103D CONGRESS *1st Session* | SENATE | REPORT 103–115

AUTHORIZING APPROPRIATIONS FOR FISCAL YEAR 1994 FOR INTELLIGENCE ACTIVITIES OF THE U.S. GOVERNMENT AND THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM AND FOR OTHER PURPOSES

JULY 28 (legislative day, JUNE 30), 1993.—Ordered to be printed

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

REPORT

together with

ADDITIONAL AND MINORITY VIEWS

[To accompany S. 1301]

The Select Committee on Intelligence, having considered the original bill (S. 1301), which authorizes appropriations for fiscal year 1994 for the intelligence activities of the U.S. Government and the Central Intelligence Agency Retirement and Disability System, 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 1994 for (a) the intelligence activities of the United States Government; (b) the Central Intelligence Agency Retirement and Disability System; and (c) the Community Management Account of the Director of Central Intelligence;

(2) Authorize the personnel ceilings as of September 30, 1994, for the intelligence activities of the United States and for the Community Management Account of the Director of Central Intelligence;

(3) Amend the Fair Credit Reporting Act to permit the Federal Bureau of Investigation to obtain consumer credit reports necessary to foreign counterintelligence investigations under certain circumstances and subject to appropriate controls on the use of such reports;

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(4) Provide for a limited increase in the monthly pay which can be given military reservists to maintain foreign language proficiency in order to preserve an adequate pool of military linguists;

(5) Require appointment by the President with the advice and consent of the Senate of the General Counsel of the Central Intelligence Agency;

(6) Amend the National Security Education Act to (a) repeal the requirement for an annual authorization to withdraw funds from the trust fund established by the Act and (b) reduce the principal of the trust fund by $25 million; and

(7) Make certain technical changes to the Central Intelligence Agency Retirement Act, the CIA Act of 1949; and the National Security Act of 1947.

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 has prepared a classified supplement to this Report, which contains (a) the classified annex to this Report and (b) the classified schedule of authorizations which is incorporated by reference in the Act and has the same legal status as a public law. The classified annex to this report explains the full scope and intent of the Committee's actions as set forth in the classified schedule of authorizations. The classified annex has the same 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 classified 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 Administration's budget request for the National Foreign Intelligence Program for fiscal year 1994. This review included a series of hearings with the Director of Central Intelligence and other senior officials from the Intelligence Community, numerous staff briefings, review of budget justification materials and numerous responses provided by the Intelligence Community to specific questions posed by the Committee.

In addition to its annual review of the Administration's budget request, the Committee performs continuing oversight of various intelligence activities and programs, to include the conduct of audits and reviews by the Committee's audit staff. These inquiries frequently lead to actions initiated by the Committee with respect to the budget of the activity or program concerned.

The Committee also reviewed the Administration's budget request for the Tactical Intelligence and Related Activities of the Department of Defense. The Committee's recommendations regarding

these programs were provided separately to the Committee on Armed Services for consideration within the context of the National Defense Authorization Act for Fiscal Year 1994.

COMMITTEE ACTION ON THE FISCAL YEAR 1994 INTELLIGENCE BUDGET

While the level of funding recommended by the Committee for fiscal year 1994 remains classified pursuant to Executive branch policy, suffice it to say that the Committee is recommending a substantial cut in the amount of funding requested by the Administration for intelligence activities. This follows cuts taken in the intelligence budget for the last three years. In the view of the Committee, however, the recommended reductions would nonetheless preserve a substantial, flexible, and forward-looking capability adequate to support the national needs of the country during the next fiscal year and the years beyond.

INCREASE IN FUNDING LEVELS FOR INTERNATIONAL TERRORISM AND PROLIFERATION

In particular, the Committee notes that while an overall cut is being recommended to the Administration's request, the Committee bill would provide increased funding to support the Intelligence Community's activities to counter international terrorism and the proliferation of weapons of mass destruction, above the funding levels requested by the Administration. The Committee believes these increases are warranted in view of the threat to U.S. interests posed by such activities.

SAVINGS APPLIED TO DEFICIT REDUCTION

Inasmuch as this bill is sequentially referred to the Committee on Armed Services, and intelligence funding forms a part of the overall defense budget, the Committee wishes to make clear its desire that the reductions being recommended to the intelligence budget be applied to reduce the overall budget deficit rather than being used by the Committee on Armed Services to fund other defense programs. In past years, the Committee on Armed Services has cooperated with this Committee in this approach, and the Committee anticipates such cooperation will continue this year.

FUNDING INTELLIGENCE AT THE END OF THE COLD WAR

Many Americans continue to perceive the CIA and other intelligence agencies as creatures of the Cold War, established to keep track of the Soviet Union and counter the spread of Communism around the world. Because these Communist regimes possessed the capability to devastate the United States and its allies militarily, information concerning their intentions and capabilities was crucial to U.S. security. Moreover, given the secrecy and oppressiveness which characterized these regimes, reliable information concerning them was often unavailable. U.S. intelligence agencies attempted to fill this void, providing a means of gathering information not otherwise available to the U.S. Government.

Now, with the end of the Cold War and demise of the Soviet Union and Warsaw Pact, the military threat to the United States

has substantially diminished, and information regarding the former Soviet Union is often accessible through a variety of overt means. As a consequence, many believe the United States can substantially reduce, or do without, its intelligence capabilities.

RECENT CONGRESSIONAL ACTIONS ON THE INTELLIGENCE BUDGET

Congress itself has seen fit to downsize intelligence in light of this diminished threat and other competing funding priorities. For each of the last three fiscal years, Congress has reduced the amount of funding for U.S. intelligence activities, with a particularly large cut imposed last year in both the national and tactical intelligence programs. In addition, an overall decrease of 17.5% in personnel levels throughout the Intelligence Community has been mandated by fiscal year 1997.

The downward trend continues this year. As indicated above, the Committee is again recommending as substantial cut in the amount of funding requested by the Administration for intelligence activities. Even so, these recommended reductions do not represent as severe a cut over the previous year's appropriated level as Congress imposed last year. The recommended reductions for fiscal year 1994 would preserve a substantial, flexible, and forward-looking capability adequate to support the national security needs of the country during he next fiscal year and the years beyond.

It is clear that, despite the end of the Cold War, those needs continue to be substantial.

THE CONTINUING DEMANDS ON INTELLIGENCE

To begin with, it is important to recognize that the focus of U.S. intelligence during the Cold War, namely the military threat posed by the Soviet Union and its Warsaw Pact allies, though changed, has not entirely disappeared. There remain in the Russian republic and the former Soviet Republics of Ukraine and Kazahkstan roughly 30,000 strategic and tactical nuclear weapons. While the governments of these republics are no longer hostile to the United States and presently seem unlikely to become so, control of these weapons, to prevent their loss to extremist states or terrorists, remains a significant concern of the United States.

Indeed, the United States has a serious stake in preventing the proliferation of weapons of mass destruction, whether they be nuclear, chemical or biological weapons, as well as the proliferation of missile systems able to deliver these weapons over long distances. It is clear that several states—some of whom are hostile to the United States or have unstable relationships with neighboring countries—are attempting to become nuclear states or are developing chemical or biological weapons. Should they succeed in developing these capabilities, other states in the same region may decide they have no alternative but to follow a similar path.

The Intelligence Community monitors the control and movement of existing weapons of mass destruction and tracks the development and production of these weapons and the systems designed to deliver them. The results of these efforts have been the basis for diplomatic actions by the United States and increasingly are being provided to international bodies charged with monitoring compli-

ance with treaties designed to prevent the spread of such weapons and related delivery systems.

The Intelligence Community also provides virtually the sole means of verifying many bilateral and multilateral agreements signed by the United States. In addition, the Intelligence Community plays a key role in terms of advising U.S. negotiators involved in negotiating such agreements.

In a similar vein, the Intelligence Community is asked to monitor the effectiveness of international economic or military sanctions which might be imposed on other countries by the United Nations or by the United States on a unilateral or multilateral basis. Frequently the results of these efforts have led to diplomatic or military actions to enforce or effectuate the sanctions or embargoes concerned.

A large part of the Intelligence Community's efforts are devoted to support of U.S. military forces, which, with the end of the superpower conflict, must prepare for a variety of new contingencies. While clearly the threat of nuclear devastation has lessened, longstanding ethnic, cultural, and political rivalries previously held in check by the superpower conflict have been unleashed. Regional conflicts have been spawned around the globe and it has become increasingly difficult to predict where U.S. military forces might be deployed, what their objectives will be once deployed, or what type of military threat they might face. The job of the Intelligence Community is to anticipate where such deployments might occur and maintain an information base capable of supporting such contingencies.

This function entails not only identifying the capabilities and vulnerabilities of opposing military or paramilitary forces, but also gathering information to be used in planning U.S. operations, targetting data to guide U.S. "smart" weapons, data to counter enemy radars and sensors which otherwise might threaten U.S. aircraft, and other military support functions.

Once U.S. forces are deployed, the Intelligence Community typically brings to bear its entire capability in their support, both to achieve the rapid success of the mission and to protect U.S. lives and resources.

Increasingly, the Intelligence Community is also supporting the operational deployments of United Nations peacekeeping forces as well, providing intelligence on threats to the safety and mission of such forces. This has recently occurred in support of UN operations in Cambodia and Bosnia-Herzegovenia. Clearly, where U.S. forces are participating in UN operations, as they currently are in Somalia, the level of intelligence support is substantially enhanced.

In addition to supporting military operations, the Intelligence Company also provides support of the planning of U.S. military force structures and tactics, as well as to the research, development and acquisition of military weapons and equipment by the Department of Defense. Even in an era of military downsizing, the intelligent Community continues to provide literally thousands of defense planners and contractors with information concerning foreign military capabilities which must be taken into account as they assess U.S. military needs of the future and build the capabilities to match them.

The end of the Cold War has also seen increasing recognition of the importance of a strong domestic economy as an element of U.S. national security. This recognition has caused a reexamination of the Intelligence Community's capabilities and proper role in terms of supporting the competitive position of U.S. industry abroad. While there are clear pitfalls to be avoided in this area, intelligence agencies are increasingly being called upon by federal agencies which are charged with promoting U.S. competitiveness abroad—principally, the Departments of State, Commerce, and the Treasury—to alert them to cases in which there is a need to "keep the playing field level" for U.S. business interests abroad. Similarly, the Federal Bureau of Investigation (FBI) and other elements of the Intelligence Community provide information to firms within the United States which indicates such firms may be the subject of an "intelligence attack" by foreign governments or by persons or companies acting under the sponsorship of a foreign government.

The Intelligence Community also plays important, though largely unseen, roles in the areas of counterterrorism and counternarcotics.

The FBI Intelligence Division has responsibility for tracking and monitoring possible international terrorist activity within the United States. The CIA and other intelligence agencies are involved in monitoring terrorist activities abroad. Such monitoring includes tracking the movements of known or suspected terrorists, developing information on their training, tactics, operations and equipment, and developing information regarding the relationships between terrorist groups and foreign governments. The information developed as a result of such monitoring is shared by the United States with the authorities of other governments whose nationals or resources might be threatened by terrorist activities. The objectives of such monitoring are to prevent terrorist incidents from taking place, such as the recent action by the FBI to prevent a series of bombings and assassinations in New York City, or to apprehend and prosecute the perpetrators of terrorist acts, such as the recent bombing of the World Trade Center or the downing of PAN AM 103 several years before. In each of the cases cited, the Intelligence Community played a significant role in preventing or redressing terrorist incidents involving U.S. citizens or property.

The role of the Intelligence Community in countering international narcotics activities is also significant but not well appreciated. U.S. intelligence capabilities are frequently used to determine where narcotic substances are being grown or produced in foreign countries, to determine where narcotics are being shipped or transported, to understand the network used to produce and distribute these narcotics, or to learn how proceeds from their sale are being used. This information is turned over not only to U.S. drug enforcement authorities, but to appropriate authorities in other governments to identify and locate the individuals involved in such activities and to preclude them from successfully carrying out their plans. Often, there is only an indirect benefit to the United States, and more often than not the role of U.S. intelligence agencies is not publicly acknowledged by other governments. Suffice it to say, the involvement of U.S. intelligence often provides the key to a successful raid on a drug installation in a foreign country or a successful interception of narcotics in international transit.

Finally, the Committee acknowledges the continuing need of the President and other key policymakers for non-publicly available information regarding the intentions and capabilities of other governments. To be sure, the world political environment has become far more open and foreign leaders more accessible since the end of the Cold War. Communications between the United States and other governments, aided by the explosion of technology in recent years, have become more voluminous, direct, and timely. News media instantly flash images and commentary concerning world events to all points of the globe.

