

Calendar No. 224

103D CONGRESS
1ST SESSION

S. 1301

[Report No. 103-115]
[Report No. 103-155]

A BILL

To authorize appropriations for fiscal year 1994 for intelligence activities of the United States Government and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

OCTOBER 5 (legislative day, SEPTEMBER 27), 1993
Reported with an amendment

Calendar No. 224103^D CONGRESS
1ST SESSION**S. 1301****[Report No. 103-115]****[Report No. 103-155]**

To authorize appropriations for fiscal year 1994 for intelligence activities of the United States Government and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 28 (legislative day, JUNE 30), 1993

Mr. DECONCINI, from the Select Committee on Intelligence, reported the following original bill; which was read twice and referred to the Committee on Armed Services for the thirty-day period provided in section 3(b) of Senate Resolution 400, Ninety-fourth Congress, except that if such Committee fails to report such bill within the thirty-day limit, such Committee shall be automatically discharged from further consideration of such bill in accordance with that section

OCTOBER 5 (legislative day, SEPTEMBER 27), 1993

Reported by Mr. NUNN, with an amendment

[Omit the part struck through]

A BILL

To authorize appropriations for fiscal year 1994 for intelligence activities of the United States Government and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Intelligence Authorization Act for Fiscal Year 1994”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

- Sec. 101. Authorization of appropriations.
- Sec. 102. Classified schedule of authorizations.
- Sec. 103. Personnel ceiling adjustments.
- Sec. 104. Community Management Account.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND
DISABILITY SYSTEM

- Sec. 201. Authorization of appropriations.
- Sec. 202. Technical corrections.

TITLE III—GENERAL PROVISIONS

- Sec. 301. Increase in employee compensation and benefits authorized by law.
- Sec. 302. Restriction on conduct of intelligence activities.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

- Sec. 401. General Counsel of the Central Intelligence Agency.
- Sec. 402. Technical amendments to the CIA Act and National Security Act.

TITLE V—DEPARTMENT OF DEFENSE

- Sec. 501. Foreign language proficiency pay for members of the reserve compo-
nents of the Armed Forces.
- Sec. 502. National Security Education Trust Fund.

TITLE VI—FEDERAL BUREAU OF INVESTIGATION

- Sec. 601. Federal Bureau of Investigation counterintelligence access to
consumer credit records.

1 **TITLE I—INTELLIGENCE**
2 **ACTIVITIES**

3 **SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

4 Funds are hereby authorized to be appropriated for
5 fiscal year 1994 for the conduct of the intelligence activi-
6 ties of the following elements of the United States Govern-
7 ment:

8 (1) The Central Intelligence Agency.

9 (2) The Department of Defense.

10 (3) The Defense Intelligence Agency.

11 (4) The National Security Agency.

12 (5) The National Reconnaissance Office.

13 (6) The Central Imagery Office.

14 (7) The Department of the Army, the Depart-
15 ment of the Navy, and the Department of the Air
16 Force.

17 (8) The Department of State.

18 (9) The Department of the Treasury.

19 (10) The Department of Energy.

20 (11) The Federal Bureau of Investigation.

21 **SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.**

22 (a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL
23 CEILINGS.—The amounts authorized to be appropriated
24 under section 101, and the authorized personnel ceilings
25 as of September 30, 1994, for the conduct of the intel-

1 ligenge activities of the elements listed in such section, are
2 those specified in the classified Schedule of Authorizations
3 prepared by the Select Committee on Intelligence of the
4 Senate to accompany (S. 1301) of the One Hundred Third
5 Congress.

6 (b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AU-
7 THORIZATIONS.—The Schedule of Authorizations shall be
8 made available to the Committee on Appropriations of the
9 Senate and the Committee on Appropriations of the House
10 of Representatives and to the President. The President
11 shall provide for suitable distribution of the Schedule, or
12 of appropriate portions of the Schedule, within the execu-
13 tive branch.

14 **SEC. 103. PERSONNEL CEILING ADJUSTMENTS.**

15 (a) AUTHORITY FOR ADJUSTMENTS.—The Director
16 of Central Intelligence may authorize employment of civil-
17 ian personnel in excess of the number authorized for fiscal
18 year 1994 under section 102 of this Act whenever the Di-
19 rector determines that such action is necessary for the per-
20 formance of important intelligence functions, except that
21 such number may not, for any element of the intelligence
22 community, exceed 2 percent of the number of civilian per-
23 sonnel authorized under such section for such element.

