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1st Session

HOUSE OF REPRESENTATIVES

REPT. 104–138
Part 1

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1996

R E P O R T

OF THE

PERMANENT SELECT COMMITTEE ON INTELLIGENCE HOUSE OF REPRESENTATIVES

together with

ADDITIONAL AND MINORITY VIEWS

[To accompany H.R. 1655]

[Including cost estimate of the Congressional Budget Office]

JUNE 14, 1995.—Ordered to be printed

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104TH CONGRESS, 1st Session } HOUSE OF REPRESENTATIVES { REPT. 104–138, Part 1

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1996

JUNE 14, 1995.—Ordered to be printed

Mr. COMBEST, from the Permanent Select Committee on Intelligence, submitted the following

R E P O R T

together with

MINORITY AND ADDITIONAL VIEWS

[To accompany H.R. 1655]

[Including cost estimate of the Congressional Budget Office]

The Permanent Select Committee on Intelligence, to whom was referred the bill (H.R. 1655) to authorize appropriations for fiscal year 1996 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1996".

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1996 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.
(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.
(10) The Drug Enforcement Administration.
(11) The National Reconnaissance Office.
(12) The Central Imagery Office.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1996, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany the bill H.R. 1655 of the 104th Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.—With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 1996 under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed two percent of the number of civilian personnel authorized under such section for such element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

SEC. 104. COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Community Management Account of the Director of Central Intelligence for fiscal year 1996 the sum of $80,713,000. Within such amounts authorized, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for the Advanced Research and Development Committee and the Environmental Task Force shall remain available until September 30, 1997.

(b) AUTHORIZED PERSONNEL LEVELS.—The Community Management Staff of the Director of Central Intelligence is authorized 247 full-time personnel as of September 30, 1996. Such personnel of the Community Management Staff may be permanent employees of the Community Management Staff or personnel detailed from other elements of the United States Government.

(c) REIMBURSEMENT.—During fiscal year 1996, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Community Management Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1996 the sum of $213,900,000.

TITLE III—GENERAL PROVISIONS

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

Appropriations authorized by this 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.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

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

SEC. 303. APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES.

(a) GENERAL PROVISIONS.—The National Security Act of 1947 (50 U.S.C. 401 et seq.), is amended by adding at the end thereof the following new title:

"TITLE IX—APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES

"STAY OF SANCTIONS

"SEC. 901. Notwithstanding any other provision of law, the President may stay the imposition of an economic, cultural, diplomatic, or other sanction or related action by the United States Government concerning a foreign country, organization, or person when the President determines that to proceed without delay would seriously risk the compromise of an ongoing criminal investigation or an intelligence source or method. The President shall lift any such stay when the President determines that such stay is no longer necessary to that purpose.

"REPORTS

"SEC. 902. Whenever any stay is imposed pursuant to section 901, and whenever the duration of any such stay exceeds 120 days, the President shall promptly report to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives the rationale and circumstances that led the President to exercise the stay authority with respect to an intelligence source or method, and to the Judiciary Committees of the Senate and the House of Representatives the rationale and circumstances that led the President to exercise the stay authority with respect to an ongoing criminal investigation.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section of such Act is amended by adding at the end thereof the following:

"TITLE IX—APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES

"Sec. 901. Stay of Sanctions.
"Sec. 902. Reports.".

SEC. 304. THRIFT SAVINGS PLAN FORFEITURE.

Section 8432(g) of title 5, United States Code, is amended by adding at the end the following new paragraphs:

"(5)(A) Notwithstanding any other provision of law, contributions made by the Government for the benefit of an employee or Member under subsection (c), and all earnings attributable to such contributions, shall be forfeited if the annuity of the employee or Member, or that of a survivor or beneficiary, is forfeited under subchapter II of chapter 83.

"(B) Forfeitures under this paragraph shall occur only if the offenses upon which the requisite annuity forfeitures are based happened subsequent to the enactment of this paragraph.".

SEC. 305. AUTHORITY TO RESTORE SPOUSAL PENSION BENEFITS TO SPOUSES WHO COOPERATE IN CRIMINAL INVESTIGATIONS AND PROSECUTIONS FOR NATIONAL SECURITY OFFENSES.