Still, the Government needs a capability to assess what our leaders are seeing and hearing from other governments. Are events as they seem? Can the President rely upon what other governments are saying privately or what they state publicly? How firm is their position? What is their reaction likely to be if the United States takes a particular action and not another? Are U.S. interests threatened and, if so, how?

The Intelligence Community, by attempting to gather and analyze information concerning the actions or attitudes of other governments which is not publicly available, is often able to provide unique insights to the President and other policymakers. On occasion, this information has provided a reliable basis for a significant U.S. diplomatic or military initiative which would not have otherwise been attempted. This is not to say that the contribution made by U.S. intelligence has always been unique or reliable or actionable. The Committee simply notes that at times the contribution of intelligence has been invaluable.

THE TIME REQUIRED TO ESTABLISH INTELLIGENCE CAPABILITIES

The Committee's actions on the FY 1994 budget are also tempered by the realization that intelligence capabilities often require long lead times to establish and cannot easily be reconstituted once lost. This is true for sophisticated technical collection programs as well as for human intelligence activities which rely upon developing and maintaining human collectors with the desired access to information. Neither can be accomplished overnight.

Decisions which might be taken in one year to terminate or drastically reduce programs could mean that certain capabilities would not be available in the years ahead should they be needed. In some instances, money must be obligated for new initiatives that will enable the Administration to cancel older and, ultimately, more costly programs. The Committee has, therefore, attempted to assess the FY 1994 budget not simply in terms of this year's needs, but with an eye to preserving a reasonable, albeit smaller, capability to satisfy the demands of the future where American lives and resources might potentially be at risk.

THE EFFECTS OF DOWNSIZING AND REORIENTATION

Finally, the Committee is obliged to take into account the downsizing and reorientation of the national security structure itself in the wake of the Cold War. The defense budget is shrinking. U.S. forces are downsizing. Military bases are closing at home and abroad. The U.S. military presence around the world is shrinking.

The U.S. Intelligence Community—the vast majority of which is organizationally part of the Department of Defense and is comprised of military personnel—has hardly been immune from these reductions. The number and size of intelligence elements have shrunk; numerous intelligence installations abroad have been closed; and the opportunities afforded by a U.S. military presence for intelligence-gathering around the world have dwindled.

At the same time, the U.S. diplomatic presence around the world is also shrinking. While new diplomatic establishment are being established where none existed before, existing establishments are being closed or asked to get by with a bare minimum of staff and facilities.

In short, the Committee cannot ignore that U.S. Government installations and facilities abroad, as well as the government personnel who staffed them, have now been, and are continuing to be, substantially reduced. The Committee has sought to identify ways to compensate for these losses within the context of an intelligence budget that itself must shrink.

CONCLUSION

Thus, while the Committee is recommending to the Senate further reductions in the intelligence budget for fiscal year 1994 beyond the substantial cut imposed last year, and believes that such a reduction can be achieved without jeopardizing U.S. national interests, it cautions against precipitously imposing deeper cuts at this time. Downsizing must occur, but in a prudent manner and at a measured pace, if the United States is to maintain a capability adequate to support its national security needs, both now and for the future.

ADMINISTRATION INITIATIVES TO REDUCE SECRECY

The committee takes note of two recent initiatives announced by the Administration in the area of secrecy.

The first is the establishment of an interagency panel to revise Executive Order 12356 on security classification. According to the directive establishing the panel, its charter will be to review the present system for classification of documents and come up with recommendations for simplifying this system, reducing its costs and promoting greater openness within the Government. The recommendations of the panel are due to be completed by November, 1993.

The second initiative, announced by the Vice President, is a joint DCI-DoD commission on security, which will review security policies and programs across the board for the protection of intelligence and defense information. The objective of this commission is similar: develop recommendations to simplify and reduce the costs of the existing programs and promote greater openness. The recommendations of the joint commission are anticipated in early 1994.

The Committee applauds both initiatives and awaits their results. We agree that the existing security system, created to protect U.S. interests during the days of the Cold War, is too cumbersome and costly, and that much greater openness should be possible. The

Committee intends to monitor carefully the results of these efforts over the coming year.

Establishment of a National Intelligence Officer for Proliferation

The National Intelligence Officer (NIO) for Strategic Programs currently has responsibility within the National Intelligence Council (NIC) not only for strategic weapons issues but also for issues relating to the proliferation of weapons of mass destruction and means for their delivery. Given the large and growing threat posed to U.S. national security interests by such proliferation, the Committee believes that a separate NIO for proliferation is warranted.

Accordingly, the Committee urges that the Director of Central Intelligence (DCI) promptly establish the position of NIO for Proliferation. The NIO for Proliferation should report directly to the Chairman of the NIC and should be independent of the CIA's Nonproliferation Center. The NIO for Proliferation should play an integral role in the production of all estimates related to proliferation-related issues, identify collection gaps against the proliferation target and perform such other functions as are typically assigned to NIOs.

Support to Environmental Policy and Programs

Last year, the Committee provided funding for the creation of an environmental task force, composed of scientists and other experts on the environment, to examine the utility of intelligence capabilities to gather and exploit data in support of private sector research efforts in the environmental area. In fact, a DCI Environmental Task Force (ETF) was subsequently established and is presently functioning.

The Committee remains supportive of the ETF, but believes there are important issues the ERF is not addressing. Specifically, the Committee believes that it is important for the Intelligence Community to assess the requirements of U.S. government agencies with environmental responsibilities in addition to the needs of civilian environmental researchers.

The Committee therefore requests the DCI to prepare a comprehensive report assessing the potential for U.S. intelligence assets to support the environmental monitoring, enforcement, and mapping missions of the following agencies: the Environmental Protection Agency, the Department of the Interior, the National Oceanic and Atmospheric Administration, the United States Geologic Survey, the Department of Agriculture, and any other appropriate agencies. The report should identify specific areas in which support can be improved and any legal impediments to providing such support. The report, which should be prepared in consultation with the affected agencies, should be submitted to the intelligence Committees of the House and Senate not later than May 1, 1994. Funds to support this inquiry and report should be drawn from those authorized and appropriated for the DCI's Environmental Task Force.

"NON-STATUTORY" INSPECTORS GENERAL WITHIN THE INTELLIGENCE COMMUNITY

In 1991, the Congress enacted statutory language creating an independent Inspector General (IG) for the Central Intelligence Agency, nominated by the President and confirmed by the Senate. Since that law was enacted, the performance and effectiveness of the CIA IG has, from the standpoint of the Committee, steadily and dramatically improved.

Indeed, the progress demonstrated by the CIA IG stands in stark contrast to the activities and performance of other "non-statutory" IG's within the Intelligence Community who are appointed by, and are solely responsible to, their respective agency heads. Several of these agencies which are elements of the Department of Defense, including the National Security Agency, the National Reconnaissance Office, and Defense Intelligence Agency, administer large and costly programs, some of which over the years have experienced substantial cost-overruns and management failures.

The Committee has in recent years had the opportunity to assess the activities and performance of these "non-statutory" Inspector Generals at each of these agencies, and has come away uniformly dissatisfied with the limited personnel resources devoted to the IG function and with the superficial level of inquiry often carried out by these IGs. In short, the Committee believes that the non-statutory IGs at intelligence agencies other than the CIA are generally falling far short of the potential role the Committee believes they could and should play.

While the Department of Defense has a statutory Inspector General whose authority spans DoD intelligence agencies, as a practical matter most of the resources of the DoD IG's office are devoted to other elements of the Department.

Accordingly, the Committee requests that the Secretary of Defense undertake a review of the work of the non-statutory IGs at the National Security Agency, the National Reconnaissance Office, and the Defense Intelligence Agency, and provide a report to the Committee not late than 1 May 1994 which at a minimum sets forth: (1) a detailed description of the activities of each IG during calendar year 1993, including any significant actions taken as a result of an IG audit, inspection or investigation; (2) a breakdown of the personnel assigned to each IG office for the last three years; (3) an assessment of the performance of each IG for the last five years; (4) recommended actions to improve the effectiveness of the IGs concerned; (5) the appropriate role of the DoD IG is relation to DoD intelligence activities; and (6) the appropriate role of the Assistant to the Secretary of Defense for Intelligence Oversight in relation to DoD intelligence activities.

In the interim period, the Committee plans to closely monitor the activities of the IG offices involved. If significant progress cannot be demonstrated over the next year, the Committee intends to consider remedies to correct the shortcomings in the IG functions within the Defense elements of the Intelligence Community.

TERRORISM ON UNITED STATES SOIL

The Committee has funding authorization and oversight jurisdiction over key Government programs aimed at combatting terrorism. These include not only the counterterrorism activities of the Central Intelligence Agency and Department of Defense intelligence agencies, but also the Federal Bureau of Investigation counterterrorism effort. The FBI effort is divided into two parts: the FBI International Terrorism program, which is part of the FBI Intelligence Division and is funded under the National Foreign Intelligence Program, and the FBI Domestic Terrorism program, which is part of the FBI Criminal Investigative Division and whose appropriations are authorized through the Committee pursuant to its jurisdiction over "internal security" activities of the Government. (See S. Res. 400, 94th Congress, Secs. 12 and 14(a)(4).)

The FBI International Terrorism program is responsible for investigating and preventing terrorist acts by groups or individuals who are directed from abroad or whose activities "transcend national boundaries." The FBI Domestic Terrorism program focuses on groups of individuals who are based and operate entirely in the United States and whose activities are directed at the U.S. Government or population.

Terrorist incidents on United States soil have been few in number in recent years. However, the recent explosion at the World Trade Center and shooting outside CIA headquarters were painful reminders of the relative ease with which individuals bent on such violence can cause serious harm in the United States. The prospect that individuals might gain access to chemical, biological or nuclear weapons to use for political violence enhances concern in this area.

The Committee has authorized funds for the FBI International Terrorism program in an amount that represents a ten percent increase above the Administration's budget request. Such an increase is warranted in light of the FBI International Terrorism resources being devoted to the World Trade Center and related New York area cases and to encourage intensified efforts to detect and investigate terrorist activities. The Committee has also authorized the Administration's full request for Domestic Terrorism program funding for fiscal year 1994.

The Domestic Terrorism program provides all funding for the FBI's Hostage Rescue Team. The need for highly-trained tactical operational team capable of responding to high-risk situations in a manner that minimizes loss of life has been demonstrated again and again, in both terrorism incidents and other situations, such as recent standoffs at the Branch Davidian compound near Waco, Texas, at the cabin of Randy Weaver in Naples, Idaho, and at the Federal Correctional Institution in Talladega, Alabama.

The Committee urges the Administration to expand its efforts to address the threat of terrorism both at home and abroad. In particular, the Committee would welcome an initiative to improve the capabilities of the FBI Hostage Rescue Team, and to expand that team while maintaining the highest standards of competence, and an initiative to improve Government research and development efforts aimed at addressing terrorist threats or attacks.

PROCESSING OF FOREIGN BANK APPLICATIONS

The Foreign Bank Supervision Enhancement Act was enacted into law in 1991 as Title II of the Federal Deposit Insurance Corporation Improvement Act (P.L. 102–242). This Act gives the Federal Reserve Board authority to approve applications submitted by foreign banks to establish branch, agency or representative offices in the United States.

The Committee understands that approximately twenty foreign bank applications have been awaiting approval by the Federal Reserve for two years. The delay has been due primarily to the time required for other federal agencies to process name check requests associated with these applications. According to the Federal Reserve, the CIA has been particularly slow in completing these checks and responding to their requests.

The Committee is concerned by these delays. Communities dependent upon bank openings are suffering from lost economic opportunities. Many of the affected communities have important international trade and banking links to Latin America, the Caribbean, the Asian Basin and Europe. For example, Miami has become an important regional center for international trade and banking in the Southern Hemisphere. The result has been increased trade and economic growth in Florida. Cities in other states play similar roles as engines of international trade and economic growth.

The Committee believes these financial institutions deserve to have their applications processed—and either accepted or rejected in accordance with the law—in a thorough but timely fashion.

Thus, the Committee requests that the Director of Central Intelligence give appropriate emphasis to the processing of these applications to ensure they are processed and reported to the Federal Reserve in as timely a manner as possible. The Committee further requests the Director provide the Committee by February 1, 1994 an explanation of the delays that have occurred to date and a plan to address them.

DIA USE OF ALTERNATIVE TITLE

Representatives of the Defense Intelligence Agency (DIA) have over the past year in briefings of the Committee referred to certain functions of the Director, DIA, being carried out in his capacity as "Director of Military Intelligence." Apparently, this alternative title is being utilized at DIA's own initiative and has not been formally approved by the Secretary of Defense. The Committee questions the use of this title under these circumstances. Assumption of the new title and any new functions to be carried out in this capacity should not go forward unless and until the Secretary of Defense has approved them, after appropriate consultation with the Congress.

