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# A BILL

To strengthen the intelligence capabilities of the United States Government, and for other purposes.

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

## SEC. 1. SHORT TITLE

This Act may be cited as the “National Security and Intelligence Act of 2004”.

## SEC. 2. AMENDMENTS TO DEFINITIONS IN NATIONAL SECURITY ACT

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

“(L) such other agencies or organizations as may be designated by the President, or designated jointly by the National Intelligence Director and the head of the affected department, as defined in subsection 11 of this section (or the Director of the Central Intelligence Agency to the extent the Central Intelligence Agency is affected).

(b) Section 3(5) of the National Security Act of 1947 (50 U.S.C. 401a) is amended to read as follows:

“(5) The terms 'national intelligence' and 'intelligence related to the national security' refer to all intelligence that pertains, as determined consistent with any guidance issued by the President, to more than one United States Government agency that involves: (A) threats to the United States, its people, property, or interests, (B) the development, proliferation, or use of weapons of mass destruction, or (C) any other matters bearing on U.S. national or homeland security, regardless of the source from which derived, including information gathered within or outside the United States.”.

(c) Section 3 of the National Security Act of 1947 (50 U.S.C. 401a) is amended by adding at the end thereof the following:

“(8) The term 'Joint Military Intelligence Program,' or 'JMIP,' includes programs within a military service or department, or a defense-wide activity, that predominantly provides intelligence and support to multiple Department of Defense components for their planning purposes or the conduct of military operations. The intelligence generated by such activities or operations may be of interest to the Intelligence Community.

“(9) The term 'Tactical Intelligence and Related Activities,' or 'TIARA,' comprises many separate intelligence and intelligence-related capabilities that are essential for

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tactical operations conducted by the forces of a single U.S. military service, and that are designed, built, and/or operated exclusively by the military services.

“(10) The term 'agencies and organizations within the Intelligence Community' means the elements set forth in section 3(4)(B) through (L) of the Act.

“(11) The term 'departments containing agencies or organizations within the Intelligence Community' means the Department of State, the Department of the Treasury, the Department of Defense, the Department of Justice, the Department of Energy, the Department of Homeland Security, and any other executive department that the President may designate for purposes of this subsection.”.

### **SEC. 3. AMENDMENTS RELATING TO THE NATIONAL SECURITY COUNCIL**

Section 101 of the National Security Act of 1947, as amended (50 U.S.C. 402), is amended to read as follows:

#### **“NATIONAL SECURITY COUNCIL**

“SEC. 101. (a) ESTABLISHMENT.--There is hereby established the National Security Council, which shall be subject to the authority, direction, and control of the President.

“(b) COMPOSITION.--(1) The Council shall consist of the President, the Vice President, the Secretary of State, the Secretary of Defense, and such other officers of the United States as the President may from time to time designate.

“(2) The Chairman of the Joint Chiefs of Staff may, in the Chairman’s role as principal military adviser to the National Security Council under section 151(b)(1) of title 10, United States Code, and subject to the direction of the President, attend and participate in meetings of the National Security Council.

“(3) The National Intelligence Director may, in the Director’s role as principal intelligence adviser to the National Security Council under section 102(b)(2) of the National Security Act of 1947, and subject to the direction of the President, attend and participate in meetings of the National Security Council.

“(4) The Director of the Office of National Drug Control Policy may, in the Director’s role as principal adviser on national drug control policy to the National Security Council and subject to the direction of the President, attend and participate in meetings of the National Security Council.

“(5) Other personnel within the Executive Branch shall provide advice to, attend, and participate in meetings of the National Security Council as directed by the President.

“(c) FUNCTIONS.--The functions of the Council shall be--

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“(1) to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security so as to enable the agencies of the Government to cooperate more effectively in matters involving national security;

“(2) to assess, appraise, and make recommendations to the President with respect to the objectives, commitments, and risks of the United States in relation to actual and potential military power of the United States, in the interest of national security;

“(3) to consider and make recommendations to the President with respect to policies on matters of common interest to the agencies of the Government concerned with national security;

“(4) to perform such other functions as the President may direct, for the purpose of more effectively coordinating the policies and functions of the agencies of the Government relating to national security; and

“(5) to make, from time to time, such recommendations and reports to the President as the Council deems appropriate or as the President may direct.

“(d) STAFF.--(1) The Council shall have a staff, which shall be subject to the direction of the President.

“(2) The staff of the Council shall consist of--

“(A) a civilian executive secretary who shall be appointed by the President and head the staff;

“(B) other personnel appointed by the President; and

“(C) personnel assigned or detailed from an agency.

“(3) The President may, without regard to any other law, fix compensation of the staff and direct assignments or details to the staff with or without reimbursement.”.

**SEC. 4. AMENDMENTS RELATING TO THE NATIONAL INTELLIGENCE  
DIRECTOR AND THE OFFICE OF THE NATIONAL INTELLIGENCE  
DIRECTOR**

(a) Section 102 of the National Security Act of 1947 (50 U.S.C. 403) is amended to read as follows:

“OFFICE OF THE NATIONAL INTELLIGENCE DIRECTOR

“SEC. 102. (a) APPOINTMENT OF NATIONAL INTELLIGENCE DIRECTOR AND DEPUTY NATIONAL INTELLIGENCE DIRECTOR.--(1) There is a National Intelligence Director who shall be appointed by the President, by and with the advice and consent of the Senate.

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“(2) There is a Deputy National Intelligence Director who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall perform such functions as the Director may prescribe and shall perform the duties and exercise the powers of the Director during the Director’s absence or disability or during a vacancy in the position of the National Intelligence Director.