Section 8318 of title 5, United States Code, is amended by adding at the end the following:

"(e) The spouse of an individual whose annuity or retired pay is forfeited under section 8312 or 8313 after the date of enactment of this subsection shall be eligible for spousal pension benefits if the Attorney General of the United States determines that the spouse fully cooperated with Federal authorities in the conduct of a criminal investigation and subsequent prosecution of the individual which resulted in such forfeiture.".

SEC. 306. SECRECY AGREEMENTS USED IN INTELLIGENCE ACTIVITIES.

Notwithstanding any other provision of law not specifically referencing this section, a nondisclosure policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government.

SEC. 307. LIMITATION ON AVAILABILITY OF FUNDS FOR AUTOMATIC DECLASSIFICATION OF RECORDS OVER 25 YEARS OLD.

(a) IN GENERAL.—Each agency of the National Foreign Intelligence Program shall use no more than $2,500,000 of the amounts authorized to be appropriated by this Act to carry out the provisions of section 3.4 of Executive Order 12958.

(b) REQUIRED BUDGET SUBMISSION.—The President shall submit for fiscal year 1997 and each of the following five years a budget request which specifically sets forth the funds requested for implementation of section 3.4 of Executive Order 12958.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. EXTENSION OF THE CIA VOLUNTARY SEPARATION PAY ACT.

Section 2(f) of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403–4(f)), is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1999".

SEC. 402. VOLUNTEER SERVICE PROGRAM.

(a) GENERAL AUTHORITY.—The Director of Central Intelligence is authorized to establish and maintain a program from fiscal years 1996 through 2001 to utilize the services contributed by not more than 50 annuitants who serve without compensation as volunteers in aid of systematic or mandatory review for declassification or downgrading of classified information of the Central Intelligence Agency under applicable Executive orders governing the classification and declassification of national security information and Public Law 102–526.

(b) COSTS INCIDENTAL TO SERVICES.—The Director is authorized to use sums made available to the Central Intelligence Agency by appropriations or otherwise for paying the costs incidental to the utilization of services contributed by individuals under subsection (a). Such costs may include (but need not be limited to) training, transportation, lodging, subsistence, equipment, and supplies. The Director may authorize either direct procurement of equipment, supplies, and services, or reimbursement for expenses, incidental to the effective use of volunteers. Such expenses or services shall be in accordance with volunteer agreements made with such individuals. Sums made available for such costs may not exceed $100,000.

(c) APPLICATION OF CERTAIN PROVISIONS OF LAW.—A volunteer under this section shall be considered to be a Federal employee for the purposes of subchapter I of title 81 (relating to compensation of Federal employees for work injuries) and section 1346(b) and chapter 171 of title 28 (relating to tort claims). A volunteer under this section shall be covered by and subject to the provisions of chapter 11 of title 18 of the United States Code as if they were employees or special Government employees depending upon the days of expected service at the time they begin volunteering.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

SEC. 501. DEFENSE INTELLIGENCE SENIOR LEVEL POSITIONS.

Section 1604 of title 10, United States Code, is amended to read as follows:

"§ 1604. Civilian personnel management

"(a) GENERAL PERSONNEL AUTHORITY.—The Secretary of Defense may, without regard to the provisions of any other law relating to the number, classification, or compensation of Federal employees—

"(1) establish such positions for employees in the Defense Intelligence Agency and the Central Imagery Office as the Secretary considers necessary to carry out the functions of that Agency and Office, including positions designated under subsection (f) as Defense Intelligence Senior Level positions;

"(2) appoint individuals to those positions; and

"(3) fix the compensation for service in those positions.

"(b) AUTHORITY TO FIX RATES OF BASIC PAY; OTHER ALLOWANCES AND BENEFITS.—(1) The Secretary of Defense shall, subject to subsection (c), fix the rates of basic pay for positions established under subsection (a) in relation to the rates of basic pay provided in subpart D of part III of title 5 for positions subject to that title which have corresponding levels of duties and responsibilities. Except as otherwise provided by law, an employee of the Defense Intelligence Agency or the Central Imagery Office may not be paid basic pay at a rate in excess of the maximum rate payable under section 5376 of title 5.

"(2) The Secretary of Defense may provide employees of the Defense Intelligence Agency and the Central Imagery Office compensation (in addition to basic pay under paragraph (1)) and benefits, incentives, and allowances consistent with, and not in excess of the levels authorized for, comparable positions authorized by title 5.

