

AUTHORIZING APPROPRIATIONS FOR FISCAL YEAR 1992 FOR THE INTELLIGENCE ACTIVITIES OF THE U.S. GOVERNMENT, THE INTELLIGENCE COMMUNITY STAFF, THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM, AND FOR OTHER PURPOSES

JULY 24 (legislative day, JULY 8), 1991.—Ordered to be printed

Mr. BOREN, from the Select Committee on Intelligence,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany S. 1539]

The Select Committee on Intelligence, having considered the original bill (S. 1539), authorizing appropriations for fiscal year 1992 for the intelligence activities of the U.S. Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes, reports favorably thereon and recommends that the bill do pass.

PURPOSE OF THE BILL

This bill would:

(1) Authorize appropriations for fiscal year 1992 for (a) intelligence activities of the United States, (b) the Intelligence Community Staff, and (c) the Central Intelligence Agency Retirement Disability System;

(2) Authorize the personnel ceilings as of September 30, 1992 for (a) the Central Intelligence Agency; (b) the Intelligence Community Staff; and (c) other intelligence activities of the United States Government;

(3) Authorize the Director of Central Intelligence to make certain personnel ceiling adjustments when necessary to the performance of important intelligence functions;

(4) Make certain technical changes in the Central Intelligence Agency Retirement and Disability System;

(5) Require the Director of the Federal Bureau of Investigation to conduct a study of the desirability of a critical skills scholarship program;

(6) Establish the pay level of the Inspector General of the Central Intelligence Agency at the same level as the Inspectors General at other departments and agencies;

(7) Require the public disclosure of certain information relating to the funding of intelligence and intelligence-related activities; and

(8) Establish a national Security Education Trust Fund to fund scholarships and grants to institutions to promote study in areas critical to the national security.

OVERALL SUMMARY OF COMMITTEE ACTION

[In millions of dollars]

	Fiscal year request	Committee recommendation
Intelligence activities.....	(¹)	(¹)
IC Staff.....	30.7	28.8
CIARDS.....	164.1	164.1

¹ Classified.

Although the amount is classified, the Committee wishes to acknowledge it recommends a substantial reduction in the Administration's FY 1992 budget request for intelligence activities.

Since virtually all of the funding for intelligence activities is contained within the funds separately authorized by the Committee on Armed Services to the Department of Defense, savings that might be achieved by this Committee in the intelligence budget are ordinarily authorized to fund other programs of the Department of Defense.

* It is the Committee's position, however, that the savings which have been achieved in this year's intelligence budget should be returned to the U.S. Treasury to lessen the federal deficit, rather than being allocated to defense programs. The Committee is hopeful that the Committee on Armed Services will take note of its views, and will take appropriate steps to achieve this objective.

THE CLASSIFIED SUMMARY TO THE COMMITTEE REPORT

The classified nature of U.S. intelligence activities prevents the Committee from disclosing the details of its budgetary recommendations in this Report.

The Committee has, however, prepared a classified supplement to this Report, which explains the full scope and intent of its actions as set forth in the classified schedule of authorizations. This classified supplement, while not available to the public, is available for review by any Member of the Senate, subject to the provisions of Senate Resolution 400 of the 94th Congress. It is also made available, upon enactment of the bill, to affected departments and agencies within the Intelligence Community. The classified supplement has the same legal status as any Senate Report, and the Committee fully expects the Intelligence Community to comply with the limi-

tations, guidelines, directions, and recommendations contained therein.

SCOPE OF COMMITTEE REVIEW

As it does annually, the Committee conducted a detailed review of the Intelligence Community's budget request for fiscal year 1992. This entailed formal hearings with witnesses from the Intelligence Community as well as with policy officials in the Departments of State and Defense.

In addition, the Committee staff reviewed over 3000 pages of budget justification materials, supplemented by numerous briefings and a review of responses to questions submitted by the Committee to the Intelligence Community for formal reply.

In addition, the budget review of this year's bill focused upon the performance of intelligence agencies and systems in support of U.S. policymakers and military commanders in the course of Desert Shield/Desert Storm. In both formal hearings and as the focus of an intensive staff review, the performance of the Intelligence Community was thoroughly examined for possible programmatic or budgetary implications.

Indeed, all of the Committee's continuing oversight activities, whether or not within the context of the annual budget review, necessarily have program and budget implications, frequently leading to Committee actions on the intelligence budget.

Finally, the Committee also reviewed the Administration's budget request for Tactical Intelligence and Related Activities of the Department of Defense. The Committee's recommendations regarding these programs, which fall under the jurisdiction of the Armed Services Committee, have been provided separately to the Committee for consideration in the Department of Defense authorization bill.

A TIME OF TRANSITION FOR U.S. INTELLIGENCE

The last year has been a period of transition for the U.S. Intelligence Community. The dramatic changes which have taken place in the world during the last two years have themselves dictated changes in the focus and methods of U.S. intelligence. The draw-down in defense manpower and resources also has had a significant impact upon U.S. intelligence, forcing renewed attention upon consolidation and streamlining.

At the same time, the war with Iraq and the events leading to it has highlighted the continuing need for intelligence on countries where the U.S. has heretofore had relatively little strategic interest, and focused attention on the need for timely, accurate intelligence to support military commanders, critical to saving lives and shortening future conflicts.

Thus, the budgetary pressures to reduce the outlays for intelligence, and the favorable political developments in some areas of the world, e.g. Eastern Europe, must be tempered by the realization that the world remains unstable and often unpredictable. It is essential that the United States maintain a capability to gather and analyze the information needed by policymakers, diplomats, military commanders and planners, researchers, and contractors to

carry out their respective functions to preserve the nation's security in an everchanging environment.

INTELLIGENCE REORGANIZATION

One of the results of budget drawdowns and shifting intelligence targets has been renewed attention to organizational concerns. During 1990 and 1991, virtually every element of the U.S. Intelligence Community has undertaken an examination of its own structure and functions, in an effort to reallocate and streamline. Indeed, significant organizational changes have been brought about, or are being contemplated, by virtually every intelligence element within the Government.

In the Committee's report on the Intelligence Authorization bill for Fiscal Year 1991, the Committee directed the Secretary of Defense, and, as appropriate, the Director of Central Intelligence to undertake a review of intelligence and intelligence-related activities, with the idea of consolidating and streamlining where possible. At the same time, the Committee announced its intention to undertake its own independent assessment of the same area.

The Department of Defense, led by the Assistant Secretary of Defense (C3I), did, in fact, conduct such a review, and has reported the results of this undertaking to the Committee. To its credit, the Defense plan contains a number of significant actions designed to eliminate redundant intelligence activities and bureaucratic layering. It also strengthens the management role of the Office of the Secretary of Defense in coordinating such activities.

The Committee applauds these activities, but it is apparent from the Committee's independent review that much remains to be done. The review conducted by the Department of Defense necessarily could not encompass programs, mechanisms, or activities outside of DoD or which were not solely within DoD's purview to control. Nor could they bring about change that required legislation.

The Committee itself has embarked upon such a comprehensive review. Beginning in November, 1990 and continuing to the present, Committee staff has conducted detailed interviews with over 130 present and former officials, most of whom were employed by agencies in the Intelligence Community, or were otherwise familiar with U.S. intelligence activities. The Committee itself has held both public and closed hearings on the subject. While the Committee has received a variety of proposals for change, it notes that there appears to be a broad consensus that significant organizational change is desirable. The arrangements that were established at the end of the Second World War, having grown in a largely reactive, unstructured manner since, are in need of a thorough, comprehensive review. While the Committee appreciates the Intelligence Community's capabilities and its contribution to U.S. national security, it believes that those capabilities can yet be strengthened and its contribution significantly improved.

Indeed, the Committee's review of intelligence support to Desert Shield/Desert Storm revealed a number of organizational deficiencies in the Intelligence Community in addition to shortcomings in intelligence collection, tasking, dissemination, and analysis activi-

ties—at both the national and tactical levels, and most critically at the artificially drawn junction between the two. The Gulf War also highlighted enduring problems in ensuring Central Intelligence Agency understanding of and responsiveness to military requirements. Committee recommendations resulting from this review are discussed below and in the classified annex to this report.

While it remains the Committee's plan to address the broader issues involved in this subject during the next session of the 102d Congress, the committee believes that certain limited actions are appropriate and should be taken within the context of the FY 1992 intelligence authorization. These include actions in the areas of human intelligence and other collection, counterintelligence, and intelligence production and analysis.

