Agency.*

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

(2) For the purpose of the exercise of any authority referred to in paragraph (1), a reference to the head of an agency shall be

deemed to be a reference to the Director of National Intelligence or the Principal Deputy Director of National Intelligence.

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

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

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

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

(4)(A) In addition to the authority referred to in paragraph (1), the Director of National Intelligence may authorize the head of an element of the intelligence community to exercise an acquisition authority referred to in section 3 or 8(a) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403c and 403j(a)) for an acquisition by such element that is more than 50 percent funded under the National Intelligence Program.

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

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

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

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

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

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

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

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

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

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

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

scribed in the request and authorization referred to in subparagraph (B).

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

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

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

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

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

(G) The Director of National Intelligence shall submit—

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

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

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

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

*(5) Any authority provided to the Director of National Intelligence or the head of an element of the intelligence community pursuant to this subsection to make an expenditure referred to in subsection (a) of section 8 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 3510) is subject to the notification requirement under subsection (c) of such section. If the Director of National Intelligence is required to make a notification for a specific expenditure pursuant*

to both this paragraph and paragraph (4)(G), the Director may make a single notification.

(6) *The Director of National Intelligence, in consultation with the heads of the elements of the intelligence community and the Director of Science and Technology, shall establish policies and procedures relating to the acquisition and use of artificial intelligence by the intelligence community, including with respect to data, computing, storage, and models necessary for the intelligence community to leverage, incorporate, adopt, and maintain artificial intelligence applications.*

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

(p) CERTAIN RESPONSIBILITIES OF DIRECTOR OF NATIONAL INTELLIGENCE RELATING TO NATIONAL INTELLIGENCE PROGRAM.—(1) Subject to the direction of the President, the Director of National Intelligence shall, after consultation with the Secretary of Defense, ensure that the National Intelligence Program budgets for the elements of the intelligence community that are within the Department of Defense are adequate to satisfy the national intelligence needs of the Department of Defense, including the needs of the Chairman of the Joint Chiefs of Staff and the commanders of the unified and specified commands, and wherever such elements are performing Government-wide functions, the needs of other Federal departments and agencies.

(2) Consistent with subsection (c)(5)(C), the Director of National Intelligence shall, after consultation with the Director of the Federal Bureau of Investigation, ensure that the programs and activities of the Federal Bureau of Investigation that are part of the National Intelligence Program are executed in a manner that conforms with the requirements of the national intelligence strategy under section 108A of this Act and the National Intelligence Priorities Framework of the Office of the Director of National Intelligence (or any successor mechanism established for the prioritization of such programs and activities).

(3) *Not later than October 1 of each year, the Director of National Intelligence shall submit to the congressional intelligence committees a copy of the most recently updated National Intelligence Priorities Framework of the Office of the Director of National Intelligence (or any such successor mechanism).*

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

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

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

(C) periodically—

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

(ii) submit to Congress a report on the results of such review and assessment.

(2) If the Director of National Intelligence and the Secretary of Defense are unable to reach an agreement on a milestone decision under paragraph (1)(B), the President shall resolve the conflict.

(3) Nothing in this subsection may be construed to limit the authority of the Director of National Intelligence to delegate to any other official any authority to perform the responsibilities of the Director under this subsection.

(4) In this subsection:

(A) The term “intelligence program”, with respect to the acquisition of a major system, means a program that—

(i) is carried out to acquire such major system for an element of the intelligence community; and

(ii) is funded in whole out of amounts available for the National Intelligence Program.

(B) The term “major system” has the meaning given such term in section 4(9) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 403(9)).

(r) PERFORMANCE OF COMMON SERVICES.—The Director of National Intelligence shall, in consultation with the heads of departments and agencies of the United States Government containing elements within the intelligence community and with the Director of the Central Intelligence Agency, coordinate the performance by the elements of the intelligence community within the National Intelligence Program of such services as are of common concern to the intelligence community, which services the Director of National Intelligence determines can be more efficiently accomplished in a consolidated manner.

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

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

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

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

(3) The head of a department or agency may not fix a rate of basic pay under this subsection at a rate greater than the rate payable for level II of the Executive Schedule under section 5313 of title 5, United States Code, except upon written approval of the Director of National Intelligence or as otherwise authorized by law.

(4) The head of a department or agency may not fix a rate of basic pay under this subsection at a rate greater than the rate payable for level I of the Executive Schedule under section 5312 of title 5, United States Code, except upon written approval of the President in response to a request by the Director of National Intelligence or as otherwise authorized by law.

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

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

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

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

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

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

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

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

(B) establish new positions in the excepted service within an element of the intelligence community in such department, if the Director of National Intelligence determines such positions

are necessary to carry out the intelligence functions of such element.

(2) An incumbent occupying a position on the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2012 selected to be converted to the excepted service under this section shall have the right to refuse such conversion. Once such individual no longer occupies the position, the position may be converted to the excepted service.

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

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

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

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

(1) ensure that—

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

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

(C) *each contract awarded by an element of the intelligence community includes provisions granting consent for the network monitoring by the element of any information technology network used to perform work under such contract, regardless of the classification level of such network.*

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

(3) ensure that the insider threat detection capabilities and insider threat policies of the intelligence community, *including*

*the policy under subsection (f)(8), apply to facilities of contractors with access to a classified network.*

(y) **FUNDRAISING.**—(1) The Director of National Intelligence may engage in fundraising in an official capacity for the benefit of non-profit organizations that—

(A) provide support to surviving family members of a deceased employee of an element of the intelligence community; or

(B) otherwise provide support for the welfare, education, or recreation of employees of an element of the intelligence community, former employees of an element of the intelligence community, or family members of such employees.

(2) In this subsection, the term “fundraising” means the raising of funds through the active participation in the promotion, production, or presentation of an event designed to raise funds and does not include the direct solicitation of money by any other means.

(3) Not later than 7 days after the date the Director engages in fundraising authorized by this subsection or at the time the decision is made to participate in such fundraising, the Director shall notify the congressional intelligence committees of such fundraising.

(4) The Director, in consultation with the Director of the Office of Government Ethics, shall issue regulations to carry out the authority provided in this subsection. Such regulations shall ensure that such authority is exercised in a manner that is consistent with all relevant ethical constraints and principles, including the avoidance of any prohibited conflict of interest or appearance of impropriety.

(z) **ANALYSES AND IMPACT STATEMENTS REGARDING PROPOSED INVESTMENT INTO THE UNITED STATES.**—(1) Not later than 20 days after the completion of a review or an investigation of any proposed investment into the United States for which the Director has prepared analytic materials, the Director shall submit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representative copies of such analytic materials, including any supplements or amendments to such analysis made by the Director.

(2) Not later than 60 days after the completion of consideration by the United States Government of any investment described in paragraph (1), the Director shall determine whether such investment will have an operational impact on the intelligence community, and, if so, shall submit a report on such impact to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives. Each such report shall—

(A) describe the operational impact of the investment on the intelligence community; and

(B) describe any actions that have been or will be taken to mitigate such impact.

**SEC. 102B. ADDITIONAL TRANSACTION AUTHORITY.**

(a) *IN GENERAL.*—*In addition to other acquisition authorities, the head of an element of the intelligence community may exercise the authorities under subsections (b), (c), and (d).*

(b) *COOPERATIVE AGREEMENTS AND GRANTS.*—*The head of an element of the intelligence community may use cooperative agreements*

and grants, in accordance with chapter 63 of title 31, United States Code, to carry out basic, applied, and advanced research and development, and prototype projects in support of intelligence activities.

(c) *OTHER TRANSACTION AUTHORITY.*—The head of an element of the intelligence community may enter into transactions (other than contracts, cooperative agreements, and grants) under the authority of this subsection to carry out basic, applied, and advanced research projects in support of intelligence activities.

(d) *AUTHORITY OF ELEMENTS OF THE INTELLIGENCE COMMUNITY TO CARRY OUT CERTAIN PROTOTYPE PROJECTS.*—

(1) *AUTHORITY.*—The head of an element of the intelligence community may, under the authority of subsection (c), enter into a transaction to carry out a prototype project in support of intelligence activities only if each party to the transaction, other than the Federal Government, is a covered contractor.

(2) *FOLLOW-ON PRODUCTION CONTRACTS OR TRANSACTIONS.*—

(A) *IN GENERAL.*—A transaction entered into under this subsection for a prototype project may provide for the award of a follow-on production contract or a follow-on production transaction to the participants in the transaction. A transaction includes all individual prototype sub-projects awarded under the transaction to a consortium of United States industry and academic institutions.

(B) *FOLLOW-ON PRODUCTION CONTRACTS.*—A follow-on production contract provided for in a transaction under subparagraph (A) may be awarded to the participants in the transaction without the use of any competitive procedure that would otherwise apply if the following criteria are satisfied:

(i) The authorizing official of the relevant element of the intelligence community determines that Government users of the proposed production product or production service have been consulted.

(ii) In the case of a proposed production product that is software, there are mechanisms in place for Government users to provide feedback to participants to the follow-on production contract.

(iii) In the case of a proposed production product that is software, the follow-on production contract includes a requirement that, for the duration of such contract (or such other period of time as may be agreed to as a term of such contract)—

(I) the participants provide to the head of the relevant element of the intelligence community the most up-to-date version of the production product that is available in the commercial marketplace; and

(II) there are mechanisms in place for the participants to provide real-time updates to the production product.

(C) *FOLLOW-ON PRODUCTION TRANSACTIONS.*—A follow-on production transaction provided for in a transaction under subparagraph (A) may be awarded to the participants in the transaction without the use of any competitive procedure that would otherwise apply.

(e) *RECOVERY OF FUNDS.*—

(1) *IN GENERAL.*—A cooperative agreement authorized by subsection (a) and a transaction authorized by subsection (c) or (d) may include a clause that requires a person to make payments to the Office of the Director of National Intelligence or any other element of the intelligence community as a condition for receiving support under the agreement or other transaction.

(2) *ACCOUNTING FOR RECOVERED FUNDS.*—The amount of any payment received by the Federal Government pursuant to a requirement imposed under paragraph (1) may be credited to the appropriate account for research and development or procurement. Amounts so credited shall be merged with other funds in the account and shall be available for the same purposes and the same period for which other funds in such account are available.

(f) *EDUCATION.*—The Director of National Intelligence and the heads of the elements of the intelligence community shall ensure that management, technical, and contracting personnel of the elements of the intelligence community who are involved in the award or administration of transactions under subsection (c) or (d), or alternative acquisition pathways, are afforded opportunities for adequate education and training relating to such award or administration.

(g) *AGREEMENTS OFFICERS.*—To ensure adequate availability of staff warranted as Agreements Officers, by not later than October 1, 2024, at least 50 percent of the contracting staff within the intelligence community that hold at least some responsibility for buying technology shall have received the appropriate training to become warranted as Agreements Officers, who are given authority to execute and administer the agreements, grants, and transactions authorized by this section.

(h) *DELEGATION REQUIRED.*—The Director of National Intelligence and the heads of the elements of the intelligence community shall, to the maximum extent practicable, delegate the authority to make a determination or decision referred to in this section to the official responsible for technology adoption in the relevant element of the intelligence community, regardless of whether such official serves in an acquisition position.

(i) *DEFINITIONS.*—In this section:

(1) *COMMERCIAL PRODUCT.*—The term “commercial product” has the meaning given that term in section 103 of title 41, United States Code.

(2) *COMMERCIAL SERVICE.*—The term “commercial service” has the meaning given that term in section 103a of title 41, United States Code.

(3) *COVERED CONTRACTOR.*—The term “covered contractor” means a contractor of an element of the intelligence community that is a small- or medium-sized emerging technology company.

(4) *EMERGING TECHNOLOGY COMPANY.*—The term “emerging technology company” means a company that is in the business of maturing and selling technology that is in a developmental stage, or that may be developed during the 10-year period beginning on January 1, 2022, including with respect to biotechnology, quantum information science, future generation wireless technology, advanced materials, artificial intelligence,

*nanotechnology, microelectronics, space technology, renewable energy generation and storage, advanced computing, and human-machine interfaces.*

(5) *PRODUCTION PRODUCT.*—The term “production product” means any commercial product that is not a prototype or development product and is intended to provide capability to the United States Government at scale as determined by the authorizing official of the relevant element of the intelligence community.

(6) *PRODUCTION SERVICE.*—The term “production service” means any commercial service that is not a prototype or development service and is intended to provide capability to the United States Government at scale as determined by the authorizing official of the relevant element of the intelligence community.

(7) *SMALL- OR MEDIUM-SIZED EMERGING TECHNOLOGY COMPANY.*—The term “small- or medium-sized emerging technology company” means an emerging technology company with fewer than 1,000 employees.

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#### DIRECTOR OF SCIENCE AND TECHNOLOGY

SEC. 103E. (a) *DIRECTOR OF SCIENCE AND TECHNOLOGY.*—There is a Director of Science and Technology within the Office of the Director of National Intelligence who shall be appointed by the Director of National Intelligence. *The Director of Science and Technology shall also serve as the Chief Technology Officer of the Office of the Director of National Intelligence.*

[(b) *REQUIREMENT RELATING TO APPOINTMENT.*—An individual appointed as Director of Science and Technology shall have a professional background and experience appropriate for the duties of the Director of Science and Technology.]

(b) *REQUIREMENT RELATING TO APPOINTMENT.*—An individual appointed as Director of Science and Technology shall have a professional background and experience appropriate for the duties of the Director of Science and Technology. In making such appointment, the Director of National Intelligence shall give preference to an individual with varied professional experiences, including experience outside of the United States Government.

(c) *DUTIES.*—The Director of Science and Technology shall—

(1) act as the chief representative of the Director of National Intelligence for science and technology;

(2) chair the Director of National Intelligence Science and Technology Committee under subsection (d);

(3) assist the Director in formulating a long-term strategy for scientific advances in the field of intelligence;

(4) assist the Director on the science and technology elements of the budget of the Office of the Director of National Intelligence; and

(5) perform other such duties as may be prescribed by the Director of National Intelligence or specified by law.

(d) *POLICIES.*—The Director of Science and Technology shall—

(1) recommend to the Director of National Intelligence policies and procedures for the intelligence community relating to incor-

porating artificial intelligence in accordance with section 102A(n);

(2) conduct reviews of the policies and procedures of the intelligence community relating to the adoption and integration of technology into the intelligence community, including with respect to, as appropriate—

(A) incentives and policies relating to human resources;

(B) incentives and policies relating to acquisition and contracting;

(C) incentives and policies relating to financial management and budgeting; and

(D) technology standards and policies;

(3) make recommendations to the Director of National Intelligence with respect to the budgets of the elements of the intelligence community regarding the matters covered by this section, including with respect to reprogramming funds to carry out the intelligence community-wide artificial intelligence mission of the Director of National Intelligence;

(4) coordinate with the Under Secretary of Defense for Research and Engineering on initiatives, policies, and programs carried out jointly between the intelligence community and the Department of Defense;

(5) coordinate with the Director of the Office of Science and Technology Policy to promote intelligence community-specific requirements and perspectives within the initiatives of the Office of Science and Technology Policy; and

(6) for purposes of integrating the priorities and requirements of the intelligence community into a broader national strategy on technology, coordinate with the heads of—

(A) the National Institute for Standards and Technology;

(B) the National Science Foundation; and

(C) any other department or agency of the United States Government, federally funded research and development center, or other entity that the Director of Science and Technology determines appropriate.

(e) CLARIFICATION OF ROLE.—The Director of Science and Technology may not have operational control over any program directly managed by an element of the intelligence community other than the Office of the Director of National Intelligence.

[(d)] (f) DIRECTOR OF NATIONAL INTELLIGENCE SCIENCE AND TECHNOLOGY COMMITTEE.—(1) There is within the Office of the Director of Science and Technology a Director of National Intelligence Science and Technology Committee.

(2) The Committee shall be composed of the principal science officers of the National Intelligence Program.

(3) The Committee shall—

(A) coordinate advances in research and development related to intelligence; and

(B) perform such other functions as the Director of Science and Technology shall prescribe.

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**SEC. 103K. CHIEF DATA OFFICER.**

(a) DIRECTOR OF SCIENCE AND TECHNOLOGY.—There is a Chief Data Officer within the Office of the Director of National Intel-

ligence who shall be appointed by the Director of National Intelligence. The Chief Data Officer is the Chief Data Officer of the Office of the Director of National Intelligence for purposes of section 3520 of title 44, United States Code.

(b) *REQUIREMENT RELATING TO APPOINTMENT.*—An individual appointed as the Chief Data Officer shall have a professional background and experience appropriate for the duties of the Chief Data Officer. In making such appointment, the Director of National Intelligence shall give preference to an individual with varied professional experiences, including experience outside of the United States Government.

(c) *DUTIES.*—In addition to any other functions and responsibilities specified in section 3520 of title 44, United States Code, the Chief Data Officer—

(1) shall recommend to the Director of National Intelligence policies and procedures for the intelligence community regarding the acquisition and use of artificial intelligence with respect to the data needs of the intelligence community in support of adopting emerging technologies, in accordance with section 102A(n) and subject to the approval by the Director of National Intelligence, the Director of Science and Technology, and the Chief Information Officer;

(2) shall conduct reviews of the policies and procedures of the intelligence community relating to data, including with respect to data curation, data labeling, data acquisition, data security, data interoperability, and data accessibility, except with respect to such policies and procedures established pursuant to a provision of law or executive order relating to the control, use, retention, collection, or dissemination of data;

(3) shall conduct ongoing reviews of the data policies of the intelligence community, including to ensure that such policies promote interoperability and accessibility with commercial software providers, including by the promotion of open application programming interfaces;

(4) shall coordinate with the Chief Data Officer of the Department of Defense and other relevant officials of the Department to ensure consistent data policies and, to the extent practicable and advisable, consistent standards and policies that ensure data is accessible between relevant elements of the intelligence community and the Department;

(5) may make recommendations to the Director of National Intelligence, acting through the Chief Technology Officer, with respect to the budgets of the elements of the intelligence community regarding data, if such recommendations are—

(A) consistent with the policies established by the Director; and

(B) made in furtherance of accelerating the transition to digital business practices across the intelligence community, including with respect to the acquisition, curation, dissemination, and other data practices necessary to adopt artificial intelligence capabilities and other emerging technologies within the intelligence community; and

(6) shall perform other such duties as may be prescribed by the Director of National Intelligence, the Director of Science and Technology, or specified by law.

(d) *IDENTIFICATION OF CONFLICTS.*—Not later than 60 days after the date on which the Chief Data Officer identifies a policy of the intelligence community, including with respect to policies governing the access to data, that restricts the Chief Data Officer from carrying out subsection (c), the Chief Data Officer shall notify the Director of National Intelligence and the congressional intelligence committees of such policy and restriction.

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RESPONSIBILITIES OF THE SECRETARY OF DEFENSE PERTAINING TO  
THE NATIONAL INTELLIGENCE PROGRAM

SEC. 105. (a) *IN GENERAL.*—Consistent with sections 102 and 102A, the Secretary of Defense, in consultation with the Director of National Intelligence, shall—

(1) ensure that the budgets of the elements of the intelligence community within the Department of Defense are adequate to satisfy the overall intelligence needs of the Department of Defense, including the needs of the [chairman] *Chairman* of the Joint Chiefs of Staff and the commanders of the unified and specified commands and, wherever such elements are performing governmentwide functions, the needs of other departments and agencies;

(2) ensure appropriate implementation of the policies and resource decisions of the Director by elements of the Department of Defense within the National Intelligence Program;

(3) ensure that the tactical intelligence activities of the Department of Defense complement and are compatible with intelligence activities under the National Intelligence Program;

(4) ensure that the elements of the intelligence community within the Department of Defense are responsive and timely with respect to satisfying the needs of operational military forces;

(5) eliminate waste and unnecessary duplication among the intelligence activities of the Department of Defense; and

(6) ensure that intelligence activities of the Department of Defense are conducted jointly where appropriate.

(b) *RESPONSIBILITY FOR THE PERFORMANCE OF SPECIFIC FUNCTIONS.*—Consistent with sections 102 and 102A of this Act, the Secretary of Defense shall ensure—

(1) through the National Security Agency (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the conduct of signals intelligence activities and shall ensure that the product is disseminated in a timely manner to authorized recipients;

(2) through the National Geospatial-Intelligence Agency (except as otherwise directed by the President or the National Security Council), with appropriate representation from the intelligence community, the continued operation of an effective unified organization within the Department of Defense—

(A) for carrying out tasking of imagery collection;

(B) for the coordination of imagery processing and exploitation activities;

- (C) for ensuring the dissemination of imagery in a timely manner to authorized recipients; and
  - (D) notwithstanding any other provision of law, for—
    - (i) prescribing technical architecture and standards related to imagery intelligence and geospatial information and ensuring compliance with such architecture and standards; and
    - (ii) developing and fielding systems of common concern related to imagery intelligence and geospatial information;
  - (3) through the National Reconnaissance Office (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the research and development, acquisition, and operation of overhead reconnaissance systems necessary to satisfy the requirements of all elements of the intelligence community;
  - (4) through the Defense Intelligence Agency (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified system within the Department of Defense for the production of timely, objective military and military-related intelligence, based upon all sources available to the intelligence community, and shall ensure the appropriate dissemination of such intelligence to authorized recipients;
  - (5) through the Defense Intelligence Agency (except as otherwise directed by the President or the National Security Council), effective management of Department of Defense human intelligence and counterintelligence activities, including defense attaches; and
  - (6) that the military departments maintain sufficient capabilities to collect and produce intelligence to meet—
    - (A) the requirements of the Director of National Intelligence;
    - (B) the requirements of the Secretary of Defense or the Chairman of the Joint Chiefs of Staff;
    - (C) the requirements of the unified and specified combatant commands and of joint operations; and
    - (D) the specialized requirements of the military departments for intelligence necessary to support tactical commanders, military planners, the research and development process, the acquisition of military equipment, and training and doctrine.
- (c) EXPENDITURE OF FUNDS BY THE DEFENSE INTELLIGENCE AGENCY.—(1) Subject to paragraphs (2) and (3), the Director of the Defense Intelligence Agency may expend amounts made available to the Director under the National Intelligence Program for human intelligence and counterintelligence activities for objects of a confidential, extraordinary, or emergency nature, without regard to the provisions of law or regulation relating to the expenditure of Government funds.
- (2) The Director of the Defense Intelligence Agency may not expend more than five percent of the amounts made available to the Director under the National Intelligence Program for human intelligence and counterintelligence activities for a fiscal year for objects

of a confidential, extraordinary, or emergency nature in accordance with paragraph (1) during such fiscal year unless—

(A) the Director notifies the congressional intelligence committees, the Committee on Armed Services of the Senate, and the Committee on Armed Services of the House of Representatives of the intent to expend the amounts; and

(B) 30 days have elapsed from the date on which the Director notifies the congressional intelligence committees, the Committee on Armed Services of the Senate, and the Committee on Armed Services of the House of Representatives in accordance with subparagraph (A).