"(c) PREVAILING RATES SYSTEMS.—The Secretary of Defense may, consistent with section 5341 of title 5, adopt such provisions of that title as provide for prevailing rate systems of basic pay and may apply those provisions to positions in or under which the Defense Intelligence Agency or the Central Imagery Office may employ individuals described by section 5342(a)(2)(A) of such title.

"(d) ALLOWANCES BASED ON LIVING COSTS AND ENVIRONMENT FOR EMPLOYEES STATIONED OUTSIDE CONTINENTAL UNITED STATES OR IN ALASKA.—(1) In addition to the basic compensation payable under subsection (b), employees of the Defense Intelligence Agency and the Central Imagery Office described in paragraph (3) may be paid an allowance, in accordance with regulations prescribed by the Secretary of Defense, at a rate not in excess of the allowance authorized to be paid under section 5941(a) of title 5 for employees whose rates of basic pay are fixed by statute.

"(2) Such allowance shall be based on—

"(A) living costs substantially higher than in the District of Columbia;

"(B) conditions of environment which—

"(i) differ substantially from conditions of environment in the continental United States; and

"(ii) warrant an allowance as a recruitment incentive; or

"(C) both of those factors.

"(3) This subsection applies to employees who—

"(A) are citizens or nationals of the United States; and

"(B) are stationed outside the continental United States or in Alaska.

"(e) TERMINATION OF EMPLOYEES.—(1) Notwithstanding any other provision of law, the Secretary of Defense may terminate the employment of any employee of the Defense Intelligence Agency or the Central Imagery Office if the Secretary—

"(A) considers such action to be in the interests of the United States; and

"(B) determines that the procedures prescribed in other provisions of law that authorize the termination of the employment of such employee cannot be invoked in a manner consistent with the national security.

"(2) A decision by the Secretary of Defense to terminate the employment of an employee under this subsection is final and may not be appealed or reviewed outside the Department of Defense.

"(3) The Secretary of Defense shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever the Secretary terminates the employment of any employee under the authority of this subsection.

"(4) Any termination of employment under this subsection shall not affect the right of the employee involved to seek or accept employment with any other depart-

ment or agency of the United States if that employee is declared eligible for such employment by the Director of the Office of Personnel Management.

"(5) The authority of the Secretary of Defense under this subsection may be delegated only to the Deputy Secretary of Defense, the Director of the Defense Intelligence Agency (with respect to employees of the Defense Intelligence Agency), and the Director of the Central Imagery Office (with respect to employees of the Central Imagery Office). An action to terminate employment of an employee by any such officer may be appealed to the Secretary of Defense.

"(f) DEFENSE INTELLIGENCE SENIOR LEVEL POSITIONS.—(1) In carrying out subsection (a)(1), the Secretary may designate positions described in paragraph (3) as Defense Intelligence Senior Level positions. The total number of positions designated under this subsection and in the Defense Intelligence Senior Executive Service under section 1601 of this title may not exceed the number of positions in the Defense Intelligence Senior Executive Service as of June 1, 1995.

"(2) Positions designated under this subsection shall be treated as equivalent for purposes of compensation to the senior level positions to which section 5376 of title 5 is applicable.

"(3) Positions that may be designated as Defense Intelligence Senior Level positions are positions in the Defense Intelligence Agency and Central Imagery Office that (A) are classified above the GS–15 level, (B) emphasize functional expertise and advisory activity, but (C) do not have the organizational or program management functions necessary for inclusion in the Defense Intelligence Senior Executive Service.

"(4) Positions referred to in paragraph (3) include Defense Intelligence Senior Technical positions and Defense Intelligence Senior Professional positions. For purposes of this subsection—

"(A) Defense Intelligence Senior Technical positions are positions covered by paragraph (3) that involve any of the following:

"(i) Research and development.

"(ii) Test and evaluation.

"(iii) Substantive analysis, liaison, or advisory activity focusing on engineering, physical sciences, computer science, mathematics, biology, chemistry, medicine, or other closely related scientific and technical fields.

"(iv) Intelligence disciplines including production, collection, and operations in close association with any of the activities described in clauses (i), (ii), and (iii) or related activities; and

"(B) Defense Intelligence Senior Professional positions are positions covered by paragraph (3) that emphasize staff, liaison, analytical, advisory, or other activity focusing on intelligence, law, finance and accounting, program and budget, human resources management, training, information services, logistics, security, and other appropriate fields.