The Committee is continuing to pursue its review of Intelligence Community organization, and expects to have additional concrete reform proposals for consideration by the Senate in the near future.

Lessons for intelligence from Desert Shield/Desert Storm

General Schwarzkopf—Commander in Chief of the United States Central Command and leader of Coalition military operations—has publicly testified about perceived deficiencies in national-level intelligence support prior to and during the Persian Gulf conflict, specifically in the area of national intelligence estimates of Iraqi capabilities and intentions as well as the outdated methodology and lack of timeliness of bomb damage assessments performed by national intelligence agencies. Warfighters also complained to the Committee of inadequate broad-area, all-weather, search/surveillance collection capabilities.

Tactical intelligence systems—which, unlike national intelligence programs, must compete for funding directly with weapons systems—also were deficient. For example, tactical commanders had to rely on tactical reconnaissance aircraft whose collection capabilities had not significantly progressed from the time of the Vietnam War. Also, several intelligence dissemination systems developed by the services—especially secondary imagery dissemination systems—did not interoperate and required ad hoc “fixes” to share information.

Resulting from its evaluation of the wartime experience of Desert Shield/Storm and of Just Cause, the Committee has taken steps, both through the budget and legislatively, to correct these problems.

Enhanced human intelligence and other collection initiatives

During the past two years, the Committee has placed special emphasis upon the enhancement of human intelligence (HUMINT) capabilities. This need was illustrated clearly in the Gulf War experience. Secretary Cheney's introduction to the Interim Report to Congress on “Conduct of the Persian Gulf Conflict” stated, “The morale and intentions of Iraqi forces and leaders were obscure to us.” Although there are no guarantees that increased investment in human source collection will produce insight into the intentions of potential adversaries, the Committee supports robust funding in

this area as a means of enhancing U.S. chances to collect this critical information.

Resources are not the only answer. Concerns about the responsiveness of the CIA's human source collection program to the Defense Department's peacetime requirements and the adequacy of CIA human intelligence support to military operations in time of crisis and transition to war surfaced in the recent Desert Shield/Storm experience. Defense Department consumers of human source intelligence have complained that the CIA has not taken their requirements sufficiently into account in developing and tasking sources before the crisis. On the other hand, Defense has sometimes excluded CIA from early involvement in operational planning, reducing CIA's ability to respond to military requirements. The CIA and the Defense Department have lacked an effective mechanism to make U.S. military command authorities aware of relevant human source capabilities.

New procedures developed to meet the most urgent needs during the Gulf War can provide the basis for more enduring improvements. In particular, the Committee is directing the CIA to create an Assistant Deputy Director for Operations to ensure that military requirements are fairly represented within CIA and to advocate an earlier and more effective interaction by CIA with DoD operational planners. The ADDO would be filled by a general or flag officer who would be recommended by the Secretary of Defense and appointed by the Director of Central Intelligence. Among other duties, he would maintain communications to liaison officers in each JIC, to ensure proper coordination and tasking to satisfy military requirements. In addition, the ADDO would be the national focal point for operational planning and receipt of tasking for all clandestine or controlled human source intelligence capabilities to meet military requirements. The Committee intends that the ADDO shall review products collected in response to military requirements by CIA to ensure that they are properly disseminated to appropriate DoD consumers. The Committee's classified annex specifies procedures required for approval within the Defense Department of operations conducted by Defense Department personnel.

The Committee has also supported other collection initiatives designed to address the broad-area surveillance problem. Details of this initiative are addressed in the classified supplement of this report.

Improved intelligence dissemination

Shortcomings in intelligence support relate not only to gaps in collection, but also to the ability of military commanders to task available assets to collect the right information at the right time as well as the capability subsequently to transmit collected information—from both national and tactical sources—in sufficient quality and with adequate speed.

The Committee believes that the inability to quickly transmit imagery intelligence to users in the field stems in large part from the lack of compatible systems for the dissemination of imagery. This, in turn, is attributable to the absence of any single authority responsible for developing standards and overseeing single service or

department investment decisions regarding imagery collection and dissemination capabilities. Currently, no one is in charge, meaning everyone is in charge.

While the Committee is not prepared to impose an organizational solution at this juncture, it believes this should be a priority matter for the Secretary of Defense. Accordingly, the Committee has directed the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence—jointly with the Director of Central Intelligence—to identify a DoD imagery manager who would review and approve the various imagery components' budgets and ensure that all DoD imagery systems adhere to a common set of standards.

Theater commanders have also complained that unless they are allowed to exercise national capabilities in peacetime, they will be slow and ineffective at utilizing these critical systems in time of crisis and transition to war. The Committee believes these commanders raise a legitimate concern. Therefore, the Committee has directed the Intelligence Community Staff, in conjunction with the Joint Chiefs of Staff, to develop a plan for ensuring that the J-2s of the JCS and the CINCs are able to exercise the control of national systems and tasking committees in peacetime to ensure orderly transition during crisis and war.

Finally, the Committee has directed the Secretary of Defense to develop an automated data processing strategy to ensure better interoperability of ADP and communications systems servicing intelligence dissemination.

Endorsing joint intelligence centers

Desert Shield/Storm also demonstrated the importance of the emergent theater-level Joint Intelligence Center (JIC) concept that has recently been endorsed by the internal DoD intelligence reorganization study and plan. The committee also supports the creation of JICs, although it is concerned that the continuing function of component intelligence support has not yet been defined by the Department. Moreover, the Committee believes that Desert Shield/Storm demonstrated the continuing requirement for component-level intelligence support despite the validation of the JIC concept.

Improving other CIA support to military requirements

In addition to the initiatives undertaken in the HUMINT area, explained above, the Committee has directed that the Director and Deputy Director positions of the National Photographic Interpretation Center (NPIC) be rotated between CIA and DoD every three years as a first step toward making the Center more responsive to military requirements. Moreover, the committee directed that DIA remain part of NPIC for the time being while the Department of Defense and the Intelligence Community evaluate the lessons learned from Desert Shield/Desert Storm. Finally, the Committee has mandated CIA Directorate of Intelligence and Directorate of Operations participation and integration into the Joint Intelligence Centers and reporting to the J-2s in order to improve CIA support and responsiveness to those activities.

Counterintelligence and security issues

The Committee has also reviewed changes underway or required in counterintelligence and security countermeasures programs. Committee actions in the annex to this bill focus primarily on the Department of Defense where long-standing organizational concerns should be addressed promptly in order to adjust to the needs of the 1990s.

The Committee has been concerned about fragmentation of Defense Department counterintelligence and security programs among the military services and defense agencies, with inadequate central management to ensure maximum effectiveness. An example of continuing problems is the inordinate delay in responding to the Committee's direction to establish a system for joint espionage damage assessments in cases where military secrets are compromised.

The Committee recognizes that steps are being taken to improve Departmental organization for counterintelligence and security. In 1986 the Stilwell Commission proposed organizational reforms to provide for more effective Departmental management in this area, and the Committee endorsed those proposed reforms in its 1986 report on "Meeting the Espionage Challenge." But key measures were not implemented during the 1980s.

In 1991 the Department adopted a similar reorganization plan to strengthen Department-level management and accountability for counterintelligence and security by upgrading and integrating these functions under the Assistant Secretary for Command, Control, Communications, and Intelligence (ASD/C3). The Committee believes further action is required to provide sufficient resources for effective implementation of this reorganization. Accordingly, the Committee recommended the reallocation of personnel resources to establish a counterintelligence and security component of the Intelligence Policy Support Group in DIA which provides policy coordination, program evaluation, and oversight staff to support the ASD/C3I.

The Committee also requested that the DCI and the Secretary of Defense submit with the budget for Fiscal Year 1993 a plan for establishing an integrated DoD Foreign Counterintelligence and Security Countermeasures Program in the National Foreign Intelligence Program. The aim is to ensure that security countermeasures programs are responsive to the changing foreign intelligence threats to sensitive information and activities, as monitored by U.S. counterintelligence. In recent years the CIA and FBI have created such integrated counterintelligence and security programs, but the Defense Department has lagged behind. This step would consolidate the current DoD Foreign Counterintelligence Program with related elements of the non-NFIP Security and Investigative Activities (S&IA) program which is also managed within the Office of the Secretary of Defense. These elements include personnel security, industrial security, technical security, and related security programs of the military service counterintelligence components and the defense Investigative Service. Consolidating these elements within a single NFIP program is consistent with the current reor-

ganization plan assigning responsibility for counterintelligence and security programs to the Assistant Secretary for C3I.

