

AUTHORIZING APPROPRIATIONS FOR FISCAL YEAR 1993 FOR INTELLIGENCE ACTIVITIES OF THE U.S. GOVERNMENT AND THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM; PROVIDE A FRAMEWORK FOR THE IMPROVED MANAGEMENT AND EXECUTION OF U.S. INTELLIGENCE ACTIVITIES; AND FOR OTHER PURPOSES

JULY 21 (legislative day, JULY 20), 1992.—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. 2991]

The Select Committee on Intelligence, having considered the original bill (S. 2991), which authorizes appropriations for fiscal year 1993 for intelligence activities of the U.S. Government and the Central Intelligence Agency Retirement and Disability System, and amends the National Security Act of 1947 to provide a framework for the improved management and execution of U.S. intelligence activities, and which accomplishes 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 1993 for (a) intelligence activities of the United States; (b) the Central Intelligence Agency Retirement and Disability System; and (c) the Community Management Staff of the Director of Central Intelligence;
- (2) Authorize the personnel ceilings as of September 30, 1993, for the intelligence activities of the United States and for the Community Management Staff of the Director of Central Intelligence;
- (3) Provide the Secretary of Defense with authority to assist employees and former employees of the Defense Intelligence Agency in order to protect classified information;

(4) Provide for the inclusion of a limited number of senior executive service positions within the Civilian Intelligence Personnel Management System of the Military Departments;

(5) Grant the Defense Intelligence College authority to award an undergraduate degree once such degree program is accredited by the appropriate professional authority;

(6) Make certain minor changes to the National Security Education Act, and authorize an appropriation of \$35 million in FY 93 to the National Security Education Trust Fund;

(7) Provide temporary authority for the Director of the Federal Bureau of Investigation to accept bequests or devise for certain specified purposes;

(8) Authorize the Central Intelligence Agency Inspector General to receive complaints and information from members of the public;

(9) Amend the National Security Act of 1947 to provide for the participation of the Director of Central Intelligence on the National Security Council; to provide for the appointment of the Director and Deputy Director of Central Intelligence; to set forth the responsibilities and authorities of the Director of Central Intelligence; to set forth the responsibilities of the Secretary of Defense pertaining to the National Foreign Intelligence Program; and to provide certain administrative requirements pertaining to Defense elements within the National Foreign Intelligence Program;

(10) Require the Secretary of Defense to identify and manage the tactical intelligence activities of the Department of Defense; and

(11) Amend Senate Resolution 400 to remove the limitation on the jurisdiction of the Senate Select Committee on Intelligence with respect to tactical intelligence activities.

#### THE CLASSIFIED SUPPLEMENT 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 nonetheless acknowledges that it has made substantial cuts in the budget request submitted by the President. These cuts reflect changes in the nature of the intelligence target as well as changes in the means required to collect and analyze information concerning that target. At the same time; the Committee's action preserves a substantial capability which is both flexible and forward-looking to support the national security needs of the country.

The Committee has prepared a classified supplement to this Report which contains a classified schedule of authorizations which has the same legal status as a public law. The classified supplement also contains a report which explains the full scope and intent of the Committee's actions as set forth in the classified schedule of authorizations. The report language in this supplement has the same legal status as any Senate Report, and the Committee fully expects the Intelligence Community to comply with the limitations, guidelines, directions, and recommendations contained therein.

This classified supplement is made available to affected departments and agencies within the Intelligence Community. The classi-

fied supplement to the Committee Report is also available for review by any Member of the Senate, subject to the provisions of Senate Resolution 400 of the 94th Congress.

#### SCOPE OF COMMITTEE REVIEW

As it does annually, the Committee conducted a detailed review of the Intelligence Community's budget request for fiscal year 1993. This review included taking testimony from senior Intelligence Community officials with policy responsibilities and examining budget justification documents and numerous Intelligence Community responses to specific questions raised by the Committee.

In addition to its annual review of the Intelligence Community's budget request, the Committee performs continuing oversight of various intelligence activities and programs. This process frequently leads to actions initiated by the Committee itself with respect to the budget of the activity or programs concerned.

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, were provided separately to that Committee for consideration in the Defense Authorization bill.

#### ECONOMIC INTELLIGENCE

During the past year, the Committee has focused increasing attention on emerging issues regarding economic intelligence. The Committee has heard testimony on this subject from Intelligence Community officials and business executives cognizant of the capabilities and product of U.S. intelligence agencies, and has received testimony on this subject from Director Gates at his confirmation hearings.

Among other issues, the Committee has considered: (1) whether the Government is giving appropriate priority to collecting and disseminating economic intelligence to support U.S. policymaking agencies; (2) whether the Government is providing sufficient intelligence support to the Committee on Foreign Investment in the United States (CFIUS), which is tasked with determining which foreign acquisitions of U.S. firms pose a threat to national security; (3) whether and under what circumstances the Government should aggressively gather and analyze information on foreign economic activity; and (4) what the role of the CIA and other Intelligence Community agencies should be in terms of collecting and analyzing economic intelligence when considered in light of the activities of other government agencies or offices with responsibilities in this area.

The DCI has publicly declared that the Intelligence Community will not engage in "industrial espionage" and has said that the Intelligence Community accepts the responsibility for warning U.S. firms who may be a target of such penetrations by foreign governments. The Committee supports both determinations.

The Committee notes, however, that the U.S. Government as a whole has not clearly defined what policies are necessary and desirable in terms of achieving economic security as a nation. This in-

cludes what role the Government as a whole should play in supporting the competitive position of U.S. industry abroad. In the absence of such policy, it is difficult for the Intelligence Community to develop collection strategies, dissemination policies, or review and approval procedures to govern its activities in support of such policy. Accordingly, the Committee believes it essential that the DCI consult with the Secretaries of Commerce, State, Treasury, and Defense, as well as the Attorney General and U.S. Trade Representative, among others, to ensure that any policies which may be adopted for the Intelligence Community are consistent with, and support, the overall objectives, priorities, and policies of the Government as a whole in this area.

Once a clear policy is enunciated, the DCI should develop clear and comprehensive policies and guidelines with respect to the proper role of intelligence agencies as to the collection and dissemination of intelligence about foreign economic activities and their implications for U.S. competitiveness, compliance with international trade agreements, and national security in general.

To facilitate the implementation of such policies, the Committee recommends the DCI appoint an Economic Intelligence Advisory Committee with appropriate representation from the business community, academia, and other elements of the public sector, as well as the government agencies concerned with these issues. The Advisory Committee would assist the DCI in determining what collection and dissemination activities by the Intelligence Community are legitimate and desirable in terms of serving U.S. economic interests consistent with overall U.S. Government policy in this area.

To ensure that appropriate follow-up actions are taken in this regard, the Committee requests the DCI to report to the Committee no later than May 1, 1993, what actions he has taken or has authorized to be taken to address these concerns.

#### ENVIRONMENTAL INTELLIGENCE

In the classified annex to this bill, the Committee authorizes funding for two initiatives in the area of environmental intelligence. The first involves collection activities to gather information concerning potential environmental threats to the United States or to regional and global ecosystems resulting from the activities of other nations; and the second, the creation and operation of a task force consisting of cleared environmental scientists to examine which intelligence collection assets might be utilized, and what previously-collected intelligence data might be exploited, for environmental study.

The Committee has become increasingly concerned by media reports, scientific assessments, and, in some cases, official acknowledgments, of cases where past actions by other governments or foreign industries have resulted in severe contamination of the oceans, rivers, and seas, as well as the atmosphere. Of particular concern are numerous reports of hazardous nuclear waste disposal by the former Soviet Union. The effects of such contamination are often not confined to the locales where they took place, but threaten other areas of the world as well.

The Committee believes that the capabilities of the Intelligence Community to collect and analyze data relating to such problems should be brought to bear upon this worldwide problem in a systematic way, where U.S. interests are threatened or are potentially threatened.

While the Committee recognizes that in some situations a particular collection capability will require protection, it believes the results of the Community's work in this area should be widely disseminated to the public, and contribute to the world's understanding of the causes and effects, as well as possible solutions to, such problems. Indeed, the Director of Central Intelligence is urged to create special procedures for the preparation and handling of such data to ensure maximum public disclosure.

### RESTRUCTURING THE INTELLIGENCE COMMUNITY

Over the last two years, the Committee has spent considerable time and effort considering the existing organizational arrangements for the Intelligence Community. Ultimately, these deliberations have led to the legislation proposed as Title VII of the bill, reported today by the Committee. This section describes the process which has led to the Committee to offer these proposals.

#### ORIGINS IN THE 101ST CONGRESS

Prompted by the changes that had taken place in Eastern Europe during the previous year, the Committee in June, 1990, as part of its report on the Intelligence Authorization Act for Fiscal Year 1991 (S. Rept. 101-358, pp. 5-6) announced that the staff of the Committee would undertake a comprehensive review of the missions, functions, and organizational arrangements for the Intelligence Community in light of these changes.

Beginning in December, 1990, and lasting through March, 1991, the staff conducted a series of off-the-record interviews with nearly 130 current and former government officials, most of whom held or had held key positions in the Intelligence Community, to obtain their views on the strengths and weaknesses of existing arrangements. These interviews produced a strong consensus for change in particular areas, but specific suggestions for change varied widely.

#### ACTIONS IN THE 102D CONGRESS, 1ST SESSION

At the time these interviews were being conducted, the United States became engaged in war in the Persian Gulf, which itself would test the effectiveness and vitality of the Intelligence Community. During the conflict and in the months which followed, the Committee received considerable testimony both in hearings and briefings with respect to the calibre of intelligence support. To some degree this testimony indicated serious problems in existing organizational structures, particularly with regard to the exploitation and dissemination of imagery and with regard to consolidating intelligence support under U.S. field commanders.

In the meantime, the Committee held two hearings in the spring of 1991 on the subject of intelligence reorganization.

The first occurred on March 21, 1991, when the Committee heard testimony in public session from Admiral Bobby Ray Inman (USN,

Ret.), former director of NSA and former Deputy Director of Central Intelligence; LTG William Odom (USA, Ret.), former Director of NSA and former Assistant Chief of Staff for Intelligence, Department of Army; and Donald Latham, former Assistant Secretary of Defense for Command, Control, Communications and Intelligence. (See "Review of Intelligence Organization," Hearings before the Select Committee on Intelligence, U.S. Senate, S.Hrg. 102-91.)

The second hearing was held in closed session on May 16, 1991, to discuss the origin and evolution of the existing organizational arrangements for the U.S. Intelligence Community. Testifying were Dr. Ray Cline, former Deputy Director of Intelligence, CIA; Mr. Lawrence Houston, former General Counsel at CIA from 1946 until 1973; and Mr. Walter Pforzheimer, former Legislative Counsel, CIA, whose service dated from the creation of the Agency. (The transcript of this hearing was subsequently declassified and published by the Committee.)

Several months thereafter, in August, momentous events took place in the Soviet Union, resulting in the collapse of Communist Party rule and the ascendancy of pro-democracy reform elements. While great uncertainty remained, it was clear that the Cold War was over, and the longstanding military threat to the United States had considerably diminished. These events, too, contributed to the Committee's perception that a reassessment of intelligence was appropriate.

Although the Committee took no comprehensive legislative action on intelligence reorganization in 1991, it did include language in its report on the Intelligence Authorization bill for Fiscal Year 1992 which addressed several organizational matters growing directly from the experience in DESERT SHIELD/DESERT STORM. For example, the Committee called for establishment of an Assistant Deputy Director of Operations at CIA to facilitate the interaction between CIA and military, and called for the assignment of CIA operational and analytical personnel to the intelligence staffs of the theater Commanders-in-Chief (CINCs). The Committee also recommended the development of a plan to permit the CINCs to exercise control of national intelligence systems during peacetime, and called for the designation of a single "imagery manager" to better coordinate the exploitation and dissemination of imagery.

Intelligence reorganization also was discussed at the extended confirmation hearings of Robert M. Gates to be Director of Central Intelligence held in September and October, 1991. The nominee, in fact, committed to review the existing organizational arrangements for intelligence if confirmed.

Indeed, in November, after his nomination was confirmed by the Senate, DCI Gates announced his intent to establish a series of task forces which would, among other things, address possible organizational changes within CIA and the Intelligence Community. The Committee was advised that it would receive the reports of these task forces, together with any proposals for legislative change which might be recommended, by the end of March, 1992.

## ACTIONS IN THE 102D CONGRESS, 2D SESSION

*Introduction of S. 2198*

On February 5, 1992, Chairman Boren introduced S. 2198, the Intelligence Reorganization Act of 1992, a comprehensive proposal for intelligence reorganization and reform, in the Senate. A similar bill was introduced the same day by Representative McCurdy, Chairman of the Permanent Select Committee on Intelligence, in the House of Representatives.

In introducing the measure, Chairman Boren stated:

The time could not be more ripe to rethink the management structure of the Intelligence Community. The concerns which motivated the creation of the Community at the end of the Second World War have now dramatically changed, but have been replaced by new uncertainties. Indeed, it is difficult to recall any point in the last forty years where such uncertainty exists with respect to the international situation: Far from being a period where we can do without intelligence, the need for intelligence has never been greater.

