

**CENTRAL INTELLIGENCE AGENCY VOLUNTARY
SEPARATION INCENTIVE ACT**

MAY 5 (legislative day, APRIL 19), 1993.—Ordered to be printed

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

REPORT

[To accompany S. 647]

The Select Committee on Intelligence, to which was referred the bill (S. 647) to assist in the effective management of the civilian work force of the Central Intelligence Agency, and for other purposes, having considered the same, reports favorably thereon and recommends that the bill do pass.

PURPOSE OF THE BILL

The Central Intelligence Agency Voluntary Separation Incentive Act (S. 647) will assist the Director of Central Intelligence (DCI) in managing effectively the reduction of the CIA civilian work force and help ensure fair treatment of CIA personnel as that reduction is accomplished. The legislation will allow the Central Intelligence Agency to offer limited financial incentives to CIA employees to volunteer to resign or retire, thereby minimizing the need for involuntary separations (i.e., layoffs) of CIA personnel. With the normal attrition of employees over time and with the voluntary separations of employees induced by the financial incentive this legislation would authorize, the CIA will be able to eliminate or minimize involuntary separations of CIA personnel in carrying out the planned drawdown of CIA personnel. Congress has already enacted similar legislation for military personnel (10 U.S.C. 1175) and for Department of Defense civilian employees, including DOD civilian intelligence employees (5 U.S.C. 5597).

The legislation will accomplish four objectives:

Assist the CIA in managing the CIA personnel drawdown effectively, so that the resulting smaller CIA work force can accomplish the CIA's intelligence mission effectively;

Ensure fair treatment for CIA personnel during the drawdown;

Save taxpayers' dollars, by offering a limited financial incentive to employees to leave CIA service voluntarily, which will avoid the cost of the employees' future salary and benefits; and

Assist in maintaining proper secrecy of U.S. intelligence sources, methods and activities, by ensuring that CIA personnel who depart have done so voluntarily, in good morale, and with an orientation toward fully protecting national secrets in accordance with their legal obligations.

SCOPE OF COMMITTEE REVIEW

The Director of Central Intelligence requested of the Senate and the House of Representatives the prompt enactment of voluntary separation incentive legislation to assist in the effective management of the CIA drawdown of personnel. The Committee met on S. 647 and other matters on March 30, 1993 and received testimony from the DCI and members of the DCI's staff on S. 647. The Committee also submitted extensive written questions to the DCI on the bill and received detailed written answers. The Committee also has monitored the CIA's personnel situation and plans.

COMMITTEE ACTION

On March 30, 1993, on a rollcall vote on the motion to order S. 647 reported favorably with a recommendation that the bill do pass, twelve Members of the Committee voted in the affirmative and one voted present.

BACKGROUND AND NEED FOR LEGISLATION

As a result of the relatively sudden end to the Cold War, the corresponding shift of America's defense strategy from a bipolar focus to a more regional focus, and the corresponding shift of U.S. resources from defense to non-defense pursuits, the organizations of the U.S. government primarily responsible for addressing external threats to U.S. interests—including the Central Intelligence Agency—face significant reductions in size, to be carried out relatively quickly. The leadership of these organizations face the difficult management challenge of reducing their work forces substantially, promptly, and fairly, and in a fashion that leaves the organizations with a smaller, but highly effective organization at the end of the drawdown. The Congress has enacted legislation to assist the Department of Defense in managing effectively and fairly drawdowns in the size of the armed forces and the size of the defense civilian work force. Enactment of S. 647 would extend to the Central Intelligence Agency one of the personnel drawdown management tools already available to the Department of Defense—the ability to offer a financial incentive to employees to leave government service voluntarily.

In the post-Cold War era under a regional defense strategy, the U.S. plans to devote fewer of its scarce national resources to de-

defense and intelligence efforts and to reorient the use of the resources devoted to those efforts. With respect to defense, the U.S. plans smaller, but well-trained, well-equipped, highly mobile and highly effective U.S. military forces prepared to protect American interests in regional crises that may emerge. With respect to intelligence work forces reoriented toward collecting and processing intelligence on the primary threats the U.S. faces in the post-Cold War era. The scope and pace of the drawdowns of defense organizations and intelligence organizations may differ, because maintaining a strong intelligence capability is particularly important when military forces are being substantially reduced, but both types of organizations face substantial drawdowns.