“(3)(A) Not more than one of the individuals serving in the offices specified in paragraphs (1) and (2) may be a commissioned officer of the Armed Forces, whether in active or retired status.

“(B) A commissioned officer of the Armed Forces, while serving in a position specified in subsection (a)(1) or (a)(2)--

“(i) shall not be subject to supervision or control by the Secretary of Defense or by any officer or employee of the Department of Defense;

“(ii) shall not exercise, by reason of the officer's status as a commissioned officer, any supervision or control with respect to any of the military or civilian personnel of the Department of Defense except as otherwise authorized by law; and

“(iii) shall not be counted against the numbers and percentages of commissioned officers of the rank and grade of such officer authorized for the military department of that officer.

“(4) Except as provided in paragraphs (3)(B)(i) and (3)(B)(ii), the appointment of an officer of the Armed Forces to a position specified in subsection (a)(1) or (a)(2) shall not affect the status, position, rank, or grade of such officer in the Armed Forces, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, position, rank, or grade.

“(5) A commissioned officer of the Armed Forces on active duty who is appointed to a position specified in subsection (a)(1) or (a)(2), while serving in such position and while remaining on active duty, shall continue to receive military pay and allowances and shall not receive the pay prescribed for such position. Funds from which such pay and allowances are paid shall be reimbursed from appropriations available to the National Intelligence Director.

“(b) FUNCTIONS OF THE NATIONAL INTELLIGENCE DIRECTOR.--Subject to the direction of the President, the National Intelligence Director shall--

“(1) serve as the head of the United States Intelligence Community; and

“(2) act as the principal adviser to the President, the National Security Council, and the Homeland Security Council for intelligence matters relating to the national security.

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“(c) AUTHORITIES OF THE NATIONAL INTELLIGENCE DIRECTOR.--In the performance of the functions set forth in subsection (b) and subject to the direction of the President, the National Intelligence Director shall--

“(1) provide all relevant intelligence related to the national security to the President, the Vice President in the performance of executive functions, the heads of departments and agencies, the Chairman of the Joint Chiefs of Staff, and others as appropriate, and such intelligence should be timely, objective, independent of political considerations, and based upon all sources available to the Intelligence Community;

“(2) in accordance with national intelligence objectives and priorities approved by the President--

“(A) develop objectives and guidance for the Intelligence Community necessary, in the Director's judgment, to ensure timely and effective collection, processing, analysis, and dissemination, including access by users to collected data and analytic products generated by or within the Intelligence Community, of national intelligence;

“(B) determine and establish requirements and priorities for, and manage and issue tasking for the collection of national intelligence by, the agencies and organizations within the Intelligence Community (including collection under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.));

“(C) resolve conflicts in collection requirements and the tasking of national collection assets of agencies and organizations within the Intelligence Community, except when otherwise directed by the President, or when the Secretary of Defense exercises collection tasking authority under plans and arrangements agreed to by both the Secretary of Defense and the National Intelligence Director;

“(D) provide advisory tasking concerning collection and analysis of national intelligence to elements of the United States Government that have information collection and analytic capabilities and are not within the Intelligence Community; and

“(E) determine and establish requirements and priorities for, and manage and direct the tasking of, analysis, production, and dissemination of national intelligence by agencies and organizations within the Intelligence Community, and resolve any conflicts regarding such matters, except when otherwise directed by the President, or when the Secretary of Defense exercises production tasking authority under plans and arrangements agreed to by both the Secretary of Defense and the National Intelligence Director;

“(3) with respect to budget requests and appropriations for the National Foreign Intelligence Program--

“(A)(i) based on intelligence priorities set by the President, provide to the heads of departments containing agencies or organizations within the Intelligence Community, and to

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the heads of such agencies and organizations, guidance for developing the NFIP budget pertaining to such agencies and organizations;

“(ii) based on budget proposals provided to the National Intelligence Director by the heads of agencies or 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 NFIP budget; and

“(iii) present such consolidated NFIP budget, together with any comments from the heads of departments containing agencies or organizations within the Intelligence Community, to the President for approval;

“(B) manage and be responsible for appropriations for the NFIP without regard to the accounts to which appropriated and, with prior notice including the provision of appropriate supporting information to the heads of any departments containing agencies or organizations within the Intelligence Community and to the Director of the Central Intelligence Agency, allot or allocate those funds pursuant to subsection (d) of this section to the agencies and organizations within the Intelligence Community for programs and activities that are part of the NFIP; provided that such allotments or allocations shall be executed through existing department comptrollers or appropriate budget execution officers only as authorized or directed by the National Intelligence Director.

“(C) have the authority to transfer or reprogram NFIP funds among appropriations available for the NFIP, as necessary, with the approval of the Director of the Office of Management and Budget, and after consultation with the heads of departments containing agencies or organizations within the Intelligence Community to the extent their subordinate agencies or organizations are affected, and with the Director of the Central Intelligence Agency to the extent the Central Intelligence Agency is affected, and funds transferred or reprogrammed under this subsection shall remain available for the same period as the appropriations account to which transferred or within which reprogrammed;

“(D) review, and approve or disapprove, any proposal to transfer or reprogram funds--

“(i) among appropriations available for the NFIP;

“(ii) from appropriations that are not for the NFIP to appropriations for the NFIP;  
and

“(iii) from appropriations for the NFIP to appropriations that are not for the NFIP.