We have an intelligence structure, however, that evolved over the last 40 years to cope with a world that is now past, and that structure is in need of considerable recalibration and streamlining.

Boren said that he was introducing S. 2198 as a "launching pad for discussion," in hopes of motivating a public dialogue and stimulating thinking within the Administration. Boren said that although he was not necessarily wedded to the bill's provisions, he believed they raised the principal issues of concern to himself and the Committee.

The key features of the bill can be summarized as follows:

Would create a Director of National Intelligence (DNI) to coordinate U.S. intelligence activities, serve as principal intelligence advisor to the President, and provide operational supervision of the CIA;

Would make the DNI a non-voting participant in the deliberations of the National Security Council. (Existing law provides no role for the DCI.)

Would establish under the National Security Council a Committee on Foreign Intelligence to provide overall requirements and priority for U.S. intelligence efforts and to assess for the President how effectively the Intelligence Community as performed. (No such structure currently exists.)

Would provide for the presidential appointment and Senate confirmation of two Deputy Directors of National Intelligence, to correspond to the DNI's coordinating roles, and for a separate Director for the Central Intelligence Agency. (Under existing law, there is one Deputy Director of Central Intelligence who assists the DCI in carrying out all of his responsibilities.)

Would require that either the DNI or the Deputy DNI for the Intelligence Community be a general or flag officer with four-star rank.

Would abolish the Intelligence Community Staff. (The functions of the existing Intelligence Community Staff would be subsumed under the new structure.)

Would establish under the new Deputy DNI for Estimates and Analysis, permanent offices with responsibility for preparing national estimates, and for preparing current intelligence and other national-level analysis. The office would be staffed by analysts from CIA and other agencies within the Intelligence Community.

Would give the DNI, as head of the CIA, responsibility for managing all U.S. intelligence collection involving human collectors, both clandestine and overt, to ensure the satisfaction of intelligence requirements with minimal risk to the participants. (Under existing arrangements, CIA coordinates but does not manage clandestine activities and has no responsibilities to coordinate overt activities.)

Would provide the DNI with authority to reprogram funds between accounts within the National Foreign Intelligence Program (NFIP) and to temporarily reassign personnel between NFIP programs, under certain conditions, to meet national objectives of a higher priority. (Existing law does not provide such authority.)

Would provide a separate budget for the National Foreign Intelligence Program, which would be appropriated to the DNI. (Under existing arrangements, the budget for the National Foreign Intelligence Program is "buried" within the budget of the Department of Defense, and is largely appropriated to the Secretary of Defense.)

Would provide for the creation of an Assistant Secretary of Defense for Intelligence.

Would provide for the creation of a DOD Tactical Intelligence Program to be managed by the Office of the Secretary of Defense. This would be confined strictly to intelligence activities rather than incorporating various other types of defense programs or activities which is the case with the existing Tactical Intelligence and Related Activities (TIARA) budget aggregation.

Would create a new National Imagery Agency in the Department of Defense to operate a unified program for the collection, exploitation, and analysis of imagery within the Government. (Under existing arrangements, responsibility for these functions is shared among several elements of the Intelligence Community.)

Would give the National Security Agency and the newly-created National Imagery Agency sole responsibility, subject to the approval of the DNI, for the procurement and operation of overhead reconnaissance systems to support signals intelligence collection and imagery collection, respectively. (Under existing arrangements, these functions are performed by other offices which are not part of the collection agencies concerned.)

Would give the Senate Select Committee on Intelligence jurisdiction over the new DOD Tactical Intelligence Program, described above.

*The hearings on S. 2198*

The Committee held five public hearings and one closed hearing on S. 2198. A total of fourteen witnesses gave testimony, and the Committee received written comments on the legislation from a variety of private individuals and associations.

Chairman Boren commenced the first hearing on February 20, 1992, by explaining what he saw as the key deficiencies in the existing organizational arrangements:

I find an Intelligence Community institutionally too isolated from the policymakers it was created to serve \* \* \* The absence of any structure which guarantees a role for the DCI in White House deliberations, or which relates the intelligence agenda to the foreign policy and defense agenda of a particular Administration, or which provides some measure of accountability vis-a-vis the President is not an optimal management structure.

Despite all the rhetoric about the DCI's role as leader of the Intelligence Community, I do not see a leader with clear responsibilities; or a leader with significant authorities over the Intelligence Community either in law or Executive order; or a leader with sufficient wherewithal to effectively manage the U.S. Intelligence Community.

The tactical intelligence activities of the military departments are not managed as a discrete, separate program by DoD, nor are they systematically and comprehensively integrated with national programs under the control of the DCI.

I perceive problems with how several functional areas within the Intelligence Community are managed \* \* \* National analysis is placed at too low a level and organizationally placed within an operational agency, the CIA \* \* \* No one in the Community effectively manages or rationalizes [human intelligence] collection for the Community as a whole \* \* \*. The absence of a unifying management structure for imagery has led to duplication and waste and to significant "disconnects," especially between national and tactical imaging activities.

Boren stated that these perceived deficiencies had prompted him to introduce the bill, and urge the Administration to address them in its own ongoing review.

Testifying on February 20, 1992, were former DCI and former Secretary of Defense, James R. Schlesinger; and former NSA Director, LTG William E. Odom (USA Ret.). Dr. Schlesinger was not disposed generally to legislation in this area, although he voiced the view that perhaps the time had come to set forth the DCI's responsibilities more clearly in statute. He cautioned against what he perceived as centralizing the analytical function, saying that agencies will respond by creating internal analytical support needed to do their jobs. He did believe savings were possible in the technical collection area and that a separate imagery agency deserved consideration. But he opposed a separate budget for intelligence and making the DCI responsible for budget execution, which, he

argued, should be left to the components themselves. Odom agreed with Schlesinger on these latter points, as well as on the necessity to maintain decentralized analysis. He found other provisions of the bill desirable, however, particularly those which created new management arrangements for imagery and HUMINT. He also expressed approval of putting collection agencies in charge of the procurement of overhead reconnaissance systems.

The next hearing took place on March 4, 1992. The witnesses were Ambassador Morton I. Abramowitz, President of the Carnegie Endowment for Peace and former Director of the State Department Bureau of Intelligence and Research; Admiral Bobby Ray Inman (USN, Ret.), former Director, NSA and former Deputy DCI; and Ernest R. May, Professor of History, Harvard University. Ambassador Abramowitz urged the Committee to establish a panel to look at intelligence needs for the next decade before determining an organizational framework. While he, too, urged the Committee to avoid centralizing the analytical function, he found that the current structure did not produce high quality analysis that policymakers found very useful. He urged the Committee to examine ways to attract and retain talented analysts, including dispensing with intrusive security requirements such as polygraph examinations. Admiral Inman expressed concern that the DNI structure envisioned by the bill would place too much authority in the hands of a single person. He did not see sufficient checks and balances. Dr. May also urged against centralizing analysis, encouraging the Committee to think instead of new ways to integrate analysts with both collection agencies and with consumers to facilitate the interplay between these functions.

The third hearing took place on March 12, 1992, with the Committee hearing testimony from the Honorable Frank C. Carlucci, former Secretary of Defense and former National Security Advisor; General Paul Gorman (USA, Ret.), former Commander-in-Chief, Southern Command; and General Alfred M. Gray (USMC, Ret.), former Commandant, U.S. Marine Corps. Mr. Carlucci urged the Committee to avoid rigid management structures, saying that intelligence needed to be able to respond to changing, uncertain world situations. He also reminded the Committee that intelligence had to be responsive not simply to senior policymakers but to consumers at all levels of government. He opposed the DNI framework and thought intelligence was better served by staying within the DOD budget. He did see value in having clear focal points within the Intelligence Community for each collection discipline: SIGINT, HUMINT, and imagery. General Gorman, on the other hand, did not like the notion of organizing around collection disciplines because it would only slow the support provided to military commanders. He urged the Committee to encourage decentralized collection and analysis, data sharing, and intelligence fusion. He saw the bill as moving in the wrong direction, i.e. towards centralization. General Gray did not believe any legislation was necessary, but rather that the Committee should rely on the DCI and Secretary of Defense to address its concerns through administrative actions.

A fourth hearing on the bill took place on March 19, 1992, when the Committee heard testimony from Senator Arlen Specter, chief

sponsor of S. 421, which mandates the creation of a Director of National Intelligence; Dr. Harold P. Ford, former senior analyst at CIA; and Dr. Richard K. Betts, Professor at Columbia University and former consultant to the National Security Council and to National Intelligence Council. Senator Specter testified that in his view the responsibilities of the Director of Central Intelligence were too demanding to be effectively handled by one person, and, as a result, the DCI's Community-coordination role had historically been weak. He believed a separate Director of National Intelligence, without line responsibility for the CIA, was needed to satisfy the increasingly-demanding management needs of the Intelligence Community. Drs. Ford and Betts focussed upon the bill as it affected the analytical function. Ford testified in support of the bill, saying that "major surgery" was need to improve the quality and stature of the analytical function. While competing analysis must be preserved, said Ford, more must be done to recruit and retain top quality analysts, and tie them more closely to the policy process. Betts agreed that intelligence analysis must be made more relevant to the policy process but thought much of the fault lay with consumers rather than the Intelligence Community. He cautioned, however, that these problems were probably not amenable to legislative solutions.

#### *Testimony of DCI Gates*

The Committee's final hearing on S. 2198 took place on April 1, 1992, when the Committee heard testimony from DCI Robert M. Gates in both open and closed sessions.

Gates recounted to the Committee the actions he had taken since assuming office in November, 1991, to bring about change within CIA and the Intelligence Community. He advised that his first action had been to appoint 14 separate task forces to look at specific problem areas. Each task force had produced a series of recommendations which he had addressed personally or had taken to the President for approval.

Describing these recommendations as "a strong manifestation of the willingness, even eagerness, of the intelligence professionals of this country to move into the future," Gates outlined the action he had taken both within CIA and within the Intelligence Community.

Among the actions taken at the CIA, Gates emphasized:

- Measures to enhance the contacts between analysts and policymakers, and to make the intelligence product more relevant and more useful to the policy process;

- Measures to identify and deal with complaints regarding possible politicization of intelligence within the Directorate of Intelligence;

- Measures to ensure the timely dissemination of intelligence to the policy community;

- Measures to improve CIA's human source collection (the details of which were provided the Committee in closed session);

- Measures to improve the CIA's handling of information which indicated possible violations of law;

- Measures to improve communication mechanisms within the CIA to involve employees in the management process; and

Measures to encourage greater openness with the media and with academia, and to lead to fuller, more expeditious release of historical records.

Among the actions taken with respect to the Intelligence Community, Gates emphasized:

The abolition of the Intelligence Community Staff to be replaced by a new DCI Community Management Staff headed by an Executive Director for Community Affairs;

The physical relocation of the National Intelligence Council (NIC) out of CIA to be in closer to policymakers. The NIC would subsume the Intelligence Community production committees, and would have its own staff structure. It would be headed by a Chairman with two Deputies, one for Estimates, who would manage the estimative process, and the other for Evaluation, who would assess the quality and accuracy of the work. The participation of scholars and other private experts would be sought;

The establishment of a new National Human Intelligence Tasking Center at CIA to task human intelligence requirements to those elements of the Government best positioned to satisfy them at least cost and a least risk.

The creation of a small CIA office to work with the Department of Defense to improve the collection, exploitation, and dissemination of imagery at the national and tactical levels.

The restructuring of the Intelligence Community organization responsible for designing, building, and operating overhead reconnaissance assets. (The details of this restructuring were provided the Committee in closed session.)

Measures to strengthen intelligence support to military commanders.

Director Gates also said that with the exception of one legislative provision requested by the Administration—to permit the President to reprogram appropriated funds between NFIP accounts—legislation was not needed to accomplish these changes, and, indeed, were legislation to limit the flexibility of the DCI to make future adjustments, it would be ill-advised as well.

In general, the Committee responded positively to the actions taken by the Director. The Chairman said that, in his view, the Administration's actions appeared to fall noticeably short of the mark only with respect to the area of imagery management. He encouraged the Director to reconsider the relatively limited actions contemplated in this particular area.

Chairman Boren also stated that notwithstanding the actions taken by the Administration, it might nevertheless be desirable to consider legislation in some areas, both to update the existing statutory framework and to give greater permanency to the changes that had been instituted.

#### *Subsequent developments: The Central Imagery Office*

Subsequent to the Committee's hearings, Director Gates advised the Committee by letter dated May 6, 1992, that agreement had been reached within the Administration to create a Central Imagery Office within the Department of Defense to perform roughly the same functions for the imagery area that the National Security

Agency performed for signals intelligence, e.g. integrating national and tactical activities, setting uniform standards, promoting interoperability, etc. The Director of the Office would be nominated by the DCI and appointed by the Secretary of Defense. The Office would itself be designated a "combat support agency" within the Department of Defense, which would enable the Joint Chiefs of Staff to evaluate its performance in support of military commanders.