The Central Intelligence Agency faces the twin management challenge of (1) reducing the overall size of its highly professional work force and (2) adjusting the skill composition of the remaining smaller work force to meet the intelligence needs of the future. The voluntary separation incentive program that S. 647 would authorize is designed to assist the CIA both in reducing the overall size of the CIA work force and in adjusting the mix of skills available in the CIA work force to meet futures needs.

The exact number of employees of the Central Intelligence Agency remains classified by the executive branch and thus is not provided in this report. The size of the CIA work force is limited by law, through an end-strength limitation incorporated in the annual intelligence authorization act that prohibits CIA from employing more than a specified number of employees on the last day of the fiscal year. Congress and the executive branch have reduced the size of the CIA work force significantly from its Cold War peak and they have established plans for completion of a prudent further drawdown of the CIA work force.

Management of the CIA work force, like the work force of any governmental institution, is a dynamic process, requiring simultaneous consideration of a variety of factors. At a given point in time, whether an institution is growing or shrinking in size, people are both entering and leaving an institution's work force. People are leaving the institution's work force voluntarily to accept other jobs or to retire and involuntarily because they are excess to the institution's needs or because they failed to meet the institution's minimum performance standards. People are entering the institution's work force both to meet its immediate needs for individuals with particular educations or skills and to help meet its longer-term needs for individuals with particular educations or skills and substantial employment experience within the institution. Personnel managers must at all times be acutely aware not only of the short-term requirements of staying within limitations on the number of personnel, but also on the long-term aggregate impact of personnel decisions on the institution's work force as a whole. As employees make individual decisions to move into and out of the institution, employees mature and acquire changing skills and experience, and changes occur in the environment external to the institution, personnel managers have the responsibility to ensure that, at any given point in time, the institution's work force has the correct mix of skills and experience to accomplish its mission effectively.

The Director of Central Intelligence must take a substantial number of personnel actions in the short-term to stay within the legal limitations on the number of CIA personnel, but must ensure that the actions taken in the short-term also are consistent with ensuring an effective CIA work force decades hence. Through the optimum combination of retirements, resignations, and hirings, the Director must ensure the proper mix of skills and experience in the work force, while getting the work force down to its planned size.

The Director has a number of means available by which to reduce the work force that would readily meet the short-term need to reduce the size of the work force, but which could have potentially devastating effects on the ability of CIA to accomplish its mission effectively. The Director could achieve the short-term need to reduce the work force by prohibiting the hiring of employees, by involuntarily separating employees (i.e., using CIA reduction in force procedures to lay off employees who do not wish to leave), or by involuntarily retiring retirement-eligible employees who do not yet wish to retire. Employing these means on a broad scale to achieve the necessary drawdown of personnel would have a substantial adverse impact on the CIA and its employees.

Today's CIA personnel decisions must be made with a recognition that CIA's managers, operations chiefs, and senior analysts for the decade beginning in 2010 are the newly-hired personnel of today who will require two decades of education, training, and intelligence experience before they are ready to assume the senior positions in the CIA. Thus, the Director should not simply order an absolute halt to hiring at CIA as a way to reduce the CIA work force to its desired level. Such a prohibition on hiring would result in an extraordinary gap in the CIA work force over time, as a result of which CIA would not have the career employees with the proper training and experience ready to assume leadership positions two decades in the future.

Large layoffs of individuals, called "involuntary separations due to a reduction in force" in the parlance of government personnel management, and forced retirements would be shortsighted as a means of reaching personnel reduction targets. The CIA should work to avoid turning employees out of the CIA against their will, both as a matter of fairness to dedicated employees who have served their country faithfully and often at personal sacrifice, and because any perception of unfairness or harsh treatment of current employees during the drawdown may have an adverse effect on the CIA's ability to recruit top quality employee in the future. The Director of Central Intelligence also has raised delicately the difficult subject of the counterintelligence impact of involuntary separations, expressing concern that forcing out large numbers of CIA employees involuntarily would increase the risk that an employee who had access to sensitive intelligence secrets might fail to maintain his or her obligation or protect those secrets.