In the Committee's view, decisions on reorganizations or adjustments in the functioning of the intelligence elements of the Department of Defense should be made by civilian officers of the Department of Defense appointed by the President by and with the advice and consent of the Senate. Having the accountable civilian presidential appointees make such decisions is particularly important where the decisions at issue affect the roles and authorities of civil-

ian presidential appointees. The decision whether to establish a Director of Military intelligence within the Department of Defense would, among other things, have a substantial effect on the roles and authorities of the Secretaries of the Military Departments, who by law (10 U.S.C. 3013, 5013, 8013) are in charge of the intelligence affairs of their respective departments, subject to the Secretary of Defense's direction.

The Committee strongly supports appropriate efforts to strengthen intelligence support for the commanders of the unified and specified commands and for national decisionmakers. The Committee is of the view that decisions on how best to organize the various intelligence elements of the Department of Defense within the contours of existing law to assist in achieving those objectives should be made by the Secretary of Defense, after receiving appropriate advice from his senior civilian and military advisors, and in consultation with the Congress. The Committee is prepared to consider any changes to the functions and relationships of the intelligence elements of the Department of Defense that the Secretary of Defense deems appropriate.

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 1994.

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 1994 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 in fiscal year 1994 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 this section. The Director may exercise this authority only when necessary to the performance of important intelligence functions or to the maintenance of a stable personnel force, and any exercise of this authority must be reported to the two intelligence committees of the Congress.

Section 104 authorizes appropriations and personnel levels for fiscal year 1994 for those entities funded under the Community Management Account of the Director of Central Intelligence.

Subsection (a) authorizes appropriations in the amount of $144,588,000 for fiscal year 1994 for the staffing and administration of the various components under the Community Management Account of the Director of Central Intelligence. It further provides that funds identified for the Advanced Research and Development Committee of the Community Management Account shall remain available through the end of fiscal year 1995.

Subsection (b) authorizes 237 full-time personnel for the components under the Community Management Account for fiscal year 1994 and provides that such personnel may be permanent employ-

ees of the Account or detailed from various elements of the United States Government.

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

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM AND RELATED PROVISIONS

Section 201 authorizes appropriations in the amount of $182,300,000 for fiscal year 1994 for the Central Intelligence Agency Retirement and Disability Fund.

Section 202(a) of the bill makes technical amendments to the Central Intelligence Agency Retirement Act (50 U.S.C. 2001 et seq.) ("Retirement Act"). The contents of these amendments to the Retirement Act are as follows:

Paragraph 202(a)(1) deletes interest computed under Section 281 of the Retirement Act (i.e., interest on voluntary contributions) from the definition of "lump-sum credit" in that Act. Section 281 contains within its confines the necessary provisions relating to interest on voluntary contributions, and thus there is no need to include it in the general definition of "lump-sum credit." The correction also is consistent with the usage of the term "lump-sum credit" in the statutes governing the Civil Service Retirement System.

Paragraph 202(a)(2) corrects a statutory cross-reference in Section 201(c) of the Retirement Act. Section 201(c) of the Retirement Act currently refers to section 102(d)(3) of the National Security Act of 1947, relating to the authority of the Director of Central Intelligence to protect intelligence sources and methods. The Intelligence Authorization Act for Fiscal Year 1993 re-enacted the substance of section 102(d)(3) as section 103(c)(5) of the National Security Act. Paragraph 2(a)(2) corrects the reference.

Paragraph 202(a)(3) amends a provision in Section 211(c)(2)(B) of the Retirement Act to eliminate a requirement to obtain consent by current spouses to payments of a lump-sum amount based on excess contributions (i.e., amounts paid into the retirement fund following completion of 35 years of creditable service) and a requirement to give prior notice to former spouses of such payments. No such requirements existed under the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, which was intended to be restated as a matter of technical correction by Title VIII of the Intelligence Authorization Act for Fiscal Year 1993 (Public Law 103–496). The amendment strikes these new requirements, but requires that CIA notify current spouses prior to making such payments, unless notification is waived, pursuant to section 221(b)(1)(D), when the spouse cannot be located.

Paragraph 202(a)(4)(A) strikes from Section 221(a)(4) of the Retirement Act a provision concerning calculation of "high-3" years average pay, on which retirement annuities are based, for a CIARDS participant who dies before completing three years of service. That situation cannot occur, because a CIA employee cannot qualify as a participant in the CIA Retirement and Disability System until he or she has completed five years of qualifying service. Accordingly, the provisions for calculation of CIARDS annuities for an employee dying before completion of three years' service is stricken.

Paragraph 202(a)(4)(B) amends section 221(f)(1)(A) of the Retirement Act, which relates to survivor annuities for beneficiaries of CIARDS participants who are unmarried at the time of retirement. Paragraphs 2(a)(5) (A) and (B) correct the misplacement in section 221(f)(1)(A) of the phrase "after the participant's death." The current placement of the phrase could be misread to imply that, in some circumstances, a participant receives an annuity after the participant is dead and a survivor receives a survivor annuity before the concerned participant is dead. The correction eliminates the potential for misconstruction.

Paragraph 202(a)(4)(C) amends section 221(g)(1) of the Retirement Act by inserting a comma to clarify the meaning of the section.

Paragraph 202(a)(4)(D) strikes from section 221(j) of the Retirement Act a reference to paragraph (2) of section 221(j) because there is no paragraph (2) in that provision.

Paragraph 202(a)(5)(A) amends section 225(a)(7) of the Retirement Act to make clear that an individual who is a former spouse of a CIARDS participant and who seeks to receive a survivor annuity based on prior marriage to a CIARDS participant must waive receipt only of Federal retirement system annuities based on other marriages that are survivor annuities, and is not required to waive any other kind of annuity from a Federal retirement system based on marriage.

Paragraph 202(a)(5)(B) amends section 225(c)(3)(C) of the Retirement Act to make clear that a reference to a spouse who "predeceases" means that the spouse predeceases the CIARDS participant concerned.

Paragraph 202(a)(5)(C) amends section 222(c)(4) of the Retirement Act to make clear that payment of a surviving spouse's survivor annuity terminates upon the spouse's death, in the same manner as a surviving former spouse's survivor annuity terminates upon the former spouse's death.

Paragraph 202(a)(6) strikes an incorrect reference in section 224(c)(1)(B)(i) of the Retirement Act to a "former participant" and inserts in lieu thereof the correct reference to a "retired participant."

Paragraph 202(a)(7)(A) amends section 225(c)(3) of the Retirement Act to make clear that an individual who is a former spouse of a CIARDS participant and who seeks to receive a retirement annuity based on prior marriage to a CIARDS participant throughout the participant's creditable service must waive receipt only of Federal retirement system annuities based on other marriages that are survivor annuities, and is not required to waive any other kind of annuity from a Federal retirement systems based on marriage.

Paragraph 202(a)(7)(B) corrects a date in section 225(c)(4)(A) of the Retirement Act by striking "1991" and inserting in lieu thereof "1990". The correction of the date erroneously included in the Retirement Act maintains consistency with published regulations, notices, and guidance. The correction is not intended to and does not affect the rights of any person under the Retirement Act.

Paragraph 202(a)(8) strikes an incorrect reference in Section 231(d)(2) of the Retirement Act to section 214(b) and inserts lieu thereof the correct reference to section 241(a).

Paragraph 202(a)(9) strikes an incorrect reference in section 232(b)(4) of the Retirement Act to section 222 and inserts in lieu thereof the correct reference to section 224.

Paragraph 202(a)(10) deletes from section 234(b) of the Retirement Act an unnecessary reference to section 281.

Paragraphs 202(a)(11)(A) and 202(A)(11)(B) amend section 241(c) of the Retirement Act to make technical corrections to cross-references in the Act relating to the order of precedence for payment of lump-sum benefits.

Paragraph 202(a)(11)(C) amends section 241 of the Retirement Act to provide for disposition upon the death of a retired participant of any annuity that is accrued and unpaid.

Paragraph 202(a)(12) amends section 264(b) of the Retirement Act, relating to court orders or spousal agreements, to eliminate a reference to payment of refund of contributions upon discontinued service under section 234(a) and a reference to return of voluntary contributions under section 281. This amendment is not intended to and does not affect the substantive or procedural rights of former spouses, and the Committee has received assurances from the CIA that this provision does not affect such rights and that CIA will not interpret or administer it to affect such rights.

Paragraph 202(a)(13) amends section 265 by striking incorrect references to this "Act" and substituting correct references to this "title" (i.e., title II of the Retirement Act).

Paragraph 202(a)(14) amends section 291(b)(2) of the Retirement Act to permit cost of living adjustments under section 291 to annuities of child survivors provided in section 232, on the same basis as such adjustments are made to other survivor annuities under Section 291.

Paragraph 202(a)(15) strikes from section 304(i)(1) of the Retirement Act, relating to former spouses, an incorrect reference to section 102(a)(3), which defines the term "surviving spouse", and replaces it with the correct reference to section 102(a)(4), which defines the term "former spouse."

Section 202(b) provides that the amendments made by Section 202(a) take effect retroactively, as of February 1, 1993, which is the date the Retirement Act provisions enacted by the Intelligence Authorization Act for Fiscal Year 1993 took effect.

TITLE III—GENERAL PROVISIONS

Section 301 provides that appropriations authorized by the Act for salary, pay, retirement and other benefits for federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

Section 302 provides that the authorization of appropriations by the Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

Section 401 creates a Senate-confirmed, civilian Presidential appointee position of General Counsel of the Central Intelligence Agency (hereafter "statutory CIA General Counsel"). The current

position of General Counsel of the CIA (hereafter "non-statutory CIA General Counsel") is a position in the CIA appointed by the Director of Central Intelligence (DCI).

The precedent for White House and Senate involvement in the selection of senior CIA officials was established at the inception of the present-day U.S. Intelligence Community. The National Security Act of 1947 provided for Presidential nomination and Senate confirmation of the DCI, and the same procedure for selection of the Deputy Director of Central Intelligence (DDCI) was established in 1953. In 1989, legislation originated in this Committee created a statutory Inspector General (IG) for the CIA with a requirement that the President's nominee be confirmed by the Senate.

Senate confirmation of the CIA General Counsel has also been proposed over the years. As early as 1976, the Church Committee, in its final report, recommended that each intelligence agency have a General Counsel nominated by the President and confirmed by the Senate:

> The Committee believes that the extraordinary responsibilities exercised by the General Counsel of these agencies make it very important that these officials are subject to examination by the Senate prior to their confirmation. The Committee further believes that making such positions subject to Presidential appointment and senatorial confirmation will increase the stature of the office and will protect the independence of judgment of the General Counsel.
>
> (U.S. Congress, Senate, Select Committee to Study Governmental Operations with Respect to Intelligence Activities, 94th Congress, 2d session, Intelligence Activities and the Rights of Americans, Book II, Final Report (Washington: Government Printing Office, 1976), p. 333.)

A similar recommendation in favor of Senate confirmation of the CIA General Counsel was made by the congressional committees investigating the Iran-Contra affair in 1987. (U.S. Congress, House, Select Committee to Investigate Covert Arms Transactions with Iran, and Senate, Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition, 100th Congress, 1st Session, Report of the Congressional Committees Investigating the Iran-Contra Affair (Washington: Government Printing Office, 1987), p. 425.)

The importance of the duties of the non-statutory CIA General Counsel, especially with respect to ensuring CIA's full compliance with the laws of the United States governing U.S. intelligence activities, has increased steadily in the past two decades. The responsibilities of CIA's General Counsel are in some respects more significant than other General Counsels within the Intelligence Community because of the many unique and sensitive programs the CIA undertakes. Many of the legal issues confronting the CIA General Counsel must be handled without the benefit of numerous legal precedents and public discourse that assist other departmental and agency General Counsels.

Accordingly, the Committee has concluded that the position should be elevated to the level of a Senate-confirmed, Presidential

appointment. Elevating the position will ensure that the General Counsel of the CIA has the stature commensurate with the duties of the position. It will ensure also that the President and the Senate can perform their respective constitutional roles with respect to a position whose duties are of such significance.

The Committee notes that all elements of the U.S. Intelligence Community, except the CIA, are part of departments that have statutory general counsels (or equivalent official) who are Senate-confirmed Presidential appointees. With the enactment of Section 20, all elements of the Intelligence Community will be, or be part of, departments or agencies with general counsels appointed by the President by and with the advice and consent of the Senate. In the last several years, this Committee has taken the lead role in providing a clearer statutory framework for the Intelligence Community—and this provision is a logical extension of this effort.