While focusing at this time on the Defense Department, the Committee recognizes that counterintelligence issues involve the entire community. The Energy Department has only recently formed a counterintelligence component, and the Committee is recommending enhanced resources in its Fiscal Year 1992 budget. The FBI is developing a new counterintelligence policy that it calls the "National Security Threat List," which seeks to respond to changes in the threat. The Committee is monitoring this effort to ensure that adequate safeguards are maintained for FBI investigations of Americans. Another significant interagency initiative is the Administration's plan to develop a National Industrial Security Program, which is designed to achieve savings by adopting common security procedures for classified contractors, thereby reducing the administrative costs that result from the multiplicity of industrial security regulations of various departments and agencies. The National Industrial Security Program implements specific recommendations made in the Committee's report on "Meeting the Espionage Challenge."

The Committee is continuing its review of organizational issues in the counterintelligence and security countermeasures field and will address those issues as part of the larger study of intelligence community reorganization.

PUBLIC DISCLOSURE OF THE INTELLIGENCE BUDGET TOTAL

Sections 104 and 105 of the bill mandate public disclosure of the total amount of funds for U.S. intelligence and intelligence-related activities. This figure includes both the National Foreign Intelligence Program (NFIP) and Department of Defense Tactical Intelligence and Related Activities (TIARA).

This legislation requires disclosure of three different versions of the total budget figure for intelligence and intelligence-related activities: the aggregate amount requested by the President; the aggregate amount authorized to be appropriated by the conference committee on the Intelligence Authorization Act; and the aggregate amount actually spent by the Executive branch.

These provisions were adopted in the belief that public disclosure of this information would enable the American people to gain a better understanding of the costs of the U.S. Government's foreign intelligence programs, which in turn would promote a higher level of public involvement in the basic question of how many resources to devote to intelligence, as opposed to competing functions of government. The Committee also believes that this useful information can be provided to the American people with little, if any, risk of harm to the national security.

History of Senate consideration of this issue

On October 12, 1973, the Special Senate Committee To Study Questions Related to Secret and Confidential Documents recommended (in Senate Resolution 466, 93d Congress) that the Appropriations Committee include line items in the Defense Department appropriations bill for each of the major intelligence agencies and

for the intelligence activities of each of the military services. The committee also recommended publication of the personnel levels of each agency.

On April 26, 1976, the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities (known as the Church Committee) issued its final report, which included a discussion of disclosure of intelligence budget information (Senate Report 94-755, Book I, Chapter XVI, pages 367-384). The Church Committee was concerned over the absence not only of any public disclosure of the intelligence budget, but also of a separate budget line for intelligence.

After citing the "Statement and Account" clause of the Constitution (Article 1, Section 9, Clause 7, which, in part, calls for a public accounting of Government expenditures), the Church Committee concluded as follows:

The Committee finds that publication of the aggregate figure for national intelligence would begin to satisfy the constitutional requirement and would not damage the national security. While substantial questions remain about the relationship between the constitutional requirement and the national security, the Committee recommends the annual publication of the aggregate figure. The Committee also recommends that any successor committees study the effects of publishing more detailed information on the budgets of the intelligence agencies.

The Church Committee voted 8-3 to disclose the aggregate figure, but then voted 6-5 to refer this question to the full Senate. The Senate did not act upon that committee's recommendation. On May 19, 1976, however, when the Senate adopted Senate Resolution 400 (94th Congress) establishing the Senate Select Committee on Intelligence, the new committee was ordered to study nine subjects during its first year of operation, including two relating to this question:

SEC. 13. (a) The select committee shall make a study with respect to the following matters, taking into consideration with respect to each matter, all relevant aspects of the effectiveness of planning, gathering, use, security, and dissemination of intelligence:

(5) the desirability of changing any law, Senate rule by procedure, or any Executive order, rule, or regulation to improve the protection of intelligence secrets and provide for disclosure of information for which there is no compelling reason for secrecy; [and]

(8) the authorization of funds for the intelligence activities of the government and whether disclosure of any of the amounts of such funds is in the public interest; * * *

The Senate Select Committee on Intelligence held hearings on this subject on April 27 and 28, 1977. On May 25, 1977, the committee voted 9-8 to report favorably a resolution (S. Res. 207, 95th Congress) recommending that the Senate disclose the aggregate

amount appropriated for national foreign intelligence activities for Fiscal Year 1978. A report on the issue was issued on June 16, 1977 (Senate Report 95-274). The Senate did not act upon the resolution.

Arguments raised on this issue

The arguments raised for and against disclosure of the intelligence budget have been remarkably stable over time. Those favoring disclosure have traditionally begun by citing the "Statement and Account" clause of the Constitution (Article 1, Section 9, Clause 7):

No Money shall be drawn from the Treasury, but in Consequence of Appropriations, made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

Those who oppose disclosure have replied that this clause was modified during the Constitutional Convention to give Congress some leeway in determining how the accounts are to be published, and therefore that the current system of hiding intelligence appropriations in other accounts is permissible so long as Congress approves it. Those who favor disclosure note that the debates on this clause focused not on the need for secrecy, but rather on the need to allow flexibility in the timing of statements and accounts so as to permit greater disclosure.

Opponents of disclosure frequently cite dicta in a footnote to the opinion of the Court in *U.S. v. Richardson* (418 U.S. 166, 178), in which Chief Justice Burger wrote:

Although we need not reach or decide precisely what is meant by "a regular Statement and Account," it is clear that Congress has plenary power to exact any reporting and accounting it considers appropriate in the public interest * * *. While the available evidence is neither qualitatively nor quantitatively conclusive, historical analysis of the genesis of cl. 7 suggests that it was intended to permit some degree of secrecy of governmental operations * * *.

Not controlling, but surely not unimportant, are nearly two centuries of acceptance of a reading of cl. 7 as vesting in Congress plenary power to spell out the details of precisely when and with what specificity Executive agencies must report the expenditure of appropriated funds and to exempt certain secret activities from comprehensive public reporting.

Those who favor disclosure reply that the *Richardson* case was decided purely on the basis of plaintiff's lack of standing to sue. Even the footnote quoted above is used only to underscore a private citizen's lack of standing to sue. The Supreme Court has never ruled on the constitutionality of secret appropriations for U.S. intelligence programs.

The conclusions reached by President Jimmy Carter on this matter, conveyed to the committee in a letter of May 23, 1977, are typical of Executive branch pronouncements on budget disclosure:

The Attorney General advises that the Constitution does not require public disclosure of the aggregate authorization or appropriation figure, nor does not require publication of an account of the expenditures of the intelligence agencies, individually or as a whole. However, congress in its discretion can decide as a matter of policy to make public any of these figures.

Proponents of disclosure argue that whatever right Congress may have to limit disclosure of the intelligence budget, the "Statement and Account" clause creates a presumption in favor of public disclosure that can only be overridden by a determination that such disclosure would truly harm the national security. They note that a published budget was seen as a check upon Congress as well as upon the Executive, and assert the presumption that an informed citizenry is to be encouraged to influence budgetary decisions by having access to the actual accounts.

Opponents reply that the total figure for the intelligence budget, or even for major components of it, will give the public too little information on which to base truly informed participation in decisions, while perhaps giving our enemies useful information on U.S. intelligence. The latter argument is based upon a presumption that foreign intelligence services may have other information—unavailable to the American people—that would enable them to evaluate the budget figures more meaningfully. In particular, some people have feared that major changes from year to year in the intelligence budget figure could be used by foreign services to determine what sort of new technical systems were being developed by U.S. intelligence agencies. Former Director of Central Intelligence William Colby, among others, has cited the development of the U-2 airplane in the 1950s as an example of a program whose existence might have been revealed in budget increases.

As intelligence has become more complex and its budget has grown over the years, however, the budget's sensitivity to changes in the funding of a single program has decreased significantly. Admiral Stansfield Turner, who was then Director of Central Intelligence, testified in 1977 that there had been no "conspicuous bumps" in the intelligence budget for the preceding decade. The Select Committee's experience is similarly that no secrets would have been lost by publishing the annual aggregate budget total since then.