“(E) in consultation with the heads of departments containing agencies or organizations within the Intelligence Community and with the Director of the Central Intelligence Agency, monitor implementation and execution of the NFIP, including, as necessary, by conducting program and performance audits and evaluations;

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“(4) with respect to budget requests and appropriations for the Joint Military Intelligence Program (JMIP) and for Tactical Intelligence and Related Activities (TIARA)--

“(A) participate in the development by the Secretary of Defense for the approval of the President of budget requests for the JMIP and TIARA; and

“(B) monitor and consult with the Secretary of Defense on implementation of, and reprogramming or transfers of funds within, into, or out of appropriations for the JMIP and TIARA;

“(5) establish common security and access standards for managing and handling intelligence systems, information, and products, including access to collected data and analytic products generated by or within the Intelligence Community, focusing particularly on facilitating among the agencies and organizations within the Intelligence Community and networks available across the other Federal agencies involved in national security and homeland security activities, State and local governments, and, as appropriate, other entities--

“(A) the fullest and most prompt sharing of and access to information and products practicable, including access to collected data and analytic products, with special emphasis on detecting, preventing, preempting, and disrupting terrorist threats and attacks against the United States, its people, property, and interests; and

“(B) establishment of interface standards for an interoperable information-sharing enterprise that facilitates automated access to national intelligence by agencies and organizations within the Intelligence Community;

“(6) prescribe, after consultation with the heads of departments containing agencies or organizations within the Intelligence Community and with the Director of the Central Intelligence Agency--

“(A) standards, policies, and programs within the Intelligence Community--

“(i) to provide for common personnel clearance policies and processes;

“(ii) to provide, where appropriate, for the rotation of personnel among agencies and organizations within the Intelligence Community, in consultation with the heads of departments containing agencies or organizations within the Intelligence Community to the extent their subordinate agencies or organizations are affected (and with the Director of the Central Intelligence Agency to the extent the Central Intelligence Agency is affected), and to make such rotational assignments a requirement to be considered for promotion to senior positions;

“(iii) to establish personnel, administrative, and security programs to increase the efficiency of, and promote the creation of joint activities within, the Intelligence Community; and

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“(iv) to ensure that persons engaged in the performance of intelligence activities within the Intelligence Community possess the qualifications necessary for the effective conduct of such activities; and

“(B) measurable standards within the Intelligence Community for--

“(i) education, training, career development, and language capability of personnel; and

“(ii) qualifications of personnel for employment by, or assignment or detail to, the National Counterterrorism Center;

“(7) have authority, direction, and control over the National Counterterrorism Center and supervise the Director of that Center;

“(8) obtain from, and provide to, agencies and organizations within the Intelligence Community both personnel and services, with or without reimbursement, without regard to any other law, after consultation with the heads of departments containing affected agencies or organizations within the Intelligence Community and with the Director of the Central Intelligence Agency to the extent the Central Intelligence Agency is affected;

“(9) protect intelligence sources and methods from unauthorized disclosure;

“(10) evaluate the utility of national intelligence to the President, the Vice President in the performance of executive functions, and other officials of the United States Government, and establish, review, and monitor performance objectives, goals, and measures for the Intelligence Community;

“(11) correlate, evaluate, analyze, and disseminate national intelligence, including production of reports based on such intelligence;

“(12) ensure that appropriate agencies and organizations within the Intelligence Community have access to and receive all-source intelligence support needed to perform independent, alternative analysis;

“(13) after consultation with the heads of departments containing agencies or organizations within the Intelligence Community and the Director of the Central Intelligence Agency, without regard to any other law, assign agencies and organizations within the Intelligence Community and the Central Intelligence Agency the duty, using appropriations for the National Foreign Intelligence Program, to execute and fund programs, activities, or services of common concern to such agencies and organizations, which programs, activities, or services the National Intelligence Director determines can be more efficiently accomplished centrally;

“(14) establish policies and procedures to govern the establishment and maintenance of intelligence arrangements, including operational and information-sharing arrangements, with



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foreign governments and international organizations on all matters involving intelligence related to the national security, or involving intelligence acquired by clandestine means, to ensure consistency and coordination between and among (A) agencies and organizations within the Intelligence Community, (B) the intelligence or security services of foreign governments, and (C) as appropriate and consistent with applicable law, international organizations;

“(15) establish, in the implementation of paragraph (c)(3) of this section, capital and investment policies and processes in consultation with the departments containing agencies or organizations within the Intelligence Community and with the Director of the Central Intelligence Agency;

“(16) exercise such authorities and perform such duties relating to counterintelligence as the President may direct; and

“(17) perform such other duties as the President may direct.

“(d) ESTABLISHMENT, CONTROL, AND MANAGEMENT OF FUND ACCOUNTS.--(1) The Secretary of the Treasury shall establish fund accounts for the use of the National Intelligence Director for the purpose of carrying out the functions and authorities set forth in this section, or other applicable law, as they relate to the National Foreign Intelligence Program.

“(2) The National Intelligence Director shall, without regard to any other provision of law, control and manage accounts established under paragraph (d)(1), and shall with the concurrence of the Director of the Office of Management and Budget, establish procedures governing the use (including transfers and reprogrammings) of funds in those accounts. Without regard to any other provision of law, a certifying official shall follow these procedures with regard to each fund account. Disbursements from any fund account must be against a valid obligation of the fund account.

“(3) The term ‘certifying official’ means an employee of an agency or organization within the Intelligence Community who has responsibilities specified in subsection 3528(a) of title 31, United States Code.

“(4) Fund accounts established in this subsection shall be subject to Chapters 13 and 15 of Title 31, United States Code, except sections 1503 and 1556 of title 31.