Subsection 401(a) of the bill adds a new Section 20 to the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) to establish the position of General Counsel of the Central Intelligence Agency. The new Section 20 consists of three subsections.

Subsection 20(a) establishes the position of General Counsel of the Central Intelligence Agency and provides for appointment of the General Counsel from civilian life by the President, by and with the advice and consent of the Senate. The new Presidential appointee position would replace the current non-statutory CIA General Counsel position.

Under Subsection 20(a), the General Counsel would be an officer of the United States nominated by the President and, with the advice and consent of the Senate, appointed by the President. As with most other Presidential appointees, the statutory CIA General Counsel could be removed from office by the President. Because the position is within the CIA, the General Counsel also could be removed from office by the Director of Central Intelligence using the Director's special authority to terminate the employment of CIA personnel under Section 104(g) of the National Security Act of 1947 whenever the Director deems it necessary or advisable in the interests of the United States.

The statutory CIA General Counsel would be subject to the authority and supervision of the Director of Central Intelligence by virtue of the Director's authority as the head of the Central Intelligence Agency under Sections 102(a)(2) and 103(d) of the National Security Act of 1947. The establishment of the statutory position does not impair or affect the existing authority of the Director of Central Intelligence.

Subsection 20(b) establishes the General Counsel of the Central Intelligence Agency as the chief legal officer of the Central Intelligence Agency. As the chief legal officer, the General Counsel will be responsible for ensuring that legal advice and assistance are provided as appropriate throughout the CIA, and all personnel providing legal services within the CIA will be bound by the legal opinions issued by the General Counsel in the course of the General Counsel's official duties.

Subsection 20(c) provides that the Director of Central Intelligence prescribes the functions of the statutory CIA General Counsel. Thus, the Director may assign the General Counsel functions

beyond those inherent in the General Counsel as the CIA's chief legal officer. In particular, the Director of Central Intelligence may wish to assign to the statutory CIA General Counsel the function of providing legal advice to the Director of Central Intelligence in the performance of the Director's intelligence duties that do not involve the CIA.

The Committee has reviewed CIA Headquarters Regulation 1–3b (revised October 5, 1989), which sets forth the authority and duties of the non-statutory position of the CIA General Counsel, and has concluded that the authorities and duties described therein are appropriate for the statutory CIA General Counsel. However, the Committee believes that the statute should afford the Director of Central Intelligence substantial flexibility to decide from time to time what authorities to delegate and duties to assign to the CIA General Counsel. Subsection 20(c) provides the Director that flexibility.

Subsection 401(b) of the bill amends Section 5315 of Title 5, United States Code, to place the position of General Counsel of the Central Intelligence Agency at Level IV of the Executive Schedule. The Executive Schedule places department and agency general counsels who currently are on the Executive Schedule at Level IV. The position of Inspector General of the CIA also is on the Executive Schedule at Level IV.

Subsection 401(c) of the bill provides that the amendments to the CIA Act of 1949 and Title 5 of the U.S. Code made by Sections 401 (a) and (b) take effect one year from the date of enactment of the Act (i.e., the Intelligence Authorization Act for Fiscal Year 1994). The one-year period before the statutory CIA General Counsel provisions take effect provides sufficient time for the Administration and the CIA to take whatever administrative and personnel actions may be appropriate to prepare for appointment of the first statutory CIA General Counsel.

The Committee notes, that, although the provision may affect the incumbent of the current non-statutory CIA General Counsel position, the provision is not intended in any way to reflect adversely upon the incumbent. Nothing in the provision would prevent the President from nominating the incumbent for the statutory CIA General Counsel position. The Committee also notes that the President may nominate the individual selected for the statutory CIA General Counsel position, and the Senate may take confirmation action with respect to that nomination, prior to expiration of the one-year period. The President could not, however, appoint the nominated and confirmed individual to the statutory CIA General Counsel position prior to the effective date of the provision establishing that position.

Section 402 consists of technical amendments to the Central Intelligence Agency Act of 1949 ("CIA Act") and to the National Security Act of 1947.

Section 402(a) correct statutory references in the CIA Act.

Subparagraph 402(a)(1)(A) strikes an existing reference in Section 5(a) to the Bureau of the Budget and inserts in lieu thereof a reference to that Bureau's successor, the Office of Management and Budget.

Subparagraph 402(a)(1)(B) amends Section 5(a) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f). Section 5(a) authorizes the CIA, in the performance of the CIA's functions and with the approval of the Office of Management and Budget, to transfer sums to and receive sums from other government agencies, without regard to any provisions of law limiting or prohibiting transfers between appropriations, "for the performance of any of the functions or activities authorized under sections 102 and 303 of the National Security Act of 1947 (Public Law 253, Eightieth Congress)."

Title VII of the Intelligence Authroziation Act for Fiscal Year 1993 (Public Law 102–496) amended the National Security Act of 1947. As a result of the amendments made by Title VII, the functions and activities previously authorized by Section 102 of the National Security Act of 1947 are now authorized by sections 102(a)(2)(B) and (C), 103(c)(5), 103(d), 104(a), and 104(g) of the National Security Act. Section 401(a)(1)(B) of the bill updates the cross-reference to the National Security Act in Section 5(a) of the CIA Act accordingly.

The functions and activities authorized by former section 102 of the National Security Act and the current section of the National Security Act which authorizes those functions and activities are set forth below:

Former section—Function/activity	Current National Security Act citation for authority for same—Function/activity
Director of Central Intelligence (DCI) serves as head of CIA (Sec. 102(a))	Section 102(a)(2)(C).
DCI special authority to terminate CIA employment (Sec. 102(c))	Section 104(g).
CIA duty to advise National Security Council (NSC) in intelligence matters (Sec. 102(d)(1))	Section 102(a)(2)(B) (now a DCI function rather than a CIA function, and provision refers to function as adviser to President rather than NSC).
CIA duty to make recommendations to Council (NSC) for coordination of intelligence activities (Sec. 102(d)(2))	Section 102(a)(2)(B) (now a DCI function rather than a CIA function, and provision refers to function as adviser to President rather than NSC).
CIA duty to correlate, evaluate and disseminate intelligence (Sec. 102(d)(3))	Section 103(d)(3) (now stated as duty of the DCI as the head of the CIA).
DCI duty to protect intelligence sources and methods from unauthorized disclosure (Sec. 102(d)(3))	Section 103(c)(5) (now stated as duty of the DCI as head of the intelligence community).
CIA duty to perform services of common concern (Sec. 102(d)(4))	Section 103(d)(4) (now stated duty of the DCI as the head of the CIA).

Former section—Function/activity	Current National Security Act citation for authority for same—Function/activity
CIA duty to perform such other functions and duties related to intelligence affecting the national security as the NSC may from time to time direct (Sec. 102(d)(5))	Section 103(d)(5) (now stated as a duty of the DCI as the head of the CIA).
DCI function to have access to all U.S. intelligence related to the national security, with limitation relating to access to FBI intelligence (Sec. 102(e))	Section 104(a) (similar limitation with respect to FBI included in definitional provision of Section 3(5)(B) of the Act).

The version of this amendment submitted to Congress by the Administration would have expanded the scope of the CIA's authority under section 5(a) of the CIA Act by substituting in place of the current reference to section 102 of the National Security Act a reference to sections 103 and 104 of the National Security Act. Current sections 103 and 104 of the National Security Act, however, authorize functions and activities that go beyond the functions and activities that were authorized by section 102 of the National Security Act as it was in force prior to enactment of Title VII of the Intelligence Authorization Act for Fiscal Year 1993. The Committee declined to adopt the proposed amendment, which would have expanded the scope of the already-extraordinary appropriations transfer authority provided by section 5(a) of the CIA Act.

The amendment made by section 402(a)(1)(B) neither expands nor contracts the scope of the CIA's authority under Section 5(a) of the CIA Act.

Paragraph 402(a)(2) strikes a reference in section 6 of the CIA Act to section 102(d)(3) of the National Security Act of 1947, which related to the authority of the Director of Central Intelligence to protect intelligence sources and methods, and inserts in lieu thereof a reference to section 103(c)(5), which is the current reference to that statutory authority. The amendment conforms to the changes in the National Security Act of 1947 made by the Intelligence Authorization Act for Fiscal Year 1993.

Paragraph 402(a)(3) amends section 19(b) of the CIA Act, relating to calculation of survivor annuities based on a participant's death in service, by striking incorrect references to section 231 of the CIA Retirement Act (which relates to disability or incapacity) and inserting in lieu thereof the correct references to section 232 (which relates to death in service benefits).

Section 402(b) amends section 103(d)(3) of the National Security Act of 1947 to correct a grammatical error, by striking "providing" and inserting in lieu thereof "provide".

TITLE V—DEPARTMENT OF DEFENSE

Section 501 provides the Secretaries of the Military Departments with authority to offer enhanced payments to members of military reserve components who qualify under the Foreign Language Proficiency Pay (FLPP) program.

FLPP provides for increased salary compensation for members of the military services who can demonstrate proficiency in a foreign

language that is needed for national security purposes. Under present law (section 316(c)(1) of title 37, United States Code), reservists can receive, for each period of reserve duty or instruction, one-thirtieth of the amount authorized for active duty personnel. The result is that even the most language-proficient military reservist, under a normal reserve schedule, will receive no more than $185 per year under FLPP. This supplement would appear to be an insufficient incentive to expend the substantial time and effort required to maintain—much less enhance—language proficiency.

The complex challenges of new military missions such as peacekeeping, coupled with growing instability in various regions, increase the need for U.S. military personnel, especially military intelligence personnel, who are highly proficient in foreign languages. Overall downsizing is likely to require the services to rely increasingly on reserve forces to provide a pool of qualified linguists to meet unexpected contingencies.

The amendment would eliminate the disparity between active duty and reserve personnel by deleting the "one-thirtieth" provision. Under the provision, as amended, the service secretaries would have the authority to offer qualified reservists FLPP payments up to the maximum level now authorized for active duty personnel, which, pursuant to subsection 316(b), is presently $100 per month.

Subsection 501(a) amends paragraphs 316(c)(1) and 316(c)(2) of title 37, United States Code, by eliminating the "one-thirtieth" formula and providing instead that reservists who qualify under the FLPP may be paid an annual foreign language maintenance bonus in an amount, to be determined by the Secretary concerned, that may not exceed the annual equivalent of the maximum monthly pay authorized for active duty personnel by subsection 316(b) of title 37.

Subsection 501(b) provides that the amendment made by subsection 501(a) shall take effect with respect to the first month that begins more than 90 days after the date of the enactment of this Act.

Section 502 consists of three provisions addressing the National Security Education Act of 1991 (Title VIII of the Intelligence Authorization Act of Fiscal Year 1992, Public Law 102–183).

Subsection 502(a) would make a technical amendment to the Act to allow donations to be credited to and form a part of the National Security Education Trust Fund.

The Act created the Trust Fund, administered by the Secretary of Defense, to provide undergraduate scholarships, graduate fellowships and institutional grants in foreign languages and other international fields in order to enhance U.S. national security.

Under the Act, the Secretary of Defense has the authority to "receive money and other property donated, bequeathed, or devised" and "may use, sell, or otherwise dispose of such property * * *" for the purpose of conducting the program required by the Act (section 805(b)). However, the Act does not presently provide a means to include donations as one of the assets of the Trust Fund. Section 804(a) of the Act established the Trust Fund in the Treasury of the United States and provided that "[t]he assets of the Fund consist of amounts appropriated to the Fund and amounts credited to the

Trust Fund under subsection (e)." Subsection (e) lists amounts credited to the Trust Fund as (1) the interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund, and (2) any amount paid to the United States as reimbursement for the failure of the recipient to either maintain satisfactory academic progress or to fulfill the Act's service requirement.

Because the Act does not state that donations are assets of the Trust Fund, the Treasury does not presently provide a means to receive gifts made to the Trust Fund. This technical amendment would permit donations made for the National Security Education Program to be utilized as intended by law.

Subsection 502(b) would repeal paragraph (b)(2) of section 804 of the National Security Education Act. That provision presently requires an authorization statute in order to (1) add funds to the National Security Education Trust Fund; or (2) obligate funds from the Trust Fund. With paragraph (b)(2) repealed, an appropriations act provision would still be required in order to add funds to or obligate funds from the Trust Fund, pursuant to the requirements of current section 804(b)(1), but a separate authorization statute no longer would be required.

The Committee intends by this subsection to delete from law any provision that approval by an authorization act is required in order to add or obligate funds from the Trust Fund. It is the Committee's view that the National Security Education Program, which is administered under the auspices of the Under Secretary of Defense for Policy and is aimed at addressing national security needs generally, including, but certainly not limited to, the needs of the Intelligence Community, is not an intelligence or intelligence-related activity subject to the authorization requirements of section 504 of the National Security Act of 1947.