(3) For each expenditure referred to in paragraph (1), the Director shall certify that such expenditure was made for an object of a confidential, extraordinary, or emergency nature.

(4) Not later than December 31 of each year, the Director of the Defense Intelligence Agency shall submit to the congressional intelligence committees, the Committee on Armed Services of the Senate, and the Committee on Armed Services of the House of Representatives a report on any expenditures made during the preceding fiscal year in accordance with paragraph (1).

(d) USE OF ELEMENTS OF DEPARTMENT OF DEFENSE.—The Secretary of Defense, in carrying out the functions described in this section, may use such elements of the Department of Defense as may be appropriate for the execution of those functions, in addition to, or in lieu of, the elements identified in this section.

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**SEC. 113B. SPECIAL PAY AUTHORITY FOR SCIENCE, TECHNOLOGY, ENGINEERING, OR MATHEMATICS POSITIONS.**

(a) SPECIAL RATES OF PAY FOR POSITIONS REQUIRING EXPERTISE IN SCIENCE, TECHNOLOGY, ENGINEERING, OR MATHEMATICS.—

(1) IN GENERAL.—Notwithstanding part III of title 5, United States Code, the head of each element of the intelligence community may, for one or more categories of positions in such element that require expertise in science, technology, engineering, or mathematics—

(A) establish higher minimum rates of pay; and

(B) make corresponding increases in all rates of pay of the pay range for each grade or level, subject to subsection (b) or (c), as applicable.

(2) TREATMENT.—The special rate supplements resulting from the establishment of higher rates under paragraph (1) shall be basic pay for the same or similar purposes as those specified in section 5305(j) of title 5, United States Code.

(b) SPECIAL RATES OF PAY FOR CYBER POSITIONS.—

(1) IN GENERAL.—Notwithstanding subsection (c), the Director of the National Security Agency may establish a special rate of pay—

(A) not to exceed the rate of basic pay payable for level II of the Executive Schedule under section 5313 of title 5, United States Code, if the Director certifies to the [Under Secretary of Defense for Intelligence] *Under Secretary of Defense for Intelligence and Security*, in consultation with the Under Secretary of Defense for Personnel and Readiness

ness, that the rate of pay is for positions that perform functions that execute the cyber mission of the Agency; or

(B) not to exceed the rate of basic pay payable for the Vice President of the United States under section 104 of title 3, United States Code, if the Director certifies to the Secretary of Defense, by name, individuals that have advanced skills and competencies and that perform critical functions that execute the cyber mission of the Agency.

(2) PAY LIMITATION.—Employees receiving a special rate under paragraph (1) shall be subject to an aggregate pay limitation that parallels the limitation established in section 5307 of title 5, United States Code, except that—

(A) any allowance, differential, bonus, award, or other similar cash payment in addition to basic pay that is authorized under title 10, United States Code, (or any other applicable law in addition to title 5 of such Code, excluding the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.)) shall also be counted as part of aggregate compensation; and

(B) aggregate compensation may not exceed the rate established for the Vice President of the United States under section 104 of title 3, United States Code.

(3) LIMITATION ON NUMBER OF RECIPIENTS.—The number of individuals who receive basic pay established under paragraph (1)(B) may not exceed 100 at any time.

(4) LIMITATION ON USE AS COMPARATIVE REFERENCE.—Notwithstanding any other provision of law, special rates of pay and the limitation established under paragraph (1)(B) may not be used as comparative references for the purpose of fixing the rates of basic pay or maximum pay limitations of qualified positions under section 1599f of title 10, United States Code, or [section 226 of the Homeland Security Act of 2002 (6 U.S.C. 147)] *section 2208 of the Homeland Security Act of 2002 (6 U.S.C. 658)*.

(c) MAXIMUM SPECIAL RATE OF PAY.—Except as provided in subsection (b), a minimum rate of pay established for a category of positions under subsection (a) may not exceed the maximum rate of basic pay (excluding any locality-based comparability payment under section 5304 of title 5, United States Code, or similar provision of law) for the position in that category of positions without the authority of subsection (a) by more than 30 percent, and no rate may be established under this section in excess of the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(d) NOTIFICATION OF REMOVAL FROM SPECIAL RATE OF PAY.—If the head of an element of the intelligence community removes a category of positions from coverage under a rate of pay authorized by subsection (a) or (b) after that rate of pay takes effect—

(1) the head of such element shall provide notice of the loss of coverage of the special rate of pay to each individual in such category; and

(2) the loss of coverage will take effect on the first day of the first pay period after the date of the notice.

(e) REVISION OF SPECIAL RATES OF PAY.—Subject to the limitations in this section, rates of pay established under this section by

the head of the element of the intelligence community may be revised from time to time by the head of such element and the revisions have the force and effect of statute.

(f) REGULATIONS.—The head of each element of the intelligence community shall promulgate regulations to carry out this section with respect to such element, which shall, to the extent practicable, be comparable to the regulations promulgated to carry out section 5305 of title 5, United States Code.

(g) REPORTS.—

(1) REQUIREMENT FOR REPORTS.—Not later than 90 days after the date of the enactment of the Damon Paul Nelson and Matthew Young Pollard Intelligence Authorization Act for Fiscal Years 2018 and 2019, the head of each element of the intelligence community shall submit to the congressional intelligence committees a report on any rates of pay established for such element under this section.

(2) CONTENTS.—Each report required by paragraph (1) shall contain for each element of the intelligence community—

(A) a description of any rates of pay established under subsection (a) or (b); and

(B) the number of positions in such element that will be subject to such rates of pay.

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ANNUAL REPORT ON FINANCIAL INTELLIGENCE ON TERRORIST ASSETS

SEC. 118. (a) ANNUAL REPORT.—On [a annual] *an annual* basis, the Secretary of the Treasury (acting through the head of the Office of Intelligence Support) shall submit a report to the appropriate congressional committees that fully informs the committees concerning operations against terrorist financial networks. Each such report shall include with respect to the preceding one-year period—

(1) the total number of asset seizures, designations, and other actions against individuals or entities found to have engaged in financial support of terrorism;

(2) the total number of physical searches of offices, residences, or financial records of individuals or entities suspected of having engaged in financial support for terrorist activity; and

(3) whether the financial intelligence information seized in these cases has been shared on a full and timely basis with the all departments, agencies, and other entities of the United States Government involved in intelligence activities participating in the Foreign Terrorist Asset Tracking Center.

(b) IMMEDIATE NOTIFICATION FOR EMERGENCY DESIGNATION.—In the case of a designation of an individual or entity, or the assets of an individual or entity, as having been found to have engaged in terrorist activities, the Secretary of the Treasury shall report such designation within 24 hours of such a designation to the appropriate congressional committees.

(c) SUBMITTAL DATE OF REPORTS TO CONGRESSIONAL INTELLIGENCE COMMITTEES.—In the case of the reports required to be submitted under subsection (a) to the congressional intelligence committees, the submittal dates for such reports shall be as provided in section 507.

(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” means the following:

(1) The Permanent Select Committee on Intelligence, the Committee on Appropriations, the Committee on Armed Services, and the Committee on Financial Services of the House of Representatives.

(2) The Select Committee on Intelligence, the Committee on Appropriations, the Committee on Armed Services, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

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### TITLE III—MISCELLANEOUS

#### NATIONAL SECURITY AGENCY VOLUNTARY SEPARATION

SEC. 301. (a) SHORT TITLE.—This section may be cited as the “National Security Agency Voluntary Separation Act”.

(b) DEFINITIONS.—For purposes of this section—

(1) the term “Director” means the Director of the National Security Agency; and

(2) the term “employee” means an employee of the National Security Agency, serving under an appointment without time limitation, who has been currently employed by the National Security Agency for a continuous period of at least 12 months prior to the effective date of the program established under subsection (c), except that such term does not include—

(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the Government; or

(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under any of the retirement systems referred to in subparagraph (A).

(c) ESTABLISHMENT OF PROGRAM.—Notwithstanding any other provision of law, the Director, in his sole discretion, may establish a program under which employees may, after October 1, 2000, be eligible for early retirement, offered separation pay to separate from service voluntarily, or both.

(d) EARLY RETIREMENT.—An employee who—

(1) is at least 50 years of age and has completed 20 years of service; or

(2) has at least 25 years of service,

may, pursuant to regulations promulgated under this section, apply and be retired from the National Security Agency and receive benefits in accordance with chapter 83 or 84 of title 5, United States Code, if the employee has not less than 10 years of service with the National Security Agency.

(e) AMOUNT OF SEPARATION PAY AND TREATMENT FOR OTHER PURPOSES.—

(1) AMOUNT.—Separation pay shall be paid in a lump sum and shall be equal to the lesser of—

(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code, if the employee were entitled to payment under such section; or

(B) \$25,000.

(2) TREATMENT.—Separation pay shall not—

(A) be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(B) be taken into account for the purpose of determining the amount of any severance pay to which an individual may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(f) REEMPLOYMENT RESTRICTIONS.—An employee who receives separation pay under such program may not be reemployed by the National Security Agency for the 12-month period beginning on the effective date of the employee's separation. An employee who receives separation pay under this section on the basis of a separation occurring on or after the date of the enactment of the Federal Workforce Restructuring Act of 1994 (Public Law 103-236; 108 Stat. 111) and accepts employment with the Government of the United States within 5 years after the date of the separation on which payment of the separation pay is based shall be required to repay the entire amount of the separation pay to the National Security Agency. If the employment is with an Executive agency (as defined by section 105 of title 5, United States Code), the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(g) BAR ON CERTAIN EMPLOYMENT.—

(1) BAR.—An employee may not be separated from service under this section unless the employee agrees that the employee will not—

(A) act as agent or attorney for, or otherwise represent, any other person (except the United States) in any formal or informal appearance before, or, with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to the National Security Agency; or

(B) participate in any manner in the award, modification, or extension of any contract for property or services with the National Security Agency, during the 12-month period beginning on the effective date of the employee's separation from service.

(2) PENALTY.—An employee who violates an agreement under this subsection shall be liable to the United States in the amount of the separation pay paid to the employee pursu-

ant to this section multiplied by the proportion of the 12-month period during which the employee was in violation of the agreement.

(h) LIMITATIONS.—Under this program, early retirement and separation pay may be offered only—

- (1) with the prior approval of the Director;
- (2) for the period specified by the Director; and
- (3) to employees within such occupational groups or geographic locations, or subject to such other similar limitations or conditions, as the Director may require.

(i) REGULATIONS.—Before an employee may be eligible for early retirement, separation pay, or both, under this section, the Director shall prescribe such regulations as may be necessary to carry out this section.

(j) NOTIFICATION OF EXERCISE OF AUTHORITY.—The Director may not make an offer of early retirement, separation pay, or both, pursuant to this section until 15 days after submitting to the congressional intelligence committees a report describing the occupational groups or geographic locations, or other similar limitations or conditions, required by the Director under subsection (h), [and includes] *and including* the proposed regulations issued pursuant to subsection (i).

(k) REMITTANCE OF FUNDS.—In addition to any other payment that is required to be made under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, the National Security Agency shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund, an amount equal to 15 percent of the final basic pay of each employee to whom a voluntary separation payment has been or is to be paid under this section. The remittance required by this subsection shall be in lieu of any remittance required by section 4(a) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 8331 note).

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TITLE V—ACCOUNTABILITY FOR INTELLIGENCE  
ACTIVITIES

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FUTURE BUDGET PROJECTIONS

SEC. 506G. (a) FUTURE YEAR INTELLIGENCE PLANS.—(1) The Director of National Intelligence, with the concurrence of the Director of the Office of Management and Budget, shall provide to the congressional intelligence committees a Future Year Intelligence Plan, as described in paragraph (2), for—

- (A) each expenditure center in the National Intelligence Program; and
- (B) each major system in the National Intelligence Program.

(2)(A) A Future Year Intelligence Plan submitted under this subsection shall include the year-by-year proposed funding for each center or system referred to in subparagraph (A) or (B) of paragraph (1), for the budget year for which the Plan is submitted and not less than the 4 subsequent fiscal years.

(B) A Future Year Intelligence Plan submitted under subparagraph (B) of paragraph (1) for a major system shall include—

- (i) the estimated total life-cycle cost of such major system; and
- (ii) major milestones that have significant resource implications for such major system.

(b) LONG-TERM BUDGET PROJECTIONS.—(1) The Director of National Intelligence, with the concurrence of the Director of the Office of Management and Budget, shall provide to the congressional intelligence committees a Long-term Budget Projection for each element of the intelligence community funded under the National Intelligence Program acquiring a major system that includes the budget for such element for the 5-year period that begins on the day after the end of the last fiscal year for which year-by-year proposed funding is included in a Future Year Intelligence Plan for such major system in accordance with subsection (a)(2)(A).

(2) A Long-term Budget Projection submitted under paragraph (1) shall include—

(A) projections for the appropriate element of the intelligence community for—

- (i) pay and benefits of officers and employees of such element;
- (ii) other operating and support costs and minor acquisitions of such element;
- (iii) research and technology required by such element;
- (iv) current and planned major system acquisitions for such element;
- (v) any future major system acquisitions for such element; and
- (vi) any additional funding projections that the Director of National Intelligence considers appropriate;

(B) a budget projection based on effective cost and schedule execution of current or planned major system acquisitions and application of Office of Management and Budget inflation estimates to future major system acquisitions;

(C) any additional assumptions and projections that the Director of National Intelligence considers appropriate; and

(D) a description of whether, and to what extent, the total projection for each year exceeds the level that would result from applying the most recent Office of Management and Budget inflation estimate to the budget of that element of the intelligence community.

(c) SUBMISSION TO CONGRESS.—The Director of National Intelligence, with the concurrence of the Director of the Office of Management and Budget, shall submit to the congressional intelligence committees each Future Year Intelligence Plan or Long-term Budget Projection required under subsection (a) or (b) for a fiscal year at the time that the President submits to Congress the budget for such fiscal year [pursuant section] *pursuant to section* 1105 of title 31, United States Code.

(d) MAJOR SYSTEM AFFORDABILITY REPORT.—(1) The Director of National Intelligence, with the concurrence of the Director of the Office of Management and Budget, shall prepare a report on the acquisition of a major system funded under the National Intelligence Program before the time that the President submits to Con-

gress the budget for the first fiscal year in which appropriated funds are anticipated to be obligated for the development or procurement of such major system.

(2) The report on such major system shall include an assessment of whether, and to what extent, such acquisition, if developed, procured, and operated, is projected to cause an increase in the most recent Future Year Intelligence Plan and Long-term Budget Projection submitted under section 506G for an element of the intelligence community.

(3) The Director of National Intelligence shall update the report whenever an independent cost estimate must be updated pursuant to section 506A(a)(4).

(4) The Director of National Intelligence shall submit each report required by this subsection at the time that the President submits to Congress the budget for a fiscal year pursuant to section 1105 of title 31, United States Code.

(e) DEFINITIONS.—In this section:

(1) BUDGET YEAR.—The term “budget year” means the next fiscal year for which the President is required to submit to Congress a budget pursuant to section 1105 of title 31, United States Code.

(2) INDEPENDENT COST ESTIMATE; MAJOR SYSTEM.—The terms “independent cost estimate” and “major system” have the meaning given those terms in section 506A(e).

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**SEC. 506J. CLASSIFIED INTELLIGENCE BUDGET JUSTIFICATION MATERIALS.**

(a) *TIMELY SUBMISSION.*—At the same time as the President submits to Congress the budget for each fiscal year, the Director of National Intelligence shall submit to the congressional intelligence committees the classified intelligence budget justification materials for the element for that budget.

(b) DEFINITIONS.—In this section:

(1) The term “budget” has the meaning given the term “budget of the President” in section 506A.

(2) The term “classified intelligence budget justification materials” means, with respect to a fiscal year, the materials submitted to Congress by the Director of National Intelligence in support of the budget for that fiscal year that are classified or otherwise protected from public disclosure.

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**DATES FOR SUBMITTAL OF VARIOUS ANNUAL AND SEMIANNUAL REPORTS TO THE CONGRESSIONAL INTELLIGENCE COMMITTEES**

SEC. 507. (a) ANNUAL REPORTS.—The date for the submittal to the congressional intelligence committees of the following annual reports shall be the date each year provided in subsection (c)(1):

(1) The annual report of the Inspectors [Generals] General of the intelligence community on proposed resources and activities of their offices required by section 8H(g) of the Inspector General Act of 1978.

(2) The annual report on certifications for immunity in interdiction of aircraft engaged in illicit drug trafficking required by

section 1012(c)(2) of the National Defense Authorization Act for Fiscal Year 1995 (22 U.S.C. 2291–4(c)(2)).

(3) The annual report on activities under the David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102–183; 50 U.S.C. 1901 et seq.) required by section 806(a) of that Act (50 U.S.C. 1906(a)).

(4) The annual report on hiring and retention of minority employees in the intelligence community required by section 114(a).

(5) The annual report on financial intelligence on terrorist assets required by section 118.

(6) An annual report submitted under section 119C(d)(1).

(b) SEMIANNUAL REPORTS.—The dates for the submittal to the congressional intelligence committees of the following semiannual reports shall be the dates each year provided in subsection (c)(2):

(1) The semiannual reports on decisions not to prosecute certain violations of law under the Classified Information Procedures Act (18 U.S.C. App.) as required by section 13 of that Act.

(2) The semiannual reports on the disclosure of information and consumer reports to the Federal Bureau of Investigation for counterintelligence purposes required by section 624(h)(2) of the Fair Credit Reporting Act (15 U.S.C. 1681u(h)(2)).

(3) The semiannual provision of information on requests for financial information for foreign counterintelligence purposes required by section 1114(a)(5)(C) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(a)(5)(C)).

(c) SUBMITTAL DATES FOR REPORTS.—(1) Except as provided in subsection (d), each annual report listed in subsection (a) shall be submitted not later than February 1.

(2) Except as provided in subsection (d), each semiannual report listed in subsection (b) shall be submitted not later than February 1 and August 1.

(d) POSTPONEMENT OF SUBMITTAL.—(1) Subject to paragraph (3), the date for the submittal of—

(A) an annual report listed in subsection (a) may be postponed until March 1; and

(B) a semiannual report listed in subsection (b) may be postponed until March 1 or September 1, as the case may be, if the official required to submit such report submits to the congressional intelligence committees a written notification of such postponement.

(2)(A) Notwithstanding any other provision of law and subject to paragraph (3), the date for the submittal to the congressional intelligence committees of any report described in subparagraph (B) may be postponed by not more than 30 days from the date otherwise specified in the provision of law for the submittal of such report if the official required to submit such report submits to the congressional intelligence committees a written notification of such postponement.

(B) A report described in this subparagraph is any report on intelligence or intelligence-related activities of the United States Government that is submitted under a provision of law requiring the submittal of only a single report.

(3)(A) The date for the submittal of a report whose submittal is postponed under paragraph (1) or (2) may be postponed beyond the time provided for the submittal of such report under such paragraph if the official required to submit such report submits to the congressional intelligence committees a written certification that preparation and submittal of such report at such time will impede the work of officers or employees of the intelligence community in a manner that will be detrimental to the national security of the United States.

(B) A certification with respect to a report under subparagraph (A) shall include a proposed submittal date for such report, and such report shall be submitted not later than that date.

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**SEC. 514. UNFUNDED PRIORITIES OF THE INTELLIGENCE COMMUNITY: ANNUAL REPORT.**

(a) *ANNUAL REPORT.*—Not later than 10 days after the date on which the budget of the President for a fiscal year is submitted to Congress pursuant to section 1105 of title 31, United States Code, the head of each element of the intelligence community shall submit to the Director of National Intelligence and to the congressional intelligence committees a report on the unfunded priorities of the programs under the jurisdiction of such head.

(b) *ELEMENTS.*—

(1) *IN GENERAL.*—Each report under subsection (a) shall specify, for each unfunded priority covered by such report, the following:

(A) A summary description of such priority, including the objectives to be achieved if such priority is funded (whether in whole or in part).

(B) Whether such priority will satisfy a covert action or support collection against requirements identified in the National Intelligence Priorities Framework of the Office of the Director of National Intelligence (or any successor mechanism established for the prioritization of programs and activities), including a description of such requirements and the related prioritization level.

(C) The additional amount of funds recommended in connection with the objectives under subparagraph (A).

(D) Budget information with respect to the unfunded priority, including—

(i) the appropriation account;

(ii) the expenditure center; and

(iii) the project and, if applicable, subproject.

(2) *PRIORITIZATION OF PRIORITIES.*—Each report shall present the unfunded priorities covered by such report in overall order of urgency of priority among unfunded priorities.