“(5) Nothing in this subsection shall be construed to impair or otherwise affect the authority granted by sections 5 and 8 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f and 403j) and subsection (e)(3) of this section.

“(e) ESTABLISHMENT OF THE OFFICE OF THE NATIONAL INTELLIGENCE DIRECTOR.--(1) There is hereby established an Office of the National Intelligence Director, located in the Executive Branch, under the authority, direction, and control of the National

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Intelligence Director, to assist the National Intelligence Director in the performance of the Director's functions specified by law or by the President.

“(2) The Office of the National Intelligence Director includes the Director and Deputy National Intelligence Director and such officers and other persons as the National Intelligence Director may designate. The Director shall serve as the head of the Office of the National Intelligence Director.

“(3)(A) In the performance of the functions vested in the National Intelligence Director or the Office of the National Intelligence Director, the National Intelligence Director may exercise with respect to the Office of the National Intelligence Director any authority that the Director of the Central Intelligence Agency, or the Central Intelligence Agency, may exercise with respect to the Central Intelligence Agency under the Central Intelligence Agency Act of 1949 (except sections 17, 20, and 21 thereof, and sections therein relating to retirement benefits of any person) and section 102A(c)(2) of the National Security Act of 1947.

“(B) The National Intelligence Director may delegate any of the Director's functions or duties to such officers, employees, or organizations of the Office of the National Intelligence Director as the Director may designate.

“(C) Any authority, power, or function vested by law in any officer, employee, or part of the Office of the National Intelligence Director is vested in, and may be exercised by, the National Intelligence Director.

“(4) Exemptions, exceptions, and exclusions for the Central Intelligence Agency or for personnel, resources, or activities thereof from otherwise applicable laws, other than the exception contained in section 102A(b)(1) of the National Security Act of 1947, shall apply in the same manner to the Office of the National Intelligence Director and the personnel, resources, and activities thereof.

“(f) NATIONAL INTELLIGENCE COUNCIL.--(1) There is hereby established within the Office of the National Intelligence Director a National Intelligence Council.

“(2) The Council shall--

“(A) produce national intelligence estimates, including, whenever appropriate, alternative views held by agencies or organizations within the Intelligence Community;

“(B) evaluate Intelligence Community-wide collection and production of national intelligence and the requirements and resources of such collection and production; and

“(C) perform such advisory functions as the National Intelligence Director may require.

“(3) The heads of agencies or organizations within the Intelligence Community shall, as appropriate, furnish such support to the National Intelligence Council, including the preparation of intelligence analyses, as may be required by the National Intelligence Director.

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“(g) JOINT INTELLIGENCE COMMUNITY COUNCIL.--(1) There is hereby established a Joint Intelligence Community Council.

“(2)(A) The Joint Intelligence Community Council shall advise the National Intelligence Director on--

“(i) ensuring implementation of a joint, unified national intelligence effort to protect the national security;

“(ii) setting requirements, developing budgets, procedures governing reprogrammings and transfers, financial management, and monitoring and evaluating the performance of the Intelligence Community; and

“(iii) such other matters as the National Intelligence Director may request.

“(B) The National Intelligence Director shall consult with the Joint Intelligence Community Council in developing guidance for the development of the annual consolidated NFIP budget.

“(3) The Joint Intelligence Community Council shall consist exclusively of—

“(A) the National Intelligence Director, who shall chair the Council;

“(B) the Secretary of State;

“(C) the Secretary of the Treasury;

“(D) the Secretary of Defense;

“(E) the Attorney General;

“(F) the Secretary of Energy;

“(G) the Secretary of Homeland Security; and

“(H) such other officials of the Executive Branch as the President may designate from time to time.

“(4) The Council shall meet at the request of the National Intelligence Director.

“(h) NATIONAL COUNTERTERRORISM CENTER.--(1) There is hereby established a National Counterterrorism Center.

“(2) The Director of the Center shall be appointed by the President.

“(3) The Center shall--

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“(A) serve as the primary organization in the United States Government for analyzing and integrating all intelligence possessed or acquired by the United States Government pertaining to terrorism and counterterrorism, except exclusively domestic counterterrorism information. The Center may, consistent with applicable law, receive, retain, and disseminate information from any Federal, State, or local government, or other source necessary to fulfill its responsibilities; and agencies authorized to conduct counterterrorism activities may query Center data for any information to assist in their respective responsibilities;

“(B) conduct strategic operational planning for counterterrorism activities, integrating all instruments of national power, including diplomatic, financial, military, intelligence, homeland security, and law enforcement activities within and among agencies;

“(C) assign operational responsibilities to lead agencies for counterterrorism activities that are consistent with applicable law and that support strategic plans to counter terrorism, but shall not direct the execution of operations;

“(D) ensure that agencies and organizations within the Intelligence Community have access to and receive intelligence needed to accomplish their assigned activities;

“(E) serve as the central and shared knowledge bank on known and suspected terrorists and international terror groups, as well as their goals, strategies, capabilities, and networks of contacts and support;

“(F) ensure that agencies, as appropriate, have access to and receive all-source intelligence support needed to execute their counterterrorism plans or perform independent, alternative analysis; and

“(G) perform any other functions as the President may direct.