Subsection 502(c) directs the Secretary of Defense to transfer $25,000,000 from the National Security Education Trust Fund to the miscellaneous receipts account of the Treasury. The fiscal year 1992 intelligence authorization and defense appropriations acts created the Trust Fund in the Treasury and provided that $150,000,000 be placed in the Trust Fund. Such action was accomplished, following a reprogramming, in September 1992. While the Committee believes that the National Security Program can make a significant contribution to the national security needs of the United States, intense fiscal pressures require that this program take a share of the cuts affecting the intelligence and defense budgets.

TITLE VI—FEDERAL BUREAU OF INVESTIGATION

Section 601 would amend section 608 of the Fair Credit Reporting Act (FCRA), (15 U.S.C. 1681f) to grant the Federal Bureau of Investigation (FBI) access to consumer credit records in counterintelligence investigations.

This provision would provide a limited expansion of the FBI's authority, in counterintelligence investigations (including terrorism investigations), to use a "National Security Letter," i.e. a written certification by the FBI Director or the Director's designee, to obtain information without a court order. FBI presently has authority to use the National Security Letter mechanism to obtain two types

of records: Financial institution records (under the Right to Financial Privacy At, 12 U.S.C. 3414(a)(5)) and telephone subscriber and toll billing information (under the Electronic Communications Privacy Act, 18 U.S.C. 2709). Expansion of this extraordinary authority is not taken lightly by the Committee, but the Committee has concluded that in this instance the need is genuine, the threshold for use is sufficiently rigorous, and, given the safeguards built in to the legislation, the threat to privacy is minimized.

The legislation represents a modification by the Committee of a proposal submitted by the Administration. The substantive changes made by the Committee are intended to strengthen protections for individual privacy and ensure that the FBI uses the authority only for the limited purposes it has invoked. FBI officials have advised the Committee that FBI does not object to the modifications.

Under a provision of the Right to Financial Privacy Act (RFPA) (12 U.S.C. 3414(a)(5)), the FBI is entitled to obtain financial records from financial institutions, such as banks and credit card companies, by means of a National Security Letter when the Director or the Director's designee certifies in writing to the financial institution that such records are sought for foreign counterintelligence purposes and that there are specific and articulable facts giving reason to believe that the customer or entity whose records are sought is a foreign power or an agent of a foreign power, as those terms are defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

The FBI considers such access to financial records crucial to trace the activities of suspected spies or terrorists. The need to follow financial dealings in counterintelligence investigations has grown as foreign intelligence services increasingly operate under non-official cover, i.e., pose as business entities or executives, and the foreign intelligence service activity has focused increasingly on U.S. economic information.

FBI's right of access under the Right to Financial Privacy Act, however, cannot be effectively used until the FBI discovers which financial institutions are being utilized by the subject of a counterintelligence investigation. Consumer reports maintained by credit bureaus are a ready source of such information, but, although such reports are readily available to the private sector, they are not available to FBI counterintelligence investigators. Under present section 608 of the Fair Credit Reporting Act, without a court order, FBI counterintelligence officials, like other government agencies, are entitled to obtain only limited information from credit reporting agencies—the name, address, former addresses, places of employment, and former places of employment, of a person—and this information can be obtained only with the consent of the credit bureau.

When appropriate legal standards are met, FBI is able to obtain broader and mandatory access to credit records by means of a court order or grand jury subpoena (see the FCRA, 15 U.S.C. 1681b(1)), but such an option is available to the FBI only after a counterintelligence investigation has been formally converted to a criminal investigation or proceeding. Many counterintelligence investigations never reach the criminal stage but proceed for other intelligence or foreign policy purposes.

FBI has made a specific showing to the Committee that the effort to identify financial institutions in order to make use of FBI authority under the Right to Financial Privacy Act can not only be time-consuming and resource-intensive, but can also require the use of investigative techniques—such as physical and electronic surveillance, review of mail covers, and canvassing of all banks in an area—that would appear to be more intrusive than the review of credit reports. FBI has offered a number of specific examples in which lengthy, intensive and intrusive surveillance activity was required to identify financial institutions doing business with a suspected spy or terrorist.

FBI officials have informed the Committee that its only interest in the credit reports is to identify relevant financial institutions so that it may make use of its authority under the Right to Financial Privacy Act. The provision adopted by the Committee is intended to limit FBI access and use of its authority to that access and use required to fulfill this interest.

Section 608 of the Fair Credit Reporting Act presently consists of only one paragraph, the provision described above that authorizes credit reporting agencies to provide government agencies with certain identifying information respecting a consumer. Section 601 of the instant legislation would amend FCRA section 608 by designating the existing text as subsection 608(a) and adding a new subsection 608(b) consisting of twelve paragraphs.

Paragraph 608(b)(1) of the amended FCRA requires a consumer reporting agency to furnish a consumer report to the FBI when presented with a written request for a consumer report, signed by the FBI Director or the Director's designee, which certifies compliance with the subsection. The Director or the Director's designee may make such a certification only if the Director or the Director's designee has determined in writing that such records are necessary for the conduct of an authorized foreign counterintelligence investigation and that there are specific and articulable facts giving reason to believe that the person whose consumer report is sought is a foreign power or an agent of a foreign power, as defined in Section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

The requirement that there be specific and articulable facts giving reason to believe that the person is an agent of a foreign power before FBI can obtain access to a consumer report is consistent with the standards in the Right to Financial Privacy Act, 12 U.S.C. 3414(a)(5)(A), and the Electronic Communications Privacy Act, 18 U.S.C. 2709(b).

However, in contrast to those statutes, the Committee has drafted the FCRA certification requirement to provide that the FBI demand submitted to the consumer reporting agency make reference to the statutory provision without providing the agency with a written certification that the subject of the consumer report is believed to be an agent of a foreign power. FBI would still be required to record in writing its determination regarding the subject, and the credit reporting agency would be able to draw the necessary conclusion, but the Committee believes that its approach would reduce the risk of harm from the certification process itself

to the person under investigation. A similar approach is taken in paragraph 608(b)(2), described below.

Section 605 of the FCRA, 15 U.S.C. 1681c, defines "consumer report" in a manner that prohibits the dissemination by credit reporting agencies of certain older information except in limited circumstances. None of these excepted circumstances would apply to FBI access under proposed FCRA paragraph 608(b)(1) (or proposed FCRA paragraph 608(b)(2)). Accordingly, FBI access would be limited to "consumer reports" as defined in section 605.

The term "an authorized foreign counterintelligence investigation" includes those FBI investigations conducted for the purpose of countering international terrorist activities as well as those FBI investigations conducted for the purpose of countering the intelligence activities of foreign powers. Both types of investigations are conducted under the auspices of the FBI's Intelligence Division, headed by an FBI Assistant Director.

As is the case with the FBI's existing National Security Letter authority under the Right to Financial Privacy Act (see Senate Report 99–307, May 21, 1986, p. 16; House Report 99–952, October 1, 1986, p. 23), the Committee expects that, if the Director of the FBI delegates this function under paragraph 608(b)(1), as well as under paragraph 608(b)(2), discussed below, the Director will delegate it no further down than the level of FBI Deputy Assistant Director. (There are presently two Deputy Assistant Directors for the Intelligence Division, on with primary responsibility for counterintelligence investigations and the other with primary responsibility for international terrorism investigations.)

Paragraph 608(b)(2) would give FBI mandatory access to the consumer identifying information—name, address, former addresses, places of employment, or former places of employment—that it may obtain under current section 608 only with the consent of the credit reporting agency. A consumer reporting agency would be required to provide access to such information when presented with a written request signed by the FBI Director or the Director's designee, which certifies compliance with the subsection. The Director or the Director's designee may make such a certification only if the Director or the Director's designee has determined in writing that such information is necessary to the conduct of an authorized foreign counterintelligence investigation and that there is information giving reason to believe that the person about whom the information is sought has been, or is about to be, in contact with a foreign power or an agent of a foreign power, as defined in Section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

FBI officials have indicated that they seek mandatory access to this identifying information in order to determine if a person who has been in contact with a foreign power or agent is a government or industry employee who might have access to sensitive information of interest to a foreign intelligence service. Accordingly, the Committee has drafted this provision to require that such limited information can be provided only in circumstances where the consumer has been or is about to be in contact with the foreign power or agent.

The Committee has also drafted paragraphs 608(b)(1) and 608(b)(2) in a manner intended to make clear the Committee's intent that the FBI may use this authority to obtain the consumer records or only those persons who either are a foreign power or agent thereof or have been or will be in contact with a foreign power or agent. Although the consumer records of another person, such as a relative or friend of an agent of a foreign power, or identifying information respecting a relative or friend of a person in contact with an agent of a foreign power, may be of interest to FBI counterintelligence investigators, they are not subject to access under paragraphs 608(b)(1) and 608(b)(2).

It is not the Committee's intent to require any credit reporting agency to gather credit or identifying information on a person for the purpose of fulfilling an FBI request under paragraphs 608(b)(1) and 608(b)(2). A credit reporting agency's obligation under these provisions is to provide information responsive to the FBI's request that the credit reporting agency already has in its possession.

Paragraph 608(b)(3) provides that no consumer reporting agency or officer, employee, or agent of such institution shall disclose to any person, other than those officers, employees or agents of such institution necessary to fulfill the requirement to disclose information to the FBI under subsection 608(b), that the FBI has sought or obtained a consumer report or identifying information respecting any consumer under paragraphs 608(b)(1) or 608(b)(2), nor shall such agency, officer, employee, or agent include in any consumer report any information that would indicate that the FBI has sought or obtained such a consumer report or identifying information. The prohibition against including such information in a consumer report is intended to clarify the obligations of the consumer reporting agencies. It is not intended to preclude employees of consumer reporting agencies from complying with company regulations or policies concerning the reporting of information, nor to preclude their complying with a subpoena for such information issued pursuant to appropriate legal authority.

Paragraph 608(b)(3) departs from the parallel provision of the RFPA by clarifying that disclosure is permitted within the contacted institution to the extent necessary to fulfill the FBI request. The Committee has not concluded, or otherwise taken a position whether, that disclosure for such purpose would be forbidden by RFPA; indeed, practicalities would dictate that the provision not be interpreted to exclude such disclosure. However, the Committee believes that clarification of the obligation for purposes of the FCRA is desirable.

Paragraph 608(b)(4) requires the FBI, subject to the availability of appropriations, to pay to the consumer reporting agency assembling or providing credit records a fee in accordance with FCRA procedures for reimbursement for costs reasonably necessary and which have been directly incurred in searching for, reproducing, or transporting books, papers, record, or other data required or requested to be produced under subsection 608(b). The FBI informs the Committee that such reports are commercially available for approximately $7 to $25 and the FBI could expect to pay fees in approximately that range. FBI officials have advised the Committee that the costs of such reports would be easily recouped from the

savings afforded by the reduced need for other investigative techniques aimed at obtaining the same information.

Paragraph 608(b)(5) prohibits the FBI from disseminating information obtained pursuant to subsection 608(b) outside the FBI, except to the Department of Justice as may be necessary for the approval or conduct of a foreign counterintelligence investigation. This is a far more restrictive limit on dissemination than that contained in the parallel FCRA provision, which permits dissemination outside the FBI to another government agency if Attorney General intelligence guidelines are satisfied and the information is clearly relevant to the agency's responsibilities. The Committee believes that the limitation, which was not included in the Administration's proposal, is warranted in light of FBI's statement that it seeks access to the information only for limited purposes and in light of general concerns regarding the accuracy of credit report information. The FBI has indicated that it has no need to disseminate credit reports obtained under paragraph 608(b)(1) or information obtained under paragraph 608(b)(2) to other law enforcement or intelligence agencies. Accordingly, FBI did not object to the proposed limits on dissemination.

Paragraph 608(b)(6) provides that nothing in subsection 608(b) shall be construed to prohibit information from being furnished by the FBI pursuant to a subpoena or court order, or in connection with a judicial or administrative proceeding to enforce the provisions of the FCRA. The paragraph further provides that nothing in subsection 608(b) shall be construed to authorize or permit the withholding of information from the Congress.

Pargraph 608(b)(7) provides that on a semiannual basis the Attorney General shall fully inform the Permanent Select Committee on Intelligence and the Committee on Banking, Finance, and Urban Affairs of the House of Representatives, and the Select Committee on Intelligence and the Committee on Banking, Housing, and Urban Affairs of the Senate concerning all requests made pursuant to paragraphs 608(b)(1) and 608(b)(2).