24 (b) NOTICE TO INTELLIGENCE COMMITTEES.—The
25 Director of Central Intelligence shall promptly notify the

1 Permanent Select Committee on Intelligence of the House
2 of Representatives and the Select Committee on Intel-
3 ligence of the Senate whenever the Director exercises the
4 authority granted by this section.

5 **SEC. 104. COMMUNITY MANAGEMENT ACCOUNT.**

6 (a) AUTHORIZATIONS OF APPROPRIATIONS.—There
7 is authorized to be appropriated for the Community Man-
8 agement Account of the Director of Central Intelligence
9 for fiscal year 1994 the sum of \$144,588,000. Within such
10 amounts authorized, amounts identified for the Advanced
11 Research and Development Committee shall remain avail-
12 able for obligation through September 30, 1995.

13 (b) AUTHORIZED PERSONNEL LEVELS.—The Com-
14 munity Management Account of the Director of Central
15 Intelligence is authorized 237 full-time personnel as of
16 September 30, 1994. Such personnel of the Community
17 Management Account may be permanent employees of the
18 Community Management Account or personnel detailed
19 from other elements of the United States Government.

20 (c) REIMBURSEMENT.—During fiscal year 1994, any
21 officer or employee of the United States or a member of
22 the Armed Forces who is detailed to the Community Man-
23 agement Account from another element of the United
24 States Government shall be detailed on a reimbursable
25 basis, except that any such officer, employee, or member

1 may be detailed on a nonreimbursable basis for a period
2 of less than 1 year for the performance of temporary func-
3 tions as required by the Director of Central Intelligence.

4 **TITLE II—CENTRAL INTEL-**
5 **LIGENCE AGENCY RETIRE-**
6 **MENT AND DISABILITY SYS-**
7 **TEM**

8 **SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

9 There is authorized to be appropriated for the
10 Central Intelligence Agency Retirement and Disability
11 Fund for fiscal year 1994 the sum of \$182,300,000.

12 **SEC. 202. TECHNICAL CORRECTIONS.**

13 (a) CORRECTIONS.—The Central Intelligence Agency
14 Retirement Act (50 U.S.C. 2001 et seq.) is amended as
15 follows:

16 (1) In section 101(7)—

17 (A) strike out the comma after “basic pay”
18 and insert in lieu thereof “and”; and

19 (B) strike out “, and interest determined
20 under section 281”.

21 (2) In section 201(c), strike out “proviso of sec-
22 tion 102(d)(3) of the National Security Act of 1947,
23 (50 U.S.C. 403(d)(3))” and insert in lieu thereof
24 “requirement in section 103(c)(5) of the National
25 Security Act of 1947 (50 U.S.C. 403–3(c)(5))”.

1 (3) In section 211(c)(2)(B), strike out “the re-
2 requirement under section 241(b)(4)” and insert in
3 lieu thereof “prior notification of a current spouse,
4 if any, unless notification is waived under cir-
5 cumstances described in section 221(b)(1)(D)”.

6 (4) In section 221—

7 (A) in subsection (a)(4), strike out “(or, in
8 the case of an annuity computed under section
9 232 and based on less than 3 years, over the
10 total service)”;

11 (B) in subsection (f)(1)(A)—

12 (i) insert “after the participant’s
13 death” before the period at the end of the
14 first sentence; and

15 (ii) strike out “after the participant’s
16 death” in the second sentence;

17 (C) in subsection (g)(1), strike out “(or is
18 remarried” and insert in lieu thereof “(or is re-
19 married,”; and

20 (D) In subsection (j), strike out “(except
21 as provided in paragraph (2))”.

22 (5) In section 222—

23 (A) in subsection (a)(7), strike out “any
24 other annuity” the first time it appears and in-
25 sert in lieu thereof “any survivor annuity”;

1 (B) in subsection (c)(3)(C), insert “the
2 participant” before “or does not qualify”; and

3 (C) in subsection (c)(4), strike out “shall
4 terminate” and all that follows and insert in
5 lieu thereof “in the case of a spouse, shall ter-
6minate on the last day of the month before the
7 spouse dies, and, in the case of a former
8 spouse, shall terminate on the last day of the
9 month before the former spouse dies, or on the
10 last day of the month before the former spouse
11 remarries before attaining age 55”.

12 (6) In section 224(c)(1)(B)(i), strike out
13 “former participant” and insert in lieu thereof “re-
14 tired participant”.

15 (7) In section 225(c)—

16 (A) in paragraph (3), strike out “any other
17 annuity” the first time it appears and insert in
18 lieu thereof “any survivor annuity”; and

19 (B) in paragraph (4)(A), strike out
20 “1991” and insert in lieu thereof “1990”.