“(i) ADDITIONAL AUTHORITIES.--In the performance of the functions vested in the National Intelligence Director or the Office of the National Intelligence Director, the National Intelligence Director may, with respect to the Office of the National Intelligence Director, in addition to any other authority provided to the Director or the Office by law, including subsection (e) of this section, or by delegation from the President--

“(1) prescribe or issue directives, regulations, and guidance to implement any function, responsibility, or authority provided to the National Intelligence Director in this Act;

“(2) enter into and perform contracts, leases, grants, cooperative agreements, and other transactions to implement this Act, on such terms and conditions as the Director deems appropriate, with any Federal, State, local, tribal or foreign governmental entity or international organization, commercial, nonprofit, educational or other organization, or any other entity or person, without regard to subsections 3324(a) and (b) and chapter 63 of title 31, United States Code;

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“(3) accept from any source, hold, administer, invest, dispose of and utilize gifts, bequests, or devises of services, money, securities or property (whether real, personal, intellectual or of any other kind) or any interest therein, and the income therefrom or the proceeds upon disposition thereof, without regard to section 1342 of title 31, United States Code, and such money, income or proceeds shall be available to the Director for obligation and expenditure to carry out the functions of the Office under this Act;

“(4) use, with consent and with or without reimbursement, the services, equipment, personnel, and facilities of any Federal, State, local, tribal, or foreign governmental entity or international organization, commercial, nonprofit, educational or other organization, or any other entity or person;

“(5) acquire (by purchase, lease, condemnation, or otherwise), invest, sell, dispose of or convey services, money, securities, or property (whether real, personal, intellectual, or of any other kind) or interest therein;

“(6) construct, improve, repair, operate, maintain, and dispose of real or personal property, including, without limitation, buildings, facilities, and land, without regard to provisions of law governing acquisition or construction of Federal buildings, facilities, or land;

“(7) purchase or hire passenger motor vehicles;

“(8) procure the services of experts or consultants (or of organizations of experts or consultants) as described in and in accordance with the first two sentences of section 3109(b) of title 5, and, when determined necessary by the Director, without regard to the time limitation in the first sentence of section 3109(b), at respective daily rates of pay for individuals which are not more than the daily equivalent of the rate of basic pay then currently paid for level III of the Executive Schedule of section 5313 of title 5, and pay in connection with such services travel expenses of individuals, including transportation and per diem in lieu of subsistence while such individuals are traveling from their homes or places of business to official duty stations and return as may be authorized by law;

“(9) accept voluntary services without regard to section 1342 of title 31, United States Code;

“(10) install, repair, and maintain telephones and telephone wiring and pay telephone service tolls or other charges with respect to residences owned or leased by the United States Government and, to the extent necessary to implement this Act, other private residences, without regard to section 1348 of title 31, United States Code;

“(11) provide that interagency financing may be used, without regard to any other law, to support the National Counterterrorism Center or any other organization established by the Director pursuant to law;

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“(12) expend appropriations for official receptions and representations; and

“(13) establish, appoint the members of, and utilize, without regard to the Federal Advisory Committee Act, advisory committees, including the National Intelligence Council, as the Director deems necessary in carrying out the functions of the Director or the Office of the National Intelligence Director.

“(j) DUTY TO PROVIDE ACCESS TO INFORMATION.--The heads of departments containing agencies or organizations within the Intelligence Community, as well as the Director of the Central Intelligence Agency, shall give the National Intelligence Director access to all information that constitutes national intelligence or otherwise is required for the performance of the Director's duties, unless prohibited by law or by the President, or by the Attorney General pursuant to guidelines agreed to between the Attorney General and the Director.

“(k) DISCRETION OF THE DIRECTOR.--All functions, powers, duties, and actions vested by law in the National Intelligence Director, or the Office of the National Intelligence Director, are vested in the Director's discretion.

(b)(1) Section 102 of the National Security Act of 1947 is amended by adding at the end thereof the following section:

“(i) RESPONSIBILITY OF NATIONAL INTELLIGENCE DIRECTOR REGARDING NFIP BUDGET CONCERNING DEPARTMENT OF DEFENSE.--Subject to the direction of the President, the National Intelligence Director shall, after consultation with the Secretary of Defense, ensure that the NFIP budgets for the agencies and organizations within 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 agencies or organizations within the Intelligence Community are performing Government-wide functions, the needs of other departments and agencies.”.

(2) The portion of Section 105 of the National Security Act of 1947 preceding paragraph (2) thereof is amended to read as follows: “(a) IN GENERAL.--The Secretary of Defense, in consultation with the National Intelligence Director, shall--(1) ensure that the agencies and organizations of the Intelligence Community within the Department of Defense adequately satisfy the overall 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 agencies and organizations are performing Government-wide functions, the needs of other departments and agencies;”

(c)(1) Title 5, United States Code, is amended--

(A) in section 5312, by adding at the end thereof “National Intelligence Director”; and

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(B) in section 5313, by adding at the end thereof “Deputy National Intelligence Director.”.

(2) Section 1344(b)(6) of title 31, United States Code, is amended by inserting “National Intelligence Director,” after “Director of the Central Intelligence Agency,”.

(d)(1) Section 106 of the National Security Act of 1947 (50 U.S.C. 403-6) is amended to read as follows:

“APPOINTMENT OF OFFICIALS RESPONSIBLE FOR INTELLIGENCE-RELATED ACTIVITIES

“SEC. 106. (a) REQUIREMENT FOR NATIONAL INTELLIGENCE DIRECTOR CONCURRENCE WITH RESPECT TO CERTAIN APPOINTMENTS.--With respect to any position that heads an agency or organization within the Intelligence Community--

“(1) if the appointment to such position is made by the President, any recommendation to the President to nominate or appoint an individual to that position shall be accompanied by the recommendation of the National Intelligence Director with respect to the proposed nomination or appointment; and

“(2) if the appointment to such position is made by the head of a department containing an agency or organization within the Intelligence Community, or by the Director of the Central Intelligence Agency, or a subordinate official of such department head or Director, no individual shall be appointed to such position without the concurrence of the National Intelligence Director.