(c) *UNFUNDED PRIORITY DEFINED.*—In this section, the term “unfunded priority”, in the case of a fiscal year, means a program, activity, or mission requirement of an element of the intelligence community that—

(1) is not funded in the budget of the President for the fiscal year as submitted to Congress pursuant to section 1105 of title 31, United States Code;

(2) is necessary to fulfill a covert action or to satisfy an information requirement associated with the collection, analysis, or dissemination of intelligence that has been documented within the National Intelligence Priorities Framework; and

(3) would have been recommended for funding by the head of the element of the intelligence community if—

(A) additional resources had been available for the budget to fund the program, activity, or mission requirement; or

(B) the program, activity, or mission requirement has emerged since the budget was formulated.

**SEC. 515. SUBMISSION OF CLASSIFIED ANNEXES TO EXECUTIVE ORDERS AND OTHER DOCUMENTS.**

(a) **REQUIREMENT.**—Not later than 7 days after the date on which the President issues or amends a covered document, the Director of National Intelligence shall submit to the congressional intelligence committees any classified annex accompanying that document if such annex contains a reference to any element of the intelligence community.

(b) **COVERED DOCUMENT DEFINED.**—In this section, the term “covered document” means any executive order, memorandum, or policy directive issued by the President, including national security Presidential memoranda and Presidential policy directives, or such successor memoranda and directives.

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**TITLE X—EDUCATION IN SUPPORT OF NATIONAL INTELLIGENCE**

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**SUBTITLE C—ADDITIONAL EDUCATION PROVISIONS**

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**【PROGRAM ON RECRUITMENT AND TRAINING**

**【SEC. 1022. (a) PROGRAM.**—(1) The Director of National Intelligence shall carry out a program to ensure that selected students or former students are provided funds to continue academic training, or are reimbursed for academic training previously obtained, in areas of specialization that the Director, in consultation with the other heads of the elements of the intelligence community, identifies as areas in which the current capabilities of the intelligence community are deficient or in which future capabilities of the intelligence community are likely to be deficient.

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

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

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

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

to ensure that participants are prepared for employment as intelligence professionals; and

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

【(c) USE OF FUNDS.—Funds made available for the program under subsection (a) shall be used—

【(1) to provide a monthly stipend for each month that a student is pursuing a course of study;

【(2) to pay the full tuition of a student or former student for the completion of such course of study;

【(3) to pay for books and materials that the student or former student requires or required to complete such course of study;

【(4) to pay the expenses of the student or former student for travel requested by an element of the intelligence community in relation to such program; or

【(5) for such other purposes the Director considers reasonably appropriate to carry out such program.】

**SEC. 1022. PROGRAM ON RECRUITMENT AND TRAINING.**

(a) PROGRAM.—

(1) *REQUIREMENT.*—*The Director of National Intelligence, in consultation with the heads of the elements of the intelligence community, shall carry out a program to ensure that selected individuals are provided funds for academic training (including with respect to both undergraduate and postgraduate education), or to reimburse for academic training previously obtained—*

*(A) in capabilities, missions, or skillsets, especially in the fields of science, technology, mathematics, and engineering, to address workforce requirements in which the intelligence community is deficient or likely to be deficient in the future;*  
or

*(B) for such individuals who have backgrounds or experiences that the Director has identified as being underrepresented in the intelligence community or likely to be underrepresented in the future.*

(2) *COMMITMENT.*—*An individual selected for participation in the program shall commit to employment with an element of the intelligence community for a period that the Director determines is commensurate with the amount of funding provided to the individual under the program and under such terms and conditions as the Director considers appropriate.*

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

(4) *OUTREACH.*—*The Director, in consultation with the heads of the elements of the intelligence community, shall maintain a publicly available internet website on the program that describes—*

*(A) the intent of the program;*

*(B) the conditions and requirements for selection and participation;*

*(C) application instructions;*

(D) the areas covered by the program pursuant to the review conducted under subsection (b)(2); and

(E) any other details the Director determines appropriate.

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

(1) establish such requirements relating to the academic training of participants as the Director considers appropriate to ensure that participants are prepared for employment as intelligence professionals; and

(2) on an annual basis, review the areas that will contribute to the capabilities, missions, and skillsets in which the intelligence community is deficient or is likely to be deficient in the future.

(c) *USE OF FUNDS.*—Funds made available for the program under subsection (a) shall be used—

(1) to provide a monthly stipend for each month that a participant is pursuing a course of study;

(2) to pay the partial or full tuition or other appropriate education expenses of a participant for the completion of such course of study;

(3) to reimburse a participant for tuition or other appropriate education expenses paid by the participant before becoming an employee of an element of the intelligence community, including with respect to providing payments for student loans used for such tuition and expenses;

(4) to pay for books and materials that the participant requires or required to complete such course of study;

(5) to pay the expenses of the participant for travel requested by an element of the intelligence community in relation to such program; or

(6) for such other purposes the Director considers reasonably appropriate to carry out such program.

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#### INTELLIGENCE OFFICER TRAINING PROGRAM

SEC. 1024. (a) *PROGRAMS.*—(1) The Director of National Intelligence may carry out grant programs in accordance with subsections (b) and (c) to enhance the recruitment and retention of an ethnically and culturally diverse intelligence community workforce with capabilities critical to the national security interests of the United States.

(2) In carrying out paragraph (1), the Director shall identify the skills necessary to meet current or emergent needs of the intelligence community and the educational disciplines that will provide individuals with such skills.

(b) *INSTITUTIONAL GRANT PROGRAM.*—(1) The Director may provide grants to institutions of higher education to support the establishment or continued development of programs of study in educational disciplines identified under subsection (a)(2).

(2) A grant provided under paragraph (1) may, with respect to the educational disciplines identified under subsection (a)(2), be used for the following purposes:

(A) Curriculum or program development.

(B) Faculty development.

(C) Laboratory equipment or improvements.

(D) Faculty research.

(c) GRANT PROGRAM FOR CERTAIN MINORITY-SERVING COLLEGES AND UNIVERSITIES.—(1) The Director may provide grants to historically black colleges and universities, Predominantly Black Institutions, Hispanic-serving institutions, and Asian American and Native American Pacific Islander-serving institutions to provide programs of study in educational disciplines identified under subsection (a)(2) or described in paragraph (2).

(2) A grant provided under paragraph (1) may be used to provide programs of study in the following educational disciplines:

(A) Intermediate and advanced foreign languages deemed in the immediate interest of the intelligence community, including Farsi, Pashto, Middle Eastern, African, and South Asian dialects.

(B) Study abroad programs and cultural immersion programs.

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

(e) REPORTS.—An institution of higher education that receives a grant under this section shall submit to the Director regular reports regarding the use of such grant, including—

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

(2) a description of the results and accomplishments related to such course of study; and

(3) any other information that the Director may require.

(f) REGULATIONS.—The Director shall prescribe such regulations as may be necessary to carry out this section.

(g) DEFINITIONS.—In this section:

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

(2) HISTORICALLY BLACK COLLEGE AND UNIVERSITY.—The term “historically black college and university” has the meaning given the term “part B institution” in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

(3) The term “institution of higher education” has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(4) PREDOMINANTLY BLACK INSTITUTION.—The term “Predominantly Black Institution” has the meaning given the term in section 318 of the Higher education Act of 1965 (20 U.S.C. 1059e).

(5) HISPANIC-SERVING INSTITUTION.—The term “Hispanic-serving institution” has the meaning given that term in section 502(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)(5)).

(6) ASIAN AMERICAN AND NATIVE AMERICAN PACIFIC ISLANDER-SERVING INSTITUTION.—The term “Asian American and Native American Pacific Islander-serving institution” has the meaning given that term in section 320(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 1059g(b)(2)).

(7) STUDY ABROAD PROGRAM.—The term “study abroad program” means a program of study that—

(A) takes **[places]** *place* outside the geographical boundaries of the United States;

(B) focuses on areas of the world that are critical to the national security interests of the United States and are generally underrepresented in study abroad programs at institutions of higher education, including Africa, Asia, Central and Eastern Europe, Eurasia, Latin America, and the Middle East; and

(C) is a credit or noncredit program.

\* \* \* \* \*

TITLE XI—ADDITIONAL MISCELLANEOUS PROVISIONS

\* \* \* \* \*

**SEC. 1102A. MEASURES TO MITIGATE COUNTERINTELLIGENCE THREATS FROM PROLIFERATION AND USE OF FOREIGN COMMERCIAL SPYWARE.**

(a) ANNUAL ASSESSMENTS OF COUNTERINTELLIGENCE THREATS.—

(1) REQUIREMENT.—*Not later than March 1, 2023, and annually thereafter, the Director of National Intelligence, in coordination with the Director of the Central Intelligence Agency, the Director of the National Security Agency, and the Director of the Federal Bureau of Investigation, shall submit to the congressional intelligence committees a report containing an assessment of the counterintelligence threats and other risks to the national security of the United States posed by the proliferation of foreign commercial spyware. The assessment shall incorporate all credible data, including open-source information.*

(2) ELEMENTS.—*Each report under paragraph (1) shall include the following, if known:*

(A) *A list of the most significant foreign companies, as determined by the Director of National Intelligence, selling, leasing, or otherwise providing foreign commercial spyware, and associated foreign commercial entities, assessed by the intelligence community to be the most significant foreign actors in the global proliferation of foreign commercial spyware.*

(B) *A description of the foreign commercial spyware marketed by the foreign companies identified under subparagraph (A) and an assessment by the intelligence community of the foreign commercial spyware.*

(C) *An assessment of the counterintelligence risk to personnel of the intelligence community posed by such spyware.*

(D) *Details of where each foreign company identified under subparagraph (A) is domiciled, as well as any foreign country in which the company has subsidiaries or resellers acting as the local agent on behalf of the foreign parent company.*

(E) *A description of how each such foreign company is financed, where the foreign company acquired its capital, and the major investors in the foreign company.*

(F) An assessment by the intelligence community of any relationship between each such foreign company and a foreign government, including any export controls and processes to which the foreign company is subject.

(G) To the extent such information is obtainable through clandestine collection or open source intelligence, a list of the foreign customers of each such foreign company, including the understanding by the intelligence community of the organizations and end-users within any foreign government that procured the spyware of that foreign company.

(H) With respect to each foreign customer identified under subparagraph (G), an assessment by the intelligence community regarding how the foreign customer is using the spyware, including whether the spyware has been used to target personnel of the intelligence community.

(I) With respect to the first report, a mitigation plan to reduce the exposure of personnel of the intelligence community to foreign commercial spyware.

(J) With respect to each report following the first report, details of steps taken by the intelligence community since the previous report to implement measures to reduce the exposure of personnel of the intelligence community to foreign commercial spyware.

(3) FORM.—Each report under paragraph (1) shall be submitted in classified form.

(4) DISSEMINATION.—The Director of National Intelligence shall share each report under paragraph (1) with the heads of other appropriate Federal departments and agencies, including the President, the heads of all elements of the intelligence community, the Secretary of State, the Attorney General, the Director of the Federal Bureau of Investigation, the Secretary of Commerce, and the heads of any other agencies the Director determines appropriate.

(b) CLASSIFIED WATCHLIST.—

(1) SUBMITTAL TO CONGRESS.—The Director of National Intelligence shall submit to the appropriate congressional committees a list of companies selling, leasing, or otherwise providing foreign commercial spyware that the Director determines are engaged in activities that pose a counterintelligence risk to personnel of the intelligence community.

(2) UPDATES.—The Director shall update the list under paragraph (1) not less frequently than annually.

(3) FORM.—Each list under paragraph (1) shall be submitted in classified form.

(4) DISSEMINATION.—The Director of National Intelligence shall share each list under paragraph (1) with the heads of other appropriate Federal departments and agencies, including the President, the heads of all elements of the intelligence community, the Secretary of State, the Attorney General, the Director of the Federal Bureau of Investigation, the Secretary of Commerce, and the heads of any other agencies the Director determines appropriate.

(c) AUTHORITY TO PROHIBIT PURCHASE OR USE BY INTELLIGENCE COMMUNITY.—

(1) *FOREIGN COMMERCIAL SPYWARE FROM FOREIGN SPYWARE COMPANY.*—

(A) *IN GENERAL.*—*The Director of National Intelligence may prohibit any element of the intelligence community from procuring, leasing, or otherwise acquiring on the commercial market, or extending or renewing a contract to procure, lease, or otherwise acquire, foreign commercial spyware from a foreign spyware company.*

(B) *CONSIDERATIONS.*—*In determining whether and how to exercise the authority under subparagraph (A), the Director of National Intelligence shall consider—*

(i) *the assessment of the intelligence community of the counterintelligence threats or other risks to the United States posed by the foreign commercial spyware; and*

(ii) *the assessment of the intelligence community of whether the foreign commercial spyware has been used to target United States Government personnel.*

(2) *DOMESTIC COMPANY PROVIDING FOREIGN COMMERCIAL SPYWARE.*—

(A) *AUTHORITY TO PROHIBIT PURCHASE.*—*The Director of National Intelligence may prohibit the purchase or use by the intelligence community of spyware from a domestic company if the Director determines that the spyware was originally sourced, in whole or in part, from a foreign company.*

(B) *CONSIDERATIONS.*—*In considering whether and how to exercise the authority under subparagraph (A) with respect to spyware, the Director of National Intelligence shall consider—*

(i) *whether the original owner or developer retains any of the physical property or intellectual property associated with the spyware;*

(ii) *whether the original owner or developer has verifiably destroyed all copies of the data collected by or associated with the spyware;*

(iii) *whether the personnel of the original owner or developer retain any access to data collected by or associated with the spyware;*

(iv) *whether the use of the spyware requires the user to connect to an information system of the original owner or developer or of a foreign government; and*

(v) *whether the spyware poses a counterintelligence risk to the United States or any other threat to the national security of the United States.*

(3) *DOMESTIC COMPANY THAT HAS ACQUIRED FOREIGN COMMERCIAL SPYWARE.*—

(A) *AUTHORITY.*—*The Director of National Intelligence may prohibit any element of the intelligence community from entering into any contract or other agreement for any purpose with a domestic company that has acquired, in whole or in part, any foreign commercial spyware.*

(B) *CONSIDERATIONS.*—*In considering whether and how to exercise the authority under subparagraph (A) with respect to a domestic company that has acquired foreign com-*

mercial spyware, the Director of National Intelligence shall consider—

(i) whether the original owner or developer of the spyware retains any of the physical property or intellectual property associated with the spyware;

(ii) whether the original owner or developer of the spyware has verifiably destroyed all copies of the data collected by or associated with the spyware;

(iii) whether the personnel of the original owner or developer of the spyware retain any access to data collected by or associated with the spyware;

(iv) whether the use of the spyware requires the user to connect to an information system of the original owner or developer or of a foreign government; and

(v) whether the spyware poses a counterintelligence risk to the United States or any other threat to the national security of the United States.

(4) **WAIVER AUTHORITY.**—

(A) **IN GENERAL.**—The head of an element of the intelligence community may request from the Director of National Intelligence the waiver of a prohibition made under paragraph (1), (2), or (3). The Director may issue such a waiver in response to such a request if—

(i) such waiver is in the national security interest of the United States; and

(ii) the Director submits to the congressional intelligence committees the notice described in subparagraph (B).

(B) **NOTICE.**—Not later than 30 days after issuing a waiver under subparagraph (A), the Director of National Intelligence shall submit to the congressional intelligence committees notice of the waiver. Such notice shall include—

(i) an identification of the head of the element of the intelligence community that requested the waiver;

(ii) the rationale for issuing the waiver; and

(iii) the considerations that informed the ultimate determination of the Director to issue the waiver.

(5) **TERMINATION OF PROHIBITION.**—The Director of National Intelligence may terminate a prohibition made under paragraph (1), (2), or (3) at any time.

(d) **NOTIFICATIONS.**—

(1) **IN GENERAL.**—Not later than 30 days after the date on which the Director of National Intelligence exercises the authority to issue a prohibition under subsection (c), the Director of National Intelligence shall notify the congressional intelligence committees of such exercise of authority. Such notice shall include—

(A) a description of the circumstances under which the prohibition was issued;

(B) an identification of the company or product covered by the prohibition;

(C) any information that contributed to the decision of the Director to exercise the authority, including any information relating to counterintelligence or other risks to the

*national security of the United States posed by the company or product, as assessed by the intelligence community; and*  
 (D) *an identification of each element of the intelligence community to which the prohibition has been applied.*

(2) *COUNTERINTELLIGENCE NOTIFICATIONS.—Not later than 30 days after the date on which an element of the intelligence community becomes aware that a Government-issued mobile device was targeted or compromised by foreign commercial spyware, the Director of National Intelligence, in coordination with the Director of the Federal Bureau of Investigation, shall notify the congressional intelligence committees of such determination, including—*

(A) *the component of the element and the location of the personnel whose device was targeted or compromised;*

(B) *the number of devices compromised or targeted;*

(C) *an assessment by the intelligence community of the damage to national security of the United States resulting from any loss of data or sensitive information;*

(D) *an assessment by the intelligence community of any foreign government, or foreign organization or entity, and, to the extent possible, the foreign individuals, who directed and benefitted from any information acquired from the targeting or compromise; and*

(E) *as appropriate, an assessment by the intelligence community of the capacity and will of such governments or individuals to continue targeting personnel of the United States Government.*

(e) *DEFINITIONS.—In this section:*

(1) *APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—*

(A) *the Committee on Foreign Affairs, the Committee on Armed Services, and the Permanent Select Committee on Intelligence of the House of Representatives; and*

(B) *the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate.*

(2) *DOMESTIC COMPANY.—The term “domestic company” means a commercial entity, or any subsidiary or affiliate of the entity, incorporated or domiciled in the United States that—*

(A) *sells, leases, or otherwise provides foreign commercial spyware, including by reason of—*

(i) *taking ownership, in whole or in part, of a foreign spyware company; or*

(ii) *entering into a partnership with a foreign spyware company; or*

(B) *otherwise owns, leases, or has access to foreign commercial spyware.*

(3) *FOREIGN COMMERCIAL SPYWARE.—The term “foreign commercial spyware” means a tool (or set of tools) sold, leased, marketed, or otherwise provided as an end-to-end system originally developed or owned by a foreign spyware company that provides a purchaser remote access to information stored on or transiting through an electronic device connected to the internet, including end-to-end systems that—*

(A) allow malign actors to infect mobile and internet-connected devices with malware over both wireless internet and cellular data connections, including without any action required by the user of the device;

(B) can record telephone calls and other audio;

(C) track the location of the device; or

(D) access and retrieve information on the device, including text messages, files, e-mails, transcripts of chats, contacts, photos, and browsing history.

(4) **FOREIGN SPYWARE COMPANY.**—The term “foreign spyware company” means an entity that is—

(A) incorporated or domiciled outside the United States; and

(B) not subject to the laws and regulations of the United States regulating the surveillance of citizens of the United States and foreign citizens.

(5) **GOVERNMENT-ISSUED MOBILE DEVICE.**—The term “Government-issued mobile device” means a smartphone, tablet, or laptop, or similar portable computing device, that is issued to personnel of the intelligence community by a department or agency of the United States Government for official use by the personnel.

(6) **UNITED STATES PERSON.**—The term “United States person” has the meaning given that term in Executive Order 12333 (50 U.S.C. 3001 note), or any successor order.

\* \* \* \* \*

**SEC. 1104. PROHIBITED PERSONNEL PRACTICES IN THE INTELLIGENCE COMMUNITY.**

(a) **DEFINITIONS.**—In this section:

(1) **AGENCY.**—The term “agency” means an executive department or independent establishment, as defined under sections 101 and 104 of title 5, United States Code, that contains an intelligence community element, except the Federal Bureau of Investigation.

(2) **COVERED INTELLIGENCE COMMUNITY ELEMENT.**—The term “covered intelligence community element”—

(A) means—

(i) the Central Intelligence Agency, the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Security Agency, the Office of the Director of National Intelligence, and the National Reconnaissance Office; and

(ii) any executive agency or unit thereof determined by the President under section 2302(a)(2)(C)(ii) of title 5, United States Code, to have as its principal function the conduct of foreign intelligence or counterintelligence activities; and

(B) does not include the Federal Bureau of Investigation.

(3) **PERSONNEL ACTION.**—The term “personnel action” means, with respect to an employee in a position in a covered intelligence community element (other than a position excepted from the competitive service due to its confidential, policy-determining, policymaking, or policy-advocating character) or a contractor employee—

- (A) an appointment;
  - (B) a promotion;
  - (C) a disciplinary or corrective action;
  - (D) a detail, transfer, or reassignment;
  - (E) a demotion, suspension, or termination;
  - (F) a reinstatement or restoration;
  - (G) a performance evaluation;
  - (H) a decision concerning pay, benefits, or awards;
  - (I) a decision concerning education or training if such education or training may reasonably be expected to lead to an appointment, promotion, or performance evaluation;
- or
- (J) any other significant change in duties, responsibilities, or working conditions.

(4) CONTRACTOR EMPLOYEE.—The term “contractor employee” means an employee of a contractor, subcontractor, grantee, subgrantee, or personal services contractor, of a covered intelligence community element.