"(g) 'EMPLOYEE' DEFINED AS INCLUDING OFFICERS.—In this section, the term 'employee', with respect to the Defense Intelligence Agency or the Central Imagery Office, includes any civilian officer of that Agency or Office.".

SEC. 502. COMPARABLE BENEFITS AND ALLOWANCES FOR CIVILIAN AND MILITARY PERSONNEL ASSIGNED TO DEFENSE INTELLIGENCE FUNCTIONS OVERSEAS.

(a) CIVILIAN PERSONNEL.—Section 1605 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "(a)";

(B) by striking out "of the Department of Defense" and all that follows through "this subsection," and inserting in lieu thereof "described in subsection (d)"; and

(C) by designating the second sentence as paragraph (2);

(2) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) Regulations prescribed under subsection (a) may not take effect until the Secretary of Defense has submitted such regulations to—

"(1) the Committee on Armed Services and the Select Committee on Intelligence of the Senate; and

"(2) the Committee on National Security and the Permanent Select Committee on Intelligence of the House of Representatives."; and

(3) by adding at the end the following new subsection:

"(d) Subsection (a) applies to civilian personnel of the Department of Defense who—

"(1) are United States nationals;

"(2) in the case of employees of the Defense Intelligence Agency, are assigned to duty outside the United States and, in the case of other employees, are as-

signed to Defense Attaché Offices or Defense Intelligence Agency Liaison Offices outside the United States; and

"(3) are designated by the Secretary of Defense for the purposes of subsection (a).".

(b) MILITARY PERSONNEL.—Section 431 of title 37, United States Code, is amended—

(1) in subsection (a), by striking out "who are assigned to" and all that follows through "of this subsection" and inserting in lieu thereof "described in subsection (e)";

(2) by striking out subsection (d) and inserting in lieu thereof the following:

"(d) Regulations prescribed under subsection (a) may not take effect until the Secretary of Defense has submitted such regulations to—

"(1) the Committee on Armed Services and the Select Committee on Intelligence of the Senate; and

"(2) the Committee on National Security and the Permanent Select Committee on Intelligence of the House of Representatives."; and

(3) by adding at the end the following new subsection:

"(e) Subsection (a) applies to members of the armed forces who—

"(1) are assigned—

"(A) to Defense Attaché Offices or Defense Intelligence Agency Liaison Offices outside the United States; or

"(B) to the Defense Intelligence Agency and engaged in intelligence-related duties outside the United States; and

"(2) are designated by the Secretary of Defense for the purposes of subsection (a).".

SEC. 503. EXTENSION OF AUTHORITY TO CONDUCT INTELLIGENCE COMMERCIAL ACTIVITIES.

Section 431(a) of title 10, United States Code, is amended by striking out "1995" and inserting in lieu thereof "1998".

SEC. 504. AVAILABILITY OF FUNDS FOR TIER II UAV.

All funds appropriated for fiscal year 1995 for the Medium Altitude Endurance Unmanned Aerial Vehicle (Tier II) are specifically authorized, within the meaning of section 504 of the National Security Act of 1947 (50 U.S.C. 414), for such purpose.

SEC. 505. TEMPORARY PROGRAM TO WAIVE MANDATORY REDUCTIONS TO ANNUITIES.

(a) GENERAL AUTHORITY.—The Secretary of Defense shall establish a program under which the reduction of annuities under subsection (h) of section 8339 of title 5, United States Code, may be waived to encourage eligible employees to separate voluntarily from service by retiring to lessen the possibility of involuntary separations due to reduction in force at the National Security Agency.

(b) COMPUTATION OF ANNUITY.—Under this program, annuities shall be computed under section 8339 of such title without regard to subsection (h) of such section.

(c) PROGRAM ELIGIBILITY REQUIREMENTS.—Under the program established under subsection (a), the waiver of the annuity reduction may be offered by the Director of the National Security Agency—

(1) to an employee who—

(A) is an employee of the National Security Agency, serving under an appointment without time limitation, who is in the Civil Service Retirement System and is eligible for an annuity under section 8336(d)(2) of title 5, United States Code, other than—

(i) a reemployed annuitant under subchapter III of chapter 83 of such title 5; and

(ii) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under such chapter 83; and

(B) is within such occupational groups or geographic locations, or subject to similar limitations or conditions, as the Director may require; and

(2) for a period not to exceed 90 days during the period beginning on October 1, 1995, and ending on September 30, 1996.