Opponents of disclosure also argue that even the most limited disclosure of budgetary information will create an increased risk of further disclosures that would result in harm to the national security. Thus, while limited disclosure may not, in and of itself, enable foreign intelligence services to learn secret information, the pushes and shoves of politics and journalism in our open system of government may result in further disclosures that could bring about such damage. Those who favor disclosure reply that just as the Intelligence Committee has kept secret the total budget figure for all these years, so can it protect more detailed figures and information even if it releases the total figure.

Many intelligence officials have been asked whether limited budgetary disclosure was in the public interest. Among former Di-

rectors of Central Intelligence, James Schlesinger and Admiral Stansfield Turner have supported such disclosure; George Bush and William Colby have opposed it; and Richard Helms supported disclosure in 1975, but joined those opposing it in 1977.

On March 21, 1991, during a public hearing on reorganization of the intelligence community, Admiral Bobby Ray Inman (USN, Ret.), former Deputy Director of Central Intelligence, indicated his support for making the aggregate intelligence budget total public. He went on to say that he could support making public the total budget for those agencies whose existence was unclassified:

Our worry has been * * * that somehow if we release those figures, it was going to help foreign intelligence services figure out where to go burrow in and conduct effective counterespionage. And I have increasingly had difficulty in seeing where just the total figures were going to let them do that.

On March 16, 1991, the Committee heard testimony from three former CIA officials who were involved in the initial years of the Agency. In response to a question regarding the origins of intelligence budget secrecy, Walter Pforzheimer (former Legislative Counsel to the Central Intelligence Group and the CIA) indicated that the secrecy "was not at our initial request, although we supported it. It was the Congress who kept it secret."

In response to the question of whether disclosure of the total intelligence budget figure would harm the national security, Ray Cline (former CIA Deputy Director of Intelligence and later Director of the State Department's Bureau of Intelligence and Research) commented:

If you are talking just about the total, I think it is entirely appropriate now to make it public. I don't see any reason to not to. I don't think the CIA or any of the intelligence agencies will object. So it is a Congressional decision * * *. [I]t really was the kind of fascination with clandestinity that caused it to be kept [secret] so long.

Approaches to limited budgetary disclosure

As noted above, the Special Senate Committee To Study Questions Related to Secret and Confidential Documents recommended in 1973 that the Appropriations Committee included line items in the Defense Department appropriations bill for each of the major intelligence agencies and for the intelligence activities of each of the military services. The Church Committee recommended "the annual publication of the aggregate figure." In 1977, this Committee recommended in a proposed Senate Resolution "that the Senate disclose the aggregate amount appropriated for national foreign intelligence activities for Fiscal Year 1978."

Sections 104 and 105 of this bill mandate disclosure of three different versions of the total intelligence and intelligence-related budget figure: the aggregate amount requested by the President; the aggregate amount authorized to be appropriated by the conference committee on the Intelligence Authorization Act; and the aggregate amount actually spent by the Executive branch. Public dis-

closure of the first two of these figures will enable the American people to know how much the Executive branch would like to spend each year and how Congress has dealt with that request. Disclosure of the amount actually spent each year will enable the American people, in due course, to gain an appreciation of how much of the national treasury has gone to this function of government, as opposed to competing national priorities.

It is true, as noted by the Committee's 1977 report, that the amount of funds appropriated would more accurately represent the funds that Congress allocated to the U.S. intelligence effort. The Committee doubts that such a figure could be tallied, however, by the time a conference committee issued its report, due to the large number of line-items in which the intelligence appropriation is found.

Disclosure of the national foreign intelligence budget total would more faithfully reflect those activities over which the Select Committee on Intelligence has budgetary jurisdiction. Tactical intelligence and related activities are handled in the defense authorization bill, rather than in the intelligence authorization as reported out by this Committee. Tactical intelligence is an important component of the overall intelligence effort, however, and the House Permanent Select Committee on Intelligence has primary jurisdiction over both portions of the total intelligence budget. The Committee decided, moreover, that limiting disclosure to a single figure for the intelligence budget would minimize any possible risks to the national security.

Nothing in this legislation gives the Senate Select Committee on Intelligence jurisdiction over Department of Defense Tactical Intelligence and Related Activities. The Senate Armed Services Committee will continue to conference with the House Armed Services Committee and the House Permanent Select Committee on intelligence to resolve differences in the TIARA budget.

Constitutional commentaries and President Carter's 1977 letter make clear that it is up to the Congress to decide how much budgetary disclosure to require. Because such determinations have generally been made by statute, however, the Committee has chosen a legislative route this year instead of a Senate or Joint Resolution.

The Committee also notes that the disclosure of these three measures of the total intelligence budget pursuant to sections 104 and 105 of this bill will be permitted, upon enactment of this legislation, without recourse to the provisions of S. Res. 400 (94th Congress). Under Section 8 of S. Res. 400, the Committee may disclose information that the Executive Branch has classified and wishes to keep secret if (1) the Committee has informed the President of its intent, (2) taken a second vote if the President objects to disclosure, and (3) the disclosure is approved by a vote of the Senate in secret session. Any other disclosure of classified intelligence budget information by the Select Committee on intelligence will still require use of those provisions, and there are no procedures for such disclosure by any other Senate committee.

* NATIONAL SECURITY EDUCATION FUND

The Committee has been concerned for some time with what appears to be declining U.S. Government involvement in promoting study and scholarship in areas important to the nation's security.

When the National Defense Education Act was enacted, for example, the funds for international and language studies represented 1.5 percent of our total education funding. Today that figure is .13 percent.

The percentage of federal funding for these areas has similarly declined to around 6 percent of the total spending by universities and private sources, resulting in few new international studies centers being established, and language studies being curtailed. Today only 7.8 percent of all college students are enrolled in a foreign language course, less than half what the percentage was in 1960. Foreign Service Officers are not required to know any foreign language when they enter.

There are 62,000 U.S. college students who study abroad each year, 75 percent of which study in 5 West European countries. This compares with over 356,000 foreign students who come to the United States to study each year.

It is the Committee's perception that the lack of a financial commitment by the United States to support and promote international studies is having a decidedly negative impact both upon the quality of intelligence collection and analysis, and upon the Government generally to cope with an increasingly complex and changing international environment.

The Committee has heard repeatedly about the lack of training and experience among intelligence analysts, many of whom have never traveled to the country or countries they are expected to analyze, who do not speak the language, and whose knowledge of the history or culture comes largely from on-the-job reading. Indeed, in testimony before the Committee during the last year, from witnesses who had been involved with the Intelligence Community since its inception, the Committee was told that promoting international scholarship and upgrading the training and qualifications of intelligence analysts was the single-most important step the Committee could take to improve the quality of U.S. intelligence.

Similarly, in a report prepared for the Director of Central Intelligence, a copy of which was provided the Committee, the DCI is urged to "seek legislation to fund scholarships for students to study abroad."

In short, there is a growing consensus that the time has come to address the dwindling interest in, and support to, international studies, and the effect this is having on U.S. capabilities to analyze and influence world events.

In this year's intelligence authorization bill, the Committee takes a significant step to address this situation. As set forth in Title VII of the bill, a National Security Education Trust Fund is established. \$180 million is set aside for this purpose, with \$35 million allotted to the FY 1992 costs of establishing and operating the program, and the remainder being placed in a trust account, the interest on which would be used each year to provide for scholarships

and grants for international studies in areas where the United States has a recognized deficiency.

To manage this program, a Board of Trustees is established, with representatives of the Secretary of Defense, Secretary of State, the Director of Central Intelligence, the Secretary of Commerce, the Director of the U.S. Information Agency, the Secretary of Education, and four persons appointed by the President. The Board would determine where funds should be allocated to deal with the nation's most pressing national security needs. Administration of the program would be the responsibility of the Department of Education.

CIA INSPECTOR GENERAL

During the last year, the President nominated, and the Senate confirmed, the first Inspector General at CIA to be appointed under the provisions of section 17 of the CIA Act of 1949, as added by the Intelligence Authorization Act for Fiscal Year 1990. Frederick P. Hitz was sworn in by Director Webster on November 13, 1990.

The Committee intends to monitor closely the operations of the CIA Inspector General during the forthcoming year.