#### THE DESIRABILITY OF LEGISLATION

The Committee acknowledges that the Administration has moved to address its most prominent concerns with tangible, significant actions. In doing so, it has demonstrated that considerable change is possible without additional authorizing legislation. However, notwithstanding the commendable results that have thus far been achieved, the Committee believes that legislation continues to be desirable.

The law which provides the legal underpinning of the Intelligence Community is essentially limited to section 102 of the National Security Act of 1947, which has not been amended in the 45 years of its existence.

This statute hardly reflects the modern Intelligence Community. Indeed, the term "Intelligence Community" is not mentioned or defined in the statute at all. Existing law does not reflect any change to the Intelligence Community which occurred after 1947. Nor does existing law spell out the responsibilities of the DCI for the Intelligence Community or set forth the DCI's particular authorities vis-a-vis the agencies within the Community. Even where the existing law alludes to a "Community role"—to "correlate and disseminate intelligence" within the Government—this responsibility is cast in terms of the "duties of the Agency" rather than a duty of the DCI.

Indeed, the role of the DCI vis-a-vis the Intelligence Community did not take shape until the early 1970s when President Nixon made the DCI responsible for developing a consolidated budget for intelligence programs and for coordination of other intelligence activities. These responsibilities were reiterated, beginning in 1975, in a series of Executive orders which continue in effect to the present day. To find anything authoritative with respect to the responsibilities and authorities of the DCI vis-a-vis the Intelligence Community, one is compelled to look to the Executive Orders for answers since the statute itself is silent on these fundamental points.

The Committee also finds that the framework created by the Executive order has, as a matter of practice, left something to be desired, particularly from the standpoint of the DCI. There have been DCIs who have attempted to exert their authority under the Order only to be stifled by recalcitrant bureaucracies. At times the DCI's authorities have been plainly ignored, for example, when reprogrammings of NFIP funds have occurred without the DCI's approval although such action is expressly prohibited by the Executive order. On these occasions, where a DCI has been stifled or his authorities ignored, the Executive order framework provides little recourse for a DCI other than to complain to the President about an official with whom he must routinely deal.

To be sure, Congress has been aware of, and has acquiesced in, the evolution that has occurred within the Intelligence Community, and has continued to support it with funding and special legislative authorities. Particularly since the creation of the intelligence committees in the mid-1970s, Congress' oversight role has expanded considerably. But Congress has never been a "partner" in the sense of providing a legislative mandate for the changes that have occurred.

It is the Committee's view that specific legislative authorization for the Intelligence Community would strengthen rather than weaken the relationships between the DCI and agencies within the Intelligence Community, as well as strengthen the links between intelligence agencies and the Government as a whole. It would also give the Congress a specific role in fashioning and maintaining this structure.

In the view of the Committee, this would be an especially propitious time for the Congress to act. In view of the dramatic changes that have taken place in the world and the ensuing calls for reducing or dismantling our intelligence apparatus, it would appear a particularly useful time for Congress to reaffirm the need to preserve an intelligence capability to deal with future threats.

It would also signal a commitment of the Congress to deal with the business of intelligence with greater openness and candor, rather than hiding behind the ambiguities of existing law and leaving the "real" policy to the Executive branch. It is difficult to maintain popular support for activities which necessarily must be conducted in secret, but openly acknowledging and authorizing such activities in a public law can only improve the public's sense of confidence.

Finally, the Administration itself has taken actions which, in the view of the Committee, deserve greater permanence and greater stature than simply being left to Executive branch directives, which may be classified and are subject to change and noncompliance from Administration to Administration. This is not to say that any legislation in this area should not provide sufficient flexibility to allow for adjustments and change by a particular Administration. The Committee offers no disagreement on this point, and, indeed, stands ready itself to consider such statutory changes as the Executive branch may believe necessary in the future and to allow for flexibility within the parameters established by the legislation. On balance, however, the Committee believes that benefits of legislation, both for the Congress and for the Executive, outweigh the disadvantages of failing to act.

The Committee believes that Title VII of this bill represents a comprehensive, good faith effort to write into law the missions, functions, and basic relationships within the Intelligence Community, as they have evolved, and as they are reflected in, the latest actions of the Administration.

## 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 1993.

*Section 102* provides that details of the amounts authorized to be appropriated for intelligence activities and personnel ceilings covered under this title for fiscal year 1993 are contained in a classified Schedule of Authorizations. The Schedule of Authorizations is incorporated into the Act by this section.

*Section 103* authorizes the Director of Central Intelligence, with the approval of the Director of the Office of Management and Budget, in fiscal year 1993 to expand the personnel ceilings applicable to the components of the Intelligence Community under section 102 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, and any exercise of this authority must be reported to the two intelligence committees of the Congress.

*Section 104* authorizes appropriations and personnel levels for fiscal year 1993 for the Community Management Staff of the Director of Central Intelligence. This provision supercedes what had, in previous authorization bills, been the separate, public authorization for the Intelligence Community Staff. Pursuant to recent action by the Director of Central Intelligence, the existing Intelligence Community Staff was formally abolished, and many of its functions were dispersed to other elements within the Intelligence Community. To carry out the DCI's residual responsibilities for the Intelligence Community, the DCI created an Executive Director for Intelligence Community Affairs to head a smaller Community Management Staff located at CIA headquarters.

The Committee supports this action, but believes separate public authorization of the funds and personnel to support the DCI's Community management functions should be preserved both from the standpoint of congressional oversight and public accountability.

Accordingly, subsection 104(a) authorizes appropriations in the amount of \$10,500,000.

Subsection 104(b) authorizes a personnel level of 68 full-time personnel which may be permanent employees or personnel detailed from other agencies. Personnel detailed from other agencies shall be detailed on a reimbursable basis unless the detail is for a period less than a year.

Subsection 104(c) provides that the activities and personnel of the Community Management Staff of the Director of Central Intelligence shall be managed in the same manner as the activities and personnel of the Central Intelligence Agency.

*Title II—Central Intelligence Agency Retirement and Disability System*

*Section 201* authorizes fiscal year 1993 appropriations in the amount of \$168,900,000 for the Central Intelligence Agency Retirement and Disability Fund.

*Title III—Department of Defense*

*Section 301* grants the Secretary of Defense authority to provide post-employment assistance to certain DIA employees who lose access to sensitive compartmented information and/or their employment with DIA, in circumstances where the protection of classified information is jeopardized. The legislation is virtually identical to 1991 legislation that established a similar program for the National Security Agency (Section 503 of Intelligence Authorization Act Fiscal Year 1991, codified at 50 United States Code note).

Clearance for access to sensitive compartmented information (SCI) is a condition of employment for most DIA employees. This provision would allow DIA to reduce the risk of disclosure of classified information by helping potentially disgruntled or unstable employees who are dismissed for security reasons make the transition to other employment. The provision would permit use of appropriated funds for up to five years after an employee leaves DIA employment where the DIA Director determines such assistance is essential to avoid circumstances that might lead to the unlawful disclosure of classified information to which such employee or employees had access. Use of such authority must be regularly reported to the two oversight committees. The Committee expects the program to be carefully managed and used only where bona fide security concerns arise from the dismissal of a broadly cleared employee.

*Section 302* authorizes the Secretary of Defense to include senior executive service positions within the existing Civilian Intelligence Personnel Management System (CIPMS) of the Military Departments, i.e. the Army, Navy, and Air Force, and, by regulation, to establish the requirements for such positions, to provide for pay and benefits, and to provide for the appointment to and removal from such positions, consistent with the statutory requirements for the Senior Executive Service generally. It is the intent of the Committee that these positions be designated by the Secretary as Senior Intelligence Executive Service positions, to distinguish them from similar positions previously created at other agencies in the Intelligence Community.

This provision builds on 1987 legislation authorizing the Secretary of Defense to establish a separate personnel management system (CIPMS) for civilian intelligence officers and employees of the Military Departments. The legislation was enacted to improve the recruitment, retention, and training of career intelligence civilians employed by the Military Departments. Prior to enactment, the Military Departments were at a disadvantage relative to other entities within the Intelligence Community, specifically the Central Intelligence Agency, the Defense Intelligence Agency, and the National Security Agency, all of whom had significantly greater flexibility in shaping their civilian employees' career paths.

In the course of developing the policies and guidance to implement CIPMS within the Military Departments, the issue was raised whether the legislation was intended to include senior intelligence executive service positions within the new personnel system. DOD took the view that such positions were included, citing the desirability of providing for a system that encompassed all civilian intelligence management positions. In 1991, however, in

response to an inquiry from the Assistant Secretary of Defense for Force Management & Personnel, the Director of the Office of Personnel Management concluded that the 1987 legislation did not authorize the inclusion of senior executive service positions within the CIPMS and that enactment of enabling legislation was required to include SES positions within the system. This provision accomplishes that objective.

It is anticipated that the 17 senior executive service positions currently allocated to intelligence positions within the military departments would be transferred to the CIPMS. In addition, the Secretary of Defense would be permitted to establish additional positions so long as the total did not exceed 0.5 percent of the total CIPMS work force. The purpose of the ceiling is to ensure that such positions will not proliferate excessively in a period of declining budget resources, while still allowing the Military Departments' intelligence components to maintain a sufficient senior positions to attract and retain qualified personnel. Although comparisons can be misleading because of differing personnel needs, the Committee notes that the percentage of senior executive service employees to the total civilian workforce is about 4.0 percent at the Central Intelligence Agency, and at the Defense Intelligence Agency and National Security Agency about 1.5 percent. CIPMS presently has a workforce of approximately 10,200 employees, so the 17 existing SES positions represent .167 percent of the total.

While, as a general proposition, the Committee believes the number of SES positions in the Intelligence Community needs to be reduced, the current number of such positions allocated to the military departments appears woefully short of the number needed to provide a grade structure for adequate career progression and hampers the military departments from competing with other elements of the Intelligence Community for qualified personnel.

*Section 303* authorizes the Defense Intelligence College (DIC) to grant a bachelor's degree to students who have fulfilled the requirements for such a degree. The provision makes such authorization contingent on accreditation of the degree by the appropriate professional authority, which is the Middle States Association of Colleges and Schools.

The DIC's mission is to assist the professional development of Intelligence Community personnel. Since 1980, DIC has been authorized and accredited to award a Master of Science Degree in Strategic Intelligence (MSSI). While the MSSI program has aided the development of senior level intelligence personnel, there has been no comparable degree program aimed at fulfilling the educational needs of junior grade and enlisted military and civilian personnel who have college credits but do not have bachelor's degrees. The DIC has identified a large potential population of such personnel within DoD who have indicated the desire for such a program.

Accordingly, the DIC has developed a 60 quarter hour (40 semester hour) Bachelor of Science in Intelligence (BSI) degree program for full-time students. Twenty courses would be completed over four academic quarters in approximately 45 weeks. Entering students would be required to have already completed the equivalent of 120 quarter hours. The program builds upon DIC's existing non-degree Senior Enlisted Intelligence Program, which presently offers

many college-level courses. At a student load of 80, anticipated for the first class, DIC officials believe that the program can be executed within existing resources. Accreditation of the new curriculum is expected in calendar year 1992.

The curriculum would provide an intelligence major for individuals nearing the completion of a bachelors degree and thus provide a cost-effective means of increasing the professional competence of a key segment of the Community. Additionally, it could lay the foundation for entry into the MSSI program. The curriculum is designed to meet the training and educational needs of the Intelligence Community. It focuses on intelligence analysis and research methodologies and at the same time will provide grounding in the role of intelligence and the intelligence professional in the larger national security apparatus.

The Committee also believes it desirable for the DIC, if it obtains accreditation to award a bachelor's degree, to ensure not only that its curriculum provides training for a career in intelligence, but also that its degree requirements include prior or DIC academic credits in other fields, such as languages, history, the humanities, science and mathematics, suitable for a bachelor's degree program of a U.S. institution of higher learning.

Section 304 consists of minor amendments to the National Security Education Act, (section 801 of the Intelligence Authorization Act, Fiscal Year 1992) and authorizes an appropriation of \$35,000,000 to the National Security Education Trust Fund, created by the Act, for fiscal year 1993.

Subsection 304(a)(1) changes the minimum period for a foreign study program by an undergraduate from "one academic semester" to "one academic semester or equivalent term." The purpose of this provision is to account for the fact that many institutions abroad, as well as some in the United States, do not use a semester system. The value of the foreign educational experience will be diminished unless NSEA recipients are permitted and required, wherever possible, to complete a full academic term in the host country, rather than depart in the midst of an academic term because the home school's semester has ended.