The Director of Central Intelligence has advised the Committee that the CIA likely cannot, with the Director's current legal authority meet the requirement to reduce the size of its work force steadily in the coming years and maintain the correct mix of skills and experience in the CIA work force unless the Director involuntarily separates employees from the CIA. To avoid the need for involun-

tary separations, the Director has asked for authority to offer financial incentives to employees to encourage them to retire or resign voluntarily. If enough employees of surplus skills and experience accept the financial incentive and voluntarily retire or resign from the CIA, the CIA no longer would need to use involuntary separations of employees to meet its drawdown targets.

Recent experience at the National Security Agency has demonstrated that financial incentives can stimulate voluntary separations at a rate much higher than the normal rate of attrition. By using voluntary separation incentive authority to encourage such separations among categories of employees whose skills may no longer be critical to the CIA, the DCI would be better able to manage the drawdown in a way that will preserve the skills and expertise which continue to be crucial to the CIA's post-Cold War mission.

The legislation specifically mandates that the costs of these incentive payments are subject to the availability of appropriations and may not exceed the costs saved in salaries and benefits that would have been incurred if the voluntarily separating employees receiving the incentive payments had remained on the payroll. Thus, by design, the voluntary separation incentive program cannot result in added costs to the taxpayer.

In summary, the Committee views the voluntary separation incentive program as a useful and important management tool for the Director of Central Intelligence in achieving the CIA personnel reductions mandated by Congress without having to resort to involuntary separations and without additional costs to the taxpayer. The Committee recommends enactment of S. 647 to give the Director of Central Intelligence the authority for a voluntary separation incentive program.

SECTION-BY-SECTION EXPLANATION

The bill (S. 647) consists of two sections. Section 1 entitles the bill the "Central Intelligence Agency Voluntary Separation Incentive Act." Section 2 of the bill authorizes the Director of Central Intelligence (the "Director") to establish a program of financial incentives to encourage the voluntary resignation or retirement of CIA employees. Section 2 consists of subsections 2(a) through 2(i).

Subsection 2(a) authorizes the Director, in his discretion, to establish a program under which the Director may pay a financial incentive to eligible CIA employees to encourage them to volunteer to resign or retire. The commitment of the authority to agency discretion is intended to make clear that the exercise of the authority under this legislation is not subject to judicial review (see for example 5 U.S.C. 701(a)).

Subsection 2(b) describes the CIA employees who would be eligible to receive the financial incentive in exchange for their volunteering to leave CIA service.

Paragraph 2(b)(1) provides that an employee must be serving under an appointment without a time limitation. Thus, an employee serving under a temporary appointment of specified duration, such as an employee hired for a summer job or an employee appointed for a two-year period to accomplish a specific task, would not qualify for the voluntary separation incentive program.

Paragraph 2(b)(2) requires that an employee have served the Central Intelligence Agency for not less than 12 months to qualify for the voluntary separation incentive program.

Paragraph 2(b)(3) authorizes the Director to establish additional requirements for an employee to qualify for the voluntary incentive awards program. The Director could, for example, determine that the CIA has an excess of personnel trained in particular skills, occupations, or foreign language capabilities and provide the voluntary separation incentives only to an appropriate number of individuals with those skills, occupations, or foreign language capabilities. This authority will assist the Director in ensuring that, at the end of the planned drawdown of the CIA's work force, the work force will have the correct mix of skills and experience needed to carry out the CIA's mission effectively.

Paragraph 2(b)(4) excludes rehired Federal annuitants from the voluntary separating incentive program. Such annuitants are currently excluded by law from the similar DOD program (5 U.S.C. 5597).

Paragraph 2(b)(5) excludes Federal disability retirement eligible employees from the voluntary separation incentive program. Such employees are currently excluded by law from the similar DOD program (5 U.S.C. 5597).

Subsection 2(c) grants the Director authority to extend the voluntary separation incentive program to a CIA employee who does not meet the requirements in subsection 2(b). Because of the unusual nature of much of CIA's work, and in particular its clandestine activities, a situation could arise in which it would be to CIA's advantage to apply the voluntary separation incentive program to a CIA employee other than an employee who meets the requirements in subsection 2(b). Accordingly, subsection 2(c) allows the Director, on a case-by-case basis, to extend the program to such an employee. Unlike the other authorities granted to the Director by the legislation, the Director cannot delegate this authority. Also, because of the unusual nature of the authority granted by subsection 2(c), the Director is required to report each instance of its exercise to the intelligence committees of the Congress.