(b) AGENCY EMPLOYEES.—Any employee of a covered intelligence community element or an agency who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or fail to take, or threaten to take or fail to take, a personnel action with respect to any employee of a covered intelligence community element as a reprisal for—

(1) any lawful disclosure of information by the employee to the Director of National Intelligence (or an employee designated by the Director of National Intelligence for such purpose), the Inspector General of the Intelligence Community, a supervisor in the employee’s direct chain of command, or a supervisor of the employing agency with responsibility for the subject matter of the disclosure, up to and including the head of the employing agency (or an employee designated by the head of that agency for such purpose), the appropriate inspector general of the employing agency, a congressional intelligence committee, or a member of a congressional intelligence committee, which the employee reasonably believes evidences—

- (A) a violation of any Federal law, rule, or regulation; or
- (B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety<sup>[.]</sup>;

(2) any lawful disclosure that complies with—

- (A) subsections (a)(1), (d), and (g) of section 8H of the Inspector General Act of 1978 (5 U.S.C. App.);
- (B) subparagraphs (A), (D), and (H) of section 17(d)(5) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 3517(d)(5)); or
- (C) subparagraphs (A), (D), and (I) of section 103H(k)(5);

or

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

- (A) the exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation;
  - (B) testimony for or otherwise lawfully assisting any individual in the exercise of any right referred to in subparagraph (A); or
  - (C) cooperation with or disclosing information to the Inspector General of an agency, in accordance with applicable provisions of law in connection with an audit, inspection, or investigation conducted by the Inspector General.
- (c) CONTRACTOR EMPLOYEES.—(1) Any employee of an agency or of a contractor, subcontractor, grantee, subgrantee, or personal services contractor, of a covered intelligence community element who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or fail to take, or threaten to take or fail to take, a personnel action with respect to any contractor employee as a reprisal for—
- (A) any lawful disclosure of information by the contractor employee to the Director of National Intelligence (or an employee designated by the Director of National Intelligence for such purpose), the Inspector General of the Intelligence Community, a supervisor in the contractor employee's direct chain of command, or a supervisor of the contracting agency with responsibility for the subject matter of the disclosure, up to and including the head of the contracting agency (or an employee designated by the head of that agency for such purpose), the appropriate inspector general of the contracting agency, a congressional intelligence committee, or a member of a congressional intelligence committee, which the contractor employee reasonably believes evidences—
    - (i) a violation of any Federal law, rule, or regulation (including with respect to evidence of another employee or contractor employee accessing or sharing classified information without authorization); or
    - (ii) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.
  - (B) any lawful disclosure that complies with—
    - (i) subsections (a)(1), (d), and (g) of section 8H of the Inspector General Act of 1978 (5 U.S.C. App.);
    - (ii) subparagraphs (A), (D), and (H) of section 17(d)(5) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 3517(d)(5)); or
    - (iii) subparagraphs (A), (D), and (I) of section 103H(k)(5);
 or
  - (C) if the actions do not result in the contractor employee unlawfully disclosing information specifically required by Executive order to be kept classified in the interest of national defense or the conduct of foreign affairs, any lawful disclosure in conjunction with—
    - (i) the exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation;
    - (ii) testimony for or otherwise lawfully assisting any individual in the exercise of any right referred to in clause (i); or

- (iii) cooperation with or disclosing information to the Inspector General of an agency, in accordance with applicable provisions of law in connection with an audit, inspection, or investigation conducted by the Inspector General.
- (2) A personnel action under paragraph (1) is prohibited even if the action is undertaken at the request of an agency official, unless the request takes the form of a nondiscretionary directive and is within the authority of the agency official making the request.
- (d) **RULE OF CONSTRUCTION.**—Consistent with the protection of intelligence sources and methods, nothing in subsection (b) or (c) shall be construed to authorize—
  - (1) the withholding of information from Congress; or
  - (2) the taking of any personnel action against an employee who lawfully discloses information to Congress.
- (e) **DISCLOSURES.**—A disclosure shall not be excluded from this section because—
  - (1) the disclosure was made to an individual, including a supervisor, who participated in an activity that the employee reasonably believed to be covered under subsection (b)(1)(B) or the contractor employee reasonably believed to be covered under subsection (c)(1)(A)(ii);
  - (2) the disclosure revealed information that had been previously disclosed;
  - (3) the disclosure was not made in writing;
  - (4) the disclosure was made while the employee was off duty;
  - (5) of the amount of time which has passed since the occurrence of the events described in the disclosure; or
  - (6) the disclosure was made during the normal course of duties of an employee or contractor employee.
- (f) **ENFORCEMENT.**—The President shall provide for the enforcement of this section consistent, to the fullest extent possible, with the policies and procedures used to adjudicate alleged violations of section 2302(b)(8) of title 5, United States Code.
- (g) **EXISTING RIGHTS PRESERVED.**—Nothing in this section shall be construed to—
  - (1) preempt or preclude any employee, contractor employee, or applicant for employment, at the Federal Bureau of Investigation from exercising rights provided under any other law, rule, or regulation, including section 2303 of title 5, United States Code; or
  - (2) repeal section 2303 of title 5, United States Code.

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**[SEC. 1107A. ANNUAL REPORTS ON SECURITY SERVICES OF THE PEOPLE'S REPUBLIC OF CHINA IN THE HONG KONG SPECIAL ADMINISTRATIVE REGION.**

- [(a) DEFINITIONS.**—In this section:
  - [(1) APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means—
    - [(A)** the congressional intelligence committees;
    - [(B)** the Committee on Foreign Relations and the Committee on Armed Services of the Senate; and
    - [(C)** the Committee on Foreign Affairs and the Committee on Armed Services of the House of Representatives.
  - [(2) CHINESE SECURITY SERVICES.**—The term “Chinese security services” means—

[(A) the security services of the Government of the People's Republic of China, including the Ministry of State Security and the Ministry of Public Security; and

[(B) any known front organizations or aliases associated with such security services, including officers associated with the national security division of the Hong Kong Police Force and other officers of the Hong Kong Police Force selected by the Committee for Safeguarding National Security to work on matters relating to national security.

[(b) REQUIREMENT.—On an annual basis through 2047, the Director of National Intelligence shall submit to the appropriate congressional committees a report on the presence and activities of Chinese security services operating within the Hong Kong Special Administrative Region.

[(c) CONTENTS.—Each report under subsection (b) shall include, with respect to the year covered by the report, the following:

[(1) Identification of the approximate number of personnel affiliated with Chinese security services operating within the Hong Kong Special Administrative Region, including a breakdown of such personnel by the specific security service and the division of the security service, and (to the extent possible) an identification of any such personnel associated with the national security division of the Hong Kong Police Force.

[(2) A description of the command and control structures of such security services, including information regarding the extent to which such security services are controlled by the Government of the Hong Kong Special Administrative Region or the Government of the People's Republic of China.

[(3) A description of the working relationship and coordination mechanisms of the Chinese security services with the police force of the Hong Kong Special Administrative Region.

[(4) A description of the activities conducted by Chinese security services operating within the Hong Kong Special Administrative Region, including—

[(A) information regarding the extent to which such security services, and officers associated with the national security division of the Hong Kong Police Force, are engaged in frontline policing, serving in advisory and assistance roles, or both;

[(B) an assessment of the likelihood of such security services conducting renditions of individuals from the Hong Kong Special Administrative Region to China and a listing of every known individual subject to such rendition during the year covered by the report; and

[(C) an assessment of how such activities conducted by Chinese security services contribute to self-censorship and corruption within the Hong Kong Special Administrative Region.

[(5) A discussion of the doctrine and tactics employed by Chinese security services operating within the Hong Kong Special Administrative Region, including an overview of the extent to which such security services employ surveillance, detection, and control methods, including “high-tech” policing models and “preventative policing tactics”, that are consistent with the rise

of digital authoritarianism, and used in a manner similar to methods used in the Xinjiang region of China.

[(6) An overview of the funding for Chinese security services operating within the Hong Kong Special Administrative Region, including an assessment of the extent to which funding is drawn locally from the Hong Kong Special Administrative Region Government or from the Government of China.

[(7) A discussion of the various surveillance technologies used by security services operating within the Hong Kong Special Administrative Region, including—

[(A) a list of the key companies that provide such technologies; and

[(B) an assessment of the degree to which such technologies can be accessed by Chinese security services operating within the Hong Kong Special Administrative Region.

[(d) COORDINATION.—In carrying out subsection (b), the Director shall coordinate with the Director of the Central Intelligence Agency, the Director of the National Security Agency, the Director of the Defense Intelligence Agency, the Director of the National Geospatial-Intelligence Agency, the Assistant Secretary of State for the Bureau of Intelligence and Research, and any other relevant head of an element of the intelligence community.

[(e) FORM.—Each report submitted to the appropriate congressional committees under subsection (b) shall be submitted in unclassified form, but may include a classified annex.]

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**COUNTERINTELLIGENCE ENHANCEMENT ACT OF 2002**

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**TITLE IX—COUNTERINTELLIGENCE ACTIVITIES**

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**SEC. 904. NATIONAL COUNTERINTELLIGENCE AND SECURITY CENTER.**

(a) ESTABLISHMENT.—There shall be a National Counterintelligence and Security Center.

(b) HEAD OF CENTER.—The Director of the National Counterintelligence and Security Center shall be the head of the National Counterintelligence and Security Center.

(c) LOCATION OF CENTER.—The National Counterintelligence and Security Center shall be located in the Office of the Director of National Intelligence.

(d) FUNCTIONS.—Subject to the direction and control of the Director of the National Counterintelligence and Security Center, the functions of the National Counterintelligence and Security Center shall be as follows:

(1) NATIONAL THREAT IDENTIFICATION AND PRIORITIZATION ASSESSMENT.—Subject to subsection (e), in consultation with appropriate department and agencies of the United States Government, and private sector entities, to produce a strategic

planning assessment of the counterintelligence requirements of the United States to be known as the National Threat Identification and Prioritization Assessment.

(2) NATIONAL COUNTERINTELLIGENCE STRATEGY.—

(A) REQUIREMENT TO PRODUCE.—Subject to subsection (e), in consultation with appropriate department and agencies of the United States Government, and private sector entities, and based on the most current National Threat Identification and Prioritization Assessment under paragraph (1), to produce a strategy for the counterintelligence programs and activities of the United States Government to be known as the National Counterintelligence Strategy.

(B) REVISION AND REQUIREMENT.—The National Counterintelligence Strategy shall be revised or updated at least once every three years and shall be aligned with the strategy and policies of the Director of National Intelligence.

(3) IMPLEMENTATION OF NATIONAL COUNTERINTELLIGENCE STRATEGY.—To evaluate on an ongoing basis the implementation of the National Counterintelligence Strategy and to submit to the President periodic reports on such evaluation, including a discussion of any shortfalls in the implementation of the Strategy and recommendations for remedies for such shortfalls.

(4) NATIONAL COUNTERINTELLIGENCE STRATEGIC ANALYSES.—As directed by the Director of National Intelligence and in consultation with appropriate elements of the departments and agencies of the United States Government, to oversee and coordinate the production of strategic analyses of counterintelligence matters, including the production of counterintelligence damage assessments and assessments of lessons learned from counterintelligence activities.

(5) NATIONAL COUNTERINTELLIGENCE PROGRAM BUDGET.—At the direction of the Director of National Intelligence—

(A) to coordinate the development of budgets and resource allocation plans for the counterintelligence programs and activities of the Department of Defense, the Federal Bureau of Investigation, the Central Intelligence Agency, and other appropriate elements of the United States Government;

(B) to ensure that the budgets and resource allocation plans developed under subparagraph (A) address the objectives and priorities for counterintelligence under the National Counterintelligence Strategy; and

(C) to submit to the National Security Council periodic reports on the activities undertaken by the Office under subparagraphs (A) and (B).

(6) NATIONAL COUNTERINTELLIGENCE COLLECTION AND TARGETING COORDINATION.—To develop priorities for counterintelligence investigations and operations, and for collection of counterintelligence, for purposes of the National Counterintelligence Strategy, except that the National Counterintelligence and Security Center may not—

(A) carry out any counterintelligence investigations or operations; or

(B) establish its own contacts, or carry out its own activities, with foreign intelligence services.

(7) NATIONAL COUNTERINTELLIGENCE OUTREACH, WATCH, AND WARNING.—

(A) COUNTERINTELLIGENCE VULNERABILITY SURVEYS.—To carry out and coordinate surveys of the vulnerability of the United States Government, and the private sector, to intelligence threats in order to identify the areas, programs, and activities that require protection from such threats.

(B) OUTREACH.—To carry out and coordinate outreach programs and activities on counterintelligence to other elements of the United States Government, and the private sector, and to coordinate the dissemination to the public of warnings on intelligence threats to the United States.

(C) RESEARCH AND DEVELOPMENT.—To ensure that research and development programs and activities of the United States Government, and the private sector, direct attention to the needs of the counterintelligence community for technologies, products, and services.

(D) TRAINING AND PROFESSIONAL DEVELOPMENT.—To develop policies and standards for training and professional development of individuals engaged in counterintelligence activities and to manage the conduct of joint training exercises for such personnel.

(E) VULNERABILITIES FROM FOREIGN COMMERCIAL SPYWARE.—

(i) CONSULTATION.—*In carrying out efforts to secure Government-issued mobile devices, to consult with the private sector of the United States and reputable third-party researchers to identify vulnerabilities from foreign commercial spyware and maintain effective security measures for such devices.*

(ii) DEFINITIONS.—*In this subparagraph, the terms “Government-issued mobile devices” and “foreign commercial spyware” have the meaning given those terms in section 1102A of the National Security Act of 1947.*

(e) ADDITIONAL REQUIREMENTS REGARDING NATIONAL THREAT IDENTIFICATION AND PRIORITIZATION ASSESSMENT AND NATIONAL COUNTERINTELLIGENCE STRATEGY.—(1) A National Threat Identification and Prioritization Assessment under subsection (d)(1), and any modification of such assessment, shall not go into effect until approved by the President.

(2) A National Counterintelligence Strategy under subsection (d)(2), and any modification of such strategy, shall not go into effect until approved by the President.

(3) The National Counterintelligence Executive shall submit to the congressional intelligence committees each National Threat Identification and Prioritization Assessment, or modification thereof, and each National Counterintelligence Strategy, or modification thereof, approved under this section.

(4) In this subsection, the term “congressional intelligence committees” means—

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

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

(f) PERSONNEL.—(1) Personnel of the National Counterintelligence and Security Center may consist of personnel employed by the Center or personnel on detail from any other department, agency, or element of the Federal Government. Any such detail may be on a reimbursable or nonreimbursable basis, at the election of the head of the agency detailing such personnel.

(2) Notwithstanding section 104(d) or any other provision of law limiting the period of the detail of personnel on a nonreimbursable basis, the detail of an officer or employee of United States or a member of the Armed Forces under paragraph (1) on a nonreimbursable basis may be for any period in excess of one year that the Director of the National Counterintelligence and Security Center and the head of the department, agency, or element concerned consider appropriate.

(g) TREATMENT OF ACTIVITIES UNDER CERTAIN ADMINISTRATIVE LAWS.—The files of the National Counterintelligence and Security Center shall be treated as operational files of the Central Intelligence Agency for purposes of section 701 of the National Security Act of 1947 (50 U.S.C. 3141) to the extent such files meet criteria under subsection (b) of that section for treatment of files as operational files of an element of the Agency.

(h) OVERSIGHT BY CONGRESS.—The location of the National Counterintelligence and Security Center within the Office of the Director of National Intelligence shall not be construed as affecting access by Congress, or any committee of Congress, to—

- (1) any information, document, record, or paper in the possession of the Center; or
- (2) any personnel of the Center.

(i) CONSTRUCTION.—Nothing in this section shall be construed as affecting the authority of the Director of National Intelligence, the Secretary of Defense, the Secretary of State, the Attorney General, or the Director of the Federal Bureau of Investigation as provided or specified under the National Security Act of 1947 or under other provisions of law.

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**INTERNAL REVENUE CODE OF 1986**

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**Subtitle A—Income Taxes**

\* \* \* \* \*

**CHAPTER 1—NORMAL TAXES AND SURTAXES**

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**Subchapter B—COMPUTATION OF TAXABLE INCOME**

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**PART III—ITEMS SPECIFICALLY EXCLUDED FROM  
GROSS INCOME**

\* \* \* \* \*

**SEC. 132. CERTAIN FRINGE BENEFITS.**

(a) **EXCLUSION FROM GROSS INCOME.**—Gross income shall not include any fringe benefit which qualifies as a—

- (1) no-additional-cost service,
- (2) qualified employee discount,
- (3) working condition fringe,
- (4) de minimis fringe,
- (5) qualified transportation fringe,
- (6) qualified moving expense reimbursement,
- (7) qualified retirement planning services, or
- (8) qualified military base realignment and closure fringe.

(b) **NO-ADDITIONAL-COST SERVICE DEFINED.**—For purposes of this section, the term “no-additional-cost service” means any service provided by an employer to an employee for use by such employee if—

(1) such service is offered for sale to customers in the ordinary course of the line of business of the employer in which the employee is performing services, and

(2) the employer incurs no substantial additional cost (including forgone revenue) in providing such service to the employee (determined without regard to any amount paid by the employee for such service).

(c) **QUALIFIED EMPLOYEE DISCOUNT DEFINED.**—For purposes of this section—

(1) **QUALIFIED EMPLOYEE DISCOUNT.**—The term “qualified employee discount” means any employee discount with respect to qualified property or services to the extent such discount does not exceed—

(A) in the case of property, the gross profit percentage of the price at which the property is being offered by the employer to customers, or

(B) in the case of services, 20 percent of the price at which the services are being offered by the employer to customers.

(2) **GROSS PROFIT PERCENTAGE.**—

(A) **IN GENERAL.**—The term “gross profit percentage” means the percent which—

(i) the excess of the aggregate sales price of property sold by the employer to customers over the aggregate cost of such property to the employer, is of

(ii) the aggregate sale price of such property.

(B) **DETERMINATION OF GROSS PROFIT PERCENTAGE.**—Gross profit percentage shall be determined on the basis of—

(i) all property offered to customers in the ordinary course of the line of business of the employer in which the employee is performing services (or a reasonable classification of property selected by the employer), and

(ii) the employer’s experience during a representative period.

(3) EMPLOYEE DISCOUNT DEFINED.—The term “employee discount” means the amount by which—

(A) the price at which the property or services are provided by the employer to an employee for use by such employee, is less than

(B) the price at which such property or services are being offered by the employer to customers.

(4) QUALIFIED PROPERTY OR SERVICES.—The term “qualified property or services” means any property (other than real property and other than personal property of a kind held for investment) or services which are offered for sale to customers in the ordinary course of the line of business of the employer in which the employee is performing services.

(d) WORKING CONDITION FRINGE DEFINED.—For purposes of this section, the term “working condition fringe” means any property or services provided to an employee of the employer to the extent that, if the employee paid for such property or services, such payment would be allowable as a deduction under section 162 or 167.

(e) DE MINIMIS FRINGE DEFINED.—For purposes of this section—

(1) IN GENERAL.—The term “de minimis fringe” means any property or service the value of which is (after taking into account the frequency with which similar fringes are provided by the employer to the employer’s employees) so small as to make accounting for it unreasonable or administratively impracticable.

(2) TREATMENT OF CERTAIN EATING FACILITIES.—The operation by an employer of any eating facility for employees shall be treated as a de minimis fringe if—

(A) such facility is located on or near the business premises of the employer, and

(B) revenue derived from such facility normally equals or exceeds the direct operating costs of such facility.

The preceding sentence shall apply with respect to any highly compensated employee only if access to the facility is available on substantially the same terms to each member of a group of employees which is defined under a reasonable classification set up by the employer which does not discriminate in favor of highly compensated employees. For purposes of subparagraph (B), an employee entitled under section 119 to exclude the value of a meal provided at such facility shall be treated as having paid an amount for such meal equal to the direct operating costs of the facility attributable to such meal.

(f) QUALIFIED TRANSPORTATION FRINGE.—

(1) IN GENERAL.—For purposes of this section, the term “qualified transportation fringe” means any of the following provided by an employer to an employee:

(A) Transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee’s residence and place of employment.

(B) Any transit pass.

(C) Qualified parking.

(D) Any qualified bicycle commuting reimbursement.

(2) LIMITATION ON EXCLUSION.—The amount of the fringe benefits which are provided by an employer to any employee

and which may be excluded from gross income under subsection (a)(5) shall not exceed—

(A) \$175 per month in the case of the aggregate of the benefits described in subparagraphs (A) and (B) of paragraph (1),

(B) \$175 per month in the case of qualified parking, and

(C) the applicable annual limitation in the case of any qualified bicycle commuting reimbursement.

(3) CASH REIMBURSEMENTS.—For purposes of this subsection, the term “qualified transportation fringe” includes a cash reimbursement by an employer to an employee for a benefit described in paragraph (1). The preceding sentence shall apply to a cash reimbursement for any transit pass only if a voucher or similar item which may be exchanged only for a transit pass is not readily available for direct distribution by the employer to the employee.

(4) NO CONSTRUCTIVE RECEIPT.—No amount shall be included in the gross income of an employee solely because the employee may choose between any qualified transportation fringe (other than a qualified bicycle commuting reimbursement) and compensation which would otherwise be includible in gross income of such employee.

(5) DEFINITIONS.—For purposes of this subsection—

(A) TRANSIT PASS.—The term “transit pass” means any pass, token, farecard, voucher, or similar item entitling a person to transportation (or transportation at a reduced price) if such transportation is—

(i) on mass transit facilities (whether or not publicly owned), or

(ii) provided by any person in the business of transporting persons for compensation or hire if such transportation is provided in a vehicle meeting the requirements of subparagraph (B)(i).

(B) COMMUTER HIGHWAY VEHICLE.—The term “commuter highway vehicle” means any highway vehicle—

(i) the seating capacity of which is at least 6 adults (not including the driver), and

(ii) at least 80 percent of the mileage use of which can reasonably be expected to be—

(I) for purposes of transporting employees in connection with travel between their residences and their place of employment, and

(II) on trips during which the number of employees transported for such purposes is at least 1/2 of the adult seating capacity of such vehicle (not including the driver).