(d) PAYMENTS TO THE CIVIL SERVICE RETIREMENT AND DISABILITY FUND.—In addition to any other payment which it is required to make under subchapter III of chapter 83 of title 5, United States Code, the National Security Agency shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund the amount necessary to reimburse the Fund for the additional costs of the unreduced annuities payable under this section. Amounts may be made available to make such deposits from amounts authorized to be appropriated to the National Security Agency for the fiscal year in which this Act is enacted and for the succeeding four fiscal years.

(e) LIMITATION ON AVAILABILITY OF FUNDS.—No funds shall be payable under this section based on retirements occurring after September 30, 1996.

(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this section.

TITLE VI—TECHNICAL AMENDMENTS

SEC. 601. CLARIFICATION WITH RESPECT TO PAY FOR DIRECTOR OR DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE APPOINTED FROM COMMISSIONED OFFICERS OF THE ARMED FORCES.

(a) CLARIFICATION.—Subparagraph (C) of section 102(c)(3) of the National Security Act of 1947 (50 U.S.C. 403(c)(3)) is amended to read as follows:

"(C) A commissioned officer of the Armed Forces on active duty who is appointed to the position of Director or Deputy Director, while serving in such position and while remaining on active duty, shall continue to receive military pay and allowances. Funds from which such pay and allowances are paid shall be reimbursed from funds available to the Director.".

(b) TECHNICAL CORRECTIONS.—(1) Subparagraphs (A) and (B) of such section are amended by striking out "pursuant to paragraph (2) or (3)" and inserting in lieu thereof "to the position of Director or Deputy Director".

(2) Subparagraph (B) of such section is amended by striking out "paragraph (A)" and inserting in lieu thereof "subparagraph (A)".

SEC. 602. CHANGE OF DESIGNATION OF CIA OFFICE OF SECURITY.

Section 701(b)(3) of the National Security Act of 1947 (50 U.S.C. 431(b)(3)), is amended by striking out "Office of Security" and inserting in lieu thereof "Office of Personnel Security".

TITLE VII—DEPARTMENT OF STATE INTELLIGENCE ACTIVITIES

SEC. 701. CONSOLIDATION OF WATCH COMPONENT OF THE BUREAU OF INTELLIGENCE AND RESEARCH.

(a) LIMITATION.—The 24-Hour Watch component of the Bureau of Intelligence and Research of the Department of State may not be consolidated into, and its functions may not be transferred to, the Secretary's Operations Center of the Department of State until 60 days after the report described in subsection (b) has been submitted by the Secretary of State to the Permanent Select Committee on Intelligence and the Committee on International Relations of the House of Representatives and the Select Committee on Intelligence and the Committee on Foreign Relations of the Senate.

(b) REPORT.—The report referred to in subsection (a) shall include—

(1) the measures taken and proposed to be taken to assure that adequate resources of the Secretary's Operations Center are dedicated to fulfilling the needs and requirements of the Bureau of Intelligence and Research;

(2) the measures taken and proposed to be taken, in consultation with the Director of Central Intelligence particularly with regard to procedures, staff training, and facilities, to upgrade the ability of the Secretary's Operations Center to handle highly sensitive information so it is properly safeguarded and provided to the Bureau of Intelligence and Research in a timely manner; and

(3) a comparison of the cost of the measures necessary to upgrade the Secretary's Operations Center to fulfill the needs of the Bureau of Intelligence and Research with the costs of eliminating the 24-Hour Watch component of the Bureau of Intelligence and Research.