Subsection 2(d) sets limits on the dollar amount of the financial incentives that the Director may provide under the voluntary separation incentives program. Under no circumstances may the amount provided to an employee exceed \$25,000. The amount provided to an employee must be less if a lesser amount will accomplish the objective of achieving the needed voluntary separations. The legislation leaves the Director the flexibility to offer differing amounts of financial incentives to different employees and allows the Director to change from time to time the amounts CIA will offer as an incentive for voluntary separation. The legislation also leaves the Director the flexibility to determine how to structure the payment of the incentive, such as lump-sum or payment in installments over time.

Subsection 2(e) provides explicit authority to the Director to terminate, in connection with the voluntary separation incentive program, the obligation of a CIA employee under any agreement the employee has with CIA to render service or reimburse the United States for not rendering service. For example, under Section 506 of

the Intelligence Authorization Act for Fiscal Year 1987 (50 U.S.C. 403j note), the Director may fund an individual's education under an agreement by which the individual agrees to serve in the CIA after graduation or, if the individual decides not to so serve, to reimburse the U.S. for the costs of the education. The legislation allows the Director, in connection with providing the voluntary separation incentive to an employee under subsection (a), to extinguish any service or reimbursement obligation the employee has to the CIA. Subsection 2(e) ensures that the situation will not arise in which CIA asks an employee to volunteer to leave, provides the voluntary separation incentive, and then charges the employee under a pre-existing service or reimbursement agreement for failure to complete the service. Subsection 2(e) grants authority to extinguish the service or reimbursement obligation; it should not be misconstrued as functioning as a "waiver" of a debt to the United States, because no debt to the United States ever arises under the service or reimbursement agreement when the obligation to serve or reimburse is extinguished.

Subsection 2(f) requires the Director to administer the voluntary separation incentive program so that, over the life of the program, it does not cost the taxpayers more money than it would have cost to keep the affected employees on the CIA payroll during the five year duration of the program. Savings are likely to occur because the cost of the incentives paid to employees to leave CIA service voluntarily will be less than the cost of continuing to pay their salaries and benefits.

Subsection 2(g) sets forth the relationship of amounts paid as a voluntary separation incentive to other Government benefits, specifying that it is separate from and not the basis for computation of other benefits. For example, the amount of a voluntary separation incentive would not be added to an employee's salary during his last year of CIA service for purposes of computing the salary base used in determining a retirement pension under a Federal retirement system. Subsection 2(g) does not in any way affect the application of tax laws to the amount paid as voluntary separation incentive; the tax status of the amounts paid as voluntary separation incentives is determined by applicable revenue statutes. Paragraph (g)(2) makes explicit that payment of a voluntary separation incentive under this legislation in no way affects computation of severance pay under Section 5595 of Title 5 of the U.S. Code for any other separation from Federal service. Although this would in any event be the case under Section 5595 on its face since calculation of severance pay under Section 5595(c) is based on "basic pay," paragraph (g)(2) was nevertheless included in S. 647 because the similar legislation providing voluntary separation incentives for Department of Defense civilian employees specifically stated that the incentive was not to be taken into account in calculating severance pay for another separation from Federal employment (5 U.S.C. 5597(d)(4)). Thus, paragraph (g)(2) was included in the legislation because its absence might have been construed to imply a difference on this point between S. 647 and the legislation for the voluntary separation incentive for Department of Defense civilian employees, when no difference is intended.

Subsection 2(h) provides that the Director may not pay a voluntary separation incentive in connection with a voluntary separation occurring after September 30, 1998. The legislation is intended to assist the CIA with the planned drawdown of its civilian work force; that drawdown is expected to be accomplished by September 30, 1998. The termination of authority in subsection 2(h) is tied to the date on which the voluntary separation occurs and not to the date on which payment of the incentive is made. Thus, for example, if a CIA employee were voluntarily separated in connection with the voluntary separation incentive program on September 25, 1998, but the CIA did not issue the check to pay the incentive amount to the employee until October 2, 1998, the payment would still be owed to the employee and would be a valid obligation, because the separation occurred before the September 30, 1998 deadline in subsection 2(h).