POW/MIA INTELLIGENCE

The Committee has held several classified briefings regarding the Defense Intelligence Agency's special office for handling POW/MIA intelligence. Initially prompted by allegations of serious personnel problems within this office, the Committee's review showed that the office had assumed what appeared to the Committee to be an inappropriate role in advocating DoD policy positions in this area.

That function is appropriately exercised by the Assistant Secretary of Defense (International Security Affairs), and not by an intelligence component whose function is to analyze intelligence in support of the policy process. The Committee recommends that the Secretary of Defense and Director, DIA, take appropriate action to ensure that DIA's office for handling POW/MIA intelligence adheres strictly to its support mission.

SECTION-BY-SECTION ANALYSIS AND EXPLANATION

Title I—Intelligence activities

Section 101 lists the departments, agencies, and other elements of the United States Government for whose intelligence activities the Act authorizes appropriations for fiscal year 1992.

Section 102 makes clear that details of the amounts authorized to be appropriated for intelligence activities and personnel ceilings covered under this title for fiscal year 1992 are contained in a classified Schedule of Authorizations. The Schedule of Authorizations, including any limitation, requirement, or condition pertaining to an amount specified in such Schedule for any project, program or activity, is incorporated into the Act by this section.

Section 103 authorizes the Director Central Intelligence, with the approval of the Director of the Office of Management and Budget, in fiscal year 1992 to expand the personnel ceilings applicable to the components of the Intelligence Community under Sections 102

and 101 by an amount not to exceed 2 percent of the total of the ceilings applicable under these sections. The Director may exercise this authority only when necessary to the performance of important intelligence functions or to the maintenance of a stable personnel force, and any exercise of this authority must be reported to the two intelligence committees of the Congress.

Sections 104 and 105 of the bill mandate public disclosure of the total amount of funds for U.S. intelligence and intelligence-related activities. This figure includes both the National Foreign Intelligence Program (NFIP) and Department of Defense Tactical Intelligence and Related Activities (TIARA).

This legislation requires disclosure of three different versions of the total budget figure for intelligence and intelligence-related activities: the aggregate amount requested by the President; the aggregate amount authorized to be appropriated by the conference committee on the Intelligence Authorization Act; and the aggregate amount actually spent by the Executive branch.

Section 104 amends subsection 1105(a) of Title 31 of the U.S. Code (Money and Finance) to require that the President's annual budget submission to the Congress contain unclassified statements of the total amount requested for the coming fiscal year and of total expenditures in the previous fiscal year. The first such submission pursuant to these provisions will thus contain the total amount requested for Fiscal Year 1993 and the total expenditures in Fiscal Year 1991.

The term "expenditures" is used in a generic sense. The Committee intends that the Executive branch determine the best and most convenient unit of account to use in fulfilling this requirement.

Section 105 amends section 502 of the National Security Act of 1947 to require that any authorization bill for intelligence and intelligence-related activities that is reported by a committee of conference contain an unclassified statement of the aggregate amount of such funds authorized to be appropriated. The Intelligence Authorization Act as reported by the Senate Select Committee on Intelligence authorizes funds for NFIP, but not for TIARA. The same Act as reported by the House Permanent Select Committee on Intelligence, however, authorizes funds for both NFIP and TIARA, and the committee of conference on that Act (which includes representatives from the Senate and House Armed Services Committees) authorizes funds for both programs.

Thus, upon enactment of this section, the first such bill to be affected would be the Intelligence Authorization Act for Fiscal Year 1993, as reported by the committee of conference.

The disclosure of these three measures of the total intelligence budget pursuant to sections 104 and 105 of this bill will be permitted, upon enactment of this legislation, without recourse to the provisions of Section 8 of Senate Resolution 400 (94th Congress).

Title II—Intelligence community staff

Section 201 authorizes appropriations in the amount of \$28,832,000 for fiscal year 1992 for the staffing and administration of the Intelligence Community Staff. This includes \$6,566,000 for the Security Evaluation Office.

Section 202 provides details concerning the number and composition of Intelligence Community Staff personnel.

Subsection (a) authorizes 240 full-time personnel for the Intelligence Community Staff for fiscal year 1992, to include 50 full-time personnel who are authorized to serve in the Security Evaluation Office (at the Central Intelligence Agency) and provides that personnel of the Intelligence Community Staff may be permanent employees of the Staff or detailed from various elements of the United States Government.

Subsection (b) requires that detailed employees be selected so as to provide appropriate representation from the various departments and agencies engaged in intelligence and intelligence-related activities.

Subsection (c) requires that personnel be detailed on a reimbursable basis except for temporary situations.

Section 203 provides that the DCI shall utilize existing statutory authority to manage the activities and to pay the personnel of the Intelligence Community Staff. This language reaffirms the statutory authority of the DCI and clarifies the legal status of the Intelligence Community Staff. In the case of detailed personnel, it is understood that the authority of the DCI to discharge personnel extends only to discharge from service at the Intelligence Community Staff and not from federal employment or military service.

Title III—Central Intelligence Agency retirement and disability system and related provisions

Section 301 authorizes appropriations in the amount of \$164,100,000 for fiscal year 1992 for the Central Intelligence Agency Retirement and Disability Fund.

Section 302 amends the provisions relating to the computation of survivor benefits for the child or children of a deceased participant or annuitant in the CIA Retirement and Disability System (CIARDS) so that the existence of the child's other parent, whether that parent is the spouse or former spouse of the employee or annuitant, may be recognized and the child may be paid at the rate applicable to a single as opposed to a double orphan. This amendment legally recognizes that the child has another parent who presumably can contribute to the child's support. Similar changes were made to the Civil Service Retirement System (CSRS) in 1984 and to the Foreign Service Retirement System (FSRS) in 1988.

Section 303 amends CIARDS to provide a second survivor benefit election opportunity that parallels the one currently available to employees who retire under the Civil Service Retirement System (CSRS) pursuant to the Federal Employees' Benefits Improvement Act of 1986 (Public Law 99-251). CIARDS retirees will have an additional 18-month period from the date of retirement during which they may change the survivor benefit election made at the time of retirement if they were married at the time of retirement and elected a reduced base for the survivor annuity or did not elect a survivor annuity. The only change in election authorized to be made is one to provide for or increase a current spouse survivor annuity. Retirees may not elect to cancel or reduce a survivor benefit election. To make an election, retirees must pay, in full, a deposit plus interest no later than the 18 months after the date of retire-

ment. The deposit consists of the difference between the annuity then have received and the annuity they would have received if such election had been made at the time of retirement, plus the costs associated with providing for this later election.

This section will also allow CIARDS annuitants who have retired prior to the effective date of this section to make, within the 18 months after the effective date of this section, an election to increase the survivor benefit for a current spouse to whom they were married at the time of retirement and for whom only a reduced survivor annuity was elected at that time. These retirees must also pay, in full, a deposit plus costs, as described above, but do not have to pay interest. As a result of legislation enacted in 1988, a CIARDS annuitant who retired before September 1988 and who did not elect survivor benefits for their spouse at the time of retirement was granted a two-year period in which to make an election to provide a survivor annuity for that spouse under section 226(b) of the CIA Retirement Act. Accordingly, since they have already been afforded a two-year period in which to make the election, it is not necessary to grant them another opportunity to make an election to provide survivor benefits for their current spouse.

Section 304 Several laws have amended the CIA Retirement Act of 1964 and the Foreign Service Act of 1980 to provide certain qualified former spouses retirement and survivor benefits funded by special appropriation. These laws, with the exception of the one granting CIARDS survivor benefits, included a waiver provision with respect to deadlines for applying for benefits thereunder. This amendment would provide the same waiver authority with regard to application deadlines for CIARDS survivor benefits under Public Law 99-569 as currently exists for all the other application deadlines for these special former spouse benefits under CIARDS and FSRs.

Section 305 gives the Director of Central Intelligence (or the DCI's designee) the authority and flexibility to issue regulations providing for reimbursement of less than 100 percent of the costs associated with medical exams and related travel for employees incident to CIARDS disability retirement determinations. The DCI could decide, for example, that disability retirement examinees should first seek reimbursement from their own health insurance plans, and that payments from the CIARDS fund for medical exam and exam-related travel costs be limited to the amounts not covered by insurance. Existing law does not provide for such flexibility.