“(b) PRESIDENTIAL AUTHORITY.--This section shall apply to the fullest extent consistent with the constitutional authority of the President relating to nomination and appointment and supervision of the unitary executive branch.”.

(2) Section 201 of title 10, United States Code, is amended by--

(A) repealing subsection (a) and redesignating subsections (b) and (c) as subsections (a) and (b), respectively;

(B) striking “the Director of Central Intelligence” each place it appears and inserting in lieu thereof in each place “the National Intelligence Director”;

(C) striking “seek” and inserting in lieu thereof “obtain”;

(D) striking the second sentence of subsection (a)(1) as so redesignated; and

(E) inserting “(D) the Director of the Defense Intelligence Agency” as subsections (a)(2)(D) and (b)(2)(D) as so redesignated, respectively.

(e) Title V of the National Security Act of 1947 is amended by--

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(1)(A) striking “Director of Central Intelligence” each place it appears and inserting in lieu thereof each place “National Intelligence Director”;

(B) striking “Director of Central Intelligence” in paragraphs 504(a)(2), 504(a)(3)(C), and 504(d)(2), and inserting in lieu thereof “Director of the Central Intelligence Agency”; and

(2) adding at the end thereof the following new section:

“CONSISTENCY WITH CONSTITUTIONAL AUTHORITY OF THE PRESIDENT

“SEC. 508. This title shall apply to the extent consistent with the constitutional authority of the President to--

“(a) conduct the foreign affairs of the United States;

“(b) withhold information the disclosure of which could impair the foreign relations, the national security, deliberative processes of the Executive, or the performance of the Executive's constitutional duties;

“(c) recommend for congressional consideration such measures as the President may judge necessary or expedient; and

“(d) supervise the unitary executive branch.”.

(f) Title VII of the National Security Act of 1947 is amended by adding at the end thereof the following new section:

“EXEMPT FILES OF OFFICE OF NATIONAL INTELLIGENCE DIRECTOR

“SEC. 705. (a) EXEMPTION OF FILES.--The National Intelligence Director may exempt operational files of the Office of the National Intelligence Director from the provisions of section 552 of title 5, United States Code, which require publication, disclosure, search, or review in connection therewith.

“(b) DEFINITION.--(1) As used in this section, and subject to paragraph (2), the term operational files means--

“(A) files consisting of information--

“(i) obtained by the Office of the National Intelligence Director from the Central Intelligence Agency, the National Security Agency, the National Reconnaissance Office, the National Geospatial-Intelligence Agency, or the Defense Intelligence Agency; and



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“(ii) contained in or otherwise a part of a file exempted pursuant to sections 701 through 704 of this Act at the time it was obtained by the Office of the National Intelligence Director; and

“(B) files consisting of operational information used by the Office of the National Intelligence Director to perform the functions of that Office.

“(2) Files which are the sole repository of disseminated intelligence are not operational files for purposes of this section.

“(c) ADDITIONAL MATTERS.--Subsections 701(c), (d), (f) and (g) of this Act (50 U.S.C. 431(c), (d), (f), and (g)) shall apply with respect to the Office of the National Intelligence Director, except that references therein to the Director of Central Intelligence and the Central Intelligence Agency shall be deemed for purposes of carrying out this section to be references to the National Intelligence Director and the Office of the National Intelligence Director, respectively.

“(d) RULES OF CONSTRUCTION.--No provision of law enacted after the date of enactment of this section shall be construed to amend, supersede or repeal this section unless the provision specifically cites this section and specifically amends, supersedes or repeals it.”.

## **SEC. 5. AMENDMENTS RELATING TO THE CENTRAL INTELLIGENCE AGENCY AND THE DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY**

(a) Section 102A of the National Security Act of 1947 (50 U.S.C. 403-1) is amended to read as follows:

### **“CENTRAL INTELLIGENCE AGENCY**

“SEC. 102A. ESTABLISHMENT; APPOINTMENT OF DIRECTOR AND DEPUTY DIRECTOR OF AGENCY.--(a)(1) There is established a Central Intelligence Agency, headed by a Director of the Central Intelligence Agency who shall be appointed by the President, by and with the advice and consent of the Senate. The Director of the Central Intelligence Agency shall be under the authority, direction, and control of the National Intelligence Director, except as otherwise determined by the President.

“(2) There is a Deputy Director of the Central Intelligence Agency who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall perform such functions as the Director may prescribe and shall perform the duties of the Director during the Director’s absence or disability or during a vacancy in the position of the Director of the Central Intelligence Agency.

“(3) Section 102(a)(3), (4), and (5) of this Act shall apply to the Director and the Deputy Director of the Central Intelligence Agency in the same manner as they apply to the National Intelligence Director and the Deputy National Intelligence Director.

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“(b) AGENCY FUNCTIONS.--Under the authority, direction and control of the Director of the Central Intelligence Agency, the Central Intelligence Agency shall--

“(1) collect intelligence through human sources and by other appropriate means, except that the Agency shall have no police, subpoena, or law enforcement powers or internal security functions;

“(2) correlate, evaluate, and analyze national intelligence and provide appropriate dissemination of and access to such intelligence;

“(3) provide overall direction for and coordinate the collection of national intelligence outside the United States through human sources by agencies or organizations within the Intelligence Community authorized to undertake such collection and, in coordination with such other agencies or organizations of the Government authorized to undertake such collection, ensure that the most effective use is made of resources and that appropriate account is taken of the risks to the United States and those involved in such collection;

“(4) perform such services as are of common concern to agencies or organizations within the Intelligence Community, which services the National Intelligence Director determines can be more efficiently accomplished centrally; and

“(5) perform such other functions and duties related to intelligence affecting the national security as the President may direct.