Subsection 2(i) requires the Director to prescribe such regulations as may be necessary to carry out the legislation. Such regulations constitute regulations concerning a foreign affairs function of the United States and matters relating to agency management and personnel (see 5 U.S.C. 553(a)).

ITEMS OF SPECIAL INTEREST

The Committee addressed to the Director of Central Intelligence a number of questions concerning items of special interest to the Committee with respect to the voluntary separation incentive authority S. 647 would provide.

Congressional reporting requirement

The Committee requests by this report that the Director of Central Intelligence provide reports not less than semiannually to the Committee on the implementation of S. 647. By letter to the Committee on April 8, 1993, the CIA committed to meeting such a regular reporting requirement. The Committee will monitor closely the drawdown of CIA personnel and the use of the authority S. 647 provides during that drawdown.

Equal employment opportunity

The Committee noted that, as a matter of constitutional and statutory law, CIA cannot discriminate in employment matters among employees on the basis of race, creed, color, sex, national origin, or handicap and, to emphasize the point, requested an explicit commitment from the CIA that such prohibited factors would not be used in deciding which CIA employees receive a financial incentive under the legislation to resign or retire voluntarily. The CIA letter to the Committee of April 8, 1993, confirmed that the CIA would not use such prohibited factors in making those decisions and indicated that CIA would carry out its equal employment opportunity obligations during the drawdown process.

Reduction in senior intelligence service

The Committee also inquired about the potential use of the voluntary separation incentive program to reduce the number of CIA employees in the Senior Intelligence Service (SIS), which is the CIA equivalent of the Senior Executive Service and contains high-

er-paid employees with managerial and professional responsibilities. To maintain a balanced work force, the CIA needs to reduce the number of SIS employees during the drawdown along with reductions in the number of less senior employees. The CIA hopes, however, that the necessary reduction of SIS employees will occur through voluntary retirements in early 1994, when SIS employees have achieved the maximum benefit for retirement annuity calculation purposes of the substantial SIS pay raise that occurred in early 1991. Accordingly, the CIA's letter of April 8, 1993 advised the Committee that the CIA does not plan to offer any voluntary separation incentive under S. 647 to CIA's SIS employees, because sufficient numbers of such employees are likely to retire voluntarily anyway in early 1994 without such an incentive. The accuracy of the CIA's assumption that sufficient number of SIS employees will retire voluntarily in early 1994 may depend in part upon the post-retirement employment opportunities available to such employees, which cannot be forecast in advance. If the CIA's assumption should not be borne out, the Director still would have the ability to use the voluntary separation incentive authority under S. 647 to help meet CIA's shortfall in reaching SIS reduction objectives. The Committee's monitoring of the drawdown of the CIA work force will include careful monitoring to ensure that the CIA meets SIS work force reduction targets.

Implementation within the CIA

The Committee made a number of specific inquiries of the CIA concerning how the CIA planned to implement the voluntary separation incentive program if Congress should enact S. 647. For example, the Committee inquired whether the CIA intended to offer financial incentives of different amounts to different occupational groups of employees slated for drawdown or intended to offer financial incentives of different amounts to employees within an occupational group. In its April 8, 1993 letter, the CIA responded that, although special circumstances might arise in the future that might warrant doing otherwise, the CIA did not expect to differentiate among groups of employees or among employees within a group with respect to incentive amounts offered. The Committee also asked whether it would be possible for the CIA to use the legislation to hire a new employee now and after only a year's service offer the employee a \$25,000 bonus to separate voluntarily from CIA service. The CIA responded in its April 8, 1993 letter that the CIA requires all of its employees to complete a three-year probationary period before they become full-status employees and that the CIA does not expect to use the voluntary separation incentive authority with respect to any employee during his or her three-year probationary period. Finally, the CIA in its April 8, 1993 letter assured the Committee that it will carefully coordinate its hiring process and separation process to ensure that: (1) CIA is not using the voluntary separation incentive in one office to separate an employee from CIA when another CIA office has a need for the skills of that employee which it will otherwise obtain by hiring from outside the CIA, and (2) to ensure that the CIA is not now or in the future hiring employees who will later be offered a voluntary separation incentive.