21 (8) In section 231(d)(2), strike out “241(b)”
22 and insert in lieu thereof “241(a)”.

23 (9) In section 232(b)(4), strike out “section
24 222” and insert in lieu thereof “section 224”.

1 (10) In section 234(b), strike out “sections 241
2 and 281” and insert in lieu thereof “section 241”.

3 (11) In section 241—

4 (A) in subsection (c), strike out “A lump-
5 sum benefit that would have been payable to a
6 participant, former participant, or annuitant, or
7 to a survivor annuitant, authorized by sub-
8 section (d) or (e) of this section or by section
9 234(b) or 281(d)” and insert in lieu thereof “A
10 lump-sum payment authorized by subsection (d)
11 or (e) of this section or by section 281(d) and
12 a payment of accrued and unpaid annuity au-
13 thorized by subsection (f) of this section”;

14 (B) redesignate subsection (f) as sub-
15 section (g); and

16 (C) insert after subsection (e) the following
17 new subsection (f):

18 “(f) PAYMENT OF ACCRUED AND UNPAID ANNUITY
19 WHEN RETIRED PARTICIPANT DIES.—If a retired partici-
20 pant dies, any annuity accrued and unpaid shall be paid
21 in accordance with subsection (c).”.

22 (12) In section 264(b)—

23 (A) in paragraph (2), insert “and” after
24 the semicolon at the end;

1 (B) in paragraph (3), strike out “and to
2 any payment of a return of contributions under
3 section 234(a); and” and insert in lieu thereof
4 “, and the amount of any such payment;”; and

5 (C) strike out paragraph (4).

6 (13) In section 265, strike out “Act” each place
7 it appears and insert in lieu thereof “title”.

8 (14) In section 291(b)(2), strike out “or section
9 232(c)”.

10 (15) In section 304(i)(1), strike out “section
11 102(a)(3)” and insert in lieu thereof “section
12 102(a)(4)”.

13 (b) RETROACTIVE EFFECTIVE DATE.—The amend-
14 ments made by subsection (a) shall be effective as of Feb-
15 ruary 1, 1993.

16 **TITLE III—GENERAL** 17 **PROVISIONS**

18 **SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND** 19 **BENEFITS AUTHORIZED BY LAW.**

20 There are authorized to be appropriated to carry out
21 the purposes of this Act such additional amounts for fiscal
22 year 1994 as may be necessary for increases in salary,
23 pay, retirement, and other employee benefits authorized
24 by law.

1 **SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE**
2 **ACTIVITIES.**

3 The authorization of appropriations in this Act does
4 not constitute authority for the conduct of any intelligence
5 activity which is not otherwise authorized by the Constitu-
6 tion or the laws of the United States.

7 **TITLE IV—CENTRAL**
8 **INTELLIGENCE AGENCY**

9 **SEC. 401. GENERAL COUNSEL OF THE CENTRAL INTEL-**
10 **LIGENCE AGENCY.**

11 (a) POSITION ESTABLISHED.—The Central Intel-
12 ligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is
13 amended by adding at the end the following:

14 “GENERAL COUNSEL OF THE CENTRAL INTELLIGENCE
15 AGENCY

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

20 “(b) The General Counsel of the Central Intelligence
21 Agency is the chief legal officer of the Central Intelligence
22 Agency.

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

1 (b) PAY FOR POSITION.—Section 5315 of title 5,
2 United States Code, is amended by adding at the end the
3 following:

4 “General Counsel of the Central Intelligence
5 Agency.”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall take effect one year after the date of
8 the enactment of this Act.

9 **SEC. 402. TECHNICAL AMENDMENTS TO THE CIA ACT AND**
10 **NATIONAL SECURITY ACT.**

11 (a) AMENDMENTS TO CIA ACT.—The Central Intel-
12 ligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is
13 amended as follows:

14 (1) In section 5(a)—

15 (A) strike out “Bureau of the Budget” and
16 insert “Office of Management and Budget”;
17 and

18 (B) strike out “sections 102 and 303” and
19 insert in lieu thereof “subparagraphs (B) and
20 (C) of section 102(a)(2), subsections (c)(5) and
21 (d) of section 103, subsections (a) and (g) of
22 section 104, and section 303”.

23 (2) In section 6, strike out “section 102(d)(3)”
24 and insert in lieu thereof “section 103(c)(5)”.

25 (3) In section 19(b)—

1 (A) strike out “231” in the subsection
2 heading and in the matter after clause (iv) and
3 insert in lieu thereof “232”; and

4 (B) strike out “(50 U.S.C. 403 note)”.