Section 306. Section 226 of the CIA Retirement Act of 1964 for Certain Employees was enacted to allow survivor benefits to be provided to a group of spouses who are divorced from CIARDS participants but who do not qualify for benefits under the CIA Spouses' Retirement Equity Act of 1982, yet meet the eligibility criteria for survivor benefits under the Civil Service Retirement Spouse equity Act of 1984 (CSRSEA), as amended by the Federal Employees Benefits Improvement Act of 1986. This category of divorced spouse is termed "previous spouse." The purpose of section 226 was to ensure that previous spouses, who meet the same eligibility criteria as former spouses of CSRS-covered employees, also be eligible to receive the same survivor benefits that former spouses of

CSRS-covered employees may receive. However, in enacting section 226, certain provisions of the CSRSEA were inadvertently omitted. These amendments attempt to partially rectify this situation. Accordingly, the amendment made by subsection (a)(1)(A) of this section will allow survivor benefits to be provided for a previous spouse by court order or an election in the case of all CIARDS annuitants (regardless of the annuitant's date of retirement) whose divorce occurs after September 29, 1990. Within the two-year period after September 29, 1988 (the date of enactment of section 226), annuitants who had retired prior to that date were able to make an election to provide survivor benefits for any previous spouse. The other amendments made by subsection (a)(1) of this section add the term "former" to "spouses of participants in the CSRS" as well as make other technical changes that clarify which CSRSEA provisions are to apply to previous spouses under the CIA Retirement Act.

Section 307 amends section 235(b) of the CIA Retirement Act, which requires mandatory retirement separation at age 60 or 65 depending on the participant's compensation rate. These compensation rates are currently linked to the GS-18 rate of pay. However, Agency employees who are paid at a rate exceeding the rate for GS-15 are member of the Senior Intelligence Service (SIS) and, as such, are remunerated under that system's pay schedule. This amendment will more accurately link the mandatory retirement age to the SIS pay schedule instead of the GS pay schedule.

Section 308. Subsection (a) of this section amends section 8331(1) of title 5, United States Code, to exclude CIA foreign national employees who serve overseas and who have been appointed after December 31, 1989, from the definition of "employee" for purposes of subchapter III of chapter 83 of title 5, U.S.C., relating to the Civil Service Retirement Systems (CSRS). This amendment is consistent with the overall policy of closing CSRS to new employees. A separate retirement program has now been established for CIA's FBIS foreign nationals. Thus, these employees are now covered under their own retirement plan.

Subsection (b) amends section 8351 of title 5 to preclude Thrift Savings Plan (TSP) a participation by Central Intelligence Agency foreign national employees who serve overseas and who are subject to CSRS. Foreign Service National (FSN) employees (appointed pursuant to the Foreign Service Act) who are covered under CSRS are, by law, ineligible to participate in TSP. Currently, however, CIA foreign nationals who are covered under CSRS are not expressly excluded by law from participation in TSP. However, the problems posed by their participation are the same as those that led to the statutory exclusion of FSN employees from participation in TSP. For example, foreign national employees are typically paid in local currencies which fluctuate as a result of floating exchange rates. Thus, a TSP contribution expressed as a percentage of pay could result in differing actual dollar amounts being deposited in different pay periods due to fluctuating exchange rates. Conversely, a TSP contribution expressed as a U.S. dollar amount could result in fluctuations in a foreign national's take-home pay. Also, participation by foreign national employees would be inconsistent with regulations issued by foreign affairs agencies that prohibit payroll allot-

ments for purposes of purchasing U.S. dollar instruments, such as U.S. savings bonds.

Subsection (c) amends section 8402(c) of title 5 to permit the Director of Central Intelligence to exclude from Federal Employees Retirement System (FERS) coverage certain CIA foreign nationals who are permanent resident aliens (PRAs) serving overseas, e.g. FBIS foreign national employees. Most CIA foreign national employees currently do not meet the FERS definition of "employee" because their service is not employment for purposes of title II of the Social Security Act. Accordingly, they may not be covered under FERS nor participate in the TSP. On the other hand, the service of foreign national PRA Federal employees, within or outside the United States, is covered by U.S. Social Security. Thus, if these PRAs are appointed to civilian service for more than a year, they are covered under FERS. CIA has various categories of PRA employees who currently may be covered under FERS. This amendment would allow the DCI to exclude from FERS those PRAs serving overseas who are paid in local currencies (e.g., FBIS foreign nationals). Their participation in TS would present the same difficulties discussed in the explanation of the amendment made by subsection (b). As stated in the analysis of subsection (a), FBIS foreign nationals are currently covered under a separate retirement program established for them.

Subsection (d) makes all amendments retroactive, although with two different effective dates. Subsection (a) is made effective on January 1, 1990, which is the effective date of the new retirement program established for all overseas CIA foreign national employees appointed after December 31, 1989. The effective date for subsections (b) and (c) is January 1, 1987, which is the effective date of the two title 5 sections amended by these subsections. Subsection (d) also provides for a refund of contributions, plus earnings, if any, if such contributions have been made. However, to date, no FBIS foreign national employee serving overseas has participated in TSP or FERS.

Section 309 amends section 304 of the CIA Retirement Act of 1964, which pertains to qualified former spouses of CIA employees covered under the Federal Employees' Retirement System (FERS). The entire section has been redrafted in order to spell out the exact special entitlements and rules that apply to these qualified former spouses. Thus, the current need to refer constantly back to those sections applicable to qualified former spouses of CIA employees covered under the CIA Retirement and Disability System (CIARDS) is eliminated. Further, certain aspects of the CIARDS former spouse provisions are not transferable to the new system. Nevertheless, the basic CIARDS concept whereby former spouses who meet certain criteria are entitled to automatic, statutory retirement and survivor benefits payable under CIARDS has been transferred to FERS. Thus, former spouses of FERS-covered CIA employees are entitled to a statutory share of the benefits payable under subchapters II, IV, and V of FERS if they meet the same criteria that former spouses of CIARDS participants must meet in order to qualify for benefits under CIARDS.

Amended section 304(a) eliminates the statutory entitlement that qualified former spouses of CIA employees covered under FERS

currently have to a share of the employee's Thrift Savings Plan (TSP) benefits. As a result of the amendment, any benefits to which the former spouse will be entitled, will only be those specifically awarded to them by court order or elected by the employee at the time of retirement. This is the rule that applies to a FERS-defined former spouse of any federal employee covered under FERS. This change is required because the statutory formula for calculating former spouse entitlements does not accurately reflect a former spouses marital share in the contributions to TSP and their earnings or losses. FERS is a three-tiered plan consisting of Social Security, a basic FERS annuity (whether it is a retirement, disability, or survivor annuity), and a Thrift Savings Plan. The TSP tier functions very differently from the FERS basic tier. Contributions to the FERS basic tier are based on fixed percentages of salary and are automatically made based on the employee's deemed consent. However, contributions to TSP are entirely optional, both with respect to amounts of contribution (they can vary from 1 to 10 percent of salary) and periods of time when contributed (there are open seasons for enrollment and changes). With these many variables affecting the amount of the TSP benefits, there is no conceivable statutory formula that could apply across the board in all cases and result in a fair and equitable distribution of these benefits. For example, the employee may have contributed 5 percent of salary during the remaining period of service until retirement. Applying the current statutory former spouse formula to this employee's total TSP benefits would give the former spouse a lesser share of the benefits than the former spouse would be entitled to based on the contributions made during the marital period. Thus, if these qualified former spouses are treated in the same way as FERS-defined former spouses, the parties and/or the court can divide the TSP benefits more appropriately, taking into account all the variables that apply in each particular case. Although CIA administers TSP for its employees, it adheres to the same substantive rules and regulations prescribed by the Thrift Board. The Thrift Board is responsible for issuing regulations and guidelines on court orders affecting TSP benefits. CIA would follow these regulations in the administration of TSP.