Coordination across the intelligence community

Pursuant to legislation enacted in 1992 (5 U.S.C. 5597), the Department of Defense has authority for a voluntary separation incentive program for that department's civilian employees. Both the National Security Agency and the Defense Intelligence Agency are using that authority to help reduce the size of their civilian work forces. The CIA's letter of April 8, 1993 indicated that NSA has had significant success with its voluntary separation incentive program and that it is too early to measure the success of the DIA program. The Director of Central Intelligence should ensure to the extent possible appropriate consistency between the CIA's use of voluntary separation incentive authority under S. 647 and defense intelligence organizations' use of voluntary separation incentive authority under Section 5597 of Title 5. In particular, the Director should work to avoid to the extent practicable disparate treatment by different intelligence organizations of similarly-situated intelligence employees.

Informing employees

The CIA's letter to the Committee of April 8, 1993 set forth the retirement, severance pay, health insurance, life insurance, and career counseling and placement assistance available under certain circumstances to departing CIA employees. The Committee believes that early, widespread, and repeated dissemination of this information to CIA employees would assist such employees in making decisions about their futures.

ESTIMATE OF COSTS

The Committee notes that, as is required by the legislation, the expenditures over the life of the legislation for voluntary separation incentives under S. 647 will not exceed the costs saved by avoidance of expenditures for the salary and benefits of the employees involuntarily separated. Thus, the legislation saves the taxpayers money, because expenditures are less than costs avoided.

The Committee received from the CIA by letter of April 8, 1993 the CIA's classified cost estimates for S. 647. The CIA advised that, with the exception of fiscal year 1993 (more than half of which already has passed), any use of the incentive authority in any fiscal year would be timed to occur early enough in the fiscal year so that the cost of the incentive would be offset by saving the future salary and benefits for the voluntarily separating employees. Provision in this report of a Committee estimate of costs and a comparison between the Committee estimate and the classified CIA estimate of implementing S. 647 is impracticable because the CIA classifies relevant information and classified its estimates submitted to the Committee.

If Congress were assumed to be willing in the absence of this or other employee assistance legislation to require CIA to involuntarily separate large numbers of CIA employees, then S. 647 could be viewed as having an overall cost, because it would be assumed that the employees would simply have been laid off in large numbers. Experience shows, however, that Congress and the executive branch have been quite active in protecting the interests of employ-

ees during reductions in the size of the Federal work force, as is reflected in the enactment and implementation of voluntary separation incentives for the armed forces (10 U.S.C. 1175) and for Department of Defense civilian employees (5 U.S.C. 5597). Congress has made clear in enacting such voluntary separation incentive legislation that its objective is to avoid large numbers of involuntary separations of personnel. Indeed, on the drawdown of the CIA in particular, the classified legislative history of the Intelligence Authorization Act for Fiscal Year 1993 makes clear that Congress intended the CIA drawdown to be accomplished without involuntary separations. For the foregoing reasons, it would be inappropriate to base a cost estimate of voluntary separation incentive legislation such as S. 647 on the assumption that, in the absence of enactment of such legislation, Congress would simply mandate through funding legislation that a Federal agency involuntarily separate large numbers of employees. Accordingly, the most appropriate general measure of the cost of voluntary separation incentive legislation is the cost of the financial incentives paid to separating employees, less the costs avoided for the future salary and benefits that otherwise would have been paid to the separating employees. It should also be noted that the CIA would incur significant costs for involuntary separations, due to the substantial benefits the CIA provides to involuntarily separated employees. CIA avoids a portion of these costs under S. 647, because some of the benefits the law provides for involuntarily separated employees are not available to voluntarily separated employees.

The Committee notes that S. 647 explicitly provides that the authority of the Director of Central Intelligence to pay financial incentives is subject to the availability of appropriations.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

The Committee requested and received the analysis of the legislation by the Congressional Budget Office that is required by law. Although the Committee has two concerns about the CBO methodology in preparing its analysis, the Committee believes the CBO estimate nevertheless is a useful description of the legislation and of the very limited potential cost of its implementation. The Committee's concerns with the CBO methodology center on its treatment of the future salary and benefit savings due to S. 647, and its treatment of certain retirement annuity costs as direct spending attributable to S. 647.