Semi-annual reports are required to be submitted to the intelligence committees on (1) use of FBI's mandatory access provision of the RFPA by section 3414(a)(5)(C) of title 15, United States Code; and (2) on use of the FBI's counterintelligence authority, under the Electronic Privacy Communications Act of 1986, to access telephone subscriber and toll billing information by section 2709(e) of title 18, United States Code. The Committee expects the reports required by FCRA paragraph 608(b)(7) to match the level of detail included in these reports, i.e., a breakdown by quarter, by number of requests, by number of persons or organizations subject to requests, and by U.S. persons and organizations and non-U.S. persons and organizations.

Paragraph 608(b)(8) through 608(b)(12) parallel the enforcement provisions of the Right to Financial Privacy Act, 12 U.S.C. 3417 and 3418.

Paragraph 608(b)(8) establishes civil penalties for access or disclosure by an agency or department of the United States in violation of subsection 608(b). Damages, costs and attorney fees would be awarded to the person to whom the consumer reports related in the event of a violation.

Paragraph 608(b)(9) provide that whenever a court determines that any agency or department of the United States has violated any provision of subsection 608(b) and that the circumstances surrounding the violation raise questions of whether or not an officer or employee of the agency or department acted willfully or intentionally with respect to the violation, the agency or department shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation.

Paragraph 608(b)(10) provides that any credit reporting institution or agent or employee thereof making a disclosure of credit records pursuant to subsection 608(b) in good-faith reliance upon a certificate by the FBI pursuant to the provisions of subsection 608(b) shall not be liable to any person for such disclosure under title 15, the constitution of any State, or any law or regulation of any State or any political subdivision of any State.

Paragraph 608(b)(11) provides that the remedies and sanctions set forth in subsection 608(b) shall be the only judicial remedies and sanctions for violations of the section.

Paragraph 608(b)(12) provides that, in addition to any other remedy contained in subsection 608(b), injunctive relief shall be available to require that the procedures of the section are complied with and that in the event of any successful action, costs together with reasonable attorney's fees, as determined by the court, may be recovered.

COMMITTEE ACTION

On July 16, 1993, the Select Committee approved the bill by a vote of 12–5, 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 attempted to estimate the costs which would be incurred in carrying out the provisions of this bill in fiscal year 1994 and in each of the five years thereafter if these amounts are appropriated. For fiscal year 1994, the estimated costs incurred in carrying out the provisions of this bill are set forth in the classified annex to this bill. Estimates of the costs incurred in carrying out this bill in the five fiscal years thereafter are not available from the Executive branch and, therefore, the Committee deems it impractical, pursuant to paragraph (11)(a)(3) of rule XXVI of the Standing Rules of the Senate, to include such estimates in this report.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to existing law, the Committee requested and received the following cost estimate from the Congressional Budget Office regarding this legislation:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 23, 1993.

Hon. DENNIS DECONCINI,
Chairman, Select Committee on Intelligence,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for the Intelligence Authorization Act for Fiscal Year 1994, as ordered reported by the Senate Select Committee on Intelligence on July 16, 1993.

The technical corrections made to the mandatory program by the bill would affect direct spending and thus would be subject to pay-as-you-go procedures under section 13101 of the Budget Enforcement Act of 1990. As the corrections reflect the original intent of Congress and do not change the operation of the law, the pay-as-you-go implications equal zero.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: Unassigned.
2. Bill title: Intelligence Authorization Act for Fiscal Year 1994.
3. Bill status: As ordered reported by the Senate Select Committee on Intelligence on July 16, 1993.
4. Bill purpose: To authorize appropriations for fiscal year 1994 for intelligence activities of the United States Government, the Community Management Staff, and the Central Intelligence Agency Retirement and Disability System (CIARDS), and to make some technical corrections to the statute governing the Central Intelligence Agency Retirement and Disability System.
5. Estimated cost to the Federal Government of titles I (except sections 101–103), II, III (except section 301) IV, V, and VI of the Intelligence Authorization Act for Fiscal Year 1994:

[By fiscal years, in millions of dollars]

	1994	1995	1996	1997	1998
Authorization of appropriations	329	4	5	5	6
Estimated outlays	273	45	17	8	5

General

CBO was unable to obtain the necessary information to estimate the costs for Title I (except section 104) and section 301 of Title III of this bill because they are classified at a level above clearances now held by CBO employees. The estimated costs in the table above, therefore, reflect only the costs of section 104 and Titles II, III (except section 301), IV, V, and VI.

Direct spending

Subtitle B to Title II makes some technical corrections to the legislation governing the Central Intelligence Agency Retirement and

Disability System (CIARDS). The technical corrections make a few changes to conform the CIARDS with the Civil Service Retirement System (CSRS). None of the corrections would affect entitlements of retired CIA employees or their survivors. As the corrections reflect the original intent of Congress and do not change the operation of the law, the pay-as-you-go implications equal zero.

Authorization of appropriations

Secton 104 authorizes appropriations of $144.6 million for 1994 for the Community Management Account of the Director of the Central Intelligence (DCI). Similarly, section 201 specifies an authorization of appropriations for a contribution to the Central Intelligence Agency Retirement and Disability Fund of $182.3 million. The estimate assumes that funds will be appropriated for the full amount of the authorization and that all funds will be available for obligation by October 1, 1993. Outlays are estimated based on historical outlay rates.

Currently, the secretaries of the military services may award a special pay of up to $100 per month to certain members on active duty who have achieved proficiency in a foreign language. Reserve members are eligible for smaller payments. This legislation would increase the maximum payment for reservists to $1,200 annually.

According to the Department of Defense (DoD), there are approximately 9,000 reservists serving in positions which would make them eligible to apply for payments. This estimate assumes that about 55 percent of these individuals have attained some proficiency in a foreign language, and that the average annual payment eligibility would be $1,000, the average amount currently received by active duty recipients.

Although this estimate assumes enactment of this legislation by October 1, 1993, payments would probably not begin until four months after that because DoD would require lead time to establish new eligibility requirements and testing procedures. Thus, the cost of the entire program in 1994 would be $3 million. The existing reserve program costs about $1 million, so the net increase due to this legislation would be $2 million in 1994. Costs would be higher in later years, both because the program would be in effect for the entire year and because more individuals would apply for payments in response to the more generous incentive.

Section 502 would repeal the mandatory authorization requirement for available funds in the National Security Education Trust Fund. The fund currently contains about $157 million in unobligated balances.

Section 601 extends access to consumer credit records to the Federal Bureau of Investigation provided that such information is to be used for an authorized foreign counterintelligence investigation. Fees may be paid to the reporting agencies to cover processing costs. Costs associated with this provision should be insignificant.

6. Pay-as-you-go considerations: The Budget Enforcement Act of 1990 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1995. As the corrections reflect the original intent of Congress and do not change the operation of the law, the pay-as-you-go implications equal zero. Thus, the Intel-

ligence Authorization Act for Fiscal Year 1994 would have the following pay-as-you-go impact:

[By fiscal years, in millions of dollars]

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

(1) Not applicable.

7. Estimated cost to State and local governments: None.
8. Estimate comparison: None.
9. Previous CBO estimate: None.
10. Estimate prepared by: Elizabeth Chambers and Amy Plapp.
11. Estimate approved by: 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 SENATOR GLENN

While I ultimately supported this legislation, I did not support the level of reductions contained in the Committee's mark-up of the FY 1994 Intelligence Authorization Bill.

I believe that intelligence comprises an unique and irreplaceable component of America's national security infrastructure and should be treated accordingly. To the extent that the Committee believed that the Administration's budget request for intelligence lacked adequate focus, I believe that this should have been addressed by the restructuring of resources rather than reducing the Administration's budget request for intelligence.

With the end of the Cold War—which existed in a comparatively stable and predictable international environment—the need for a robust and reliable intelligence capability has grown rather than diminished. In the wake of the dissolution of the Soviet Union, the so-called "New World Order" is anything but orderly.

America continues to have significant interests in monitoring closely developments in the former Soviet Union. The Ukraine's continued commitment to retain a nuclear arsenal, for example, must be as grave a concern to the U.S. as it is to the Russians. The Intelligence Community must continue to aggressively monitor this and other changes in the former Soviet Union.

To the extent that we need to reduce resources to certain intelligence targets, 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, arms control monitoring, low-intensity conflict in the Third World, and the illicit export of high-technology items.

In this period of enormous change and uncertainty, the need for timely and accurate intelligence is particularly compelling. Indeed, the U.S. depends on intelligence to detect and monitor these changes in the international system so we can reallocate increasingly scarce national security resources in a more efficient manner.

The effectiveness of U.S. military forces in Somalia, Iraq, Panama, and elsewhere are directly attributable to timely and effective intelligence. Without question, accurate and timely intelligence is our greatest force-multiplier—particularly at a time when we are significantly reducing our defense spending. When the day comes that the United States must rebuild our national defense—to confront a threat that is now difficult to foresee, we must do so from the strongest and most reliable intelligence base possible.

I would like to address another aspect of this legislation. The bill contains a provision I sponsored requiring Presidential nomination and Senate confirmation of the CIA General Counsel. Currently, only three CIA officials— the Director of Central Intelligence (DCI), the Deputy Director of Central Intelligence (DDCI) and the Inspector General (IG)—are confirmed by the Senate.

The CIA General Counsel is responsible for providing legal advice to the DCI and the Agency as a whole on all matters, and is responsible for determining the legality of CIA activities and for guarding against any illegal or improper activity. I believe that Senate confirmation of the CIA General Counsel will provide a constructive second forum to assess the competence of an individual for this important post—serving as a check against possible Executive Branch politicization of this position.

At the present time, all components of the U.S. Intelligence Community—except the CIA—are part of departments with statutory general counsels (or the equivalent) who are appointed by the President and confirmed by the Senate. The responsibilities of CIAs General Counsels are in some respects more significant than other General Counsels because of the unique and sensitive programs that the CIA frequently undertakes. Many of the legal issues confronting the CIA General Counsel must be handled without the benefit of the public discourse and the numerous legal precedents that assist other departmental and agency General Counsels. Elevating this position through Presidential appointment and Senate confirmation will ensure that the General Counsel of the CIA has the stature commensurate with the duties of the position.

I am convinced that the confirmation process is a constructive means of enhancing the accountability—both to the American public and their elected representatives in Congress—of the individual holding this important post.

Some have argued that requiring Senate confirmation of a senior position at the CIA—or anywhere else in the federal bureaucracy—somehow "politicizes" the office. In fact, just the opposite is true. The confirmation process can only block the President from appointing a particular individual—it cannot compel the nomination of anyone with a particular viewpoint preferred by the Senate.

Without a requirement for Senate confirmation, there is nothing to prevent the politicization of a senior federal government position by the Administration. As Dr. Richard Betts of Columbia University has stated, "considering the difference between the power to appoint and the power to review the appointment, politicization comes from the Executive more readily than from Congress. If a President or * * * DCI wish to put unqualified political cronies in sensitive CIA positions, they can do so, as of now, without challenge."

Indeed, requiring Senate confirmation of the CIA General Counsel is no more likely to politicize the operation of the Central Intelligence Agency than would the existing requirement to confirm the DCI, the DDCI, and the Inspector General.

MINORITY VIEWS OF SENATORS WARNER, DANFORTH, STEVENS, LUGAR, AND WALLOP

The United States must maintain and strengthen U.S. intelligence capabilities to provide for the future security of the Nation and for the protection of its interests around the globe. The U.S. should commit more resources to achievement of that objective than the fiscal year 1994 intelligence authorization bill reported by the Select Committee on Intelligence would provide.

The U.S. faced grave security risks during the Cold War, but it faced them in an international environment that was comparatively stable and predictable. With the end of the Cold War and the dissolution of the Soviet Union and its Warsaw Pact military alliance, the U.S. had hoped for a "New World Order" with stable and steady progress toward greater democracy, freedom and free enterprise. What the U.S. faces in the post-Cold War era, however, is a more chaotic environment with multiple challenges to U.S. interests that complicate the efforts of the U.S. and cooperating nations to achieve the desired progress. In an unstable world of diverse and increasing challenges, the need for robust and reliable U.S. intelligence capabilities has grown rather than diminished.

America faces a world in which:

Ethnic, religious and social tensions spawn regional conflicts;

A number of nations possess nuclear weapons and the means to deliver them on a target;

Other nations seek nuclear, chemical or biological weapons of mass destruction and the means to deliver them;

Terrorist organizations continue to operate and attack U.S. interests (including here at home, as the bombing of the World Trade Center in New York reflects);

International drug organizations continue on a vast scale to produce illegal drugs and smuggle them into the U.S.; and

U.S. economic interests are under constant challenge.