(C) QUALIFIED PARKING.—The term “qualified parking” means parking provided to an employee on or near the business premises of the employer or on or near a location from which the employee commutes to work by transportation described in subparagraph (A), in a commuter highway vehicle, or by carpool. Such term shall not include any parking on or near property used by the employee for residential purposes.

(D) **TRANSPORTATION PROVIDED BY EMPLOYER.**—Transportation referred to in paragraph (1)(A) shall be considered to be provided by an employer if such transportation is furnished in a commuter highway vehicle operated by or for the employer.

(E) **EMPLOYEE.**—For purposes of this subsection, the term “employee” does not include an individual who is an employee within the meaning of section 401(c)(1).

(F) **DEFINITIONS RELATED TO BICYCLE COMMUTING REIMBURSEMENT.**—

(i) **QUALIFIED BICYCLE COMMUTING REIMBURSEMENT.**—The term “qualified bicycle commuting reimbursement” means, with respect to any calendar year, any employer reimbursement during the 15-month period beginning with the first day of such calendar year for reasonable expenses incurred by the employee during such calendar year for the purchase of a bicycle and bicycle improvements, repair, and storage, if such bicycle is regularly used for travel between the employee’s residence and place of employment.

(ii) **APPLICABLE ANNUAL LIMITATION.**—The term “applicable annual limitation” means, with respect to any employee for any calendar year, the product of \$20 multiplied by the number of qualified bicycle commuting months during such year.

(iii) **QUALIFIED BICYCLE COMMUTING MONTH.**—The term “qualified bicycle commuting month” means, with respect to any employee, any month during which such employee—

(I) regularly uses the bicycle for a substantial portion of the travel between the employee’s residence and place of employment, and

(II) does not receive any benefit described in subparagraph (A), (B), or (C) of paragraph (1).

(6) **INFLATION ADJUSTMENT.**—

(A) **IN GENERAL.**—In the case of any taxable year beginning in a calendar year after 1999, the dollar amounts contained in subparagraphs (A) and (B) of paragraph (2) shall be increased by an amount equal to—

(i) such dollar amount, multiplied by

(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting “calendar year 1998” for “calendar year 2016” in subparagraph (A)(ii) thereof.

(B) **ROUNDING.**—If any increase determined under subparagraph (A) is not a multiple of \$5, such increase shall be rounded to the next lowest multiple of \$5.

(7) **COORDINATION WITH OTHER PROVISIONS.**—For purposes of this section, the terms “working condition fringe” and “de minimis fringe” shall not include any qualified transportation fringe (determined without regard to paragraph (2)).

(8) **SUSPENSION OF QUALIFIED BICYCLE COMMUTING REIMBURSEMENT EXCLUSION.**—Paragraph (1)(D) shall not apply to

any taxable year beginning after December 31, 2017, and before January 1, 2026.

(g) QUALIFIED MOVING EXPENSE REIMBURSEMENT.—For purposes of this section—

(1) IN GENERAL.—The term “qualified moving expense reimbursement” means any amount received (directly or indirectly) by an individual from an employer as a payment for (or a reimbursement of) expenses which would be deductible as moving expenses under section 217 if directly paid or incurred by the individual. Such term shall not include any payment for (or reimbursement of) an expense actually deducted by the individual in a prior taxable year.

(2) SUSPENSION FOR TAXABLE YEARS 2018 THROUGH 2025.—Except in the case of a member of the Armed Forces of the United States on active duty who moves pursuant to a military order and incident to a permanent change of station or an employee or new appointee of the intelligence community (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 3003)) (other than a member of the Armed Forces of the United States) who moves pursuant to a change in assignment that requires relocation, subsection (a)(6) shall not apply to any taxable year beginning after December 31, 2017, and before January 1, 2026.

(h) CERTAIN INDIVIDUALS TREATED AS EMPLOYEES FOR PURPOSES OF SUBSECTIONS (A)(1) AND (2).—For purposes of paragraphs (1) and (2) of subsection (a)—

(1) RETIRED AND DISABLED EMPLOYEES AND SURVIVING SPOUSE OF EMPLOYEE TREATED AS EMPLOYEE.—With respect to a line of business of an employer, the term “employee” includes—

(A) any individual who was formerly employed by such employer in such line of business and who separated from service with such employer in such line of business by reason of retirement or disability, and

(B) any widow or widower of any individual who died while employed by such employer in such line of business or while an employee within the meaning of subparagraph (A).

(2) SPOUSE AND DEPENDENT CHILDREN.—

(A) IN GENERAL.—Any use by the spouse or a dependent child of the employee shall be treated as use by the employee.

(B) DEPENDENT CHILD.—For purposes of subparagraph (A), the term “dependent child” means any child (as defined in section 152(f)(1)) of the employee—

(i) who is a dependent of the employee, or

(ii) both of whose parents are deceased and who has not attained age 25.

For purposes of the preceding sentence, any child to whom section 152(e) applies shall be treated as the dependent of both parents.

(3) SPECIAL RULE FOR PARENTS IN THE CASE OF AIR TRANSPORTATION.—Any use of air transportation by a parent of an employee (determined without regard to paragraph (1)(B)) shall be treated as use by the employee.

(i) RECIPROCAL AGREEMENTS.—For purposes of paragraph (1) of subsection (a), any service provided by an employer to an employee of another employer shall be treated as provided by the employer of such employee if—

(1) such service is provided pursuant to a written agreement between such employers, and

(2) neither of such employers incurs any substantial additional costs (including foregone revenue) in providing such service or pursuant to such agreement.

(j) SPECIAL RULES.—

(1) EXCLUSIONS UNDER SUBSECTION (A)(1) AND (2) APPLY TO HIGHLY COMPENSATED EMPLOYEES ONLY IF NO DISCRIMINATION.—Paragraphs (1) and (2) of subsection (a) shall apply with respect to any fringe benefit described therein provided with respect to any highly compensated employee only if such fringe benefit is available on substantially the same terms to each member of a group of employees which is defined under a reasonable classification set up by the employer which does not discriminate in favor of highly compensated employees.

(2) SPECIAL RULE FOR LEASED SECTIONS OF DEPARTMENT STORES.—

(A) IN GENERAL.—For purposes of paragraph (2) of subsection (a), in the case of a leased section of a department store—

(i) such section shall be treated as part of the line of business of the person operating the department store, and

(ii) employees in the leased section shall be treated as employees of the person operating the department store.

(B) LEASED SECTION OF DEPARTMENT STORE.—For purposes of subparagraph (A), a leased section of a department store is any part of a department store where over-the-counter sales of property are made under a lease or similar arrangement where it appears to the general public that individuals making such sales are employed by the person operating the department store.

(3) AUTO SALESMEN.—

(A) IN GENERAL.—For purposes of subsection (a)(3), qualified automobile demonstration use shall be treated as a working condition fringe.

(B) QUALIFIED AUTOMOBILE DEMONSTRATION USE.—For purposes of subparagraph (A), the term “qualified automobile demonstration use” means any use of an automobile by a full-time automobile salesman in the sales area in which the automobile dealer’s sales office is located if—

(i) such use is provided primarily to facilitate the salesman’s performance of services for the employer, and

(ii) there are substantial restrictions on the personal use of such automobile by such salesman.

(4) ON-PREMISES GYMS AND OTHER ATHLETIC FACILITIES.—

- (A) IN GENERAL.—Gross income shall not include the value of any on-premises athletic facility provided by an employer to his employees.
- (B) ON-PREMISES ATHLETIC FACILITY.—For purposes of this paragraph, the term “on-premises athletic facility” means any gym or other athletic facility—
- (i) which is located on the premises of the employer,
  - (ii) which is operated by the employer, and
  - (iii) substantially all the use of which is by employees of the employer, their spouses, and their dependent children (within the meaning of subsection (h)).
- (5) SPECIAL RULE FOR AFFILIATES OF AIRLINES.—
- (A) IN GENERAL.—If—
- (i) a qualified affiliate is a member of an affiliated group another member of which operates an airline, and
  - (ii) employees of the qualified affiliate who are directly engaged in providing airline-related services are entitled to no-additional-cost service with respect to air transportation provided by such other member,
- then, for purposes of applying paragraph (1) of subsection (a) to such no-additional-cost service provided to such employees, such qualified affiliate shall be treated as engaged in the same line of business as such other member.
- (B) QUALIFIED AFFILIATE.—For purposes of this paragraph, the term “qualified affiliate” means any corporation which is predominantly engaged in airline-related services.
- (C) AIRLINE-RELATED SERVICES.—For purposes of this paragraph, the term “airline-related services” means any of the following services provided in connection with air transportation:
- (i) Catering.
  - (ii) Baggage handling.
  - (iii) Ticketing and reservations.
  - (iv) Flight planning and weather analysis.
  - (v) Restaurants and gift shops located at an airport.
  - (vi) Such other similar services provided to the airline as the Secretary may prescribe.
- (D) AFFILIATED GROUP.—For purposes of this paragraph, the term “affiliated group” has the meaning given such term by section 1504(a).
- (6) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this section, the term “highly compensated employee” has the meaning given such term by section 414(q).
- (7) AIR CARGO.—For purposes of subsection (b), the transportation of cargo by air and the transportation of passengers by air shall be treated as the same service.
- (8) APPLICATION OF SECTION TO OTHERWISE TAXABLE EDUCATIONAL OR TRAINING BENEFITS.—Amounts paid or expenses incurred by the employer for education or training provided to the employee which are not excludable from gross income under section 127 shall be excluded from gross income under this section if (and only if) such amounts or expenses are a working condition fringe.

(k) CUSTOMERS NOT TO INCLUDE EMPLOYEES.—For purposes of this section (other than subsection (c)(2)), the term “customers” shall only include customers who are not employees.

(l) SECTION NOT TO APPLY TO FRINGE BENEFITS EXPRESSLY PROVIDED FOR ELSEWHERE.—This section (other than subsections (e) and (g)) shall not apply to any fringe benefits of a type the tax treatment of which is expressly provided for in any other section of this chapter.

(m) QUALIFIED RETIREMENT PLANNING SERVICES.—

(1) IN GENERAL.—For purposes of this section, the term “qualified retirement planning services” means any retirement planning advice or information provided to an employee and his spouse by an employer maintaining a qualified employer plan.

(2) NONDISCRIMINATION RULE.—Subsection (a)(7) shall apply in the case of highly compensated employees only if such services are available on substantially the same terms to each member of the group of employees normally provided education and information regarding the employer’s qualified employer plan.

(3) QUALIFIED EMPLOYER PLAN.—For purposes of this subsection, the term “qualified employer plan” means a plan, contract, pension, or account described in section 219(g)(5).

(n) QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE.—For purposes of this section—

(1) IN GENERAL.—The term “qualified military base realignment and closure fringe” means 1 or more payments under the authority of section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) (as in effect on the date of the enactment of the American Recovery and Reinvestment Tax Act of 2009).

(2) LIMITATION.—With respect to any property, such term shall not include any payment referred to in paragraph (1) to the extent that the sum of all of such payments related to such property exceeds the maximum amount described in subsection (c) of such section (as in effect on such date).

(o) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

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**PART VII—ADDITIONAL ITEMIZED DEDUCTIONS FOR INDIVIDUALS**

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**SEC. 217. MOVING EXPENSES.**

(a) DEDUCTION ALLOWED.—There shall be allowed as a deduction moving expenses paid or incurred during the taxable year in connection with the commencement of work by the taxpayer as an employee or as a self-employed individual at a new principal place of work.

(b) DEFINITION OF MOVING EXPENSES.—

(1) IN GENERAL.—For purposes of this section, the term “moving expenses” means only the reasonable expenses—

(A) of moving household goods and personal effects from the former residence to the new residence, and

(B) of traveling (including lodging) from the former residence to the new place of residence.

Such term shall not include any expenses for meals.

(2) INDIVIDUALS OTHER THAN TAXPAYER.—In the case of any individual other than the taxpayer, expenses referred to in paragraph (1) shall be taken into account only if such individual has both the former residence and the new residence as his principal place of abode and is a member of the taxpayer's household.

(c) CONDITIONS FOR ALLOWANCE.—No deduction shall be allowed under this section unless—

(1) the taxpayer's new principal place of work—

(A) is at least 50 miles farther from his former residence than was his former principal place of work, or

(B) if he had no former principal place of work, is at least 50 miles from his former residence, and

(2) either—

(A) during the 12-month period immediately following his arrival in the general location of his new principal place of work, the taxpayer is a full-time employee, in such general location, during at least 39 weeks, or

(B) during the 24-month period immediately following his arrival in the general location of his new principal place of work, the taxpayer is a full-time employee or performs services as a self-employed individual on a full-time basis, in such general location, during at least 78 weeks, of which not less than 39 weeks are during the 12-month period referred to in subparagraph (A).

For purposes of paragraph (1), the distance between two points shall be the shortest of the more commonly traveled routes between such two points.

(d) RULES FOR APPLICATION OF SUBSECTION (C)(2).—

(1) The condition of subsection (c)(2) shall not apply if the taxpayer is unable to satisfy such condition by reason of—

(A) death or disability, or

(B) involuntary separation (other than for willful misconduct) from the service of, or transfer for the benefit of, an employer after obtaining full-time employment in which the taxpayer could reasonably have been expected to satisfy such condition.

(2) If a taxpayer has not satisfied the condition of subsection (c)(2) before the time prescribed by law (including extensions thereof) for filing the return for the taxable year during which he paid or incurred moving expenses which would otherwise be deductible under this section, but may still satisfy such condition, then such expenses may (at the election of the taxpayer) be deducted for such taxable year notwithstanding subsection (c)(2).

(3) If—

(A) for any taxable year moving expenses have been deducted in accordance with the rule provided in paragraph (2), and

(B) the condition of subsection (c)(2) cannot be satisfied at the close of a subsequent taxable year, then an amount equal to the expenses which were so deducted shall be included in gross income for the first such subsequent taxable year.

(f) SELF-EMPLOYED INDIVIDUAL.—For purposes of this section, the term “self-employed individual” means an individual who performs personal services—

(1) as the owner of the entire interest in an unincorporated trade or business, or

(2) as a partner in a partnership carrying on a trade or business.

(g) RULES FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES.—In the case of a member of the Armed Forces of the United States on active duty who moves pursuant to a military order and incident to a permanent change of station—

(1) the limitations under subsection (c) shall not apply;

(2) any moving and storage expenses which are furnished in kind (or for which reimbursement or an allowance is provided, but only to the extent of the expenses paid or incurred) to such member, his spouse, or his dependents, shall not be includible in gross income, and no reporting with respect to such expenses shall be required by the Secretary of Defense or the Secretary of Transportation, as the case may be; and

(3) if moving and storage expenses are furnished in kind (or if reimbursement or an allowance for such expenses is provided) to such member’s spouse and his dependents with regard to moving to a location other than the one to which such member moves (or from a location other than the one from which such member moves), this section shall apply with respect to the moving expenses of his spouse and dependents—

(A) as if his spouse commenced work as an employee at a new principal place of work at such location; and

(B) without regard to the limitations under subsection (c).

(h) SPECIAL RULES FOR FOREIGN MOVES.—

(1) ALLOWANCE OF CERTAIN STORAGE FEES.—In the case of a foreign move, for purposes of this section, the moving expenses described in subsection (b)(1)(A) include the reasonable expenses—

(A) of moving household goods and personal effects to and from storage, and

(B) of storing such goods and effects for part or all of the period during which the new place of work continues to be the taxpayer’s principal place of work.

(2) FOREIGN MOVE.—For purposes of this subsection, the term “foreign move” means the commencement of work by the taxpayer at a new principal place of work located outside the United States.

(3) UNITED STATES DEFINED.—For purposes of this subsection and subsection (i), the term “United States” includes the possessions of the United States.

(i) ALLOWANCE OF DEDUCTIONS IN CASE OF RETIREES OR DECEASED WHO WERE WORKING ABROAD.—

(1) IN GENERAL.—In the case of any qualified retiree moving expenses or qualified survivor moving expenses—

(A) this section (other than subsection (h)) shall be applied with respect to such expenses as if they were incurred in connection with the commencement of work by the taxpayer as an employee at a new principal place of work located within the United States, and

(B) the limitations of subsection (c)(2) shall not apply.

(2) QUALIFIED RETIREE MOVING EXPENSES.—For purposes of paragraph (1), the term “qualified retiree moving expenses” means any moving expenses—

(A) which are incurred by an individual whose former principal place of work and former residence were outside the United States, and

(B) which are incurred for a move to a new residence in the United States in connection with the bona fide retirement of the individual.

(3) QUALIFIED SURVIVOR MOVING EXPENSES.—For purposes of paragraph (1), the term “qualified survivor moving expenses” means moving expenses—

(A) which are paid or incurred by the spouse or any dependent of any decedent who (as of the time of his death) had a principal place of work outside the United States, and

(B) which are incurred for a move which begins within 6 months after the death of such decedent and which is to a residence in the United States from a former residence outside the United States which (as of the time of the decedent’s death) was the residence of such decedent and the individual paying or incurring the expense.

(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(k) SUSPENSION OF DEDUCTION FOR TAXABLE YEARS 2018 THROUGH 2025.—Except in the case of an individual to whom subsection (g) applies *or an employee or new appointee of the intelligence community (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 3003)) (other than a member of the Armed Forces of the United States) who moves pursuant to a change in assignment that requires relocation*, this section shall not apply to any taxable year beginning after December 31, 2017, and before January 1, 2026.

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**INTELLIGENCE REFORM AND TERRORISM PREVENTION  
ACT OF 2004**

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**TITLE I—REFORM OF THE  
INTELLIGENCE COMMUNITY**

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**Subtitle H—Transfer, Termination,  
Transition, and Other Provisions**

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**SEC. 1096. TRANSITIONAL AUTHORITIES.**

(a) **IN GENERAL.**—(1) Upon the request of the Director of National Intelligence, the head of any executive agency may, on a reimbursable basis, provide services or detail personnel to the Director of National Intelligence. *Any records of the Office of the Director of National Intelligence that are maintained by the agency as a service for the Office of the Director of National Intelligence under section 1535 of title 31, United States Code, (popularly known as the “Economy Act”) may be treated as the records of the agency when dispositioned as required by law, and any disclosure of such records between the two agencies shall not be subject to any otherwise applicable legal consent requirements or disclosure accounting requirements.*

(2) *The records of the Office of the Director of National Intelligence may not be dispositioned pursuant to paragraph (1) without the authorization of the Director of National Intelligence.*

(b) **TRANSFER OF PERSONNEL.**—In addition to any other authorities available under law for such purposes, in the fiscal years 2005 and 2006, the Director of National Intelligence—

(1) is authorized within the Office of the Director of National Intelligence the total of 500 new personnel positions; and

(2) with the approval of the Director of the Office of Management and Budget, may detail not more than 150 personnel funded within the National Intelligence Program to the Office of the Director of National Intelligence for a period of not more than 2 years.

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**CENTRAL INTELLIGENCE AGENCY ACT OF 1949**

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**GENERAL AUTHORITIES**

**SEC. 5. (a) IN GENERAL.**—In the performance of its functions, the Central Intelligence Agency is authorized to—

(1) Transfer to and receive from other Government agencies such sums as may be approved by the Office of Management and Budget, for the performance of any of the functions or activities authorized under section 104A of the National Security Act of 1947 (50 U.S.C. 403–4a), and any other Government agency is authorized to transfer to or receive from the Agency such sums without regard to any provisions of law limiting or prohibiting transfers between appropriations. Sums transferred to the Agency in accordance with this paragraph may be expended for the purposes and under the authority of this Act without regard to limitations of appropriations from which transferred;

(2) Exchange funds without regard to section 3651 Revised Statutes (31 U.S.C. 543);

(3) Reimburse other Government agencies for services of personnel assigned to the Agency, and such other Government agencies are hereby authorized, without regard to provisions of law to the contrary, so to assign or detail any officer or employee for duty with the Agency;

[(4) Authorize personnel designated by the Director to carry firearms to the extent necessary for the performance of the Agency's authorized functions, except that, within the United States, such authority shall be limited to the purposes of protection of classified materials and information, the training of Agency personnel and other authorized persons in the use of firearms, the protection of Agency installations and property, the protection of current and former Agency personnel and their immediate families, defectors and their immediate families, and other persons in the United States under Agency auspices, and the protection of the Director of National Intelligence and current and former personnel of the Office of the Director of National Intelligence and their immediate families as the Director of National Intelligence may designate;]

*(4) Authorize personnel designated by the Director to carry firearms to the extent necessary for the performance of the Agency's authorized functions, except that, within the United States, such authority shall be limited to the purposes of—*

*(A) the training of Agency personnel and other authorized persons in the use of firearms;*

*(B) the protection of classified materials and information;*

*(C) the protection of installations and property of the Agency;*

*(D) the protection of—*

*(i) current and former Agency personnel and their immediate families;*

*(ii) individuals nominated by the President to the position of Director (including with respect to an individual whom a President-elect (as defined in section 3(c) of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) has declared an intent to nominate) and their immediate families; and*

*(iii) defectors and their immediate families, and other persons in the United States under Agency auspices; and*

*(E) with respect to the Office of the Director of National Intelligence, the protection of—*

*(i) installations and property of the Office of the Director of National Intelligence pursuant to section 15(a)(1);*

*(ii) the Director of National Intelligence;*

*(iii) current and former personnel of the Office of the Director of National Intelligence and their immediate families as the Director of National Intelligence may designate; and*

*(iv) individuals nominated by the President to the position of Director of National Intelligence (including with respect to an individual whom a President-elect has declared an intent to nominate) and their immediate families;*

(5) Make alterations, improvements, and repairs on premises rented by the Agency, and pay rent therefor;

(6) Determine and fix the minimum and maximum limits of age within which an original appointment may be made to an operational position within the Agency, notwithstanding the provision

of any other law, in accordance with such criteria as the Director, in his discretion, may prescribe;

(7) Notwithstanding section 1341(a)(1) of title 31, United States Code, enter into multiyear leases for up to 15 years; and

(8) Upon the approval of the Director, provide, during any fiscal year, with or without reimbursement, subsistence to any personnel assigned to an overseas location designated by the Agency as an austere location.