Subsection 304(a)(2) amends the Act to permit the award of graduate student fellowships for study abroad, if that study abroad is part of a graduate degree program of a United States institution of higher learning. The Act presently provides for award of undergraduate scholarships for study abroad but provides graduate fellowships only for study in the United States. Allowing graduate student fellowship recipients to study abroad is directly in keeping with the goals and purposes of the National Security Education Act and is strongly urged by many members of the education community. At the same time, the requirement that graduate study abroad, whether at a foreign school or at a foreign branch of a U.S. school, be directed toward a degree program from a U.S. school is intended to strengthen international programs at U.S. schools and to prevent any perceived or potential overlap between the National Security Education Program and the Fulbright exchange program. The Committee is also cognizant of concerns expressed that United States graduate students abroad on National Security Education Act fellowships may be perceived by some host countries or by edu-

cators as possible or potential adjuncts of the U.S. Intelligence Community. The Committee expects the program administrators to proceed carefully with its authority to award graduate fellowships for study abroad, to consider fellowship placement on a country-by-country basis with sensitivity toward host country concerns, and to work out appropriate guidelines for such placement in consultation with the United States educational community.

Subsection 304(a)(3) authorizes the Secretary of Defense to enter into up to ten personal service contracts for periods up to one year in order to administer the program. Such authority will allow more efficient and cost-effective program administration and operation than would be achieved by relying solely on full-time government employees. It is the Committee's intent that these contracts may be renewed as necessary so long as the total number does not exceed ten in any one year.

Subsection 304(a)(4) removes the requirement in the Act that the Secretary of Defense administer the program through the Defense Intelligence College. While the Defense Intelligence College might well be used to assist the program, the Committee has concluded that, as a practical matter, it is not bureaucratically positioned to easily execute the responsibilities assigned the Secretary by the Act. Moreover, the Committee sees value in separating the program more distinctly from the field of intelligence. Clearly the Act was meant to satisfy a broad variety of needs in the national security field. Thus subsection 304(a)(4) has been revised to provide for the establishment of an "independent center for international studies" to administer the program. It is believed such a "center" would better facilitate interaction between the program and members of the education community and the public, particularly if it were located in a place which was readily accessible to the public without the need for security screening or visitor controls. The Committee anticipates, however, that the size and accoutrements of the "center" will remain of modest proportions. By providing for an "independent" center, the Committee does not intend to remove the "center" from the authority and control of the Secretary, but rather that the program itself will be administered free of any political or bureaucratic pressures which might be brought to bear upon the operations of the Board or upon the award of scholarships or fellowships pursuant to the Act. While there has been no indication of such pressure, the Committee regards this wording as a useful safeguard.

Subsection 304(a)(5) expands the size of the National Security Education Board from ten (six government officials and four education experts) to thirteen (seven government and six education experts) by adding to the Board the Chairperson of the National Endowment for the Humanities and two additional education experts. The statutory mandate of the National Endowment for the Humanities (NEH) coincides in many respects with the goals of the National Security Education Program. For example, the NEH is dedicated to, among other pursuits, promoting scholarship and teaching in the humanities, supporting programs that emphasize cultural diversity, and fostering international programs and exchanges. The Committee takes note, in fact, that NEH and the National Security Education program office are already working closely together,

with NEH having conducted a survey of critical language and area studies gaps in the United States for the NSEA office, and with NEH's deputy chairperson having agreed to serve on the National Security Education program's advisory committee. It is the Committee's view that placing the Chairperson of the National Endowment for the Humanities on the National Security Education Board will, in fact, mutually complement the work of both organizations.

The Committee also believes that the public representation on the Board should be increased to provide balance to the seven members from the federal government and to allow the participation of a broader, more diverse group of experts in international education. This subsection clarifies the intent of the Act that the six education experts on the Board not be officers or employees of the United States but rather will come from outside the federal government and will have expertise in languages, area studies, and other international fields. As provided by the Act, all will be appointed by the President with the advice and consent of the Senate.

Subsection 304(b) authorizes an appropriation of \$35,000,000 to the National Security Education Trust Fund, created by section 804 of the Act, for fiscal year 1993.

*Section 305* amends section 2 of the National Security Agency Act of 1959 and implements certain recommendations of the National Academy of Public Administration (NAPA) (see the NAPA report, "The Intelligence Workforce for the 1990s: A Review of Personnel and Compensation Systems to Meet Current and Future Missions"), to ensure that NSA has statutory compensation authority that is sufficiently flexible to allow effective recruitment and retention of personnel with the skills required to carry out NSA's complex mission. This section also includes technical and clarifying amendments that reflect changes in related laws, including the adoption of the Federal Employees Pay Comparability Act (FEPCA).

Subsection 2(a) clarifies that no civil service-level employee of NSA may be paid basic pay above the rate paid to employees at Executive Level IV. The number of employees who may be compensated up to the top civil service level (i.e. up to Executive Level IV in the bill) remains at 70. No substantive change is made in the Agency's authority to establish rates of basic pay.

Subsection 2(b) is a new subsection authorizing the Secretary of Defense to provide to NSA employees, in addition to basic pay authorized in subsection (a), the same benefits, allowances, incentives or compensation as other federal employees are eligible to receive under title 5, U.S. Code, which governs general federal employee compensation.

The NAPA panel concluded that NSA needed authority to offer competitive pay, benefits, allowances, incentives, and other compensation to ensure that the Agency can effectively recruit and retain the quality workforce required by its highly technical and critical missions.

Subsequent to issuance of the NAPA report, FEPCA was enacted into law. FEPCA substantially increased the flexibility of the pay and other compensation provisions of Title 5. While NSA could meet the pay rate requirements of the FEPCA by invoking its ex-

isting, independent statutory authority to draw upon the authorities of Title 5, NSA does not have statutory authority to provide its employees compensation other than basic pay, i.e., bonuses, benefits, allowances, incentives, etc., as provided to other departments and agencies by the FEPCA and related legislation. In fact, NSA is excluded from many of the relevant Title 5 provisions that authorize such benefits, including sections 5758, 5754, and 5379 of Title 5, which, respectively, allow agencies to provide recruitment and relocation bonuses, retention allowances, and student loan payment assistance. NSA has been able to offer such benefits only through special regulatory delegations of authority.

To address this situation, subsection 2(b) authorizes the Secretary of Defense to provide officers and employees of NSA such additional benefits, incentives, and allowances available under Title 5 to other federal agencies. Under this subsection, NSA's authority to provide any such compensation will be no more or less than that provided in Title 5 to other agencies. The Committee intends that this authority be exercised consistent with the limits on payments set forth in the regulations that control provision of these benefits to other Government employees and that this authority remain subject to the internal oversight procedures of the Department of Defense. In addition, in light of the limited budget resources available for NSA personnel, the Committee expects that these benefits be dispensed sparingly and directed at those employees with highly advanced skills in mathematics, computer science, engineering and languages, rather than across the general workforce, for the purpose of ensuring a quality cadre of personnel with such high-level skills.

This section is not intended to affect the operation of any other section of the National Security Agency Act of 1959, as amended (50 U.S.C. 402, note).

#### *Title IV—Federal Bureau of Investigation*

*Section 401* authorizes the FBI Director, during fiscal year 1993, to accept bequests of personal property or devises of real property under certain conditions.

The FBI is the recent recipient of a bequest, valued at approximately \$600,000 by the late Robert D. May, a resident of Torrance, California. However, the FBI presently lacks the legal authority to accept such a bequest. It is the intent of this section to allow the FBI to accept this bequest, and use it to fund a scholarship program for the immediate families of federal law enforcement officers who are slain or permanently disabled in the line of duty. The Committee is advised by the FBI that if this authority is approved, it intends to establish a "Robert D. May Memorial Scholarship Fund," the proceeds of which will be used to administer this program.

Subsection (a) provides that during fiscal year 1993, the Director of the FBI may accept any bequest or devise made by a citizen of the United States, which shall be used only to (1) fund and administer, in accordance with regulations issued by the Director, a scholarship program for the benefit of the immediate families of Federal law enforcement officers slain or permanently disabled in

the line of duty; and (2) to pay all necessary expenses in the line of duty; and (2) to pay all necessary expenses in connection with the acceptance of such gifts. It is the Committee's intent that the precise nature and conditions of the awards made under the program be determined in the regulations issued by the Director. Such regulations should also specify which family members constitute "immediate family" as well as when a law enforcement officer "in the line of duty" is slain or receives a "permanent disability," for purposes of this section. The Director would not be authorized by this section to accept any bequest or devise unless, consistent with its terms (if any), it could be used to fund and administer the scholarship program contemplated by this section.

Subsection (b)(1) provides that the money or proceeds from the sale of property accepted as a bequest or devise by the Director pursuant to subsection (a) shall be maintained in an interest-bearing account, and shall remain available for disbursement in accordance with this section until such funds are expended.

Subsection (b)(2) provides that the authorities provided in subsection (a) may be exercised only to such extent and in such amount as are provided in advance in appropriation Acts.

Subsection (c) provides that within 90 days of accepting any bequest or devise pursuant to this section, the Director shall publish regulations to implement the provisions of this section in a fair, equitable manner, and shall make copies of such regulations available to all federal law enforcement agencies. Copies of such regulations shall also be provided the Judiciary Committees of the Senate and the House of Representatives. It is the Committee's intent that the proceeds of the scholarship fund to be established pursuant to this section be available on an equal basis to the families of any federal law enforcement officer who is slain or permanently disabled in the line of duty, and that the program be administered in a nondiscriminatory manner.

The Committee recognizes that this provision exceeds the normal scope of its jurisdiction over the FBI, which is limited to counterintelligence matters. Accordingly, with the concurrence of the Committee on Judiciary, only temporary authority to accept gifts is proposed, and the permitted use of such gifts is limited. Should permanent legislation of this type be desirable, or broader use of such gifts be permitted, the Committee is of the view that such matters should be addressed by the FBI to the Committees on Judiciary of the Senate and House of Representatives.

#### *Title V—Central Intelligence Agency*

*Section 501* amends section 17(e)(3) of the Central Intelligence Agency Act of 1949 to make clear that the CIA Inspector General may receive and investigate complaints or information from any person relating to the Agency's programs, operations, or activities. The existing statute authorizes the Inspector General "to receive and investigate complaints or information from an employee of the agency" concerning matters within the Inspector General's investigative authority and does not mention other possible sources of such complaints. While this language was not intended to limit the authority of the Inspector General to consider complaints from per-

sons outside the CIA, the Committee believes it desirable to clarify this point, rather than leaving a potential question about the Inspector General's authority. There should be no doubt that the Inspector General's authority to act upon information related to Agency programs, operations or activities is not limited by the source of the information.

### *Title VI—General Provisions*

*Section 601* 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.

*Section 602* provides that the authorization of appropriations by this legislation does not constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

*Section 603* expresses the "sense of the Congress" that beginning in 1993, and in each year thereafter, the aggregate amount requested and authorized for, and the amount spent on, intelligence and intelligence-related activities should be disclosed to the public in an appropriate matter. The language of this provision is identical to section 701 of the Intelligence Authorization Act for Fiscal Year 1992.

The Committee thus reiterates its position that the total amount of funding for intelligence and intelligence-related activities, which is currently classified by the Executive branch for reasons of national security, should be disclosed to the public in an appropriate manner.

### *Title VII—Intelligence Reorganization Act of 1992*

#### SECTION 701

Section 701 contains the short title of this title of the bill.

#### SECTION 702

Section 702 amends the National Security Act of 1947 (50 U.S.C. 401 et seq.) by inserting a new section 3 providing definitions of the terms used in the subsequent amendments made to the Act by this title.

Subsection (3)(1) of the new section (3) defines the term "commissioned officer of the Armed Forces" to exclude a commissioned warrant officer.

Subsection (3)(2) defines "counterintelligence" as information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign powers, foreign organizations, or foreign persons, or international terrorist activities. The reference to "other intelligence activities" refers, for example, to clandestine actions to influence events in the United States and similar types to activity. The term is not intended to include personnel, physical, document, or communications security programs;

Subsection (3)(3) defines the term "Intelligence Community" to include:

- the Office of the Director of Central Intelligence, which, in turn, includes the Office of the Deputy Director, the National Intelligence Council as established by the bill, and such other offices as the Director may designate;

- the Central Intelligence Agency;

- the National Security Agency;

- the Defense Intelligence Agency;

- the central imagery authority within the Department of Defense (see the explanation of section 105(b)(2), below);

- the Office of Reconnaissance Support [as provided for by section 105(b)(3)] within the Department of Defense;

- other Offices within the Department of Defense for the collection of specialized national intelligence though reconnaissance programs;

- the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, the Department of the Treasury, and the Department of Energy;

- the Bureau of Intelligence and Research of the Department of State; and

- such other elements of any other department or agency as may be designated by the President, or designated jointly department of agency concerned, as an element of the Intelligence Community.

This definition includes all of the elements of the Intelligence Community that currently exist, including those established as a result of recent organizational changes by the Administration.

The office designated by the bill as the "Office of Reconnaissance Support" currently exists within the Department of Defense but under another name which is presently classified. The Committee would prefer using the actual name of this office in order to avoid raising questions with respect to whether the administrative authorities and contractual arrangements are altered as a result of reconstituting the office under a different name. Moreover, the Committee believes that use of the real name would not jeopardize any legitimate security interest. The initial concern over the reactions of foreign governments to the U.S. acknowledging the operation of intelligence satellites in space has long since been overtaken by technology and world events. Indeed, the United States public announced that the "fact of" satellite collection in 1978, and other governments now acknowledge their own similar capabilities. While clearly the work of this office must remain classified, the Committee perceives no significant purpose in continuing to classify its existence. Indeed, the Committee believes that continued classification only serves to hamper the external relationships of the office, limit the use of its products, and, generally, to undermine the public's respect for the classification system.