Subsection (d)(2) of amended section 304 of the CIA Retirement Act clarifies that the survivor benefits payable to a qualified former spouse shall include, if applicable, the amount payable under section 8442(b)(1)(A) of title 5 and any supplementary annuity payable under Section 8442(f) of title 5. This supplementary annuity is the amount payable to surviving spouses of deceased annuitants until the surviving spouse becomes eligible for Social Security benefits commencing at age 60. These benefits are provided to FERS-defined former spouses by section 8445(b)(2) and (f)(1) of title 5. A review of current section 304, in conjunction with the various provisions in FERS relative to FERS-defined former spouses, reveals that these additional survivor benefits that are available to FERS-defined former spouses were rendered inapplicable to qualified former spouses of FERS-covered CIA employees. Current section 304 specifically states that section 8445 of title 5 shall not apply to these qualified former spouses. This has been corrected in the amended version of section 304. It is important not to confuse

this supplementary annuity with the annuity supplement received by FERS-covered annuitants under section 8421. Qualified former spouses are entitled under the current, as well as the amended, section 304 to a portion of the retiree's annuity supplement (this amount represents the retiree's Social Security benefits based solely on the retiree's federal service under FERS and is payable until the retiree becomes age 62 and eligible to receive Social Security).

In amended section 304, a paragraph (7) was added to subsection (c) on retirement benefits and to subsection (d) on survivor benefits to clarify the method by which the benefits to which a qualified former spouse is entitled will be computed in the case of a CIA employee who compute such former spouse's benefits tracks the method used to compute the employee's benefits.

Paragraph (8) of subsection (c) of amended section 304 was added to record the Internal Revenue Service's holding that qualified former spouse retirement benefits are taxable to such former spouse based on the fact that these benefits have been given to such former spouses by statute, not by a contractual agreement. This provision was adopted from the Foreign Service Pension System's provision.

Subsection (g) of amended section 304 adds a provision whereby certain former spouses of Agency employees divorced on or before November 15, 1982, will be entitled to receive the retirement and survivor benefits provided under sections 224 and 225 of the CIA Retirement Act even if the Agency employee elected to transfer into FERS. Section 224 and 225 benefits are those funded solely by special appropriation. Currently, the provisions of sections 224 and 225 apply only to those eligible former spouses of Agency employees who are covered under CIARDS or CSRS. FERS was not in place at the time these benefits were provided, and thus the possibility that an eligible former spouse would become ineligible because of the employees' transfer into FERS was not envisioned.

With the exception of subsection (g) of amended section 304, the amendments made by this section are made effective on January 1, 1987, which is the effective date of section 506 of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335), which in turn added section 304 to the CIA Retirement Act of 1964 for Certain Employees. Subsection (g) of section 304 of the CIA Retirement Act of 1964 for Certain Employees. Subsection (g) of section 304 of the CIA Retirement Act, as amended by this section, shall be effective on December 7, 1987, the effective date of Public Law 100-178, which added section 225 of the CIA Retirement Act.

Section 310 amends subsection 204(b)(4) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) to change the statutory requirements to qualify as a "former spouse."

Under existing law, a "former spouse" is defined as the former husband or wife of a CIARDS participant who was married to such participant for not less than 10 years during periods of creditable service by the participant, at least five years of which were spent outside the United States by both the participant and the former husband or wife.

Section 310(a) would eliminate the requirement that the former husband or wife may qualify as a "former spouse" for purposes of the statute only if such spouse (together with the participant) has spent five years outside the United States. To qualify under the amended section, such spouse must have been married to the participant for at least 10 years of creditable service by the participant, at least five years of which must have been spent by the participant outside the United States or otherwise in position whose duties have qualified him or her for designation as a participant pursuant to section 203 of the Act.

This amendment is consistent with the provisions of the Foreign Service Retirement System Act (See U.S.C. 4069a, 4069b) as it applies to "former spouses."

Section 310(b) provides that subsection (a) is applicable only to a former husband or wife of a participant or former participant whose divorce from the participant or former participant became final after the effective date of this Act. It is, thus, not the Committee's intent that the change in the definition of "former spouse" be applied retroactively to former husbands or wives of participants or former participants who were divorced prior to the date of enactment of this section.

Title IV—General provisions

Section 401 provides that appropriations authorized by the conference report 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.

Title V—Federal Bureau of Investigation provisions

Section 501 directs the Director of the Federal Bureau of Investigation to conduct a study to determine the feasibility of an undergraduate training program, including training which may lead to the baccalaureate degree, to facilitate the recruitment of individuals, particularly minority high school students, with a demonstrated capability to develop skills critical to the FBI's mission. Similar programs have previously been authorized by law at CIA, the National Security Agency, and the Defense Intelligence Agency.

The FBI demands employees of extraordinary aptitude and strong basic undergraduate training both in technical and non-technical disciplines. The institutions of higher learning in the United States currently do not produce a sufficient pool of such graduates to satisfy the personnel requirements of the private sector and of government agencies. Given the short supply of qualified college graduates in these disciplines, the FBI is challenged with satisfying its essential needs for such personnel. Within this general requirement for skilled personnel, the FBI has even greater difficulty recruiting sufficient qualified minority graduates. The FBI has difficulty competing with other employers, and particularly private sector employers who can offer more favorable compensation incentives to attract graduates.

Title VI—Central Intelligence Agency provisions

Section 601 provides that the position of Inspector General of the CIA will be entitled to compensation at a statutory level comparable to the Inspectors General at other government agencies, including the Departments of State and Defense. The enabling legislation which created the CIA Inspector General was silent on this point.

Title VII—National Security scholarships, fellowships, and grants

Section 701 Amends the National Security Act of 1947 by adding at the end a new Title VIII, entitled "National Security Scholarships, Fellowships and Grants." A section-by-section analysis of each of the provisions of this new title follows:

Section 801 cites the short title as the "National Security Education Act of 1991."

Section 802 lists findings of Congress which set forth the reasons for enactment of this title.

Section 803 lists purposes of this legislation.

Section 804(a)(1) stipulates that the National Security Education Board shall conduct a program which (1) awards scholarships to undergraduate students who are United States citizens or resident aliens to enable such students to study abroad, for at least one semester, in countries identified by the Board as critical countries; (2) awards fellowships to graduate school students who are United States citizens or resident aliens to enable such students to pursue education in the United States in the disciplines of international studies, area studies, and foreign languages, that the Board determines to be critical areas of such disciplines, provided that, graduate school students, in accepting the scholarship, must agree to work for the Federal Government or in the field of education in the area of study for which the scholarship was awarded; and, (3) awards grants to institutions of higher education to enable such institutions to establish, operate, and improve programs in international studies, area studies, and foreign languages that the Board determines to be critical areas of such disciplines.

Subsection 804(a)(2) provides the Board shall have as a goal reserving (1) one-third of the earned interest income to award scholarships to undergraduate students who are United States citizens or resident aliens for study abroad; (2) one-third of the earned interest income to award fellowships to graduate students who are United States citizens or resident aliens; and, (3) one-third of the earned income to award grants to American institutions of higher education.

Subsection 804(a)(3) provides that each individual receiving a fellowship for graduate school study must enter into an agreement with the Board which will provide assurances that each such individual maintains satisfactory academic progress and agrees to work for the Federal Government or in the field of education, in the area of study for which the fellowship was awarded, for a period determined by the Board of at least one year and no more than three years for each year a fellowship is awarded.

Section 804(b) requires that the Board develop criteria for awarding the scholarships, fellowships and grants under this title and

provide for the wide disbursement of information regarding the activities assisted under this title.

Section 804(c) requires that the Board take into consideration providing an equitable geographic distribution of scholarships, fellowships and grants awarded under this title among the various regions of the United States.

Section 804(d) stipulates that the Board must utilize a merit review process in awarding scholarships, fellowships and grants under this title.

Section 804(e) requires that the amount of scholarships, fellowships and grants awarded under this title be annually adjusted for inflation.

Section 805(a) provides that the Secretary of Defense shall establish the National Security Education Board.

Section 805(b) requires that the Board be composed of the following individuals or the representatives of such individuals: (1) the Secretary of Defense, who will serve as the chairperson of the Board; (2) the Secretary of Education; (3) the Secretary of State; (4) the Secretary of Commerce; (5) the Director of the Central Intelligence Agency; (6) the Director of the United States Information Agency; and, (7) four individuals appointed by the President with the advice and consent of the Senate who have expertise in the fields of international, language, and area studies education.

Individuals appointed to the Board will be appointed for a period not to exceed four years. Such individuals will not receive compensation for service on the Board but may receive reimbursement for travel and other necessary expenses.