“(c) ADDITIONAL FUNCTIONS.--(1) The Director of the Central Intelligence Agency shall, subject to 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) and the guidance of the National Intelligence Director, coordinate intelligence relationships between and among agencies or organizations within 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.

“(2)(A) Notwithstanding the provisions of any other law, the Director of the Central Intelligence Agency may, in the Director's discretion, terminate the employment of any officer or employee of the Central Intelligence Agency whenever the Director shall deem such termination necessary or advisable in the interests of the United States.

“(B) Any such termination shall not affect any right of the officer or employee terminated to seek or accept employment in any other agency of the Government if declared eligible for such employment by the Director of the Office of Personnel Management.

“(3) Consistent with any direction issued by the President or the National Intelligence Director, the Director of the Central Intelligence Agency shall protect intelligence sources and methods from unauthorized disclosure.

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“(d) EXERCISE OF AUTHORITIES.--(1) Unless specifically prohibited by law, the Director of the Central Intelligence Agency may, without being relieved of the Director's responsibility, perform any of the Director's functions or duties, or exercise any of the Director's powers through, or with the aid of, such persons in, or organizations of, the Central Intelligence Agency as the Director may designate.

“(2) Any authority, power or function vested by law in any officer, employee or part of the Central Intelligence Agency is vested in, and may be exercised by, the Director of the Central Intelligence Agency.

“(e) DISCRETION OF THE DIRECTOR.--All functions, power, duties, and actions vested by law in the Director of the Central Intelligence Agency, or the Central Intelligence Agency, are vested in the Director's discretion.”.

(b) Title 5, United States Code, is amended--

(1) in section 5313, by striking “Director of Central Intelligence.” and inserting in lieu thereof “Director of the Central Intelligence Agency”; and

(2) in section 5314, by striking “Deputy Directors of Central Intelligence (2).” and inserting in lieu thereof “Deputy Director of the Central Intelligence Agency.”.

## **SEC. 6. PRESERVATION OF AUTHORITY AND ACCOUNTABILITY**

Nothing in this Act or amendments made by this Act shall be construed to impair or otherwise affect the authority of: (1) the Director of the Office of Management and Budget; or (2) the principal officers of the executive departments as heads of their respective departments, including, but not limited to, under section 199 of the Revised Statutes (22 U.S.C. 2651), Title II of the Department of Energy Organization Act (42 U.S.C. 7131), the State Department Basic Authorities Act of 1956, as amended, section 102(a) of the Homeland Security Act of 2002 (6 U.S.C. 112(a)), and sections 301 of title 5, 113(b) and 162(b) of title 10, 503 of title 28, and 301(b) of title 31, United States Code.

## **SEC. 7. CONFORMING AMENDMENTS AND TRANSITION**

(a) CONFORMING AMENDMENTS TO CERTAIN STATUTES --

(1) Section 3(4)(A) of the National Security Act of 1947 (50 U.S.C. 401a(4)(A)) is amended to read “(A) the Office of the National Intelligence Director, including the National Intelligence Council for which subsection 102(f) of this Act provides, and such other offices as the Director may designate;”

(2) Sections 103 and 104 of the National Security Act of 1947 (50 U.S.C. 403-3 and 403-4) are repealed.

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(3) The portion of section 105 of the National Security Act of 1947 (50 U.S.C. 403-5) following paragraph (1) thereof is amended by striking “Director of Central Intelligence” each place it appears and inserting in lieu thereof in each place “National Intelligence Director”.

(4) Sections 105B, 110, 111, 114, 702, 703, and 704 of the National Security Act of 1947 (50 U.S.C. 403-5b, 404e, 404f, 404i, 432, 432a, and 432b) are amended by striking “Director of Central Intelligence” each place it appears and inserting in lieu thereof each place “National Intelligence Director”.

(5) Sections 113, 114A, 115 and 117 of the National Security Act of 1947 (50 U.S.C. 404h, 404i-1, 404j, and 404l) are amended by striking “Director of Central Intelligence” each place it appears and inserting in lieu thereof each place “Director of the Central Intelligence Agency”.

(6) Section 112 of the National Security Act of 1947 (50 U.S.C. 404g) is amended by--

(A) striking “Director of Central Intelligence” each place it appears and inserting in lieu thereof each place “Director of the Central Intelligence Agency”; and

(B) striking “pursuant to section 103(c)(6) of this Act”.

(7) Section 116 of the National Security Act of 1947 (50 U.S.C. 404k) is amended by--

(A) striking “ (a) IN GENERAL.--”;

(B) striking “Director of Central Intelligence” the first time it appears and inserting in lieu thereof “National Intelligence Director”; and

(C) striking subsection (b).

(8) Section 303 of the National Security Act of 1947 (50 U.S.C. 405) is amended by--

(A) striking “the Director of Central Intelligence, and the National Security Council” and inserting in lieu thereof “the Director of the Central Intelligence Agency, the National Intelligence Director, and the National Security Council”; and

(B) striking “the Director of Central Intelligence who” and inserting in lieu thereof “the National Intelligence Director or the Director of the Central Intelligence Agency who”.