At the time the Committee reported this legislation, however, the Executive branch has not reached a decision on the declassification issue. Hence, the Committee opted for using an alternative name to designate the office concerned. It is the Committee's expectation that before this bill is considered by the Senate as a

whole, or by the time it is considered by the conference committee, the Administration will have resolved this issue in favor of disclosure of the existence of the organization concerned, and that its real name thus may be substituted in the final text of the bill.

The Committee also notes the definition mentions only a "central imagery authority" of the Department of Defense, rather than specifying the name of the office in law. In fact, the Secretary of Defense on May 6, 1992, issued a Defense directive creating such an authority, designated the Central Imagery Office. Given the fledgling status of this new office, however, and the possibility that the Secretary and DCI may yet wish to adjust its structure, the Committee believes it is preferable not to specify this agency by name at this time.

The definition also allows for new elements to be designated by the President, or pursuant to the joint agreement of the DCI and the head of the department or agency concerned. It is contemplated, in any case, that Congress will periodically amend this definition to reflect subsequent organizational changes.

Subsection (3)(4) defines the term "intelligence" to include foreign intelligence and counterintelligence.

Subsection (3)(5) defines "foreign intelligence" to mean information relating to the capabilities, intentions, or activities of foreign powers, foreign organizations, or foreign persons.

Subsection (3)(6) defines the term "foreign power" as including four separate categories. Subsection (a) includes a foreign government or any component thereof. Subsection (b) also includes within the term "foreign power" an entity that is openly acknowledged by a foreign government or governments to be being directed and controlled by such foreign government or governments. Subsection (c) includes within the meaning of the term "any group engaged in international terrorist activities or international narcotics activities abroad." Such groups do not require an acknowledged relationship with a foreign government to fall within the meaning of the term "foreign power," nor does the term refer only to foreign-based groups. Any group which is engaged in international terrorist activities or international narcotics activities abroad is considered a "foreign power" even if certain of its activities may be carried out within the United States. Subsection (d) includes within the term "foreign power" a foreign-based political organization not substantially composed of United States citizens or persons admitted into the United States for permanent residence.

Subsection (3)(7) defines the terms "national intelligence" and "intelligence related to the national security," which are used interchangeably in the text of the bill. The terms refer to intelligence that is of interest to more than one department or agency of the Government. Such intelligence is required for the formulation and/or implementation of national security policy. In brief, the information transcends the exclusive competence of a single department or agency. The definition is not intended to alter existing understandings or practice regarding the meaning of "national" as distinguished from "departmental" or "tactical" intelligence.

In addition, the definition provides for one specific exclusion from its scope, making clear that the definition of "national intelligence" does not refer to the counterintelligence and law enforce-

ment activities conducted by the FBI except to the extent provided for in procedures agreed to by the Director of Central Intelligence and the Attorney General, or otherwise as expressly provided by the Act. In view of the prohibitions contained in section 103(d) of the Act (as added by the bill) as well as in existing law, that the CIA should have no law enforcement or internal security functions, the Committee believes it desirable to exclude information concerning certain of the counterintelligence and law enforcement activities of the FBI from the definition of "national intelligence." This exclusion is intended to remove information concerning FBI operational activities from the purview of "national intelligence" except where the Director of Central Intelligence and the Attorney General agree that such information can and should be shared. It is also the purpose of this subsection to ensure that to the extent existing procedures agreed to by the Director and the Attorney General pursuant to Executive Order 12333 provide for the Director of Central Intelligence to coordinate the counterintelligence activities of the FBI outside the United States, or to the extent similar procedures may otherwise exist which relate to FBI law enforcement activities outside the United States, such activities are to be considered as "national intelligence;" or "matters involving intelligence related to the national security" for purposes of this title. In addition, this subsection provides that the term "national intelligence" includes information concerning counterintelligence or law enforcement activities where otherwise expressly provided for by this title. Accordingly, where the President or National Security Council has assigned the DCI responsibilities pursuant to subsection 103(c)(6) of this title which necessitate access by the DCI to counterintelligence or law enforcement information, it is intended that such information be considered "national intelligence" for purposes of this title.

Subsection (3)(8) defines the term "National Foreign Intelligence Program" as referring to all programs, projects and activities of the Intelligence Community as well as any other programs of the Intelligence Community designated jointly by the Director of Central Intelligence and the head of the department or agency concerned, or by the President. This provision is consistent with historical practice. For example, although the definition of "national intelligence" excludes FBI counterintelligence activities, the FBI's Foreign Counterintelligence Program is included within the National Foreign Intelligence Program by agreement of the Attorney General and Director of Central Intelligence, as provided for by the definition. Specifically excluded from the National Foreign Intelligence Program are the programs, projects, or activities of the military departments to acquire intelligence solely for the planning and conduct of tactical military operations by U.S. Armed Forces. This is not to suggest that tactical intelligence should not be shared with the "national" "Intelligence Community where appropriate. Nor is it intended to preclude the "national" Intelligence Community from collecting and disseminating intelligence necessary to the planning and conduct of tactical military operations. Indeed, the bill specifically requires such support at several places. However, while the Committee believes that closer integration of "national" and "tactical" intelligence activities is required, it be-

lieves that budgetary control over tactical intelligence resources should remain under the purview of the Department of Defense.

*Subtitle B—The National Security Council*

Subtitle B of Title VII amends section 101 of the National Security Act of 1947 to provide for participation of the Director of Central Intelligence in the National Security Council.

Section 711 of the bill would add a new subsection (h) to section 101 of the National Security Act of 1947 which provides that the DCI or the Deputy DCI may, in furtherance of the responsibilities assigned by section 103 of the Act [as added by this title] and subject to the direction of the President, attend and participate in meetings of the National Security Council. This provision is similar to the existing subsection 101(e) which provides for the participation of the Chairman of the Joint Chiefs of Staff.

While the Committee recognizes that the President should have the flexibility to invite whomever he needs to participate in meetings, of the National Security Council, and that, indeed, past Directors of Central Intelligence have usually participated in such meetings, the Committee believes that the law itself should reflect the institutional role which the DCI plays in this process, at least to the extent that the roles of other similar officials in the national security area are recognized. Existing law establishing the National Security Council and setting forth its participants does not mention the DCI, and, in the view of the Committee, is defective in this respect.

*Subtitle C—The Director of Central Intelligence*

Subtitle C contains two sections, both of which amend the National Security Act of 1947. Section 721 provides for the appointment of the Director and Deputy Director of Central Intelligence, and section 722 sets forth the responsibilities and authorities of the DCI.

SECTION 721 (a)

Section 721(a) amends section 102(a) of the National Security Act of 1947 (50 U.S.C. 403(a)) by inserting new provisions applicable to the appointment of the Director and Deputy Director of Central Intelligence.

New subsection 102(a)(2) provides for a Director of Central Intelligence appointed by the President, by and with the advice and consent of the Senate, who shall serve three principal functions: as head of the United States Intelligence Community, as principal adviser to the President for intelligence matters related to the national security, and as head of the Central Intelligence Agency.

These functions reflect the trifurcated role of the DCI as it has evolved to the present. None of these roles, however, is made explicit by existing law.

Subsection 102(a)(3) provides for the appointment of a Deputy Director of Central Intelligence, appointed by the President with the advice and consent of the Senate, who shall act for, and exercise

the powers of, the Director, during his or her absence or disability. This provision is similar to existing law.

Subsection 102(a)(4)(A) provides that the Director and Deputy Director of Central Intelligence may be appointed from the commissioned officers of the Armed Forces, or from civilian life, but both positions may not be simultaneously occupied by commissioned officers of the Armed Forces whether in an active or retired status. This provision is similar to existing law.

Subsection 102(a)(4)(B) contains a "sense of the Congress" provision, making clear that under ordinary circumstances, Congress believes it desirable to have one of the two positions filled either by a military officer or by a civilian who, by training or experience, has familiarity with military intelligence activities and requirements. Ensuring that either the DCI or the Deputy DCI has an appreciation of military intelligence will, in the Committee's view, foster the integration of national and tactical intelligence programs and provide greater assurance that national programs will satisfy the requirements of military commanders.

Subsection 102(a)(5)(A) provides that in the event a commissioned officer is appointed to either position, certain restrictions will apply. All are similar to provisions in existing law. Subsection (5)(A)(i) provides that such officer shall not be subject to the supervision or control of the Secretary of Defense, or any officer or employee of the Department of Defense. Subsection (5)(A)(ii) provides, conversely, that such officer shall not exercise supervision or control over any military or civilian personnel of the Department of Defense except as authorized by the Act itself. Subsection (5)(A)(iii) provides that such officer shall not be counted against the statutory ceilings provided by law for officers of the same rank and grade in the military department to which such officer belongs.

Subsection 102(a)(5)(B) provides that except as provided in subsection (5)(A), the appointment of a military officer to either of the two positions shall not effect the status, rank, position, emoluments, perquisites, privileges or benefits to which the officer may be entitled by such rank or grade.

Subsection 102(a)(5)(C) provides that any military officer appointed to either position shall continue to receive the military pay to which he is entitled, to be reimbursed to the appropriate military department by funds available to the Director.

#### SECTION 721 (b)

Section 721(b) amends section 5312 of title 5, United States Code, to add the position of Director of Central Intelligence to the list of Executive branch officials designated at Executive Level I. Under existing law, the Director is designated at Executive Level II. The Committee is of the view that, given the DCI's responsibilities and in particular the need to relate to the heads of cabinet-level departments and agencies on a routine basis, the position should be accorded a status equal to cabinet secretaries.

#### SECTION 722

Section 722 amends the National Security Act of 1947 (50 U.S.C. 401 et seq.) by repealing section 102a, which provides for a Director

of the Intelligence Community Staff (an organization which has been abolished by action of the Executive branch), and by adding two new sections to the Act: section 103, which sets forth the responsibilities of the Director of Central Intelligence, and section 104, which sets forth the authorities of the Director of Central Intelligence.

### *Section 103*

Section 103 specifies the responsibilities of the Director of Central Intelligence with regard to each of the three roles identified previously in section 102(a) of the Act, namely: as principal adviser to the President for intelligence matters related to the national security; as head of the U.S. Intelligence Community; and as head of the Central Intelligence Agency.

Subsection 103(a) provides that under the direction of the National Security Council, the Director shall be responsible for providing timely, objective national intelligence, independent of political considerations, and based upon all sources available to the Intelligence Community, to the President, to other senior officials within the Executive branch, and, as appropriate to the Congress or committees thereof. Although the CIA was established by President Truman essentially to perform this role, existing law does not ascribe such function directly to the DCI. The Committee believes it is desirable to do so. In charging the DCI with producing "objective" intelligence, "independent of political considerations," the Committee recognizes that such criteria are largely subjective. What may appear "objective" to one may appear to have been "politically-motivated" to another. The Committee recognizes that it cannot legislate "objectivity." Nonetheless, we believe that this element is such a fundamental part of the DCI's role, of its *raison d'être*, that it deserves explicit recognition in law.

Consistent with the provisions of this title, the Committee intends that the Director of Central Intelligence provide the heads of departments and agencies with access to all national intelligence relevant to their respective needs.

To assist the DCI in carrying out the functions set forth in subsection (a), subsection (b)(1)(A) provides for the establishment of a National Intelligence Council, composed of senior analysts from the Intelligence Community, and substantive experts from inside and outside the Government. The Council members shall be appointed by, report to, and serve at the pleasure of the Director of Central Intelligence. The Council is headed by a Chairman and two Deputy Chairmen, one of whom shall be from the private sector. Subsection (b)(1)(B) provides, with respect to the appointees from the private sector, the Director will prescribe appropriate security procedures, as a condition of service on the Council, to ensure the protection of intelligence sources and methods while avoiding, wherever possible, unduly intrusive requirements deemed unnecessary by the Director for this purpose. It is the Committee's intent to provide the DCI with flexibility to waive the requirement for life-style polygraph examinations and similarly intrusive measures as a requirement for service by private sector appointees. In many cases, such appointees will be coming from the private sector for a short period, often at a considerable personal sacrifice, and may well be

discouraged by the intrusive security requirements imposed upon career government employees.

In recommending this provision, the Committee does not intend to affect in any way the continued existence or functions of analytical staffs either at the Central Intelligence Agency, or at any other department or agency. The Committee expressly acknowledges that such staffs play critical roles in support of the department or agency heads whom they respectively serve, and in proposing a National Intelligence Council, it is not the intent of the Committee to affect in any way the size, functions, or reporting relationships of these analytical staffs.

Subsection (b)(2) provides that the Council shall be responsible for the production of national intelligence estimates which shall convey, as the Council deems appropriate, alternative views held by elements of the Intelligence Community. The Committee recognizes that the inclusion of alternative views in national estimates involves an element of judgment. Not all alternative views will address significant issues. This provision is intended to charge the Council, where, in its view, there are alternative views on significant issues raised by a particular estimate, to include such views in the estimate for the edification of consumers.