5 (b) AMENDMENTS TO NATIONAL SECURITY ACT.—
6 Section 103(d)(3) of the National Security Act of 1947
7 is amended by striking out “providing” and inserting in
8 lieu thereof “provide”.

9 **TITLE V—DEPARTMENT OF**
10 **DEFENSE**

11 **SEC. 501. FOREIGN LANGUAGE PROFICIENCY PAY FOR**
12 **MEMBERS OF THE RESERVE COMPONENTS**
13 **OF THE ARMED FORCES.**

14 (a) BONUS AUTHORIZED.—Section 316(c) of title 37,
15 United States Code, is amended by striking out para-
16 graphs (1) and (2) and inserting in lieu thereof the follow-
17 ing:

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

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

6 (b) EFFECTIVE DATE.—The amendment made by
7 subsection (a) shall take effect with respect to the first
8 month that begins more than 90 days after the date of
9 the enactment of this Act.

10 **SEC. 502. NATIONAL SECURITY EDUCATION TRUST FUND.**

11 (a) CREDITING OF GIFTS TO THE NATIONAL SECU-
12 RITY EDUCATION TRUST FUND.—Section 804(e) of the
13 Intelligence Authorization Act, Fiscal Year 1992 (50
14 U.S.C. 1904(e)) is amended by adding at the end thereof
15 the following:

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

18 (b) REPEAL OF AUTHORIZATION REQUIREMENT.—
19 Section 804(b) of such Act is amended—

20 (1) by striking “(1)”;

21 (2) by redesignating subparagraphs (A) and
22 (B) as paragraphs (1) and (2); and

23 (3) by striking paragraph (2).

24 (c) ~~TRANSFER OF FUNDS REQUIREMENT.~~—The Sec-
25 retary of Defense shall transfer \$25,000,000 from the Na-

1 tional Security Education Trust Fund to the miscellane-
2 ous receipts account of the Treasury.

3 **TITLE VI—FEDERAL BUREAU OF**
4 **INVESTIGATION**

5 **SEC. 601. FEDERAL BUREAU OF INVESTIGATION COUNTER-**
6 **INTELLIGENCE ACCESS TO CONSUMER CRED-**
7 **IT RECORDS.**

8 Section 608 of the Fair Credit Reporting Act (15
9 U.S.C. 1681f) is amended—

10 (1) by striking “Notwithstanding” and insert-
11 ing “(a) DISCLOSURE OF CERTAIN IDENTIFYING IN-
12 FORMATION.—Notwithstanding”;

13 (2) by adding at the end the following new sub-
14 section:

15 “(b) DISCLOSURES TO THE FBI FOR COUNTER-
16 INTELLIGENCE PURPOSES.—

17 “(1) CONSUMER REPORTS.—Notwithstanding
18 the provisions of section 604, a consumer reporting
19 agency shall furnish a consumer report to the Fed-
20 eral Bureau of Investigation when presented with a
21 written request for a consumer report, signed by the
22 Director of the Federal Bureau of Investigation
23 (hereafter in this section referred to as the ‘Direc-
24 tor’) or the Director’s designee, which certifies com-
25 pliance with this subsection. The Director or the Di-

1 rector's designee may make such a certification only
2 if the Director or the Director's designee has deter-
3 mined in writing that—

4 “(A) such records are necessary for the
5 conduct of an authorized foreign counterintel-
6 ligence investigation; and

7 “(B) there are specific and articulable
8 facts giving reason to believe that the consumer
9 whose consumer report is sought is a foreign
10 power or an agent of a foreign power, as de-
11 fined in section 101 of the Foreign Intelligence
12 Surveillance Act of 1978.

13 “(2) IDENTIFYING INFORMATION.—Notwith-
14 standing the provisions of section 604, a consumer
15 reporting agency shall furnish identifying informa-
16 tion respecting a consumer, limited to name, ad-
17 dress, former addresses, places of employment, or
18 former places of employment, to the Federal Bureau
19 of Investigation when presented with a written re-
20 quest, signed by the Director or the Director's des-
21 ignee, which certifies compliance with this sub-
22 section. The Director or the Director's designee may
23 make such a certification only if the Director or the
24 Director's designee has determined in writing that—

1 “(A) such information is necessary to the
2 conduct of an authorized foreign counterintel-
3 ligence investigation; and

4 “(B) there is information giving reason to
5 believe that the consumer has been, or is about
6 to be, in contact with a foreign power or an
7 agent of a foreign power, as defined in section
8 101 of the Foreign Intelligence Surveillance Act
9 of 1978.