PURPOSE

The bill would:

(1) Authorize appropriations for fiscal year 1996 for (a) the intelligence and intelligence-related activities of the U.S. Government, (b) the Community Management Account, and (c) the Central Intelligence Agency Retirement and Disability System;

(2) Authorize the personnel ceilings on September 30, 1996 for the intelligence and intelligence-related activities of the U.S. Government;

(3) Permit the Director of Central Intelligence to authorize personnel ceilings in Fiscal Year 1996 for any Intelligence element up to two percent above the authorized levels, with the approval of the Director of the Office of Management and Budget;

(4) Authorize the President to stay the imposition of sanctions when to proceed without delay would seriously risk the compromise of an intelligence source or method or an ongoing criminal investigation and require reports to the Intelligence of Judiciary committees of the House and Senate;

(5) Provide for the forfeiture of the U.S. Government's contribution to the Thrift Savings Plan and earnings attributable to the contribution when an individual is convicted of certain national security offenses;

(6) Provide for eligibility for spousal pension benefits to spouses who fully cooperate, as determined by the Attorney General, in the criminal investigation and prosecution of an individual whose federal annuity is forfeited upon conviction of certain national security offenses.

(7) Provide for appropriate flexibility with regard to the contents of secrecy agreements that individuals, other than officers and employees of the United States Government, sign in the conduct of authorized intelligence activities;

(8) Limit the funds that may be spent to carry out section 3.4 of Executive Order 12958, regarding automatic declassification, to no more than $2.5 million per Agency of the National Foreign Intelligence Program.

(9) Extend the provisions of the CIA Voluntary Separation Pay Act through fiscal year 1999;

(10) Establish a limited temporary volunteer service program at the Central Intelligence Agency;

(11) Authorize the Secretary of Defense to establish the Defense Intelligence Senior Level Personnel System for employees of the Defense Intelligence Agency and the Central Imagery Office;

(12) Provide civilian and military personnel assigned to Defense intelligence functions outside the United States benefits and allowances comparable to those provided by the Secretary of State to officers and employees of the Foreign Service;

(13) Extend the authority of the Secretary of Defense to engage in commercial activities as cover for intelligence collection activities for three years, through 1998;

(14) Authorize expenditure of funds appropriated in fiscal year 1995 for the Tier II Medium Altitude Endurance Unmanned Aerial Vehicle;

(15) Require the Secretary of Defense to establish a temporary program for employees in the Civil Service Retirement System at the National Security Agency to retire and receive a waiver of mandatory annuity reductions.

(16) Clarify that a retired military officer appointed as Director or Deputy Director of Central Intelligence shall receive

compensation at the appropriate level of the Executive Schedule under Title 5 of the United States Code.

OVERALL PERSPECTIVE ON THE INTELLIGENCE BUDGET

COMMITTEE INTENT

The classified Schedule of Authorizations, and the detailed explanation of it found in the classified annex to this public report, contain a thorough discussion of all budget issues considered by the Committee and are available subject to the requirements of clause 13 of Rule XLIII of the House, to all Members of the House. The Schedule of Authorizations contains the dollar amounts and personnel ceilings for the programs authorized by the bill. The Schedule is directly incorporated into, and is an integral part of, the bill. It is the intent of the Committee that all intelligence programs discussed in the classified annex to this report be conducted in accordance with the guidance and limitations contained therein.

SCOPE OF COMMITTEE REVIEW

U.S. intelligence and intelligence-related activities under the jurisdiction of the Committee include the National Foreign Intelligence Program, the Tactical Intelligence and Related Activities of the Department of Defense, and the newly created Joint Military Intelligence Program.

The National Foreign Intelligence Program (NFIP) consists of all programs of the Central Intelligence Agency, as well as those national foreign intelligence and/or counterintelligence programs conducted by: (1) the Department of Defense; (2) the Defense Intelligence Agency; (3) the National Security Agency; (4) the Central Imagery Office; (5) the National Reconnaissance Office; (6) the Departments of the Army, Navy and Air Force; (7) the Department of State; (8) the Department of the Treasury; (9) the Department of Energy; (10) the Federal Bureau of Investigation; and (11) the Drug Enforcement Administration.

The Department of Defense Tactical Intelligence and Related Activities (TIARA) are a diverse array of reconnaissance and target acquisition programs that are a functional part of the basic military force structure and provide direct information support to military operations. TIARA, as defined by the Joint Chiefs of Staff and the Secretary of Defense, includes those military intelligence activities outside the General Defense Intelligence Program that respond to the needs of military commanders for operational support information, as well as to national command, control and intelligence requirements. The programs comprising TIARA also fall within the jurisdiction of the Committee on National Security.