Subsection (b)(3) provides that the members of the Council shall constitute the senior intelligence advisers of the Intelligence Community within their respective areas of expertise. The purpose of this provision is to elevate the institutional status of the Council both within the Government and in the private sector, making service on the Council more prestigious and desirable. The provision is not intended in any way to denigrate the positions or the work of analysts at CIA or at other departments and agencies in the Intelligence Community, who, indeed, may provide invaluable if not unique analysis within their respective areas of expertise.

Subsection (b)(4) provides that the Director shall make available such staff to the Council as may be necessary to carry out its responsibilities, and that he shall take appropriate measures to ensure the Council and its members satisfy the needs of policymakers and other consumers of intelligence. The lack of an independent staff capability has hampered the performance of the Council in the past, and, thus, the Committee believes an explicit charge to the DCI to make such staff available is desirable. With respect to the second part of this section, it is the Committee's intent to charge the DCI specifically with making the analytical work of the Council relevant to the policymaking process of the Government. This could mean ensuring that intelligence analysis is relevant to the issues currently under consideration by a particular Administration, ensuring that it is timely, and that it adequately satisfies the needs of policymakers to understand the likely impact of their decisions. The Committee has grown increasingly concerned in recent years that the Intelligence Community has grown too isolated from the consumer it was established to serve. This provision is seen as one means of addressing this concern.

Subsection (b)(5) provides that the heads of elements within the Intelligence Community shall furnish appropriate support to the Council, including the preparation of analyses. The Community

has, in fact, provided such support in the past, and this provision only ensures that it will continue.

Subsection (c) sets forth the responsibilities of the Director of Central Intelligence as head of the Intelligence Community.

Subsection (c)(1) provides that the Director will develop and present to the President and the Congress an annual budget for the National Foreign Intelligence Program. This is similar to the function now assigned the DCI by Executive order.

Subsection (c)(2) charges the DCI with establishing the requirements and priorities to govern the collection of national intelligence by elements of the Intelligence Community. This function is also similar to that now assigned the DCI by Executive order.

Subsection (c)(3) provides that the DCI will promote and evaluate the utility of national intelligence to consumers within the Government. This specific charge to the DCI reflects the Committee's growing concern that national intelligence be made more useful, in terms of its content, its timing, and its relevance, to consumers. While this function is generally alluded to in Executive order, this provision constitutes a clearer, more direct charge to the DCI. In the past, performance of this function has been mixed. Since evaluation of the Community's performance often brings the DCI into conflict with department or agency heads, some have refrained from aggressively pursuing this critical function. The Committee's intent, by placing this provision into law, is to ensure that future DCIs will pay adequate attention to promoting and assessing the impact intelligence is having on the work of the Government.

Subsection (c)(4) charges the DCI with eliminating waste and unnecessary duplication within the Intelligence Community. While it is contemplated that the DCI will do this chiefly through his actions on the annual budget, it is also intended that the DCI will use other coordination mechanisms to accomplish this objective.

Subsection (c)(5) charges the DCI with the protection of intelligence sources and methods. The Director is provided this authority under existing law, and, pursuant to it, has issued a variety of security policies, applicable to the Government as a whole, for the protection of intelligence sources and methods. The Committee views this authority as having been useful, and believes it should be continued.

Subsection (c)(6) provides that the DCI shall perform such other functions as the President or National Security Council may direct with respect to the Intelligence Community. Although arguably this result is achieved by other provisions of the bill, the Committee believes it desirable to indicate explicitly that the President may assign additional functions not set forth in the statute. Indeed, in Executive Order 12333, the President has assigned functions to the DCI that are not reflected by the bill. This provision ensures that these authorities and responsibilities, and any others directed by the President, shall continue to be exercised by the DCI with respect to the Intelligence Community and to other departments and agencies of the Government.

Subsection (d) sets forth the responsibilities of the DCI as head of the Central Intelligence Agency.

Subsection (d)(1) provides that as head of the Agency, the Director shall be responsible for collecting intelligence through human

sources and other appropriate means, except that the Agency shall have no police, subpoena, or law enforcement powers, or internal security functions. This latter phrase is carried over from existing law, preserving the limitations which have existed with respect to CIA's domestic activities since its creation. This formulation does not foreclose CIA's collecting intelligence within the United States so long as such activities do not extend into a prohibited area. The Committee also notes that pursuant to the terms of Executive Order 12333, CIA is required to coordinate all of its collection activities in the United States with the FBI, in accordance with procedures agreed upon by the Director and the Attorney General. The Committee views the retention of this requirement as critical to ensuring that CIA's domestic activities remain consistent with the section.

Subsection (d)(2) charges the DCI as head of CIA with providing overall direction for the collection of national intelligence through human sources by elements of the Intelligence Community authorized to undertake such collection, and, in coordination with other agencies of the Government which undertake such collection, ensure the most effective use is made of resources and that the risks to the United States and those involved in such collection are minimized. This function is not specified in existing law, and, until recently, has not been viewed as a responsibility of the DCI.

The Committee believes that it should be. With the end of the Cold War, with greater access and openness in many countries where access had heretofore been denied, there will be a need to assess the Government's overall needs for human source intelligence as well as its capabilities to gather it. These requirements may well be satisfied without resort to clandestine means by elements of the Government which are not regarded as intelligence agencies. There must be a single place where such assessments are made, and, in the view of the Committee, CIA is the agency most suited for the task.

It is not the intent of this provision, however, to give the DCI authority or control over the operational activities of other departments and agencies, or components of such departments or agencies, which are outside the Intelligence Community. Rather, it is intended that the DCI work with such departments and agencies, provide guidance and advice to them with respect to identifying the roles they can play in overtly satisfying national as well as departmental intelligence requirements, and, at the same time, to better focus the human collection activities of the Intelligence Community.

Having said this, the Committee would be concerned if this role for the DCI were to lead to the information collected by "non-intelligence" agencies being subjected to greater secrecy than is currently the case. This problem becomes particularly acute when the information deals with issues that go beyond traditional national security concerns into such areas as the environmental or world health matters, where information held by the Government has been, and should continue to be, routinely made available to the public.

Thus, subsection (d)(2) is not intended to alter or expand the authorities of the DCI vis-a-vis departments and agencies outside the

Intelligence Community, nor to subject information collected by those agencies to greater secrecy than is currently the case.

Subsection (d)(3) gives the DCI responsibility as head of CIA to correlate and evaluate intelligence related to the national security and provide appropriate dissemination of such intelligence. This provision is similar to existing law and recognizes the CIA's analytical function.

Subsection (d)(4) charges the DCI as head of CIA with performing services of common concern to the Intelligence Community as the Director determines can be more efficiently accomplished centrally. This responsibility is also similar to existing law and is intended to provide the CIA with authority to carry out certain activities on behalf of the Intelligence Community where the DCI determines that they can be more efficiently accomplished by the Agency.

Subsection (d)(5) provides that the DCI, as head of CIA, shall perform such functions and duties related to intelligence affecting the national security as the President or National Security Council may direct, including the conduct of covert actions which may be authorized pursuant to title V of the Act. While this authority might be implied in other provisions of the bill, the Committee believes it desirable to recognize explicitly this responsibility. The statutory provisions governing the approval and reporting of covert actions, as set forth in title V of the Act, are unaffected by this subsection.

#### *Section 104*

Section 104 sets forth the authorities of the Director of Central Intelligence vis-a-vis the Intelligence Community, and provides special authority to terminate the employment of CIA employees in the interest of the United States.

Subsection 104(a) provides that, subject to the direction of the National Security Council, the Director of Central Intelligence shall have access to all intelligence related to the national security which is collected by any department, agency, or entity of the Government. While this authority is similar to existing law, this reformulation makes clear that the DCI's right of access extends only to "national intelligence" as that term is defined by the bill. Thus, access by the Director is limited to intelligence that transcends the interests of a single department or agency of the Government, and is required for the formulation and/or implementation of national security policy. In this regard, the definition is not intended to alter the understandings or practice regarding such access under existing law. Where a department or agency wishes to deny the DCI access to such intelligence, it is contemplated that the National Security Council must approve such withholding.

Subsection 104(b) provides that the DCI shall provide guidance to the Intelligence Community for the preparation of their annual budgets, and shall approve those budgets prior to their incorporation into the National Foreign Intelligence Program budget. This authority is similar to the authority provided the DCI by Executive order, but is not set forth in existing law.

Subsection 104(c) provides that no funds made available under the National Foreign Intelligence Program may be reprogrammed by any element of the Intelligence Community without the prior

approval of the DCI except in accordance with procedures issued by the DCI. A similar restriction is also provided by Executive order, but not by existing law. The Committee believes that placing this restriction into law will bring about a greater degree of compliance than has been the case under the Executive order framework. By permitting the DCI to issue procedures to govern this practice, the subsection also permits sufficient latitude for the DCI to allow for the reprogramming of small amounts of NFIP funds without his or her approval.

Subsection 104(d)(1) provides special authority to the DCI to transfer funds and personnel (for periods up to a year) within the National Foreign Intelligence Program subject to certain limitations. Funds may be transferred between NFIP accounts only with the approval of the Office of Management and Budget. The Committee believes such approval is necessary to maintain appropriate fiscal control over such transfers. Personnel may be transferred in accordance with procedures to be developed by the Director and the head of the department or agency concerned.

Both types of authority are intended to supplement any other authorities which the DCI may have pursuant to existing law. For example, the DCI is ordinarily empowered under annual authorization legislation to exceed the ceilings on civilian personnel by 2% for any element of the Intelligence Community to meet extraordinary requirements. He is also permitted by the CIA Act of 1949 to reimburse other agencies for personnel detailed to the CIA. Subsection 104(d)(1) is intended to be used in situations where use of these existing authorities is not appropriate or possible. The limitations set forth in this subsection apply only to transfers undertaken in accordance with this subsection. These limitations are set forth as follows:

(A) The funds or personnel are being transferred to an activity that is a higher priority intelligence activity within the National Foreign Intelligence Program;

(B) The need for the funds or personnel is based on unforeseen requirements. Thus, the Committee does not intend that this authority be used to accomplish requirements that were evident when the Committee authorized the annual budget for the NFIP;

(C) The transfer does not involve a transfer of funds to the CIA Reserve for Contingencies. In this instance, the Committee is concerned that this authority not be used to replenish the CIA Reserve for Contingencies which under existing law could be used to finance covert actions where prior notice has not been provided the Committee;

(D) The transfer does not involve a transfer of funds or personnel from the FBI. The Committee believes that this provision is desirable (notwithstanding (E) below) in order to indicate that it is not the intent to give the DCI new authority over the FBI counterintelligence or law enforcement activities; and

(E) The Secretary or head of the department which contains the affected element or elements poses no objection to the transfer. The Committee considered authorizing the DCI to make such transfers notwithstanding the objection of the

“owning” department or agency but determined that without agreement by the “owning” department or agency, this authority would be in direct conflict with the authorities of the agency head and would simply be unworkable in practice.

This section, in essence, gives the DCI explicit authority to evaluate the need for such transfers during the year and to initiate action to bring them about as required for the satisfaction of high priority national objectives.

Subsection 104(d)(2) provides that any funds transferred under this section shall remain available for the same purposes, and the same time period, as the appropriation to which transferred.

Subsection 104(d)(3) provides that any transfer of funds made under the authority of this section shall be carried out in accordance with established reprogramming procedures for the appropriate committees of the Congress. The Committee recognizes that, depending upon the nature of the transfer, a variety of committees could be appropriate recipients of such requests. The Committee also notes that reprogramming procedures vary from committee to committee. This section has thus been drafted to allow for appropriate handling by the DCI. In addition, where existing procedures permit reprogrammings without a request to the pertinent committees, e.g. where small dollar amounts are involved, this subsection requires that such transfers be reported promptly to the intelligence committees. Finally, any request or report made under this provision shall be accompanied by a report explaining the nature of the transfer and how it satisfies the requirements of this subsection.

Subsection 104(d)(4) provides that any transfer of personnel made pursuant to subsection (d) must be promptly reported to the two intelligence oversight committees of the Congress. Such report shall explain the nature of the transfer and how it satisfies the requirements of this subsection. Since it is anticipated that “routine” detailing or reassignments of personnel between agencies within the Intelligence Community will be accomplished pursuant to other existing legal authorities, it is anticipated that reports under this section will be limited to those extraordinary instances where the provisions of this subsection are invoked by the DCI. While notice of personnel transfers are limited by this subsection to the two oversight committees, the Committee also takes note that in some circumstances such transfers could involve personnel of agencies which fall within the concurrent jurisdiction of other congressional committees. In such case, it is contemplated that the oversight committees will keep such other committees, which may also have an oversight interest, appropriately advised of such transfers.