The United States continues to have a vital interest in close monitoring of developments in the independent republics on the territory of the former Soviet Union. The U.S. Government needs accurate and timely intelligence on the nuclear arsenals, facilities and materials located in Russia, Ukraine and other republics; the economic and military restructuring in the republics; and the ethnic, religious and other social turmoil and secessionist pressures in the republics.

To the extent that the end of the Cold War allows a reduction of U.S. resources devoted to intelligence capabilities focused on military capabilities of countries on the territory of the former Soviet Union, the U.S. should reallocate the gained resources to strengthen intelligence capabilities to deal with growing risks to America's interests. The U.S. should make such resources available for strengthened intelligence capabilities focused on the problems

with which the U.S. Government must deal in the coming decades, including proliferation of weapons of mass destruction, terrorism, international narcotics trafficking, and the illegal transfer of U.S. high technology. In many intelligence disciplines, investment in research and development is needed now to yield intelligence capabilities a decade from now. Absent needed investment, capabilities will not be available when needed and existing capabilities will erode.

At the same time as risks to U.S. interest grow, U.S. military power will decline as the U.S. draws down substantially the size of its armed forces following victory in the Cold War. With a diverse and growing array of risks to U.S. interests and a reduced commitment of resources to the Nation's defense, the U.S. will grow increasingly dependent for its security and the protection of its interests abroad upon its intelligence capabilities—the Nation's eyes and ears. Indeed, the substantial cuts of recent years in defense budgets have been premised directly upon the strengthening of intelligence support to the remaining, smaller armed forces. Reducing the Nation's intelligence capabilities magnifies significantly the risks attendant to reductions in resources devoted to the Nation's defense. As this Committee noted in discussing legislation to assist in managing the personnel reductions at the Central Intelligence Agency, "* * * maintaining a strong intelligence capability is particularly important when military forces are being substantially reduced * * *" (S. Rept. 103–43, p. 3).

The U.S. will depend on effective foreign intelligence in allocating scarce U.S. national security resources effectively. To protect America's interests in times of peace and of conflict, U.S. policymakers and military commanders will depend heavily upon early warning of trouble and early and extensive knowledge of the activities, capabilities and intentions of foreign powers. Effective intelligence will multiply substantially the effectiveness of the smaller U.S. military force.

A sampling of the deployment of the U.S. armed forces abroad in the past four years illustrates risks to American interests in the post-Cold War world, likely uses of U.S. military forces in the future, and the importance of effective intelligence in supporting military operations. In late 1989, American troops in Operation JUST CAUSE liberated Panama from the Noriega dictatorship that suppressed Panamanian democracy and threatened U.S. personnel. In 1990 and 1991 in Operations DESERT SHIELD and DESERT STORM, American and coalition forces liberated Kuwait from Iraqi occupation, and those forces remain on station in and around the Arabian Peninsula to enforce United Nations sanctions on Iraq. American forces have rescued American diplomats caught in civil insurrections abroad. U.S. forces have assisted in stemming the flow of illegal immigrants into the United States. U.S. forces have undertaken humanitarian relief operations, to feed hungry people and provide them medical care. The U.S. has assigned its forces as part of or in support of United Nations peacekeeping forces in many countries, including Bosnia, Macedonia, Somalia, and Cambodia. In every one of these operations—from massive operations on the scale of DESERT STORM to the smallest humanitarian relief operation—the successful accomplishment of missions by the

U.S. armed forces and the protection of American troops have depended directly upon the high quality and timeliness of the intelligence available to American forces.

Reductions in U.S. intelligence capabilities in this period of international instability are unwise and do not serve the Nation's long-term security interests. Defense of America and America's interests abroad requires a greater commitment of resources to U.S. intelligence capabilities than the fiscal year 1994 intelligence authorization bill provides.

JOHN WARNER.
JOHN C. DANFORTH.
TED STEVENS.
RICHARD G. LUGAR.
MALCOLM WALLOP.

MINORITY VIEWS OF SENATOR JOHN C. DANFORTH

I voted against the SSCI's intelligence authorization bill for two reasons: first, the budget has been cut too deeply over the past several years and second, a number of programs within that budget have been unwisely altered or delayed. The United States needs a reorganized intelligence effort, not a weaker one. Threats to regional stability are growing in number and in seriousness from the Korean peninsula through Southern Asia to North Africa, the Middle East and Southern Europe. On occasion they have put our troops at risk.

Even in the old Soviet state, political, economic and nuclear events continue to rivet our attention. Whereas the strategic military threat posed by the former Warsaw Pact has disappeared, the problems of nuclear control within the territory of the old Soviet state have gotten worse. Moscow once had unquestioned, centralized control of dispersed weapons stockpiles, missile launch and test platforms, nuclear materials production, civilian facilities, and critical borders. Now fifteen new republics struggle to maintain weaker borders, degraded militaries, unsafeguarded nuclear facilities and underemployed scientific elites. Now even the control of strategic nuclear systems and warheads is a subject of great dispute and uncertainty. Under these conditions, the risks of nuclear accidents or illicit acquisitions of nuclear materials, equipment or warheads have arguably increased. Quick reversals of political trends, while seemingly unlikely at this time, are still possible. With stability in jeopardy and nuclear capabilities at stake, the U.S. cannot relax its watchfulness. Indeed such watchfulness is the precondition for any prudent defense reductions.

Affirming the continuing need for watchfulness does not mean that intelligence capabilities or budgets should remain unchanged. The security challenge we face today requires close attention to the new dynamics of international policies and rapidly evolving military technologies. The intelligence community must adapt to these changes by cutting some programs and adding others, by investing in training, languages, and skill development for agents and analysts alike. To do so wisely requires close attention to what policymakers need to know and how well intelligence is able to satisfy those needs.

I believe that government must focus not just on the current expenditures, institutions, and projected system architectures, but on the serious gaps in intelligence we face in key areas of substantive concern to policy-makers. Budgetary analyses should include cross-agency comparisons of threats and intelligence capabilities. Agency-by-agency review of programs, systems and architectures only makes sense in conditions similar to the Cold War—when the adversary was well understood and the character of the threat it posed was of an evolutionary kind. This is not the world of today.

While war or major intelligence failure usually exposes intelligence gaps and inefficiencies, the high costs of such education make it unacceptable. The DCI should therefore have the responsibility to submit and the Intelligence Committees of the House and Senate should have a responsibility to review annual gap-based assessments of the intelligence budget—especially now that international threats develop and dissipate so quickly. Given the lead times necessary for reconstituting lost capabilities, cuts taken by Congress without reference to these gaps, or taken in spite of them, are dangerous.

Bold departures in intelligence require a bipartisan approach. Congress and the Administration must work together to ensure that the intelligence community is not so much downsized as conditioned to provide the strength and flexibility needed to fill intelligence gaps whenever and wherever they occur. Such adaptation requires significant initiatives—initiatives which may be costly in the short run but which will ensure efficiencies in the long run. I commend this administration's efforts, in the limited time it has had available, to come to grips with the key intelligence issues facing this country. Further, I pledge to work with the Director of Central Intelligence as he seeks to adapt the community for which he is responsible to these challenging times.

JOHN DANFORTH.

CHANGES IN EXISTING LAWS

Changes to existing laws made by the bill are set forth below. Material added to existing laws by the bill is in italic; bold brackets indicated material deleted from existing laws by the bill. In the opinion of the Committee, it is necessary to dispense with the requirements of paragraph 12 of Standing Rule XXVI to expedite the business of the Senate; however, the Committee has endeavored to comply with the intent of paragraph 12 to the maximum extent possible.

CHANGES MADE BY SECTION 202 OF THE BILL TO THE CIA RETIREMENT ACT (CIARA) [BRACKETED REFERENCES ARE TO CIARA SECTIONS]

[Section 101(7)] (7) LUMP-SUM CREDIT.—The term "lump-sum credit" means the unrefunded amount consisting of retirement deductions made from a participant's basic pay**[**—**]** *and* amounts deposited by a participant covering earlier service, including any amounts deposited under section 252 (h)**[**; and interest determined under section 281.**]**.

* * * * * * *

[Section 201(c)] (c) FINALITY OF DECISIONS OF THE DCI.—In the interests of the security of the foreign intelligence activities of the United States and in order further to implement the **[**provise of section 102(d)(3) of the National Security Act of 1947 (50 U.S.C. 403(d)(3))**]** *requirement in section 103(c)(5) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(5))* that the Director of Central Intelligence sources and methods from unauthorized disclosure, and notwithstanding the provisions of chapter 7 of title 5, United States Code, or any other provision of law (except section 305(b) of this Act), any determination by the Director authorized by this Act shall be final and conclusive and shall not be subject to review by any court.

* * * * * * *

[Section 211(c)(2)(B)] (B) LUMP-SUM PAYMENT.—Any balance of such amounts not so required for such a deposit shall be refunded to the participant in a lump sum after the participant's separation (or, in the event of a death in service, to a beneficiary in order of precedence specified in section 241(c)), subject to **[**the requirement under section 241(b)(4)**]** *prior notification of a current spouse, if any, unless notification is waived under circumstances described in section 221(b)(1)(D).*

* * * * * * *

[Section 221(a)(4)] (4) HIGH-3 AVERAGE PAY DEFINED.—For purposes of this subsection, a participant's high-3 average pay is the amount of the participant's average basic pay for the highest three

consecutive years of the participant's service [(or, in the case of an annuity computed under secation 232 and based on less than 3 years, over the total service)] for which full contributions have been made to the fund.

* * * * * * *

[Section 221(f)(1)(A)] (A) AUTHORITY TO MAKE DESIGNATION.—Subject to the rights of former spouses under sections 221(b) and 222, at the time of retirement an unmarried participant found by the Director to be in good health may elect to receive an annuity reduced in accordance with subparagraph (B) and designate in writing an individual having an insurable interest in the participant to receive an annuity under the system *after the participant's death.* The amount of such annuity shall be equal to 55 percent of the participant's reduced annuity [after the participant's death].

* * * * * * *

[Section 221(g)(1)] (1) RECOMPUTATION OF RETIRED PARTICIPANT'S ANNUNITY UPON DIVORCE.—An annuity which is reduced under this section (or any similar prior provision of law) to provide a survivor annuity for a spouse shall, if the marriage of the retired participant to such spouse is dissolved, be recomputed and paid for each full month during which a retired participant is not married [or is remarried] (*or is remarried*, if there is no election in effect under paragraph (2)) as if the annuity had not been so reduced, subject to any reduction required to provide a survivor annuity under subsection (b) or (c) of section 222 or under section 226.

* * * * * * *

[Section 221(j)] (j) OFFSET OF ANNUITIES BY AMOUNT OF SOCIAL SECURITY BENEFIT.—Not withstanding any other provision of this title, an annuity (including a disability annuity) payable under this title to an individual described in sections 211(d)(1) and 301(c)(1) and any survivor annuity payable under this title on the basis of the service of such individual shall be reduced [except as provided in paragraph (2))] in a manner consistent with section 8349 of title 5, United States Code, under conditions consistent with the conditions prescribed in that section.

* * * * * * *

[Section 222(a)(7)] (7) ELECTION OF BENEFITS.—A former spouse of a participant, former participant, or retired participant shall not become entitled under this subsection to an annuity payable from the fund unless the former spouse elects to receive it instead of [any other annuity] *any survivor annuity* to which the former spouse may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than the participant.

* * * * * * *

[Section 222(c)(3)(C)] (C) EFFECT OF FORMER SPOUSE'S DEATH OR DISQUALIFICATION.—If a former spouse predeceases the participant or remarries before attaining age 55 (or, in the case of a spouse, the spouse predeceases the participant or does not qualify as a former spouse upon dissolution of the marriage)—

(i) if an annuity reduction or pay allotment under subparagraph (A) is in effect for that spouse or former spouse, the annuity shall be recomputed and paid as if it had not been reduced or the pay allotment terminated, as the case may be; and

(ii) any amount accruing to the fund under subparagraph (A) shall be refunded, but only to the extent that such amount may have exceeded the actuarial cost of providing benefits under this subsection for the period such benefits were provided, as determined under regulations prescribed by the Director.

* * * * * * *

[Section 222(c)(4)] (4) COMMENCEMENT AND TERMINATION OF ADDITIONAL SURVIVOR ANNUITY.—An annuity payable under this subsection to a spouse or former spouse shall commence on the day after the participant dies and [shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 55.] *in the case of a spouse, shall terminate on the last day of the month before the spouse dies, and, in the case of a former spouse, shall terminate on the last day of the month before the former spouse dies, or on the last day of the month before the former spouse remarries before attaining age 55.*

* * * * * * *

[Section 224(c)(1)(B)(i)] * * * (i) the date on which the participant or [former participant] *retired participant* to whom the former spouse was married dies; * * *

* * * * * * *

[Section 225(c)(3)] (3) ELECTION OF BENEFITS.—A former spouse of a participant or a retired participant shall not become entitled under this section to an annuity or to the restoration of an annuity payable from the fund unless the former spouse elects to receive it instead of [any other annuity] *any survivor annuity* to which the former spouse may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than the participant.