(9) Section 902 of the Counterintelligence Enhancement Act of 2002 (50 U.S.C. 402b) is amended by--

(A) striking “President” each place it appears in subsections (a) and (c) and inserting in lieu thereof each place “National Intelligence Director”; and

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(B) adding in paragraph (a)(2) after “Attorney General” the words “and the”, striking the comma between “Attorney General” and “Secretary of Defense” and after “Secretary of Defense”, and striking “and Director of Central Intelligence”.

(10) Section 904 of the Counterintelligence Enhancement Act of 2002 (50 U.S.C. 402c) is amended by--

(A) striking “Director of Central Intelligence” each place it appears and inserting in lieu thereof each place “National Intelligence Director”; and

(B) inserting “the Director of the Central Intelligence Agency” after “the Attorney General,” in subsection (m).

(11) The Classified Information Procedures Act (18 U.S.C. Appendix 3) is amended by striking “Director of Central Intelligence” each place it appears and inserting in lieu thereof each place “National Intelligence Director”.

(12) The Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a et seq.), is amended by striking “Director of Central Intelligence” each place it appears and inserting in lieu thereof each place “Director of the Central Intelligence Agency”.

(13) The Central Intelligence Agency Retirement Act, as amended (50 U.S.C. 2001 note), is amended--

(A) by striking “Director of Central Intelligence” each place it appears and inserting in lieu thereof each place “Director of the Central Intelligence Agency”; and

(B) by striking “DCI” each place it appears and inserting in lieu thereof each place “DCIA”.

(14) The Foreign Intelligence Surveillance Act of 1978, as amended (50 U.S.C. 1801 et seq.), is amended by striking “Director of Central Intelligence” each place it appears and inserting in lieu thereof each place “Director of the Central Intelligence Agency,” except that in sections 104(e)(1)(A) and 303(d)(1)(A) (50 U.S.C. 1804(e)(1)(A) and 1823(d)(1)(A)) strike “Director of Central Intelligence” and insert in lieu thereof “National Intelligence Director, or the Director of the Central Intelligence Agency”; and

(15) The table of contents of the National Security Act of 1947 is amended as follows--

(A) by amending the entry for section 102 to read "Sec. 102. Office of the National Intelligence Director.”;

(B) by striking the entry related to section 103 and inserting in lieu thereof “Sec. 103. Reserved.”;

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(C) by striking the entry related to section 104 and inserting in lieu thereof “Sec. 104. Reserved.”;

(D) by adding after the entry for section 507 “Sec. 508. Consistency with Constitutional Authority of the President”; and

(E) by adding after the entry for section 704 “Sec. 705. Exempt Files of Office of National Intelligence Director.”.

(b) TRANSITION.--(1)(A) Any function of the Director of Central Intelligence provided by a law in effect on the date of enactment of this Act, other than a law listed in subsection (b)(1)(B), shall be performed by--

(i) the Director of the Central Intelligence Agency with respect to the Central Intelligence Agency, unless otherwise directed by the President;

(ii) the National Intelligence Director with respect to the Office of the National Intelligence Director, unless otherwise directed by the President; and

(iii) by such officer of the United States as the President may designate with respect to any other department, agency, or activity of the United States.

(B) The laws to which subsection (b)(1)(A) refers are--

(i) the National Security Act of 1947;

(ii) the Central Intelligence Agency Act of 1949;

(iii) the Central Intelligence Agency Retirement Act;

(iv) the Foreign Intelligence Surveillance Act of 1978;

(v) the Classified Information Procedures Act; and

(vi) sections 902 and 904 of the Counterintelligence Enhancement Act of 2002.

(2) Direction or designation by the President under subsection (b)(1)(A) shall be in writing and shall be published in the Federal Register.

(3)(A) The President may, without regard to any other provision of law, provide for the orderly transition of personnel, resources, and functions of the Office of the Director of Central Intelligence, as in existence immediately prior to the effective date of this subsection, to the Office of the National Intelligence Director or to the Central Intelligence Agency, as the President determines appropriate and consistent with this Act and amendments made by this Act.

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(B) The authority granted to the President by paragraph (3)(A) is in addition to authority granted by section 1531 of title 31, United States Code.

## **SEC. 8. SEVERABILITY**

If any provision of this Act or an amendment made by this Act, or the application of such provision to any person or circumstances, is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

## **SEC. 9. AUTHORIZATION OF APPROPRIATIONS**

There are specifically authorized to be appropriated for any fiscal year such sums as may be necessary to carry out the National Security Act of 1947, as amended, and the National Security and Intelligence Act of 2004.

## **SEC. 10. GENERAL REFERENCES**

(a) Any reference to the Director of Central Intelligence in the Director's capacity as the head of the Intelligence Community in any law, order, regulation, document, paper, or other record of the United States shall, unless otherwise directed by the President, be deemed to be a reference to the National Intelligence Director.

(b) Any reference to the Director of Central Intelligence in the Director's capacity as the head of the Central Intelligence Agency in any law, order, regulation, document, paper, or other record of the United States shall, unless otherwise directed by the President, be deemed to be a reference to the Director of the Central Intelligence Agency.

(c) Any reference to the Deputy Director of Central Intelligence in the Deputy Director's capacity as deputy to the head of the Intelligence Community or any reference to the Deputy Director of Central Intelligence for Community Management in any law, regulation, document, paper, or other record of the United States shall, unless otherwise directed by the President, be deemed to be a reference to the Deputy National Intelligence Director.

(d) Any reference to the Deputy Director of Central Intelligence in the Deputy Director's capacity as deputy to the head of the Central Intelligence Agency in any law, regulation, document, paper, or other record of the United States shall, unless otherwise directed by the President, be deemed to be a reference to the Deputy Director of the Central Intelligence Agency.