Subsection 104(e) charges the DCI, under the direction of the National Security Council and in a manner consistent with 22 U.S.C. 3927 (which sets forth the responsibilities of U.S. Chiefs of Mission), with coordinating the relationships between elements of the Intelligence Community and the intelligence or security services of foreign governments on all matters involving intelligence related to the national security or intelligence acquired through clandestine means. The effect of this latter phrase is to require coordination with, and through, the DCI of all foreign liaison contacts which involve the clandestine acquisition of intelligence, even where such

intelligence is not "national intelligence." The DCI has similar responsibility pursuant to Executive directive. Thus, foreign liaison contacts which do not involve "national intelligence" or the use of clandestine means to acquire such intelligence do not require coordination with the DCI.

The Committee does intend by this provision that the U.S. Government speak with one voice vis-a-vis foreign intelligence and security services, and that activities such as exchanges of information, training, and the provision of equipment or other assistance to foreign intelligence and security services be coordinated with the DCI. In this regard, this section is similar to the responsibility currently assigned the DCI by section 1.5 of Executive Order 12333, and the Committee intends that subsection 104(e) be implemented in a manner consistent with current practice under the Executive Order provision. In addition, the reference to section 207 of the Foreign Service Act of 1980 is not intended to alter existing relationships, practices, and authorities with regard to the role of the chiefs of U.S. missions abroad vis-a-vis the conduct of intelligence activities, or to alter the responsibilities of Executive branch agencies vis-a-vis U.S. chiefs of mission.

The Committee also wishes to make clear, that while this provision is not intended to preclude authorized contacts or relationships involving national intelligence matters between elements of the Intelligence Community and the intelligence or security services of foreign government, it is intended that such contacts and relationships be coordinated with the DCI.

Subsection 104(f) provides that the DCI, in coordination with the heads of departments and agencies with elements in the Intelligence Community, institute policies and programs within the Intelligence Community to provide for rotation of personnel between components of the Intelligence Community, where appropriate, and to make such service a factor to be considered for promotion to senior positions. The Committee believes that rotational assignments between elements of the Intelligence Community serve the interests of the individual employee and the Community as a whole, and should be encouraged and promoted by the DCI. This subsection also charges the DCI with consolidating where possible the personnel, administrative, and security programs of Intelligence Community agencies to reduce the overall costs of such programs. The Committee believes that considerable cost savings are possible if the DCI aggressively exercises this authority.

Subsection 104(g) provides the DCI with the same authority which exists in current law to terminate the employment of CIA employees in the interests of the United States.

Section 722(b) amends the table of contents of the National Security Act of 1947 to make appropriate changes.

#### *Subtitle D—The intelligence activities of the Department of Defense*

Subtitle D pertains to the intelligence activities of the Department of Defense. Section 731 would amend the National Security Act of 1947 to provide for the responsibilities of the Secretary of Defense as they pertain to the National Foreign Intelligence Program, and to provide certain administrative requirements relating

to the NFIP. Section 732 deals with the resource management responsibilities of the Secretary for tactical intelligence activities.

#### SECTION 731

Section 731 would amend the National Security Act of 1947 by adding two new sections to the Act: section 105, which sets forth the responsibilities of the Secretary of Defense as they pertain to the National Foreign Intelligence program; and section 106, which contains certain administrative provisions pertaining to Defense elements within the Intelligence Community.

#### *Section 105*

Section 105 sets forth both general and specific responsibilities of the Secretary of Defense pertaining to the National Foreign Intelligence Program (NFIP). None of these are set forth by existing law.

Subsection 105(a) sets forth the general responsibilities as follows:

Ensuring that the budgets of Defense elements within the NFIP are adequate to satisfy the overall needs of the Department, and, where such elements are performing government-wide functions, the needs of other departments and agencies. In other words, the Committee believes the Secretary of Defense has a responsibility for reviewing and approving the budgets of DOD NFIP components in light of broader DOD and governmental needs;

Ensuring appropriate implementation of the policies and resources decisions of the DCI by DOD Components of the NFIP;

Ensuring that the tactical intelligence activities of the Department are compatible with, and complement, the intelligence activities funded within the NFIP;

Ensuring that the DOD elements of the Intelligence Community are responsive to, and provide timely support of, operational military commanders; and

Eliminating waste and unnecessary duplication among the intelligence activities of the Department of Defense, whether they are national or tactical in nature.

Subsection 105(b) sets forth specific responsibilities of the Secretary as they bear upon the activities of DOD Components within the National Foreign Intelligence Program. Each of these responsibilities is to be undertaken consistent with the responsibilities and authorities given the Director of Central Intelligence by sections 103 and 104 of the National Security Act of 1947, as added by this bill. These responsibilities and authorities are consistent with those currently given the DCI by Executive order with respect to these DOD Components. This subsection also must be read to include the provision in section 103(c)(6) which provides that the President may give the DCI responsibilities and authorities over the Intelligence Community in addition to those set forth in the Act. Hence, the bill recognizes that additional responsibilities may be assigned by Executive order.

Similarly, the Committee emphasizes that the specific functions set forth in subsection 105(b) are not intended to be an exclusive list of functions assigned the Defense agencies or offices which are

identified in this subsection. For example, the National Security Agency is assigned communications security and information security functions by Executive order and by DOD directive which are not expressly mentioned in the bill. Similarly, the Defense Intelligence Agency is assigned responsibility by DOD directive to manage the collection of intelligence through human sources that is carried out by elements of the Department of Defense as well as numerous other responsibilities. Nothing in this subsection is intended to alter or foreclose these additional responsibilities. The President or the Secretary of Defense, as the case may be, retain the authority to assign these intelligence components such functions as they may direct, in addition to the functions expressly identified in the statute.

Subsection 105(b)(1) gives the Secretary responsibility, through the National Security Agency and except as directed by the President or the National Security Council, for the continued operation of an effective, unified organization for the conduct of signals intelligence activities, and for ensuring the product of such activities is disseminated in a timely manner to authorized recipients. It is the intent of this section to recognize the role of the National Security Agency in providing for the signals intelligence mission of the United States Government. At the same time, the provision recognizes that other elements of the Intelligence Community may be authorized to undertake signals intelligence activities pursuant to Executive order and NSC directive. This section does not preclude or alter such arrangements.

The Committee also wishes to make clear by its use of the term "authorized recipients," as it is used here and elsewhere in this section, it does not intend to provide the agency referred to with authority to determine which recipients in the Government (other than its own employees) are "authorized" and which are "not authorized" to receive the products of its activities. Such determinations may encompass the views of the collecting or producing agency, but should be made in accordance with applicable Executive branch or DCI policy rather than being determined solely by the collecting or producing agency.

Subsection 105(b)(2) gives the Secretary similar responsibility, through a central imagery authority, with appropriate representation from the Intelligence Community, for the continued operation of an effective unified organization for the tasking of imagery collectors, for the coordination of imagery processing and exploitation activities, and for ensuring the dissemination of the product of such collection in a timely manner to authorized recipients. In fact, the Secretary of Defense by directive dated May 6, 1992, created such an authority within the Department of Defense, designated the Central Imagery Office. Given its fledgling status, and the likelihood that additional adjustments will be made on its composition and functions, the bill describes the organization in a generic, rather than specific fashion at this juncture. The Committee nonetheless believes that this important change to the existing organizational arrangements should be reflected in this legislation.

Subsection 105(b)(3) charges the Secretary with responsibility through the Office of Reconnaissance Support for the continued operation of an effective unified organization for the research and de-

velopment, procurement, and operation of overhead reconnaissance systems necessary to satisfy the requirements of the Intelligence Community as a whole. (See discussion on section 3(2), above.) This responsibility is alluded to in Executive order, but is not specifically defined.

Subsection 105(b)(4) gives the Secretary responsibility, through the Defense Intelligence Agency, for the continued operation of an effective unified system for the production of timely, objective military and military-related intelligence, based upon all sources available to the Intelligence Community, and for ensuring the appropriate dissemination of this intelligence to authorized recipients. Although similar responsibility is provided by Executive order, it is not otherwise reflected in existing law.

Subsection 105(b)(5) charges the Secretary, through the Defense Intelligence Agency, with responsibility for the effective management of the Defense Attache System, a responsibility assigned by Executive order but not reflected in law.

Subsection 105(b)(6) gives the Secretary responsibility for ensuring that the military departments maintain sufficient capabilities to collect and produce intelligence in support of national, departmental, joint, and service-specific requirements. The Committee recognizes that the military departments provide much of the "backbone" of the existing Intelligence Community, as well as satisfying departmental, joint, and service requirements. Indeed, the intelligence mission could not be accomplished without their participation. This provision is intended as recognition of this role, as well as providing assurance that it will continue.

### *Section 106*

Section 106 contains two administrative provisions relating to Defense elements within the National Foreign Intelligence Program.

Subsection 106(a)(1) requires the Secretary of Defense to undertake appropriate consultations with the Director of Central Intelligence prior to the appointment of any individuals as head of the National Security Agency, the Office of Reconnaissance Support [as provided for by subsection 105(b)(3)], or the Defense Intelligence Agency. In addition, this subsection provides that the head of the central imagery authority shall be appointed by the Secretary upon the recommendation of the Director. Although the heads of the three agencies or offices specified in the first part are heads of Defense Components, subject to the authority and control of the Secretary, they are also key elements of the National Foreign Intelligence Program, and, as such, the Committee believes the Director of Central Intelligence should play an integral part in their selection, leaving ultimate authority to appoint in the hand of the Secretary. Subsection 106(a)(2) provides, with regard to the central imagery authority, for the Director to recommend the head of the agency, with appointment by the Secretary, in recognition both of the imagery authority's national responsibilities, as well as its relationship to imagery elements which may remain under the authority and control of the DCI.

Subsection (b) provides that in the event the Secretary of Defense should appoint a military officer as head of the National Security

Agency, the Defense Intelligence Agency, the central imagery authority, or the Office of Reconnaissance Support [as provided for by subsection 105(b)(3)], such officer shall be exempt from the statutory ceilings applicable to general or flag officers of his or her rank and grade pertaining the service of which he or she is a member. Under existing law, these positions have not been so exempt, frequently leading the military services to decline to nominate for such positions (rather than expend one of their allocated general or flag officer billets for an intelligence agency position outside the department concerned), or leading the services to nominate officers with little or no intelligence experience for such positions due to the unavailability of intelligence specialists of the appropriate rank and grade for agency heads. Subsection (b) is thus intended to achieve several objectives: (1) to encourage each of the military departments to nominate for these positions; (2) to encourage them to groom qualified senior officers for these assignments; and (3) more generally, to create potential senior officer positions at key NFIP agencies that military intelligence specialists (as opposed to officers in non-intelligence branches of service) can aspire to.

#### SECTION 731 (b)

Section 731(b) amends the table of contents of the National Security Act of 1947 to reflect the addition of the new sections 105 and 106.

#### SECTION 732

Section 732 institutes a procedure leading to the establishment of a new DOD Tactical Intelligence Program, to be managed by the Secretary of Defense. Subsection (a) provides that beginning with the annual budget submission for fiscal year 1994, the Secretary of Defense, in consultation with the Director of Central Intelligence, shall identify those intelligence activities currently found in the list of Tactical Intelligence and Related Activities (TIARA) which constitute true "intelligence" activities which serve the interests of DOD generally. These include activities which produce foreign intelligence in peacetime; activities which interface or interoperate directly with national intelligence systems; or satisfy the intelligence requirements of Department of Defense elements generally rather than the requirements of a single element.

Subsection (b), in turn, requires that with the submission of the budget for fiscal year 1995, the intelligence activities identified the preceding year, or which may be subsequently identified by the Secretary pursuant to subsection (a), shall be funded as elements of a new Tactical Intelligence Program, to be managed as a separate program by the Office of the Secretary of Defense.

Several problems which hamper the existing system would be addressed by Section 732. First, activities currently identified by the Department of Defense as part of TIARA are, in fact, not intelligence activities at all and, in the view of the Committee, should not be part of the management structure for intelligence, either within DOD or within the Congress. Second, activities identified within the TIARA category are themselves not managed as a "program" at all, in the sense of being a discrete group of activities under the

control of a single manager, but rather are managed on a decentralized basis within Defense components as "non-intelligence," operational support activities. The Office of the Secretary of Defense attempts to bring cohesion to these activities, but these efforts have been largely ad hoc and occur at the end of the process, rather than having been a result of guidance and planning developed at the beginning. In the view of the Committee, this situation has led to waste and duplication, and has hampered the effective integration of tactical intelligence activities at both the departmental and national levels, occasionally leading to actions by one of the military departments which did not serve DOD's broader interests, or the interests of the national Intelligence Community. Section 732 attempts to address this problem, requiring that "true" tactical intelligence activities be grouped together to form a single program under a single DoD manager.

The Committee takes note that the Secretary of Defense has advised by letter that he is "strongly opposed" to this provision on the grounds that it would "fragment and isolate tactical intelligence from the operator that depends on this support in combat." Clearly, this is not the intent of the Committee. To the contrary, the Committee believes more effective management will ultimately improve the quality of support to the warfighter. However, the Committee takes very seriously the concern expressed by the Secretary. Prior to taking final action on this provision in conference on this bill, the Committee intends to examine further the likely impact of this provision upon operational support, and will consider alternatives acceptable to the Secretary to achieve the same or similar result.