As explained above under the heading "Estimate of Costs," the calculation of the costs of implementation of S. 647 should credit the future salary and benefit costs avoided when employees separate voluntarily in exchange for incentive payments under S. 647. The CBO did not credit such savings because it assumed that the future salary and benefit costs for such employees would be avoided anyway by reduction of the CIA workforce (i.e., involuntary separations of employees). As discussed above, that assumption is contrary to the actual practice of the Congress in dealing with Federal employee drawdowns; Congress has gone to great lengths to avoid large numbers of involuntary separations. The Committee is of the view that the costing assumption for S. 647 should follow the consistent practice of the Congress regarding avoidance of large num-

bers of involuntary separations and therefore should credit future salary and benefits avoided through voluntary separations encouraged by financial incentives under S. 647.

Under S. 647, the Director of Central Intelligence may offer financial incentives to eligible CIA employees, some of whom may also be eligible to retire with an immediate annuity under existing Federal employee retirement laws. If a retirement-eligible CIA employee chooses to accept a voluntary separation financial incentive under S. 647 and retire, the CBO apparently counted as direct spending attributable to S. 647 the amount of the annuity paid to the employee from the time at which the employee retires to the time at which the CBO estimates the employee would have retired if the employee had not been offered a voluntary separation incentive. Since retirements benefits are separately determined by other laws, separately funded by other laws, and, in the case of retirement-eligible employees, left to the timing choices of individual employees (except for those who are subject to mandatory retirement), it seems inappropriate to treat any portion of the retirement costs as direct spending attributable to S. 647.

If additional annuity costs for retirement-eligible employees accepting the voluntary separation incentive are to be counted as direct spending, they logically should be offset by a corresponding credit for a portion of the salary and benefits avoided by the occurrence of a retirement in advance of the time at which it might otherwise have occurred, due to acceptance of the voluntary separation incentive. However, apparently because retirement payments are entitlements which are not paid out of the same appropriations accounts as salaries and other benefits, the CBO does not credit the reduced amounts paid for salaries and benefits against the increased retirement annuities. The CBO also has noted the technical possibility that CIA might hire to refill the position vacated by acceptance of a voluntary separation incentive. Such action on any significant scale is highly unlikely, however, both because the CIA has indicated that it will manage the voluntary separation incentive authority to ensure that it is not used to achieve an involuntary separation only to hire another person for the same position, and because the CIA is operating under a mandate from Congress with the Intelligence Authorization Act for Fiscal Year 1993 to reduce its personnel level substantially over the fiscal years 1993 to 1997. The overall number of positions must decline by the amounts mandated by Congress. Thus, most positions identified for voluntary separation incentives, including positions filled by retirement-eligible employees, will be abolished when incumbents accept voluntary separation incentives. Therefore, as a matter of logic, a portion of the salary and benefit costs avoided by having retirement-eligible employees retire earlier than they would have retired in the absence of the voluntary separation incentive should be a credit offset against the additional retirement annuity costs. However, the CBO does not do so because of the technical accounting and scoring methods the CBO applies.

Also, if additional annuity costs for retirement-eligible employees accepting the voluntary separation incentive are to be counted as direct spending attributable to S. 647, it would seem that a portion of the cost of retirement annuities avoided by voluntary separation

of not-yet-retirement-eligible employees should have been credited in the CBO calculations.

While the Committee understands the technical rules the CBO uses in making its estimates, the Committee notes that enactment and implementation of S. 647 will unquestionably result in net savings to the Government. Indeed, the bill specifically mandates that there be no net cost to the Government. The Committee notes also that the authority provided by S. 647 is explicitly made subject to the availability of appropriations.

The estimate prepared by the Congressional Budget Office, dated April 23, 1993, is as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 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 S. 647, as ordered reported by the Senate Select Committee on Intelligence on March 30, 1993. The bill would permit the Director of Central Intelligence to offer cash incentives to employees who would either resign or retire.

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.