(b) SCOPE OF AUTHORITY FOR EXPENDITURE.—(1) The authority to enter into a multiyear lease under subsection (a)(7) shall be subject to appropriations provided in advance for—

(A) the entire lease; or

(B) the first 12 months of the lease and the Government's estimated termination liability.

(2) In the case of any such lease entered into under subparagraph (B) of paragraph (1)—

(A) such lease shall include a clause that provides that the contract shall be terminated if budget authority (as defined by section 3(2) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(2))) is not provided specifically for that project in an appropriations Act in advance of an obligation of funds in respect thereto;

(B) notwithstanding section 1552 of title 31, United States Code, amounts obligated for paying termination costs with respect to such lease shall remain available until the costs associated with termination of such lease are paid;

(C) funds available for termination liability shall remain available to satisfy rental obligations with respect to such lease in subsequent fiscal years in the event such lease is not terminated early, but only to the extent those funds are in excess of the amount of termination liability at the time of their use to satisfy such rental obligations; and

(D) funds appropriated for a fiscal year may be used to make payments on such lease, for a maximum of 12 months, beginning any time during such fiscal year.

(c) TRANSFERS FOR ACQUISITION OF LAND.—(1) Sums appropriated or otherwise made available to the Agency for the acquisition of land that are transferred to another department or agency for that purpose shall remain available for 3 years.

(2) The Director shall submit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives a report on the transfer of sums described in paragraph (1) each time that authority is exercised.

\* \* \* \* \*

#### APPROPRIATIONS

SEC. 8. (a) Notwithstanding any other provisions of law, sums made available to the Agency by appropriation or otherwise may be expended for purposes necessary to carry out its functions, including—

(1) personal services, including personal services without regard to limitations on types of persons to be employed, and rent at the seat of government and elsewhere; health-service

program as authorized by law (5 U.S.C. 150); payment of death benefits in cases in which the circumstances of the death of an employee of the Agency, a detailee of the Agency or other employee of another department or agency of the Federal Government assigned to the Agency, or an individual affiliated with the Agency (as determined by the Director), is not covered by section 11, other similar provisions of Federal law, or any regulation issued by the Director providing death benefits, but that the Director determines such payment appropriate; rental of news-reporting services; purchase or rental and operation of photographic, reproduction, cryptographic, duplication and printing machines, equipment and devices, and radio-receiving and radio-sending equipment and devices, including telegraph and teletype equipment; purchase, maintenance, operation, repair, and hire of passenger motor vehicles, and aircraft, and vessels of all kinds; subject to policies established by the Director, transportation of officers and employees of the Agency in Government-owned automotive equipment between their domiciles and places of employment, where such personnel are engaged in work which makes such transportation necessary, and transportation in such equipment, to and from school, of children of Agency personnel who have quarters for themselves and their families at isolated stations outside the continental United States where adequate public or private transportation is not available; printing and binding; purchase, maintenance, and cleaning of firearms, including purchase, storage, and maintenance of ammunition; subject to policies established by the Director, expenses of travel in connection with, and expenses incident to attendance at meetings of professional, technical, scientific, and other similar organizations when such attendance would be a benefit in the conduct of the work of the Agency; association and library dues; payment of premiums or costs of surety bonds for officers or employees without regard to the provisions of 61 Stat. 646; 6 U.S.C. 14; payment of claims pursuant to 28 U.S.C.; acquisition of necessary land and the clearing of such land; construction of buildings and facilities without regard to 36 Stat. 699; 40 U.S.C. 259, 267; repair, rental, operation, and maintenance of buildings, utilities, facilities, and appurtenances; and

(2) supplies, equipment, and personnel and contractual services otherwise authorized by law and regulations, when approved by the Director.

(b) The sums made available to the Agency may be expended without regard to the provisions of law and regulations relating to the expenditure of Government funds; and for objects of a confidential, extraordinary, or emergency nature, such expenditures to be accounted for solely on the certificate of the Director and every such certificate shall be deemed a sufficient voucher for the amount therein certified.

(c) *NOTIFICATION.*—*Not later than 30 days after the date on which the Director makes a novel or significant expenditure pursuant to subsection (a), the Director shall notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate of such expenditure.*

\* \* \* \* \*

## SECURITY PERSONNEL AT AGENCY INSTALLATIONS

SEC. 15. (a)(1) The Director may authorize Agency personnel within the United States to perform the same functions as officers and agents of the Department of Homeland Security, as provided in section 1315(b)(2) of title 40, United States Code, with the powers set forth in that section, except that such personnel shall perform such functions and exercise such powers—

(A) within the Agency Headquarters Compound and the property controlled and occupied by the Federal Highway Administration located immediately adjacent to such Compound;

(B) in the streets, sidewalks, and the open areas within the zone beginning at the outside boundary of such Compound and property and extending outward 500 yards;

(C) within any other Agency installation and protected property【; and】;

*(D) within any facility or installation operated by the Director of National Intelligence; and*

【(D)】 *(E)* in the streets, sidewalks, and open areas within the zone beginning at the outside boundary of any installation or property referred to in 【subparagraph (C)】 *subparagraph (C) or (D)*, and extending outward 500 yards.

(2) The performance of functions and exercise of powers under subparagraph (B) or 【(D)】 *(E)* of paragraph (1) shall be limited to those circumstances where such personnel can identify specific and articulable facts giving such personnel reason to believe that the performance of such functions and exercise of such powers is reasonable to protect against physical damage or injury, or threats of physical damage or injury, to Agency installations, property, or employees.

(3) Nothing in this subsection shall be construed to preclude, or limit in any way, the authority of any Federal, State, or local law enforcement agency, or any other Federal police or Federal protective service.

(4) 【The rules】 *(A) Except as provided in subparagraph (B), the rules and regulations enforced by such personnel shall be the rules and regulations prescribed by the Director and shall only be applicable to the areas referred to in subparagraph (A) or (C) of paragraph (1).*

*(B) With respect to the areas referred to in subparagraph (D) of paragraph (1), the rules and regulations enforced by such personnel and applicable to such areas shall be the rules and regulations prescribed by the Director, in coordination with the Director of National Intelligence.*

(b) The Director is authorized to establish penalties for violations of the rules or regulations promulgated by the Director under subsection (a) of this section. Such penalties shall not exceed those specified in section 1315(c)(2) of title 40, United States Code.

(c) Agency personnel designated by the Director under subsection (a) of this section shall be clearly identifiable as United States Government security personnel while engaged in the performance of the functions to which subsection (a) of this section refers.

(d)(1) Notwithstanding any other provision of law, any Agency personnel designated by the Director under subsection (a), or 【designated by the Director under section 5(a)(4) to carry firearms for

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

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

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

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

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

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

\* \* \* \* \*

**TITLE 10, UNITED STATES CODE**

\* \* \* \* \*

**Subtitle A—GENERAL MILITARY LAW**

\* \* \* \* \*

**PART I—ORGANIZATION AND GENERAL MILITARY POWERS**

\* \* \* \* \*

**CHAPTER 4—OFFICE OF THE SECRETARY OF DEFENSE**

\* \* \* \* \*

**§ 137. Under Secretary of Defense for Intelligence and Security**

(a) There is an Under Secretary of Defense for Intelligence and Security, appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed as Under Secretary within seven years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Intelligence and Security shall—

(1) have responsibility for the overall direction and supervision for policy, program planning and execution, and use of

resources, for the activities of the Department of Defense that are part of the Military Intelligence Program;

(2) execute the functions for the National Intelligence Program of the Department of Defense under section 105 of the National Security Act of 1947 (50 U.S.C. 3038), as delegated by the Secretary of Defense;

(3) have responsibility for the overall direction and supervision for policy, program planning and execution, and use of resources, for personnel security, physical security, industrial security, and the protection of classified information and controlled unclassified information, related activities of the Department of Defense; and

(4) perform such duties and exercise such powers as the Secretary of Defense may prescribe in the area of intelligence.

(c) The protection of privacy and civil liberties in accordance with Federal law and the regulations and directives of the Department of Defense shall be a top priority for the Under Secretary of Defense for Intelligence and Security.

(d) The Under Secretary of Defense for Intelligence and Security takes precedence in the Department of Defense after the Under Secretary of Defense for Personnel and Readiness.

(e) *The Secretary of Defense shall ensure that not fewer than one of the Deputy Directors for Defense Intelligence (or such successor positions) is responsible for warfighter support. An individual appointed to that position shall be a general or flag officer serving in a joint duty assignment.*

\* \* \* \* \*

**PART II—PERSONNEL**

Chap.		Sec.
31.	Enlistments .....	501
	* * * * *	
89.	Cover Enhancement Authorities .....	1801
	* * * * *	

**CHAPTER 89—COVER ENHANCEMENT AUTHORITIES**

- Sec.
- 1801. *Definitions.*
- 1802. *Cover enhancement authority.*
- 1803. *Compensation.*
- 1804. *Retirement benefits.*
- 1805. *Health insurance benefits.*
- 1806. *Life insurance benefits.*
- 1807. *Exemption from certain requirements.*
- 1808. *Taxation and social security.*
- 1809. *Regulations.*
- 1810. *Finality of decisions.*
- 1811. *Subsequently enacted laws.*

**§ 1801. Definitions**

*In this chapter:*

(1) *The term “designated employee” means an employee of the Department of Defense designated by the Secretary of Defense under section 1802(b).*

(2) The term “designated member” means a member of the armed forces designated by the Secretary of Defense under section 1802(b).

(3) The term “Federal retirement system” includes the Federal Employees’ Retirement System (including the Thrift Savings Plan).

(4) The term “military retirement system” includes military retired pay programs under chapters 61, 63, 65, and 67 of this title and the Survivor Benefit Plan established by chapter 73 of this title.

### **§ 1802. Cover enhancement authority**

(a) *AUTHORITY*.—Notwithstanding any other provision of law, the Secretary of Defense may exercise the authorities under this chapter to protect from unauthorized disclosure—

- (1) intelligence operations of the Department of Defense;
- (2) the identities of undercover officers;
- (3) intelligence sources and methods; or
- (4) cover mechanisms.

(b) *DESIGNATION OF EMPLOYEES AND MEMBERS*.—(1) Subject to paragraph (2), the Secretary of Defense may designate any employee of the Department of Defense or member of the armed forces who is under cover to be an employee or a member to whom this chapter applies.

(2) The Secretary of Defense may not designate more than 15 persons under paragraph (1) in a fiscal year unless the Secretary provides notice of the intent to designate more than 15 persons in such fiscal year to the congressional defense committees and the congressional intelligence committees (as such term is defined in section 3 of the National Security Act of 1957 (50 U.S.C. 3003)).

(3) A designation may be made under this subsection with respect to any or all authorities exercised under this chapter.

(c) *INTERAGENCY COORDINATION AND SUPPORT*.—Establishment of any such cover enhancement authority for intelligence operations of the Department of Defense shall be pre-coordinated using processes and procedures for intelligence community deconfliction mutually agreed upon by the Secretary of Defense and the Director of the Central Intelligence Agency.

### **§ 1803. Compensation**

The Secretary of Defense may pay a designated employee or designated member salary, allowances, and other benefits in an amount and in a manner consistent with the cover of that employee or member, without regard to any limitation that is otherwise applicable to a Federal employee or member of the armed forces. A designated employee or designated member may accept, use, and, to the extent authorized by regulations prescribed under this chapter, retain any salary, allowances, and other benefits provided under this chapter.

### **§ 1804. Retirement benefits**

(a) *ESTABLISHMENT OF RETIREMENT SYSTEM*.—The Secretary of Defense may establish, administer, contract for, or implement through another Federal department or agency, a cover retirement system for designated employees and designated members (and the

spouse, former spouses, and survivors of such designated employees and designated members). A designated employee or designated member may not receive credit for service under the retirement system established under this paragraph and another Federal retirement system for the same time period.

(b) **CONVERSION TO OTHER FEDERAL RETIREMENT SYSTEM.**—A designated employee or designated member participating in the retirement system established under subsection (a) may convert to coverage under the Federal retirement system or military retirement system that would otherwise apply to such employee or member at any appropriate time determined by the Secretary of Defense (including at the time of separation of service by reason of retirement), if the Secretary of Defense determines that the participation of the employee or member in the retirement system established under this subsection is no longer necessary to protect from unauthorized disclosure—

- (1) intelligence operations;
- (2) the identities of undercover officers;
- (3) intelligence sources and methods; or
- (4) cover mechanisms.

(c) **CONVERSION TREATMENT.**—Upon a conversion under subsection (b)—

(1) all periods of service under the retirement system established under this section shall be deemed periods of creditable service under the applicable Federal retirement system or military retirement system;

(2) the Secretary of Defense shall transmit an amount for deposit in any applicable fund of that Federal retirement system or military retirement system that—

(A) is necessary to cover all employee or member and agency contributions including—

(i) interest as determined by the head of the agency administering the Federal retirement system or military retirement system into which the employee or member is converting; or

(ii) in the case of an employee or member converting into the Federal Employee's Retirement System or military retirement system, interest as determined under chapter 84 of title 5 or chapter 74 of this title, as the case may be; and

(B) ensures that such conversion does not result in any unfunded liability to that fund; and

(3) in the case of a designated employee or designated member who participated in an employee or member investment retirement system established under subsection (a) and is converted to coverage under the Federal retirement system or military retirement system, the Secretary of Defense may transmit any or all amounts of that designated employee or designated member in that employee or military investment retirement system (or similar part of that retirement system) to the Thrift Savings Fund.

(d) **TRANSMITTED AMOUNTS.**—(1) Amounts described under subsection (c)(2) shall be paid from any fund the Secretary of Defense deems appropriate.

(2) *The Secretary of Defense may use amounts contributed by the designated employee or designated member to a retirement system established under subsection (a) to offset amounts paid under paragraph (1).*

(e) *RECORDS.—The Secretary of Defense shall transmit all necessary records relating to a designated employee or designated member who converts to a Federal retirement system or military retirement system under subsection (b) (including records relating to periods of service which are deemed to be periods of creditable service under subsection (c)(1)) to the head of the agency administering that Federal retirement system or military retirement system.*

**§ 1805. Health insurance benefits**

(a) *IN GENERAL.—The Secretary of Defense may establish, administer, contract for, or implement through another Federal agency, a cover health insurance program for designated employees and designated members and eligible family members. A designated employee or designated member may not participate in the health insurance program established under this section and the program under chapter 89 of title 5 or chapter 55 of this title at the same time.*

(b) *CONVERSION TO FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.—A designated employee participating in the health insurance program established under subsection (a) may convert to coverage under the program under chapter 89 of title 5, and a designated member participating in the program established under subsection (a) may convert to coverage under the program under chapter 55 of this title or chapter 17 of title 38, at any appropriate time determined by the Secretary of Defense (including at the time of separation of service by reason of retirement), if the Secretary of Defense determines that the participation of the employee or member in the health insurance program established under this subsection is no longer necessary to protect from unauthorized disclosure—*

- (1) *intelligence operations;*
- (2) *the identities of undercover officers;*
- (3) *intelligence sources and methods; or*
- (4) *cover mechanisms.*

(c) *CONVERSION TREATMENT.—Upon a conversion of a designated employee under subsection (b)—*

- (1) *the employee (and family, if applicable) shall be entitled to immediate enrollment and coverage under chapter 89 of title 5;*
- (2) *any requirement of prior enrollment in a health benefits plan under chapter 89 of title 5 for continuation of coverage purposes shall not apply;*
- (3) *the employee shall be deemed to have had coverage under chapter 89 of title 5 from the first opportunity to enroll for purposes of continuing coverage; and*
- (4) *the Secretary of Defense shall transmit an amount for deposit in the Employees' Health Benefits Fund that is necessary to cover any costs of such conversion.*

(d) *TRANSMITTED AMOUNTS.—Any amount described under subsection (c)(4) shall be paid from any fund the Secretary of Defense deems appropriate.*

(e) *ELIGIBLE FAMILY MEMBER DEFINED.*—In this section, the term “eligible family member” means—

- (1) with respect to an employee, a member of a family as defined in section 8901 of title 5; and
- (2) with respect to a member of the armed forces, a dependent as defined in section 1072 of this title.

**§ 1806. Life insurance benefits**

(a) *IN GENERAL.*—The Secretary of Defense may establish, administer, contract for, or implement through another Federal agency, a cover life insurance program for designated employees and designated members (and the family of such designated employees or designated members). A designated employee or designated member may not participate in the life insurance program established under this section and the program under chapter 87 of title 5 for the same time period.

(b) *CONVERSION TO FEDERAL EMPLOYEES GROUP LIFE INSURANCE PROGRAM.*—A designated employee participating in the life insurance program established under subsection (a) may convert to coverage under the program under chapter 87 of title 5, and a designated member participating in the life insurance program established under subsection (a) may convert to coverage under the program under chapter 19 of title 38, at any appropriate time determined by the Secretary of Defense (including at the time of separation of service by reason of retirement), if the Secretary of Defense determines that the participation of the employee or member in the life insurance program established under this section is no longer necessary to protect from unauthorized disclosure—

- (1) intelligence operations;
- (2) the identities of undercover officers;
- (3) intelligence sources and methods; or
- (4) cover mechanisms.

(c) *CONVERSION TREATMENT.*—Upon a conversion of a designated employee under subsection (b)—

- (1) the employee (and family, if applicable) shall be entitled to immediate coverage under chapter 87 of title 5;
- (2) any requirement of prior enrollment in a life insurance program under chapter 87 of title 5 for continuation of coverage purposes shall not apply;
- (3) the employee shall be deemed to have had coverage under chapter 87 of title 5 for the full period of service during which the employee would have been entitled to be insured for purposes of continuing coverage; and
- (4) the Secretary of Defense shall transmit an amount for deposit in the Employees’ Life Insurance Fund that is necessary to cover any costs of such conversion.

(d) *TRANSMITTED AMOUNTS.*—Any amount described under subsection (c)(4) shall be paid from any fund the Secretary of Defense deems appropriate.

**§ 1807. Exemption from certain requirements**

The Secretary of Defense may exempt a designated employee or designated member from mandatory compliance with any Federal regulation, rule, standardized administrative policy, process, or procedure that the Secretary of Defense determines—

- (1) would be inconsistent with the cover of that employee or member; and
- (2) could expose that employee to detection as a Federal employee or that member as a member of the armed forces.

**§ 1808. Taxation and social security**

(a) *IN GENERAL.*—Notwithstanding any other provision of law, a designated employee or designated member—

- (1) shall file a Federal or State tax return as if that employee or member is not a Federal employee or member of the armed forces and may claim and receive the benefit of any exclusion, deduction, tax credit, or other tax treatment that would otherwise apply if that designated employee was not a Federal employee or that designated member was not a member of the armed forces, if the Secretary of Defense determines that taking any action under this subsection is necessary to protect from unauthorized disclosure—
  - (A) intelligence operations;
  - (B) the identities of undercover officers;
  - (C) intelligence sources and methods; or
  - (D) cover mechanisms; and
- (2) shall receive social security benefits based on the social security contributions made.

(b) *COMPENSATION FOR CERTAIN INCREASED TAX LIABILITY.*—In the case of a designated employee or designated member who files a tax return as provided in subsection (a)(1), the Secretary may increase (on a grossed-up basis) the compensation of such employee or member under section 1803 to account for any increased income tax liability attributable to having so filed.

(c) *INTERNAL REVENUE SERVICE REVIEW.*—The Secretary of Defense shall establish procedures to carry out this section. The procedures shall be subject to periodic review by the Internal Revenue Service.

**§ 1809. Regulations**

The Secretary of Defense shall prescribe regulations to carry out this chapter. The regulations shall ensure that the combination of salary, allowances, and benefits that an employee or member designated under this chapter may retain does not significantly exceed, except to the extent determined by the Secretary of Defense to be necessary to exercise the authority in this chapter, the combination of salary, allowances, and benefits otherwise received by employees or members not designated under this chapter.

**§ 1810. Finality of decisions**

Any determinations authorized by this chapter to be made by the Secretary of Defense or a designee of the Secretary shall be final and conclusive and may not be subject to review by any court.

**§ 1811. Subsequently enacted laws**

No law enacted after the effective date of this chapter shall affect the authorities and provisions of this chapter unless such law specifically refers to this chapter.

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**SUBTITLE B—ARMY**

\* \* \* \* \*

**PART II—PERSONNEL**

\* \* \* \* \*

**CHAPTER 747—CIVILIAN EMPLOYEES**

Sec.

\* \* \* \* \*

**[7377. Civilian special agents of the Criminal Investigation Command: authority to execute warrants and make arrests.]**

*7377. Civilian special agents of the Criminal Investigation Command and Army Counterintelligence Command: authority to execute warrants and make arrests.*

\* \* \* \* \*

**§ 7377. Civilian special agents of the Criminal Investigation Command and Army Counterintelligence Command: authority to execute warrants and make arrests**

(a) **AUTHORITY.**—The Secretary of the Army may authorize any Department of the Army civilian employee described in subsection (b) to have the same authority to execute and serve warrants and other processes issued under the authority of the United States and to make arrests without a warrant as may be authorized under section 1585a of this title for special agents of the Defense Criminal Investigative Service.