#### *Subtitle E—Congressional oversight*

Subtitle E of the bill amends Senate Resolution 400 (94th Congress), which established the Senate Select Committee on Intelligence (SSCI), to bring within its jurisdiction tactical intelligence activities. When the SSCI was established in 1976, the resolution establishing the Committee expressly excluded "tactical foreign military intelligence serving no national policymaking function." It was believed at the time that such activities more properly belonged in the jurisdiction of the Committee on Armed Services.

The practical reality has been, however, that the SSCI has necessarily had to consider the funding and operation of tactical intelligence programs notwithstanding this express limitation in its formal charter. Indeed, the SSCI cannot, as a practical matter, carry out its functions vis-a-vis national intelligence activities without monitoring and evaluating developments in the tactical intelligence arena. Typically, the Committee's recommendations in this area are conveyed to the Committee on Armed Services, which has previously accorded them substantial weight in arriving at its annual authorizations for tactical intelligence programs.

Significantly, this same jurisdictional limitation was never applied to the House Permanent Select Committee on Intelligence, the counterpart committee in the House. Rather, House Rule XLVII, which established the Committee in 1977, expressly gave

the HPSCI jurisdiction over "intelligence-related" activities, which includes tactical intelligence and "related activities."

Because the House intelligence committee has jurisdiction over tactical intelligence programs, and the Senate intelligence committee does not, the annual authorizations for these activities are agreed upon in conference between the Senate Armed Services Committee and the House Permanent Select Committee on Intelligence within the context of the action on the DOD authorization, rather than the intelligence authorization, and the SSCI has played only an informal, advisory role in this process.

Section 741 would eliminate the limitation in the Senate resolution which excludes "tactical intelligence" from "intelligence activities" under the jurisdiction of the SSCI, but it would not give the SSCI jurisdiction over "related activities," as that term applies to the jurisdiction of the HPSCI.

Read in conjunction with proposed section 732 of the bill which mandates the creation of a separate Tactical Intelligence Program, this section would result in a clear and authoritative delineation of the Select Committee's jurisdiction, while excluding activities that are more properly within the purview of the Committee on Armed Services.

The purpose of section 741 is to make the Senate Committee's jurisdiction consistent with that of its House counterpart insofar as tactical intelligence activities are concerned. It would not alter the provisions of S.Res. 400 which give the Committee on Armed Services the right to ask for and receive sequential referral of the annual intelligence authorization bill. Accordingly, that Committee's right to review and recommend changes to the annual authorization for tactical intelligence activities would be preserved by this proposed change.

Subsection (b) would make this change effective October 1, 1993 to begin the start of a new fiscal year.

#### *Subtitle F—Effective date*

Subtitle F provides that the Act shall take effect upon its date of enactment except as otherwise provided in subtitle E.

#### COMMITTEE ACTION

On July 1, 1992, the Select Committee approved the bill and ordered that it be 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 would be incurred in carrying the provisions of this bill in fiscal year 1993 and in each of the five years thereafter if these amounts are appropriated. These estimates are contained in the classified annex to the bill.

## CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to sections 308 and 403 of the Congressional Budget Act of 1974, the Congressional Budget Office prepared an estimate reflecting the new budget authority provided by the bill as follows:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, July 10, 1992.

Hon. DAVID L. BOREN,  
Chairman, Select Committee on Intelligence,  
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate of the Intelligence Authorization Act for Fiscal Year 1993, except for Sections 101, 102, 103, and 601, as ordered reported by the Senate Committee on Intelligence on July 1, 1992.

The bill would affect direct spending and thus would be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985. Should the Committee so desire, we would be pleased to provide additional information on the estimate.

Sincerely,

JAMES L. BLUM  
(For Robert D. Reischauer, Director).

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: Unassigned.
2. Bill title: Intelligence Authorization Act for Fiscal Year 1993.
3. Bill status: As ordered reported by the Senate Select Committee on Intelligence on July 1, 1992.
4. Bill purpose: To authorize appropriations for fiscal year 1993 for the intelligence activities of the United States Government, the Community Management Staff, and the Central Intelligence Agency Retirement and Disability System, and to reorganize the structure of the intelligence community.
5. Estimated cost to the Federal Government of the Intelligence Authorization Act for fiscal year 1993, except sections 101, 102, 103, and 601:

[By fiscal year, in millions of dollars]

	1993	1994	1995	1996	1997
Revenues.....	1	0	0	0	0
Amounts subject to appropriations:					
Stated authorizations:					
Authorization level.....	214	0	0	0	0
Estimated outlays.....	178	18	15	4	0
Other estimated costs:					
Estimated authorizations.....	( <sup>1</sup> )				
Estimated outlays.....	( <sup>1</sup> )				
Total:					
Estimated BA/authority.....	214	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )
Estimated outlays.....	178	18	15	4	( <sup>1</sup> )

<sup>1</sup> Less than \$500,000.

Basic for estimate: The information necessary to estimate the costs for Sections 101, 102, 103, and 601 of this bill is classified at a level above the clearances now held by CBO employees. The estimated costs in the table above, therefore, reflect only the costs of the remaining sections of the bill. The information about the budget functions in which some of these costs would fall also is classified. Therefore, a functional distribution of these costs has been excluded from this estimate.

### *Revenues*

Section 401 would allow the Director of the Federal Bureau of Investigation (FBI) during 1993 to accept any bequests or devises that are made to the Bureau. A bequest valued at approximately \$600,000 has been made that the FBI now has no authority to accept. This section would allow the FBI to receive the bequest.

### *Amounts subject to appropriations—Stated authorizations*

This estimate assumes that funds will be appropriated for the full amount of the authorization and that all resources will be available for obligation by October 1, 1992.

Section 104 authorizes \$10.5 million for the Community Management Staff. The historical spending rates for the Intelligence Community Staff were used to estimate the outlays from this authorization.

Section 201 authorizes \$168.9 million for the required contribution to the Central Intelligence Agency Retirement and Disability Fund. Section 304(b) authorizes a payment to the National Security Education Trust Fund of \$35 million. Outlays are estimated based on historical outlay rates.

### *Amounts subject to appropriations—Other estimated costs*

Several provisions in the bill would affect the annual costs of various intelligence agencies. The CBO estimates that none of these would cost more than \$100,000 in any fiscal year, nor would the sum of these provisions result in a total increase in federal outlays of more than \$500,000. The most costly of these provisions are listed briefly below.

Section 301 would allow the Defense Intelligence Agency (DIA) to offer post-employment assistance to certain ex-employees. The DIA estimates that not more than two persons each year would receive such assistance, and the costs would be less than \$100,000 per year. CBO cannot make an independent estimate of this provision.

Section 304(a) would increase the size of the board overseeing administration of the National Security Education Act of 1991 by three people. The board members receive a travel allowance to attend meetings. Assuming that the board meets four times each year and that travel costs would be about \$1,000 per member per meeting, the additional cost would be around \$12,000 each year.

Section 401 would authorize use of the proceeds from bequests to the FBI for a scholarship program for families of Federal law enforcement officers slain or permanently disabled in the line of duty. There have been approximately 40 such officers slain during the history of the FBI. The Director of the FBI would be required to establish regulations to carry out this section in an equitable

manner. The estimate assumes that there would be no more than 10 scholarships yearly and that the average annual scholarship would be \$5,000.

Section 721 would promote the Director of Central Intelligence from Executive Schedule II to Executive Schedule I. This would increase his pay by more than \$14,000 each year.

Section 722 would allow military flag officers to serve as heads of certain intelligence agencies without being counted against the total numbers of flag officers allowed to the Department of Defense. At present, two of these positions are filled by military flag officers. A cost of approximately \$40,000 annually was estimated by assuming that the Department of Defense would promote two officers to flag officer status.

6. Pay-as-you-go Considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1995. The direct spending costs of this bill for provisions that are known to CBO and that are subject to the pay-as-you-go procedures are shown in the following table. CBO was unable to obtain the necessary information to review the full text of the bill and the reports accompanying it because they are classified at a level above the clearances now held by CBO employees. Consequently, CBO does not know if the bill contains additional provisions with pay-as-you-go implications.

[By fiscal year, in millions of dollars]

	1993	1994	1995
Change in outlays .....	(1)	(1)	(1)
Change in receipts .....	1	0	0

Not applicable

7. Estimated cost to State and local governments: None.
8. Estimate comparison: None.
9. Previous CBO cost estimate: None.
10. Estimate prepared by: Barbara Hollinshead.
11. Estimate approved by: Paul Van de Water, C.G. Nuckols, Assistant Director for Budget Analysis.

#### 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 by implementing the provisions of this legislation.

## ADDITIONAL VIEWS OF MR. GLENN

While there are many positive elements contained in the Committee's mark-up of the FY 93 Intelligence Authorization Bill, I did not support this legislation because of the high level of reductions taken from the intelligence budget.

The dissolution of the Soviet Union and the end of the Cold War have resulted in a necessary reappraisal of our national security funding priorities. While I believe that we can and should significantly reduce defense spending over the next few years, I also believe that intelligence comprises a special part of our nation's national security infrastructure and should be treated accordingly.

I am simply not convinced that there is a compelling rationale for significant reductions in the intelligence budget. To the extent that the Committee had concerns with the Intelligence Community's focus, these concerns should not have been addressed by deep budget cuts, but rather by restructuring existing resources. The U.S. needs a strong and reliable intelligence capability during the current period of enormous change and uncertainty. Indeed, we rely 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.

To the extent that we need to de-emphasize resources devoted to the former 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. We also need to continue to support a robust capability to monitor arms control agreements.

It is also important to remember that accurate and timely intelligence is our greatest force-multiplier—particularly at a time when we are drastically reducing the size of our military forces. In formulating the FY 93 Intelligence Authorization Bill, Secretary of Defense Cheney acknowledged, and President Bush affirmed, the need to protect the intelligence budget at the level submitted by the Administration. Clearly, they believe that intelligence serves as our nation's "early warning system", and it needs to be protected at a time when the U.S. defense establishment is being reduced so significantly.

In addition, with the end of the Cold War and the strong likelihood that our defense spending will be declining sharply over the next several years, we must be mindful of the lessons of history. defense spending has always experienced cycles of expansion and contraction. Periods of lower tension result in reduced defense budgets. Such times invariably give way to periods of greater tension which, in turn, lead toward greater defense spending. When the day comes that the United States must rebuild our national de-

fense to confront a threat that is now difficult to foresee, we must do it from the strongest and most reliable intelligence base possible.

I am convinced that significant reductions in our intelligence capabilities, especially during this period of international instability, are unwise and could ultimately be damaging to U.S. national security.

Because of my concern with the diminishing intelligence budget, it is essential to be more responsible than ever before with the allocation of increasingly scarce intelligence resources. This is why I strongly opposed last year's enactment of the National Security Education Act. Under this legislation, \$150 million was authorized and appropriated to establish the National Security Education Trust Fund to support language and foreign area studies at the undergraduate and graduate level. While this is perhaps a commendable objective, such a program simply does not belong in the intelligence budget.

I opposed the creation of this trust fund last year and I oppose the authorization of \$35 million in additional funds this year to increase the trust fund. I believe that it is highly inappropriate to utilize increasingly scarce intelligence resources to fund educational programs at a time when we are terminating important intelligence systems and programs.

Implicit in the rationale for this educational trust fund is the goal of infusing the Intelligence Community—as well as other agencies of the federal government and academia—with individuals with greater foreign language proficiency and foreign area expertise. Assuming that this is a valid requirement, surely there must be more straightforward and less expensive ways of achieving this objective, such as retraining existing government personnel or more actively recruiting the many U.S. citizens who already have needed language skills and foreign area expertise—and are currently searching in vain for suitable employment in this field.

The greatest resource in U.S. intelligence are the thousands of men and women who toil with little public recognition of an appreciation for their unique contribution to American national security. Over the course of their intelligence careers, these individuals have developed unique and invaluable skills and experience which simply cannot be taught at an institution of higher learning. In the next few years, many of these individuals will be discharged from their jobs in the Intelligence Community because of growing budgetary constraints. It is ironic that we should be spending significant resources to subsidize the recruitment of a new generation of intelligence personnel when we will be laying off more seasoned intelligence professionals.

Also, it seems somewhat inconsistent to be funding an educational program to train future intelligence officers at the same time that our Committee imposes an across-the-board reduction in the Intelligence Community's civilian personnel over the next several years. I fear that the participants in this program will likely have few if any jobs waiting for them in the Intelligence Community—or elsewhere in the federal government's national security infrastructure—by the time they've completed their academic work.

I remain convinced that this program—and the increase to the trust fund being authorized this year—is inappropriate. I am deeply concerned that this program could make the beginning of a disturbing trend—cannibalizing the shrinking intelligence budget to fund programs that are best marginally relevant to the greater needs of the U.S. Intelligence Community.

JOHN GLENN

**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 Senate in order to expedite the business of the Senate.

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