10 “(3) CONFIDENTIALITY.—No consumer report-
11 ing agency or officer, employee, or agent of such
12 consumer reporting agency may disclose to any per-
13 son, other than those officers, employees or agents
14 of such agency necessary to fulfill the requirement
15 to disclose information to the Federal Bureau of In-
16 vestigation under this subsection, that the Federal
17 Bureau of Investigation has sought or obtained a
18 consumer report or identifying information respect-
19 ing any consumer under paragraph (1) or (2), nor
20 shall such agency, officer, employee, or agent include
21 in any consumer report any information that would
22 indicate that the Federal Bureau of Investigation
23 has sought or obtained such a consumer report or
24 identifying information.

1 “(4) PAYMENT OF FEES.—The Federal Bureau
2 of Investigation shall, subject to the availability of
3 appropriations, pay to the consumer reporting agen-
4 cy assembling or providing credit reports or identify-
5 ing information in accordance with procedures estab-
6 lished under this title, a fee for reimbursement for
7 such costs as are reasonably necessary and which
8 have been directly incurred in searching for, repro-
9 ducing, or transporting books, papers, records, or
10 other data required or requested to be produced
11 under this subsection.

12 “(5) LIMIT ON DISSEMINATION.—The Federal
13 Bureau of Investigation may not disseminate infor-
14 mation obtained pursuant to this subsection outside
15 of the Federal Bureau of Investigation, except to the
16 Department of Justice as may be necessary for the
17 approval or conduct of a foreign counterintelligence
18 investigation.

19 “(6) RULES OF CONSTRUCTION.—Nothing in
20 this subsection shall be construed to prohibit infor-
21 mation from being furnished by the Federal Bureau
22 of Investigation pursuant to a subpoena or court
23 order, or in connection with a judicial or administra-
24 tive proceeding to enforce the provisions of this Act.
25 Nothing in this subsection shall be construed to au-

1 thorize or permit the withholding of information
2 from the Congress.

3 “(7) REPORTS TO THE CONGRESS.—On a semi-
4 annual basis, the Attorney General of the United
5 States shall fully inform the Permanent Select Com-
6 mittee on Intelligence and the Committee on Bank-
7 ing, Finance and Urban Affairs of the House of
8 Representatives, and the Select Committee on Intel-
9 ligence and the Committee on Banking, Housing,
10 and Urban Affairs of the Senate concerning all re-
11 quests made pursuant to paragraph (1) and (2).

12 “(8) DAMAGES.—Any agency or department of
13 the United States obtaining or disclosing credit re-
14 ports, records, or information contained therein in
15 violation of this subsection is liable to the consumer
16 to whom such records relate in an amount equal to
17 the sum of—

18 “(A) \$100, without regard to the volume
19 of records involved;

20 “(B) any actual damages sustained by the
21 consumer as a result of the disclosure;

22 “(C) such punitive damages as a court
23 may allow, where the violation is found to have
24 been willful or intentional; and

1 “(D) in the case of any successful action to
2 enforce liability under this subsection, the costs
3 of the action, together with reasonable attor-
4 ney’s fees, as determined by the court.

5 “(9) DISCIPLINARY ACTIONS FOR VIOLA-
6 TIONS.—If a court determines that any agency or
7 department of the United States has violated any
8 provision of this subsection and the court finds that
9 the circumstances surrounding the violation raise
10 questions of whether or not an officer or employee
11 of the agency or department acted willfully or inten-
12 tionally with respect to the violation, the agency or
13 department shall promptly initiate a proceeding to
14 determine whether or not disciplinary action is war-
15 ranted against the officer or employee who was re-
16 sponsible for the violation.

17 “(10) GOOD-FAITH EXCEPTION.—Any credit re-
18 porting agency or agent or employee thereof making
19 a disclosure of credit reports or identifying informa-
20 tion pursuant to this subsection in good-faith reli-
21 ance upon a certificate by the Federal Bureau of In-
22 vestigation pursuant to provisions of this subsection
23 shall not be liable to any person for such disclosure
24 under this title, the constitution of any State, or any

1 law or regulation of any State or any political sub-
2 division of any State.

3 “(11) LIMITATION OF REMEDIES.—The rem-
4 edies and sanctions set forth in this subsection shall
5 be the only judicial remedies and sanctions for viola-
6 tions of this subsection.

7 “(12) INJUNCTIVE RELIEF.—In addition to any
8 other remedy contained in this subsection, injunctive
9 relief shall be available to require compliance with
10 the procedures of this subsection. In the event of
11 any successful action under this subsection, costs to-
12 gether with reasonable attorney’s fees, as determined
13 by the court, may be recovered.”.

S 1301 RS—2