(b) **AGENTS TO HAVE AUTHORITY.**—Subsection (a) applies to **[any employee of the Department of the Army who is a special agent] any employee of the Department of the Army who is—**

(1) *a special agent of the Army Criminal Investigation Command (or a successor to that command) whose duties include conducting, supervising, or coordinating investigations of criminal activity in programs and operations of the Department of the Army[.]; or*

(2) *a special agent of the Army Counterintelligence Command (or a successor to that command) whose duties include conducting, supervising, or coordinating counterintelligence investigations involving potential or alleged violations punishable under chapter 37, 113B, or 115 of title 18, and similar offenses punishable under this title.*

(c) **GUIDELINES FOR EXERCISE OF AUTHORITY.**—The authority provided under subsection (a) shall be exercised in accordance with guidelines prescribed by the Secretary of the Army and approved by the Secretary of Defense and the Attorney General and any other applicable guidelines prescribed by the Secretary of the Army, the Secretary of Defense, or the Attorney General.

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**INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR  
2022**

\* \* \* \* \*

**DIVISION X—INTELLIGENCE  
AUTHORIZATION FOR FISCAL YEAR 2022**

\* \* \* \* \*

**TITLE III—GENERAL INTELLIGENCE  
COMMUNITY MATTERS**

\* \* \* \* \*

**SEC. 309. DEVELOPMENT OF DEFINITIONS FOR CERTAIN TERMS RELATING TO INTELLIGENCE.**

(a) DEVELOPMENT.—Not later than September 30, 2023, the Director of National Intelligence and the Under Secretary of Defense for Intelligence and Security, in consultation with the heads of the elements of the intelligence community, shall jointly develop and publish definitions for the following terms:

- (1) Acoustic intelligence.
- (2) All-source intelligence.
- (3) *Artificial intelligence*.
- ~~[(3)]~~ (4) Communications intelligence.
- ~~[(4)]~~ (5) Critical intelligence.
- ~~[(5)]~~ (6) Cyber-threat intelligence.
- ~~[(6)]~~ (7) Electronic intelligence.
- ~~[(7)]~~ (8) Explosive ordnance intelligence.
- ~~[(8)]~~ (9) General military intelligence.
- ~~[(9)]~~ (10) Imagery intelligence.
- ~~[(10)]~~ (11) Geospatial intelligence.
- ~~[(11)]~~ (12) Instrumentation signals intelligence.
- ~~[(12)]~~ (13) Intelligence-related activity.
- ~~[(13)]~~ (14) Joint intelligence.
- ~~[(14)]~~ (15) Measurement and signature intelligence.
- ~~[(15)]~~ (16) Medical intelligence.
- ~~[(16)]~~ (17) Open-source intelligence.
- ~~[(17)]~~ (18) Operational intelligence.
- ~~[(18)]~~ (19) Scientific and technical intelligence.
- ~~[(19)]~~ (20) Signals intelligence.
- ~~[(20)]~~ (21) Strategic intelligence.
- ~~[(21)]~~ (22) Tactical intelligence.
- ~~[(22)]~~ (23) Target intelligence.
- ~~[(23)]~~ (24) Technical intelligence.
- ~~[(24)]~~ (25) Such others terms as may be jointly determined necessary by the Director of National Intelligence and the Under Secretary of Defense for Intelligence and Security.

(b) APPLICATION TO ACTIVITIES OF INTELLIGENCE COMMUNITY.—The Director of National Intelligence shall ensure that the definitions developed under subsection (a) are used uniformly across activities of the intelligence community with respect to the corresponding terms specified in such subsection.

(c) NOTICE OF MODIFICATIONS.—The Director of National Intelligence and the Under Secretary of Defense for Intelligence shall submit to the appropriate congressional committees notification of any modification by the Director and Under Secretary to a definition of a term specified in subsection (a) following the initial publication of the definition under such subsection.

(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” means—

- (1) the congressional intelligence committees; and
- (2) the Committees on Armed Services of the House of Representatives and the Senate.

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**INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR  
2016**

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**DIVISION M—INTELLIGENCE AUTHORIZATION ACT FOR  
FISCAL YEAR 2016**

SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the “Intelligence Authorization Act for Fiscal Year 2016”.

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

DIVISION M—INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2016

Sec. 1. Short title; table of contents.

\* \* \* \* \*

TITLE V—MATTERS RELATING TO FOREIGN COUNTRIES

Subtitle A—Matters Relating to Russia

Sec. 501. Notice of deployment or transfer of [Club-K container missile system by the Russian Federation] *containerized missile system by Russia or certain other countries.*

\* \* \* \* \*

TITLE V

MATTERS RELATING TO FOREIGN COUNTRIES

SUBTITLE A—MATTERS RELATING TO RUSSIA

**SEC. 501. NOTICE OF DEPLOYMENT OR TRANSFER OF [CLUB-K CONTAINER MISSILE SYSTEM BY THE RUSSIAN FEDERATION] CONTAINERIZED MISSILE SYSTEM BY RUSSIA OR CERTAIN OTHER COUNTRIES.**

(a) NOTICE TO CONGRESS.—The Director of National Intelligence shall submit to the appropriate congressional committees written notice if the intelligence community receives intelligence that [the Russian Federation] *a covered country* has—

- (1) deployed, or is about to [deploy, the] *deploy, a [Club-K container missile system] missile launcher disguised as or concealed in a shipping container* through [the Russian military] *the military of the covered country*; or

(2) transferred or sold, or intends to transfer or sell, the **【Club-K container missile system】** *missile launcher disguised as or concealed in a shipping container* to another state or non-state actor.

(b) NOTICE TO CONGRESSIONAL INTELLIGENCE COMMITTEES.—Not later than 30 days after the date on which the Director submits a notice under subsection (a), the Director shall submit to the congressional intelligence committees a written update regarding any intelligence community engagement with a foreign partner on the deployment and impacts of a deployment of the **【Club-K container missile system】** *missile launcher disguised as or concealed in a shipping container* to any potentially impacted nation.

**【(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—**In this section, the term “appropriate congressional committees” means the following:

**【(1) The congressional intelligence committees.**

**【(2) The Committees on Armed Services of the House of Representatives and the Senate.**

**【(3) The Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.】**

(c) DEFINITIONS.—*In this section:*

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—*The term “appropriate congressional committees” means the following:*

(A) *The congressional intelligence committees.*

(B) *The Committees on Armed Services of the House of Representatives and the Senate.*

(C) *The Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.*

(2) COVERED COUNTRY.—*The term “covered country” means the following:*

(A) *Russia.*

(B) *China.*

(C) *Iran.*

(D) *North Korea.*

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**FEDERAL AGENCY DATA MINING REPORTING ACT OF  
2007**

**【SEC. 804. FEDERAL AGENCY DATA MINING REPORTING ACT OF 2007.**

**【(a) SHORT TITLE.—**This section may be cited as the “Federal Agency Data Mining Reporting Act of 2007”.

**【(b) DEFINITIONS.—**In this section:

**【(1) DATA MINING.—**The term “data mining” means a program involving pattern-based queries, searches, or other analyses of 1 or more electronic databases, where—

**【(A) a department or agency of the Federal Government, or a non-Federal entity acting on behalf of the Federal Government, is conducting the queries, searches, or other analyses to discover or locate a predictive pattern or anomaly indicative of terrorist or criminal activity on the part of any individual or individuals;**

[(B) the queries, searches, or other analyses are not subject-based and do not use personal identifiers of a specific individual, or inputs associated with a specific individual or group of individuals, to retrieve information from the database or databases; and

[(C) the purpose of the queries, searches, or other analyses is not solely—

[(i) the detection of fraud, waste, or abuse in a Government agency or program; or

[(ii) the security of a Government computer system.

[(2) DATABASE.—The term “database” does not include telephone directories, news reporting, information publicly available to any member of the public without payment of a fee, or databases of judicial and administrative opinions or other legal research sources.

[(c) REPORTS ON DATA MINING ACTIVITIES BY FEDERAL AGENCIES.—

[(1) REQUIREMENT FOR REPORT.—The head of each department or agency of the Federal Government that is engaged in any activity to use or develop data mining shall submit a report to Congress on all such activities of the department or agency under the jurisdiction of that official. The report shall be produced in coordination with the privacy officer of that department or agency, if applicable, and shall be made available to the public, except for an annex described in subparagraph (C).

[(2) CONTENT OF REPORT.—Each report submitted under subparagraph (A) shall include, for each activity to use or develop data mining, the following information:

[(A) A thorough description of the data mining activity, its goals, and, where appropriate, the target dates for the deployment of the data mining activity.

[(B) A thorough description of the data mining technology that is being used or will be used, including the basis for determining whether a particular pattern or anomaly is indicative of terrorist or criminal activity.

[(C) A thorough description of the data sources that are being or will be used.

[(D) An assessment of the efficacy or likely efficacy of the data mining activity in providing accurate information consistent with and valuable to the stated goals and plans for the use or development of the data mining activity.

[(E) An assessment of the impact or likely impact of the implementation of the data mining activity on the privacy and civil liberties of individuals, including a thorough description of the actions that are being taken or will be taken with regard to the property, privacy, or other rights or privileges of any individual or individuals as a result of the implementation of the data mining activity.

[(F) A list and analysis of the laws and regulations that govern the information being or to be collected, reviewed, gathered, analyzed, or used in conjunction with the data mining activity, to the extent applicable in the context of the data mining activity.

[(G) A thorough discussion of the policies, procedures, and guidelines that are in place or that are to be developed and applied in the use of such data mining activity in order to—

[(i) protect the privacy and due process rights of individuals, such as redress procedures; and

[(ii) ensure that only accurate and complete information is collected, reviewed, gathered, analyzed, or used, and guard against any harmful consequences of potential inaccuracies.

[(3) ANNEX.—

[(A) IN GENERAL.—A report under subparagraph (A) shall include in an annex any necessary—

[(i) classified information;

[(ii) law enforcement sensitive information;

[(iii) proprietary business information; or

[(iv) trade secrets (as that term is defined in section 1839 of title 18, United States Code).

[(B) AVAILABILITY.—Any annex described in clause (i)—

[(i) shall be available, as appropriate, and consistent with the National Security Act of 1947 (50 U.S.C. 401 et seq.), to the Committee on Homeland Security and Governmental Affairs, the Committee on the Judiciary, the Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Homeland Security, the Committee on the Judiciary, the Permanent Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Financial Services of the House of Representatives; and

[(ii) shall not be made available to the public.

[(4) TIME FOR REPORT.—Each report required under subparagraph (A) shall be—

[(A) submitted not later than 180 days after the date of enactment of this Act; and

[(B) updated not less frequently than annually thereafter, to include any activity to use or develop data mining engaged in after the date of the prior report submitted under subparagraph (A).]

**NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2020**

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**DIVISION E—INTELLIGENCE AUTHORIZATIONS FOR FISCAL YEARS 2018, 2019, AND 2020**

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## SUBDIVISION 1

\* \* \* \* \*

### TITLE LVII—REPORTS AND OTHER MATTERS

#### Subtitle A—Reports and Briefings

\* \* \* \* \*

**SEC. 5709. REPORT ON DEEPFAKE TECHNOLOGY, FOREIGN WEAPONIZATION OF DEEPFAKES, AND RELATED NOTIFICATIONS.**

(a) REPORT ON FOREIGN WEAPONIZATION OF DEEPFAKES AND DEEPFAKE TECHNOLOGY.—

(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence, in consultation with the heads of the elements of the intelligence community determined appropriate by the Director, shall submit to the congressional intelligence committees a report on—

- (A) the potential national security impacts of machine-manipulated media (commonly known as “deepfakes”); and
- (B) the actual or potential use of machine-manipulated media by foreign governments to spread disinformation or engage in other malign activities.

(2) MATTERS TO BE INCLUDED.—The report under subsection (a) shall include the following:

(A) An assessment of the technical capabilities of foreign governments, including foreign intelligence services, foreign government-affiliated entities, and foreign individuals, with respect to machine-manipulated media, machine-generated text, generative adversarial networks, and related machine-learning technologies, including—

(i) an assessment of the technical capabilities of the People’s Republic of China and the Russian Federation with respect to the production and detection of machine-manipulated media; and

(ii) an annex describing those governmental elements within China and Russia known to have supported or facilitated machine-manipulated media research, development, or dissemination, as well as any civil-military fusion, private-sector, academic, or non-governmental entities which have meaningfully participated in such activities.

(B) An updated assessment of how foreign governments, including foreign intelligence services, foreign government-affiliated entities, and foreign individuals, could use or are using machine-manipulated media and machine-generated text to harm the national security interests of the United States, including an assessment of the historic, current, or potential future efforts of China and Russia to use machine-manipulated media, including with respect to—

(i) the overseas or domestic dissemination of misinformation;

(ii) the attempted discrediting of political opponents or disfavored populations; and

(iii) intelligence or influence operations directed against the United States, allies or partners of the United States, or other jurisdictions believed to be subject to Chinese or Russian interference.

(C) An updated identification of the countertechnologies that have been or could be developed and deployed by the United States Government, or by the private sector with Government support, to deter, detect, and attribute the use of machine-manipulated media and machine-generated text by foreign governments, foreign-government affiliates, or foreign individuals, along with an analysis of the benefits, limitations and drawbacks of such identified countertechnologies, including any emerging concerns related to privacy.

(D) An identification of the offices within the elements of the intelligence community that have, or should have, lead responsibility for monitoring the development of, use of, and response to machine-manipulated media and machine-generated text, including—

(i) a description of the coordination of such efforts across the intelligence community;

(ii) a detailed description of the existing capabilities, tools, and relevant expertise of such elements to determine whether a piece of media has been machine manipulated or machine generated, including the speed at which such determination can be made, the confidence level of the element in the ability to make such a determination accurately, and how increasing volume and improved quality of machine-manipulated media or machine-generated text may negatively impact such capabilities; and

(iii) a detailed description of planned or ongoing research and development efforts intended to improve the ability of the intelligence community to detect machine-manipulated media and machine-generated text.

(E) A description of any research and development activities carried out or under consideration to be carried out by the intelligence community, including the Intelligence Advanced Research Projects Activity, relevant to machine-manipulated media and machine-generated text detection technologies.

(F) Updated recommendations regarding whether the intelligence community requires additional legal authorities, financial resources, or specialized personnel to address the national security threat posed by machine-manipulated media and machine-generated text.

(G) Other additional information the Director determines appropriate.

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

(c) REQUIREMENT FOR NOTIFICATION.—The Director of National Intelligence, in cooperation with the heads of any other relevant departments or agencies of the Federal Government, shall notify the congressional intelligence committees each time the Director of National Intelligence determines—

(1) there is credible information or intelligence that a foreign entity has attempted, is attempting, or will attempt to deploy machine-manipulated media or machine-generated text aimed at the elections or domestic political processes of the United States; and

(2) that such intrusion or campaign can be attributed to a foreign government, a foreign government-affiliated entity, or a foreign individual.

[(d) ANNUAL UPDATE.—Upon submission of the report in subsection (a), on an annual basis, the Director of National Intelligence, in consultation with the heads of the elements of the intelligence community determined appropriate by the Director, shall submit to the congressional intelligence committees any significant updates with respect to the matters described in subsection (a).]

[(e)] (d) DEFINITIONS.—

(1) MACHINE-GENERATED TEXT.—The term “machine-generated text” means text generated using machine-learning techniques in order to resemble writing in natural language.

(2) MACHINE-MANIPULATED MEDIA.—The term “machine-manipulated media” has the meaning given that term in section 5724.

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**DAMON PAUL NELSON AND MATTHEW YOUNG POLLARD  
INTELLIGENCE AUTHORIZATION ACT FOR FISCAL  
YEARS 2018, 2019, AND 2020**

\* \* \* \* \*

**DIVISION E—INTELLIGENCE AUTHOR-  
IZATIONS FOR FISCAL YEARS 2018,  
2019, AND 2020**

\* \* \* \* \*

**SUBDIVISION 1**

\* \* \* \* \*

**TITLE LVII—REPORTS AND OTHER  
MATTERS**

**Subtitle A—Reports and Briefings**

\* \* \* \* \*

**SEC. 5704. COLLECTION, ANALYSIS, AND DISSEMINATION OF WORKFORCE DATA.**

(a) **MODIFICATION OF REQUIREMENT FOR ANNUAL REPORT ON HIRING AND RETENTION OF MINORITY EMPLOYEES.**—

(1) **EXPANSION OF PERIOD OF REPORT.**—Subsection (a) of section 114 of the National Security Act of 1947 (50 U.S.C. 3050) is amended by inserting “and the preceding 5 fiscal years” after “fiscal year”.

(2) **CLARIFICATION ON DISAGGREGATION OF DATA.**—Subsection (b) of such section is amended, in the matter before paragraph (1), by striking “disaggregated data by category of covered person from each element of the intelligence community” and inserting “data, disaggregated by category of covered person and by element of the intelligence community,”.

(b) **INITIAL REPORTING.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act<sup>1</sup>, and subject to paragraph (3), the Director of National Intelligence shall make available to the public, the appropriate congressional committees, and the workforce of the intelligence community a report which includes aggregate demographic data and other information regarding the diversity and inclusion efforts of the workforce of the intelligence community.

(2) **CONTENTS.**—A report made available under paragraph (1)—

(A) shall include unclassified reports and barrier analyses relating to diversity and inclusion efforts;

(B) shall include aggregate demographic data—

(i) by segment of the workforce of the intelligence community and grade or rank;

(ii) relating to attrition and promotion rates;

(iii) that addresses the compliance of the intelligence community with validated inclusion metrics, such as the New Inclusion Quotient index score; and

(iv) that provides demographic comparisons to the relevant nongovernmental labor force and the relevant civilian labor force;

(C) shall include an analysis of applicant flow data, including the percentage and level of positions for which data are collected, and a discussion of any resulting policy changes or recommendations;

(D) shall include demographic data relating to participants in professional development programs of the intelligence community and the rate of placement into senior positions for participants in such programs;

(E) shall include any voluntarily collected demographic data relating to the membership of any external advisory committee or board to which individuals in senior positions in the intelligence community appoint members; and

(F) may include data in proportions or percentages to account for concerns relating to the protection of classified information.

(c) **UPDATES.**—Not later than March 31 of each year, the Director of National Intelligence shall provide a report (which may be provided as part of an annual report required under another provision

of law) to the workforce of the intelligence community (including senior leadership), the public, and the appropriate congressional committees that includes—

(1) demographic data and information on the status of diversity and inclusion efforts of the intelligence community, including demographic data relating to—

(A) the average years of service;

(B) the average number of years of service for each level in the General Schedule, Senior Executive Service, Senior Intelligence Service, or equivalent; and

(C) career categories;

(2) an analysis of applicant flow data, including the percentage and level of positions for which data are collected, and a discussion of any resulting policy changes or recommendations; and

(3) demographic data relating to participants in professional development programs of the intelligence community and the rate of placement into senior positions for participants in such programs.

(d) **EXPAND THE COLLECTION AND ANALYSIS OF VOLUNTARY APPLICANT FLOW DATA.**—

(1) **IN GENERAL.**—The Director of National Intelligence shall develop a system to collect and analyze applicant flow data for as many positions within the intelligence community as practicable, in order to identify areas for improvement in attracting diverse talent, with particular attention to senior and management positions.

(2) **PHASED IMPLEMENTATION.**—The collection of applicant flow data may be implemented by the Director of National Intelligence in a phased approach commensurate with the resources available to the intelligence community.

(e) **IDENTIFY ADDITIONAL CATEGORIES FOR VOLUNTARY DATA COLLECTION OF CURRENT EMPLOYEES.**—

(1) **IN GENERAL.**—The Director of National Intelligence may submit to the Office of Management and Budget and to the appropriate congressional committees a recommendation regarding whether the intelligence community should voluntarily collect more detailed data on demographic categories in addition to the race and ethnicity categories specified in the statistical policy directive issued by the Office of Management and Budget entitled “Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity”.

(2) **PROCESS.**—In making a recommendation under paragraph (1), the Director of National Intelligence shall—

(A) engage in close consultation with internal stakeholders, such as employee resource or affinity groups;

(B) ensure that there is clear communication with the workforce of the intelligence community—

(i) to explain the purpose of the potential collection of such data; and

(ii) regarding legal protections relating to any anticipated use of such data; and

(C) ensure adherence to relevant standards and guidance issued by the Federal Government.

(f) **DEFINITIONS.**—In this section:

(1) **APPLICANT FLOW DATA.**—The term “applicant flow data” means data that tracks the rate of applications for job positions among demographic categories.

(2) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means—

(A) the Committee on Foreign Relations, the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, the Select Committee on Intelligence, and the Committee on Appropriations of the Senate; and

(B) the Committee on Foreign Affairs, the Committee on Armed Services, the Committee on Homeland Security, the Permanent Select Committee on Intelligence, and the Committee on Appropriations of the House of Representatives.

(3) **DIVERSITY.**—The term “diversity” means diversity of persons based on gender, race, ethnicity, disability status, veteran status, sexual orientation, gender identity, national origin, and other demographic categories.

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**SUBDIVISION 2**

\* \* \* \* \*

**TITLE LXIII—GENERAL INTELLIGENCE  
COMMUNITY MATTERS**

\* \* \* \* \*

**SEC. 6316. EXPANSION OF INTELLIGENCE COMMUNITY RECRUITMENT EFFORTS.**

In order to further increase the diversity of the intelligence community workforce, not later than 90 days after the date of the enactment of this Act, the Director of National Intelligence, in consultation with heads of elements of the Intelligence Community, shall create, implement, and submit to the congressional intelligence committees a written plan to ensure that rural and under-represented regions are more fully and consistently represented in such elements’ employment recruitment efforts. Upon receipt of the plan, the [congressional committees] *congressional intelligence committees* shall have 60 days to submit comments to the Director of National Intelligence before such plan shall be implemented.