Section 805(c) outlines the functions of the Board. The Board must (1) establish qualifications for students and institutions of higher education desiring scholarships, fellowships, and grants under this title; (2) identify as the "critical countries" for undergraduate study abroad those countries that are not emphasized in other United States study abroad programs, such as countries in which few United States students are studying; (3) identify as the "critical areas" for graduate school study those areas that the Board determines to be critical areas of study in which United States students are deficient in learning; (4) identify as "critical areas" for increased funding at the higher education level those areas in which United States students, educators, and government employees are deficient in learning and in which insubstantial numbers of United States institutions of higher education provide training; and, (5) review the administration of the program assisted under this title.

Section 806(a) establishes in the Treasury of the United States a trust fund to be known as the "National Security Education Trust Fund". The Fund will consist of amounts transferred to it as described in subsection (b) of this section and amounts credited to the Fund under subsection (d) of this section.

Section 806(b) stipulates that the Secretary of Defense must transfer to the Trust Fund \$180,000,000 from funds appropriated for Fiscal Year 1992 pursuant to section 101 of the Intelligence Authorization Act, for Fiscal Year 1992. From the amounts transferred to the Fund, the Board will reserve (1) \$15,000,000 to award scholarships for undergraduate study abroad; (2) \$10,000,000 to

award fellowships for graduate school studies; (3) \$10,000,000 to award grants to higher education institutions.

Section 806(c) requires the Secretary of the Treasury to invest in full the amounts appropriated to the Fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under chapter 31 of title 31 are extended to authorize the issuance at par of special obligations exclusively to the Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt, except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be issued only if the Secretary of the Treasury determines that the purchases of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

Section 806(d) authorizes that any obligation acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

Section 806(e) requires that the interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund be credited to and form part of the Fund.

Section 806(f) authorizes the Board to obligate such sums as are available in the Fund (including any amounts not obligated in previous fiscal years) for (1) awarding scholarships, fellowships, and grants in accordance with the provisions of this title; and, (2) properly allocable administrative costs of the Federal Government for the activities described in this title.

Section 807(a) allows the Board, in order to carry out this title, to (1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this title, except that in no case may an employee other than the Executive Secretary be compensated at a rate to exceed the maximum rate of basic pay payable at GS-15 of the General Schedule; (2) prescribe such regulations as the Board considers necessary governing the manner in which its functions shall be carried out; (3) receive money and other property donated, bequeathed, or devised, without conditions or restriction other than it be used for the purposes of the Board, and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions; (4) accept and use the services of voluntary and noncompensated personnel; (5) enter into contracts or other arrangements, or make grants, to carry out the provisions of this title, and enter into such contracts or other arrangements, or make such grants, with the concurrence of two-thirds of the members of the Board, without performance or other bonds and

without regard to section 5 of title 41; (6) rent office space in the District of Columbia; and, (7) make other necessary expenditures.

Section 807(b) requires that the Board annually submit a report to the President and to the Congress of its operations under this title. The report must contain (1) an analysis of the mobility of students to participate in study abroad programs; (2) an analysis of the trends within language, international and area studies along with a survey of such areas the Board determines are receiving inadequate attention; (3) the impact of the Board's activities on such trends; and, (4) an evaluation of the impediments to improving such trends.

Section 808(a) stipulates that the Board appoint an Executive Secretary of the Board. The Executive Secretary will be the chief executive office of the Board and will carry out the functions of the Board. The Executive Secretary will carry out such other functions consistent with the provisions of this title as prescribed by the Board.

Section 808(b) provides that the Executive Secretary of the Board be compensated at the rate of basic pay payable for employees at level III of the Executive Schedule.

Section 809 provides that the activities of the Board under this title may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. Representatives of the General Accounting Office are given access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Board pertaining to such activities and necessary to facilitate the audit.

Section 810 defines the terms "Fund", "Board", and "institution of higher education."

COMMITTEE ACTION

On July 17, 1991, the Select Committee approved the bill and ordered it favorably reported.

ESTIMATE OF COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee has attempted to estimate the costs which be incurred in carrying out the provisions of this bill in fiscal year 1992 and in each of the five years thereafter if these amounts are appropriated. These estimates are contained in the classified supplement to the bill and are consistent with the cost estimates of the Director of Central Intelligence.

EVALUATION OF REGULATORY IMPACT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee finds no regulatory impact will be incurred in implementing the provisions of this legislation.

CHANGES IN EXISTING LAW

In the opinion of the Committee, it is necessary to dispense with the requirements of section 12 of rule XXVI of the Standing Rules of the Senate in order to expedite the business of the Senate.

ADDITIONAL VIEWS OF MESSRS. GLENN, CHAFEE,
DANFORTH, AND D'AMATO

We are opposed to the reductions to the FY 1992 intelligence budget contained in this bill and are unconvinced of the rationale for these reductions.

We further believe that Committee concerns with the Intelligence Community's focus should not be addressed by deep budget cuts, but rather by restructuring existing resources. Indeed, we have a compelling need for a strong and reliable intelligence capability during the current period of enormous change and uncertainty, as illustrated by the upheaval taking place in Yugoslavia today. The U.S. relies heavily on intelligence to detect and monitor these changes in the international system so we can reallocate increasingly scarce resources in a more efficient manner.

We do not share the view that because the Soviet threat to the U.S. has declined, it is now safe to decrease dramatically the intelligence budget. The need for collection assets to monitor developments within the Soviet Union remains significant. After decades of having a comparatively static political and economic system, the Soviet Union is now confronting a highly uncertain period of profound political change, economic and military restructuring, ethnic and religious turmoil, and growing secessionist pressure. The Intelligence Community must aggressively monitor these changes.

The changing international environment has also heightened expectations for the conclusion of a sweeping array of arms control agreements. Enormously expensive intelligence systems are necessary to monitor Soviet compliance with these complex arms control agreements and constitute the hidden cost of arms control. If these systems are sacrificed to narrow budgetary considerations, our ability to monitor adequately these agreements will be placed at risk—endangering our nation's security as well as the public's support for both the arms control process and intelligence.

To the extent that we need to reduce resources devoted to the Soviet target, we must focus more of our intelligence capabilities and resources on other security threats such as the proliferation of weapons of mass destruction, drug smuggling, terrorism, environmental change, low-intensity conflict in the Third World, and the illicit export of high-technology items.

Finally, it is important to remember that a large measure of the success of U.S. forces in Panama and Iraq can be attributed to effective intelligence. These conflicts demonstrated that our most sophisticated weaponry and our most highly trained military personnel are useless unless we know where, when, and how to deploy them for optimal effect in a conflict. Indeed, accurate and timely intelligence is our greatest force-multiplier—particularly at a time when we are drastically reducing the size of our military forces.

When American lives and interests are on the line, the United States needs the best possible intelligence capability.

In the years ahead, America can successfully navigate the turbulent waters of a rapidly changing world only with a strong and reliable intelligence capability. We believe that significant reductions in our intelligence capabilities, particularly during this era of enormous change, are unwise and could be damaging to U.S. national security.

**ADDITIONAL VIEWS OF MESSRS. CHAFEE, WARNER,
DANFORTH, RUDMAN AND GORTON**

We are strongly opposed to the provision contained in this bill that would require public disclosure of the nation's annual expenditure for intelligence activities.

In our view, the provision will not and could not produce a meaningful public debate about the nation's intelligence program and activities. The only certain effect this provision will have is to raise innumerable questions that cannot be answered without disclosing classified programs and activities.

Intelligence by its very nature is a secret business. No other government in the world publicly discloses its intelligence budget. Other governments will not understand why funding for U.S. intelligence activities is being revealed, and some will probably be concerned that disclosure of the budget will lead to further revelations of budget figures, including amounts spent to conduct liaison activities with particular services. It may be difficult to reassure these governments that the confidentiality of their relationship with the United States will be preserved.

We believe that existing institutional arrangements provide the scrutiny necessary to protect the interests of the American people. At the present time, the intelligence budget is annually reviewed by six committees of Congress (the Intelligence, Armed Services, and Appropriations Committees). Further, all members of Congress have access not only to the overall budget, but to a detailed breakdown of specific programs. Indeed, the United States already has a more extensive intelligence oversight apparatus than any country in the world.

In conclusion, the debate on a declassified budget total would be extremely limited and often, if not always, misleading. Given this fact, and the serious prospect that activities of critical importance to US national security will be compromised, we believe that this provision entails risks without benefits for the American people.

We hope that the language pertaining to budget declassification will be removed either on the floor of the Senate or in conference with the House of Representatives.

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