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

Sincerely,

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

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 647.
2. Bill title: Central Intelligence Agency Voluntary Separation Incentive Act.
3. Bill status: As ordered reported by the Senate Select Committee on Intelligence on March 30, 1993.
4. Bill purpose: to establish a cash incentive program to induce certain employees of the Central Intelligence Agency to voluntarily separate from service.
5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1993	1994	1995	1996	1997
Direct spending:					
Estimated budget authority	2	6	2	2	2
Estimated outlays	2	6	2	2	2
Estimated authorizations of appropriations:					
Estimated authorization level	9	3	3	3	3
Estimated outlays	9	3	3	3	3
Bill total:					
Estimated budget authorization/authorization level	11	9	5	5	5
Estimated outlays	11	9	5	5	5

Basis of estimate: This bill would authorize the Director of Central Intelligence (DCI) to pay incentives to employees of the Central Intelligence Agency (CIA) for voluntarily retiring or resigning. The estimate assumes that the DCI would use the discretion provided by the bill to award retirees about \$25,000, the maximum amount authorized by the bill, while those resigning would receive smaller payments. This estimate assumes enactment of this legislation occurs by June 1, 1993.

Estimated authorizations: In 1993, the bill would increase authorizations of appropriations by about \$9 million. The CIA plans to pay cash incentives to approximately 450 employees this year at a cost of \$10 million. An additional \$5 million in accrued leave payments would also be paid to recipients. But assuming that none of those leaving service are replaced, the resignations and retirements would save about \$7 million in funds appropriated for pay and benefits. The net cost to the CIA of \$8 million would be met through reprogramming or supplemental appropriations.

Some of the payments described above include the costs of employer contributions for retirement, which are offset in the federal budget. Thus the net cost to the federal government for the accrued leave payments is somewhat lower, and the net savings in pay and benefits is not as great. After taking these amounts into account, the net cost to the Federal government of this provision in 1993 is \$9 million. On the other hand, if the salaries saved by early retirements were spent for replacements or for other programs, the net costs would be higher.

For 1994-1997, the CIA estimates that it will face a surplus of between 1,600 and 2,100 employees if historical attrition rates continue and no extra incentives are used to reduce employment after 1993. If this bill is enacted, the agency would use cash incentives to eliminate some of this surplus, but the CIA has not established a schedule for use of the incentive after 1993. For the purpose of this estimate, CBO assumes that approximately 500 individuals would be offered incentives each year from 1994 to 1997. Based on the recent experience of the National Security Agency with a similar program, CBO estimates that about one-fourth of those offered the incentive would accept it, or about 125 employees annually.

The cost to appropriated accounts of paying the cash incentive over 1994-1997 would be about \$3 million annually. CBO assumes that the savings in salary and benefits from these reductions would be incurred under current law as part of the anticipated reduction in the CIA workforce. Thus, these savings would not be a result of this bill and would not offset the cost of incentive payment in this estimate.

Direct spending: In addition to the cost of the incentive payments, added retirement costs would occur in the near term because employees who used this program as an incentive to retire would receive their annuities earlier than would otherwise have been the case. The cost of these annuities would constitute direct spending. According to the CIA, nearly 90 percent of the 450 recipients in 1993 would be eligible for retirement under current law. These individuals would receive an immediate retirement annuity as well as the cash incentive payment. CBO estimates that about \$2 million would be paid under the entitlement for civil service re-

tirement in 1993. In 1994, retirement spending would rise by about \$6 million, but by 1997 the increase would be \$2 million. Direct spending costs are highest in 1994 because the estimate assumes that people retire one year early and that the bill is used most extensively in 1993. Eventually, retirement costs would actually be lower than under current law because people retiring early would receive reduced annuities. Savings eventually occur when these people would have retired but for this bill; at that time the savings from lower annuities would not be offset by the greater numbers of retirees that raise costs in earlier years.

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. The spending increases that would result from S. 647 would have the following pay-as-you-go impact:

(By fiscal years, in millions of dollars)

	1993	1994	1995
Change in outlays	2	6	2
Change in receipts	(¹)	(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: Amy Plapp.
11. Estimate approved by: C.G. Nuckols, Assistant Director for Budget Analysis.

EVALUATION OF REGULATORY IMPACT

The Committee finds that no regulatory impact will be incurred in carrying out this legislation.