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**TITLE LXVI—SECURITY CLEARANCES**

\* \* \* \* \*

**SEC. 6604. GOALS FOR PROMPTNESS OF DETERMINATIONS REGARDING SECURITY CLEARANCES.**

(a) **IN GENERAL.**—The Council shall reform the security clearance process with the objective that, by December 31, 2021, 90 percent

of all determinations, other than determinations regarding populations identified under section 6603(b)(3)(C), regarding—

(1) security clearances—

(A) at the secret level are issued in 30 days or fewer; and

(B) at the top secret level are issued in 90 days or fewer; and

(2) reciprocity of security clearances at the same level are recognized in 2 weeks or fewer.

(b) CERTAIN REINVESTIGATIONS.—The Council shall reform the security clearance process with the goal that by December 31, 2021, reinvestigation on a set periodicity is not required for more than 10 percent of the population that holds a security clearance.

(c) EQUIVALENT METRICS.—

(1) IN GENERAL.—If the Council develops a set of performance metrics that it certifies to the appropriate congressional committees should achieve substantially equivalent outcomes as those outlined in [subsections (b) and (c)] subsections (a) and (b), the Council may use those metrics for purposes of compliance within this provision.

(2) NOTICE.—If the Council uses the authority provided by paragraph (1) to use metrics as described in such paragraph, the Council shall, not later than 30 days after communicating such metrics to departments and agencies, notify the appropriate congressional committees that it is using such authority.

(d) PLAN.—Not later than 180 days after the date of the enactment of this Act, the Council shall submit to the appropriate congressional committees and make available to appropriate industry partners a plan to carry out this section. Such plan shall include recommended interim milestones for the goals set forth in [subsections (b) and (c)] subsections (a) and (b) for 2019, 2020, and 2021.

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**INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR  
2012**

\* \* \* \* \*

**TITLE III**

**GENERAL PROVISIONS**

\* \* \* \* \*

**SEC. 309. ENHANCED PROCUREMENT AUTHORITY TO MANAGE SUPPLY CHAIN RISK.**

(a) DEFINITIONS.—In this section:

(1) COVERED AGENCY.—The term “covered agency” means any element of the intelligence community other than an element within the Department of Defense.

(2) COVERED ITEM OF SUPPLY.—The term “covered item of supply” means an item of information technology (as that term is defined in section 11101 of title 40, United States Code) that is purchased for inclusion in a covered system, and the loss of

integrity of which could result in a supply chain risk for a covered system.

(3) COVERED PROCUREMENT.—The term “covered procurement” means—

(A) a source selection for a covered system or a covered item of supply involving either a performance specification, as provided in section 3306(a)(3)(B) of title 41, United States Code, or an evaluation factor, as provided in section 3306(b)(1) of such title, relating to supply chain risk;

(B) the consideration of proposals for and issuance of a task or delivery order for a covered system or a covered item of supply, as provided in section 4106(d)(3) of title 41, United States Code, where the task or delivery order contract concerned includes a contract clause establishing a requirement relating to supply chain risk; or

(C) any contract action involving a contract for a covered system or a covered item of supply where such contract includes a clause establishing requirements relating to supply chain risk.

(4) COVERED PROCUREMENT ACTION.—The term “covered procurement action” means any of the following actions, if the action takes place in the course of conducting a covered procurement:

(A) The exclusion of a source that fails to meet qualifications standards established in accordance with the requirements of section 3311 of title 41, United States Code, for the purpose of reducing supply chain risk in the acquisition of covered systems.

(B) The exclusion of a source that fails to achieve an acceptable rating with regard to an evaluation factor providing for the consideration of supply chain risk in the evaluation of proposals for the award of a contract or the issuance of a task or delivery order.

(C) The decision to withhold consent for a contractor to subcontract with a particular source or to direct a contractor for a covered system to exclude a particular source from consideration for a subcontract under the contract.

(5) COVERED SYSTEM.—The term “covered system” means a national security system, as that term is defined in [section 3542(b)] section 3552 of title 44, United States Code.

(6) SUPPLY CHAIN RISK.—The term “supply chain risk” means the risk that an adversary may sabotage, maliciously introduce unwanted function, or otherwise subvert the design, integrity, manufacturing, production, distribution, installation, operation, or maintenance of a covered system so as to surveil, deny, disrupt, or otherwise degrade the function, use, or operation of such system.

(b) AUTHORITY.—Subject to subsection (c) and in consultation with the Director of National Intelligence, the head of a covered agency may, in conducting intelligence and intelligence-related activities—

(1) carry out a covered procurement action; and

(2) limit, notwithstanding any other provision of law, in whole or in part, the disclosure of information relating to the basis for carrying out a covered procurement action.

(c) DETERMINATION AND NOTIFICATION.—The head of a covered agency may exercise the authority provided in subsection (b) only after—

(1) any appropriate consultation with procurement or other relevant officials of the covered agency;

(2) making a determination in writing, which may be in classified form, that—

(A) use of the authority in subsection (b)(1) is necessary to protect national security by reducing supply chain risk;

(B) less intrusive measures are not reasonably available to reduce such supply chain risk; and

(C) in a case where the head of the covered agency plans to limit disclosure of information under subsection (b)(2), the risk to national security due to the disclosure of such information outweighs the risk due to not disclosing such information;

(3) notifying the Director of National Intelligence that there is a significant supply chain risk to the covered system concerned, unless the head of the covered agency making the determination is the Director of National Intelligence; and

(4) providing a notice, which may be in classified form, of the determination made under paragraph (2) to the congressional intelligence committees that includes a summary of the basis for the determination, including a discussion of less intrusive measures that were considered and why they were not reasonably available to reduce supply chain risk.

(d) DELEGATION.—The head of a covered agency may not delegate the authority provided in subsection (b) or the responsibility to make a determination under subsection (c) to an official below the level of the service acquisition executive for the agency concerned.

(e) SAVINGS.—The authority under this section is in addition to any other authority under any other provision of law. The authority under this section shall not be construed to alter or effect the exercise of any other provision of law.

(f) EFFECTIVE DATE.—The requirements of this section shall take effect on the date that is 180 days after the date of the enactment of this Act and shall apply to contracts that are awarded on or after such date.

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**PUBLIC INTEREST DECLASSIFICATION ACT OF 2000**

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**TITLE VII—DECLASSIFICATION OF INFORMATION**

\* \* \* \* \*

**SEC. 703. PUBLIC INTEREST DECLASSIFICATION BOARD.**

(a) ESTABLISHMENT.—(1) There is established within the executive branch of the United States a board to be known as the “Public Interest Declassification Board” (in this title referred to as the “Board”).

(2) The Board shall report directly to the President or, upon designation by the President, the Vice President, the Attorney General, or other designee of the President. The other designee of the President under this paragraph may not be an agency head or official authorized to classify information under [Executive Order 12958] *Executive Order 13526*, or any successor order.

(b) PURPOSES.—The purposes of the Board are as follows:

(1) To advise the President, the Assistant to the President for National Security Affairs, the Director of the Office of Management and Budget, and such other executive branch officials as the Board considers appropriate on the systematic, thorough, coordinated, and comprehensive identification, collection, review for declassification, and release to Congress, interested agencies, and the public of declassified records and materials (including donated historical materials) that are of archival value, including records and materials of extraordinary public interest.

(2) To promote the fullest possible public access to a thorough, accurate, and reliable documentary record of significant United States national security decisions and significant United States national security activities in order to—

(A) support the oversight and legislative functions of Congress;

(B) support the policymaking role of the executive branch;

(C) respond to the interest of the public in national security matters; and

(D) promote reliable historical analysis and new avenues of historical study in national security matters.

(3) To provide recommendations to the President for the identification, collection, and review for declassification of information of extraordinary public interest that does not undermine the national security of the United States, to be undertaken in accordance with a declassification program that has been established or may be established by the President by Executive order.

(4) To advise the President, the Assistant to the President for National Security Affairs, the Director of the Office of Management and Budget, and such other executive branch officials as the Board considers appropriate on policies deriving from the issuance by the President of Executive orders regarding the classification and declassification of national security information.

(5) To review and make recommendations to the President in a timely manner with respect to any congressional request, made by the committee of jurisdiction or by a member of the committee of jurisdiction, to declassify certain records, to evaluate the proper classification of certain records, or to reconsider a declination to declassify specific records.

(c) MEMBERSHIP.—(1) The Board shall be composed of nine individuals appointed from among citizens of the United States who are preeminent in the fields of history, national security, foreign policy, intelligence policy, social science, law, or archives, including individuals who have served in Congress or otherwise in the Federal Government or have otherwise engaged in research, scholar-

ship, or publication in such fields on matters relating to the national security of the United States, of whom—

(A) five shall be appointed by the President;

(B) one shall be appointed by the Speaker of the House of Representatives;

(C) one shall be appointed by the majority leader of the Senate;

(D) one shall be appointed by the minority leader of the Senate; and

(E) one shall be appointed by the minority leader of the House of Representatives.

(2)(A) Of the members initially appointed to the Board by the President—

(i) three shall be appointed for a term of 4 years;

(ii) one shall be appointed for a term of 3 years; and

(iii) one shall be appointed for a term of 2 years.

(B) The members initially appointed to the Board by the Speaker of the House of Representatives or by the majority leader of the Senate shall be appointed for a term of 3 years.

(C) The members initially appointed to the Board by the minority leader of the House of Representatives or the Senate shall be appointed for a term of 2 years.

(D) Any subsequent appointment to the Board shall be for a term of 3 years from the date of the appointment.

(3) A vacancy in the Board shall be filled in the same manner as the original appointment.

(4) A member of the Board may be appointed to a new term on the Board upon the expiration of the member's term on the Board, except that no member may serve more than three full terms on the Board.

(d) CHAIRPERSON; EXECUTIVE SECRETARY.—(1)(A) The President shall designate one of the members of the Board as the Chairperson of the Board.

(B) The term of service as Chairperson of the Board shall be 2 years.

(C) A member serving as Chairperson of the Board may be redesignated as Chairperson of the Board upon the expiration of the member's term as Chairperson of the Board, except that no member shall serve as Chairperson of the Board for more than 6 years.

(2) The Director of the Information Security Oversight Office shall serve as the Executive Secretary of the Board.

(e) MEETINGS.—The Board shall meet as needed to accomplish its mission, consistent with the availability of funds, but shall meet in person not less frequently than on a quarterly basis. A majority of the members of the Board shall constitute a quorum.

(f) STAFF.—Any employee of the Federal Government may be detailed to the Board, with the agreement of and without reimbursement to the detailing agency, and such detail shall be without interruption or loss of civil, military, or foreign service status or privilege.

(g) SECURITY.—(1) The members and staff of the Board shall, as a condition of appointment to or employment with the Board, hold appropriate security clearances for access to the classified records and materials to be reviewed by the Board or its staff, and shall

follow the guidance and practices on security under applicable Executive orders and Presidential or agency directives.

(2) The head of an agency shall, as a condition of granting access to a member of the Board, the Executive Secretary of the Board, or a member of the staff of the Board to classified records or materials of the agency under this title, require the member, the Executive Secretary, or the member of the staff, as the case may be, to—

(A) execute an agreement regarding the security of such records or materials that is approved by the head of the agency; and

(B) hold an appropriate security clearance granted or recognized under the standard procedures and eligibility criteria of the agency, including any special access approval required for access to such records or materials.

(3) The members of the Board, the Executive Secretary of the Board, and the members of the staff of the Board may not use any information acquired in the course of their official activities on the Board for nonofficial purposes.

(4) For purposes of any law or regulation governing access to classified information that pertains to the national security of the United States, and subject to any limitations on access arising under section 706(b), and to facilitate the advisory functions of the Board under this title, a member of the Board seeking access to a record or material under this title shall be deemed for purposes of this subsection to have a need to know the contents of the record or material.

(h) COMPENSATION.—(1) Each member of the Board shall receive compensation at a rate not to exceed the daily equivalent of the annual rate of basic pay payable for positions at ES-1 of the Senior Executive Service under section 5382 of title 5, United States Code, for each day such member is engaged in the actual performance of duties of the Board.

(2) Members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of the duties of the Board.

(i) GUIDANCE; ANNUAL BUDGET.—(1) On behalf of the President, the Assistant to the President for National Security Affairs shall provide guidance on policy to the Board.

(2) The Executive Secretary of the Board, under the direction of the Chairperson of the Board and the Board, and acting in consultation with the Archivist of the United States, the Assistant to the President for National Security Affairs, and the Director of the Office of Management and Budget, shall prepare the annual budget of the Board.

(j) SUPPORT.—The Information Security Oversight Office may support the activities of the Board under this title. Such support shall be provided on a reimbursable basis.

(k) PUBLIC AVAILABILITY OF RECORDS AND REPORTS.—(1) The Board shall make available for public inspection records of its proceedings and reports prepared in the course of its activities under this title to the extent such records and reports are not classified and would not be exempt from release under the provisions of section 552 of title 5, United States Code.

(2) In making records and reports available under paragraph (1), the Board shall coordinate the release of such records and reports with appropriate officials from agencies with expertise in classified information in order to ensure that such records and reports do not inadvertently contain classified information.

(1) **APPLICABILITY OF CERTAIN ADMINISTRATIVE LAWS.**—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the activities of the Board under this title. However, the records of the Board shall be governed by the provisions of the Federal Records Act of 1950.

**SEC. 704. IDENTIFICATION, COLLECTION, AND REVIEW FOR DECLASSIFICATION OF INFORMATION OF ARCHIVAL VALUE OR EXTRAORDINARY PUBLIC INTEREST.**

(a) **BRIEFINGS ON AGENCY DECLASSIFICATION PROGRAMS.**—(1) As requested by the Board, or by the Select Committee on Intelligence of the Senate or the Permanent Select Committee on Intelligence of the House of Representatives, the head of any agency with the authority under an Executive order to classify information shall provide to the Board, the Select Committee on Intelligence of the Senate, or the Permanent Select Committee on Intelligence of the House of Representatives, on an annual basis, a summary briefing and report on such agency's progress and plans in the declassification of national security information. Such briefing shall cover the declassification goals set by statute, regulation, or policy, the agency's progress with respect to such goals, and the agency's planned goals and priorities for its declassification activities over the next 2 fiscal years. Agency briefings and reports shall give particular attention to progress on the declassification of records and materials that are of archival value or extraordinary public interest to the people of the United States.

(2)(A) The annual briefing and report under paragraph (1) for agencies within the Department of Defense, including the military departments and the elements of the intelligence community, shall be provided on a consolidated basis.

(B) In this paragraph, the term "elements of the intelligence community" means the elements of the intelligence community specified or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(b) **RECOMMENDATIONS ON AGENCY DECLASSIFICATION PROGRAMS.**—(1) Upon reviewing and discussing declassification plans and progress with an agency, the Board shall provide to the head of the agency the written recommendations of the Board as to how the agency's declassification program could be improved. A copy of each recommendation shall also be submitted to the Assistant to the President for National Security Affairs and the Director of the Office of Management and Budget.

(2) Consistent with the provisions of section 703(k), the Board's recommendations to the head of an agency under paragraph (1) shall become public 60 days after such recommendations are sent to the head of the agency under that paragraph.

(c) **RECOMMENDATIONS ON SPECIAL SEARCHES FOR RECORDS OF EXTRAORDINARY PUBLIC INTEREST.**—(1) The Board shall also make recommendations to the President regarding proposed initiatives to identify, collect, and review for declassification classified records and materials of extraordinary public interest.

(2) In making recommendations under paragraph (1), the Board shall consider the following:

(A) The opinions and requests of Members of Congress, including opinions and requests expressed or embodied in letters or legislative proposals, and also including specific requests for the declassification of certain records or for the reconsideration of declinations to declassify specific records.

(B) The opinions and requests of the National Security Council, the Director of National Intelligence, and the heads of other agencies.

(C) The opinions of United States citizens.

(D) The opinions of members of the Board.

(E) The impact of special searches on systematic and all other on-going declassification programs.

(F) The costs (including budgetary costs) and the impact that complying with the recommendations would have on agency budgets, programs, and operations.

(G) The benefits of the recommendations.

(H) The impact of compliance with the recommendations on the national security of the United States.

(d) **PRESIDENT'S DECLASSIFICATION PRIORITIES.**—(1) Concurrent with the submission to Congress of the budget of the President each fiscal year under section 1105 of title 31, United States Code, the Director of the Office of Management and Budget shall publish a description of the President's declassification program and priorities, together with a listing of the funds requested to implement that program.

(2) Nothing in this title shall be construed to substitute or supersede, or establish a funding process for, any declassification program that has been established or may be established by the President by Executive order.

(e) **DECLASSIFICATION REVIEWS.**—

(1) **IN GENERAL.**—If requested by the President, the Board shall review in a timely manner certain records or declinations to declassify specific records, the declassification of which has been the subject of specific congressional request described in section 703(b)(5).

(2) **AUTHORITY OF BOARD.**—Upon receiving a congressional request described in section 703(b)(5), the Board may conduct the review and make the recommendations described in that section, regardless of whether such a review is requested by the President.

(3) **REPORTING.**—Any recommendations submitted to the President by the Board under section 703(b)(5) shall be submitted to the chairman and ranking minority member of the committee of Congress that made the request relating to such recommendations.

**SEC. 705. PROTECTION OF NATIONAL SECURITY INFORMATION AND OTHER INFORMATION.**

(a) **IN GENERAL.**—Nothing in this title shall be construed to limit the authority of the head of an agency to classify information or to continue the classification of information previously classified by that agency.

(b) SPECIAL ACCESS PROGRAMS.—Nothing in this title shall be construed to limit the authority of the head of an agency to grant or deny access to a special access program.

(c) AUTHORITIES OF DIRECTOR OF NATIONAL INTELLIGENCE.—Nothing in this title shall be construed to limit the authorities of the Director of National Intelligence as the head of the intelligence community, including the Director's responsibility to protect intelligence sources and methods from unauthorized disclosure as required by ~~section 103(c)(6) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(6))~~ *section 102A(i) of the National Security Act of 1947 (50 U.S.C. 3024(i))*.

(d) EXEMPTIONS TO RELEASE OF INFORMATION.—Nothing in this title shall be construed to limit any exemption or exception to the release to the public under this title of information that is protected under subsection (b) of section 552 of title 5, United States Code (commonly referred to as the “Freedom of Information Act”), or section 552a of title 5, United States Code (commonly referred to as the “Privacy Act”).

(e) WITHHOLDING INFORMATION FROM CONGRESS.—Nothing in this title shall be construed to authorize the withholding of information from Congress.

#### SEC. 706. STANDARDS AND PROCEDURES.

(a) LIAISON.—(1) The head of each agency with the authority under an Executive order to classify information and the head of each Federal Presidential library shall designate an employee of such agency or library to act as liaison to the Board for purposes of this title.

(2) The Board may establish liaison and otherwise consult with such other historical and advisory committees as the Board considers appropriate for purposes of this title.

(b) LIMITATIONS ON ACCESS.—(1)(A) Except as provided in paragraph (2), if the head of an agency or the head of a Federal Presidential library determines it necessary to deny or restrict access of the Board, or of the agency or library liaison to the Board, to information contained in a record or material, in whole or in part, the head of the agency or the head of the library shall promptly notify the Board in writing of such determination.

(B) Each notice to the Board under subparagraph (A) shall include a description of the nature of the records or materials, and a justification for the determination, covered by such notice.

(2) In the case of a determination referred to in paragraph (1) with respect to a special access program created by the Secretary of Defense, the Director of National Intelligence, or the head of any other agency, the notification of denial of access under paragraph (1), including a description of the nature of the Board's request for access, shall be submitted to the Assistant to the President for National Security Affairs rather than to the Board.

(c) DISCRETION TO DISCLOSE.—At the conclusion of a declassification review, the head of an agency may, in the discretion of the head of the agency, determine that the public's interest in the disclosure of records or materials of the agency covered by such review, and still properly classified, outweighs the Government's need to protect such records or materials, and may release such records or materials in accordance with the provisions of ~~Execu-~~

tive Order No. 12958] *Executive Order 13526* or any successor order to such Executive order.

(d) DISCRETION TO PROTECT.—At the conclusion of a declassification review, the head of an agency may, in the discretion of the head of the agency, determine that the interest of the agency in the protection of records or materials of the agency covered by such review, and still properly classified, outweighs the public's need for access to such records or materials, and may deny release of such records or materials in accordance with the provisions of [Executive Order No. 12958] *Executive Order 13526* or any successor order to such Executive order.

(e) REPORTS.—(1)(A) Except as provided in paragraph (2), the Board shall annually submit to the appropriate congressional committees a report on the activities of the Board under this title, including summary information regarding any denials to the Board by the head of an agency or the head of a Federal Presidential library of access to records or materials under this title.

(B) In this paragraph, the term “appropriate congressional committees” means the Select Committee on Intelligence and the Committee on Governmental Affairs of the Senate and the Permanent Select Committee on Intelligence and the Committee on Government Reform of the House of Representatives.

(2) Notwithstanding paragraph (1), notice that the Board has been denied access to records and materials, and a justification for the determination in support of the denial, shall be submitted by the agency denying the access as follows:

(A) In the case of the denial of access to a special access program created by the Secretary of Defense, to the Committees on Armed Services and Appropriations of the Senate and to the Committees on Armed Services and Appropriations of the House of Representatives.

(B) In the case of the denial of access to a special access program created by the Director of National Intelligence, or by the head of any other agency (including the Department of Defense) if the special access program pertains to intelligence activities, or of access to any information and materials relating to intelligence sources and methods, to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

(C) In the case of the denial of access to a special access program created by the Secretary of Energy or the Administrator for Nuclear Security, to the Committees on Armed Services and Appropriations and the Select Committee on Intelligence of the Senate and to the Committees on Armed Services and Appropriations and the Permanent Select Committee on Intelligence of the House of Representatives.

(f) NOTIFICATION OF REVIEW.—In response to a specific congressional request for declassification review described in section 703(b)(5), the Board shall advise the originators of the request in a timely manner whether the Board intends to conduct such review.

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