* * * * * * *

[Section 225(c)(4)(A)] (A) TIME LIMIT; WAIVER.—An annuity under this section shall not be payable unless appropriate written application is provided to the Director, complete with any supporting documentation which the Director may by regulation require, not later than June 2, [1991] *1990*. The Director may waive the application deadline under the preceding sentence in any case in which the director determines that the circumstances warrant such a waiver.

* * * * * * *

[Section 231(d)(2)] (2) RETIREMENT.—After such termination, the recovered or restored annuitant shall be entitled to the benefits of section 234 or [241(b)] *241(a),* except that the annuitant may elect voluntary retirement under section 233, if qualified thereunder, or may be placed by the Director in an involuntary retirement status under section 235(a), if qualified thereunder. Retirement rights

under this paragraph shall be based on the provisions of this title in effect as of the date on which the disability annuity is discontinued.

* * * * * * *

[Section 232(b)(4)] (4) PRECEDENCE OF SECTION 224 SURVIVOR ANNUITY OVER DEATH-IN-SERVICE ANNUITY.—If a former spouse who is eligible for a death-in-service annuity under this section is or becomes eligible for an annuity under section [222] *224*, the annuity provided under this section shall not be payable and shall be superseded by the annuity under section 224.

* * * * * * *

[Section 234(b)] (b) REFUND OF CONTRIBUTIONS IF FORMER PARTICIPANT DIES BEFORE AGE 62.—If a participant who qualifies under subsection (a) to receive a deferred annuity commencing at age 62 dies before reaching age 62, the participant's contributions to the fund, with interest, shall be paid in accordance with the provisions of [sections 241 and 281] *section 241.*

* * * * * * *

[Section 241(c)] (c) ORDER OF PRECEDENCE OF PAYMENT.—[A lump sum benefit that would have been payable to a participant, former participant, or annuitant, or to a survivor annuitant, authorized by subsection (d) or (e) of this section or by section 234(b) of 281(d)] *A lump-sum payment authorized by section (d) of (e) of this section or by section 281(d) and a payment of accrued and unpaid annuity authorized by subsection (f) of this section* shall be paid in the following order of precedence to individuals surviving the participant and alive on the date entitlement to the payment arises, upon establishment of a valid claim therefor, and such payment bars recovery by any other individual: * * *

* * * * * * *

[Section 241(f)] *(f) PAYMENT OF ACCRUED AND UNPAID ANNUITY WHEN RETIRED PARTICIPANT DIES.—If a retired participant dies, any annuity accrued and unpaid shall be paid in accordance with subsection (c).*

[(f)] *(g)* TERMINATION OF SURVIVOR ANNUITY.—An annuity accrued and unpaid on the termination, except by death, of the annuity of a survivor * * *

* * * * * * *

[Section 264(b)] (b) PAYMENT TO FORMER SPOUSES UNDER COURT ORDER OR SPOUSAL AGREEMENT.—In the case of any participant, former participant, or retired participant who has a former spouse who is covered by a court order or who is a party to a spousal agreement—

(1) any right of the former spouse to any annuity under section 222(a) in connection with any retirement or disability annuity of the participant, and the amount of any such annuity;

(2) any right of the former spouse of a participant or retired participant to a survivor annuity under section 222(b) or 222(c), and the amount of any such annuity; and

(3) any right of the former spouse of a former participant to any payment of a lump-sum credit under section 241(b) [and

to any payment of a return of contributions under section 234(a), and], *and the amount of any such payment;*

[(4) any right of the former spouse of a participant of former participant to a lump-sum payment or additional annuity payable from a voluntary contributions account under section 281,]

shall be determined in accordance with that spousal agreement or court order, if an to the extent expressly provided for in the terms of the spousal agreement or court order that are not inconsistent with the requirements of this title.

* * * * * * *

[Section 265]

SEC. 265. RECOVERY OF PAYMENTS.

Recovery of payments under this [Act] *title* may not be made from an individual when, in the judgment of the Director, the individual is without fault and recovery would be against equity and good conscience. Withholding or recovery of money payable pursuant to this [Act] *title* on account of a certification or payment made by a former employee of the Agency in the discharge of the former employee's official duties may be made if the Director certifies that the certification or payment involved fraud on the part of the former employee.

* * * * * * *

[Section 291(b)(2)] (2) Effective from its commencing date, an annuity payable from the fund to an annunitant's survivor (other than a child entitled to an annuity under section 221(d) [or section 232(c)] shall be increased by the total percentage increase the annuitant was receiving under this section at death.

* * * * * * *

[Section 304(i)(1)] (1) Except as provided in paragraph (2), in the case of an employee who has elected to become subject to chapter 84 of title 5, United States Code, the provisions of sections 224 and 225 shall apply to such employee's former spouse (as defined in [section 102(a)(3)] *section 102(a)(4)*) who would otherwise be eligible for benefits under sections 224 and 225 but for the employee having elected to become subject to such chapter.

* * * * * * *

CHANGES MADE BY SECTION 401 OF THE BILL TO THE CIA ACT OF 1949 AND SECTION 5315 OF THE 5, UNITED STATES CODE

[CIA Act, New Sec. 20]

GENERAL COUNSEL OF THE CENTRAL INTELLIGENCE AGENCY

SEC. 20. (a) There is a General Counsel of the Central Intelligence Agency appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) The General Counsel of the Central Intelligence Agency is the Chief legal officer of the Central Intelligence Agency.

(c) The General Counsel of the Central Intelligence Agency shall perform such functions as the Director of Central Intelligence may prescribe.

[5 U.S.C. 5315] Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

* * * * * * *

GENERAL COUNSEL OF THE CENTRAL INTELLIGENCE AGENCY.

* * * * * * *

CHANGES MADE BY SECTION 402 OF THE BILL TO SECTION 5(a) OF THE CIA ACT OF 1949 AND SECTION 103(d)(3) OF THE NATIONAL SECURITY ACT OF 1947

[Section 5(a) of CIA Act] IN THE PERFORMANCE OF ITS FUNCTIONS, THE CENTRAL INTELLIGENCE AGENCY IS AUTHORIZED TO—

(a) Transfer to and receive from other Government agencies such sums as may be approved by [Bureau of the Budget] *Office of Management and Budget,* for the performance of any of the functions or activities authorized under [section 102 and 303] *subparagraphs (B) and (C) of section 102(a)(2), subsections (c)(5) and (d) of section 102(a)(2), subsection (c)(5) and (d) of section 103, subsections (a) and (g) of section 104, and section 303* of the National Security Act of 1947 (Public Law 253, Eightieth Congress) and any other Government agency is authorized to transfer to or receive from the Agency such sums without regard to any provisions of law limiting or prohibiting transfers between appropriations. Sums transferred to the Agency in accordance with this paragraph may be expended for the purposes and under the authority of this Act without regard to limitations of appropriations from which transferred; * * *

* * * * * * *

[Section 6 of the CIA Act] In the interests of the security of the foreign intelligence activities of the United States and in order to further implement the proviso of [section 102(d)(3)] *section 103(c)(5)* of the National Security Act of 1947 (Public Law 253, Eightieth Congress, first session) that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure, the Agency shall be exempted from the provisions of sections 1 and 2, chapter 795 of the Act of August 28, 1935 (49 Stat. 956, 967; 5 U.S.C. 654), and the provisions of any other laws which require the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency; Provided, That in furtherance of this section, the Director of the Bureau of the Budget shall make no reports to Congress in connection with the Agency under section 607, title VI, chapter 212 of the Act of June 30, 1945, as amended (5 U.S.C. 947(b)).

* * * * * * *

[Section 19(b) of the CIA Act] (b) SURVIVORS OF OFFICERS AND EMPLOYEES TO WHOM CIARDS SECTION [231] *232* RULES APPLY.—Notwithstanding any other provision of law, in the case of an offi-

cer or employee of the Central Intelligence Agency subject to retirement system coverage under subchapter III of chapter 83, title 5, United States Code, who—

(1) has at least eighteen months of civilian service credit toward retirement under such subchapter III of chapter 83, title 5, United States Code;

(2) has not been designated under section 203 of the Central Intelligence Agency Retirement Act [~~50 U.S.C. 403 note~~], as a participant in the Central Intelligence Agency Retirement and Disability System;

(3) prior to separation or retirement from the Agency, dies during a period of assignment to the performance of duties that are qualifying toward such designation under such section 203; and

(4) is survived by a surviving spouse, former spouse, or child as defined in section 102 of the Central Intelligence Agency Retirement Act, who would otherwise be entitled to an annuity under section 8341 of title 5, United States Code—

such surviving spouse, former spouse, or child of such officer or employee shall be entitled to an annuity computed in accordance with section [231] *232* of such Act, in lieu of an annuity computed in accordance with section 8341 of title 5, United States Code.

* * * * * * *

[Section 103(d)(3) of the National Security Act] (d) HEAD OF THE CENTRAL INTELLIGENCE AGENCY.—In the Director's capacity as head of the Central Intelligence Agency, the Director shall— * * * (3) correlate and evaluate intelligence related to the national security and [providing] *provide* appropriate dissemination of such intelligence; * * *.

* * * * * * *

CHANGES MADE BY SECTION 501 OF THE BILL TO SECTION 316(c)(1) OF TITLE 37, UNITED STATES CODE

[37 U.S.C. 316(c)] (c)[(1) Under regulations prescribed by the Secretary concerned, when a member of a reserve component who is entitled to compensation under section 206 of this title meets the requirements for special pay authorized in subsection (a), except the requirement prescribed in subsection (a)(1), the member may be paid an increase in compensation equal to one-thirtieth of the monthly special pay authorized under subsection (b) for a member who is entitled to basic pay under section 204 of this title.

[(2) A member eligible for increased compensation under paragraph (1) shall be paid such increase—

[(A) for each regular period of instruction, or period of appropriate duty, in which he is engaged for at least two hours, including instruction received or duty performed on a Sunday or holiday; and

[(B) for each period of performance of such other equivalent training, instruction, duty, or appropriate duties, as the Secretary concerned may prescribe.

[(3) This subsection does not apply to a member who is entitled to basic pay under section 204 of this title.]

(1) Under regulations prescribed by the Secretary concerned, when a member of a reserve component who is entitled to compensation under section 206 of this title meets the requirements for special pay authorized in subsection (a), except the requirement prescribed in subsection (a)(1), the member may be paid an annual foreign language maintenance bonus.

(2) The amount of the bonus under paragraph (1) shall be determined by the Secretary concerned but may not exceed the annual equivalent of the maximum monthly rate of special pay authorized under subsection (b) for a member referred to in subsection (a).

* * * * * * *

CHANGES MADE BY SECTION 502 OF THE BILL TO SECTION 804 OF THE NATIONAL SECURITY EDUCATION ACT OF 1991 (NSEA)

[Section 804(b) of the NSEA] (b) AVAILABILITY OF SUMS IN THE FUND.—[(1)] Sums in the Fund shall, to the extent provided in appropriations Acts, be available—

[(A)] *(1)* for awarding scholarships, fellowships, and grants in accordance with the provisions of this title; and

[(B)] *(2)* for properly allocable costs of the Federal Government for the administration of the program under this title.

[(2) No amount may be appropriated to the Fund, or obligated from the Fund, unless authorized by law.]

* * * * * * *

[Section 804(e) of the NSEA] (e) AMOUNTS CREDITED TO THE FUND.—

(1) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(2) Any amount paid to the United States under section 802(b)(3) shall be credited to and form a part of the Fund.

(3) Any gifts of money shall be credited to and form a part of the Fund.

* * * * * * *

CHANGES MADE BY SECTION 601 OF THE BILL TO SECTION 608 OF THE CONSUMER CREDIT PROTECTION ACT (CCPA)

[Section 608 of the CCPA] [Notwithstanding] *(a) DISCLOSURE OF CERTAIN IDENTIFYING INFORMATION.—Notwithstanding* the provisions of section 604, a consumer reporting agency may furnish identifying information respecting any consumer, limited to his name, address, former addresses, places of employment, or former places of employment, to a governmental agency.

(b) DISCLOSURES TO THE FBI FOR COUNTERINTELLIGENCE PURPOSES.—Notwithstanding the provisions of section 604, a consumer reporting agency shall furnish a consumer report to the Federal Bureau of Investigation when presented with a written request for a consumer report * * *. [See Section 601 of the Bill for balance of the inserted text.]•

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