The Joint Military Intelligence Program (JMIP) was established in 1995 to provide integrated program management of defense intelligence elements that support defense-wide or theater-level consumers. Included within JMIP are aggregations created for management efficiency and characterized by similarity, either in intelligence discipline (for example, SIGINT, IMINT) or function (for example, satellite support or aerial reconnaissance). The following aggregations are included in the JMIP: (1) the Defense Imagery Program (DIP); (2) the Defense Cryptologic Program (DCP); (3) the De-

fense Mapping, Charting, and Geodesy Program (DMCGP); and (4) the Defense General Intelligence Applications Program (GDIAP), which includes (a) the Defense Airborne Reconnaissance Program (DARP), (b) the Defense Intelligence Counterdrug Program (DICP), (c) the Defense Intelligence Agency Tactical Program (DIATP), (d) the Defense Intelligence Special Technologies Program (DISTP) and (e) the Defense Space Reconnaissance Program (DSRP).

COMMITTEE FINDINGS AND RECOMMENDATIONS

For the past four years, the Committee has recommended authorization levels for intelligence and intelligence-related activities that were lower than the amounts requested by the President. These actions reflected the Committee's view that the justification for spending on intelligence programs had to be reexamined in light of the collapse of the Soviet Union and evolving threats to our national security. Through its budget review, a majority of the Committee at that time determined that reductions in the fiscal and personnel resources allocated to intelligence activities could be made without impairing the ability of intelligence agencies to provide timely and accurate information essential to policymakers and military commanders. A minority of the Committee believed that some cuts were also driven by a belief of what was a politically acceptable bottom line rather than a judgment that a program was no longer necessary in light of the changing world threat environment.

In the examination of the intelligence budget request for fiscal year 1996, the Committee carefully considered whether there was a need to continue on the previous path of two to three percent cuts in the President's budget request. This review reflected the Committee's belief that intelligence activities must be examined by function as well as by program and, thus, was structured to look across program lines at intelligence disciplines and themes. The Committee held 11 full Committee budget hearings on the following issues: signals intelligence (SIGINT); imagery intelligence (IMINT), human intelligence (HUMINT); collection coordination; production and analysis; counterintelligence; support to the military; information security and information warfare; covert action; personnel; and the perspective of the Acting Director of Central Intelligence. These were in addition to the more than 20 member briefings on specialized issues of budgetary significance and more than 200 staff briefings on specific activities and budgetary lines.

The fiscal year 1996 budget request for the NFIP reflects an increase of approximately 5 percent over the amounts appropriated in fiscal year 1995. Based on the record developed at its hearings, the Committee has recommended an NFIP authorization that stops the steady decline in the intelligence budget that began in 1990 and provides for a small increase. When combined with the JMIP and TIARA accounts, the Committee's recommended authorization in the aggregate is 1.3 percent above the amounts requested by the President.

It is the Committee's view that we must no longer examine the intelligence budget purely in terms of dollars; we must take a longer view and carefully examine the future needs and requirements for the Intelligence Community. It is the Committee's view

that we must begin assessing both the threats that our nation will face in the year 2000 and beyond, and what intelligence programs, capabilities and capital equipment must be gotten underway now to meet these threats. The Committee placed a heavy emphasis on the future needs of the Intelligence Community. This emphasis is the key to the Committee's major activity in the 104th Congress—"IC21: The Intelligence Community in the 21st Century." In order to lay the groundwork for IC21, the Committee broke with past practices and merged its oversight, legislative and budgetary capabilities to make the review more intensive and evaluative. This year's authorization bill reflects a downpayment towards this approach.

Four basic themes governed the Committee during its review. First, the Committee sought to evaluate each budgetary line in the request solely on the program's merits. Second, the Committee did not work toward a specific budget number while evaluating the programs. That is, the Committee did not specifically fund some programs and then make offsetting "cuts" in other programs in order to meet an arbitrary total. The Committee believed that the Congress would accept an intelligence authorization consisting of properly funded programs—even if that amounted to a significant increase in the aggregate over the President's request for the Intelligence Community. Therefore, for the most part, each program adjustment was considered as an individual, substantive issue, rather than a fiscal one. As it turned out, despite some 80 budget actions taken by the Committee, the authorization ended up only one percent above the President's request.

The third theme was the Committee's desire to focus more attention on the "downstream" activities of processing, exploitation and dissemination of intelligence data and analysis. The Committee strongly registered its conviction that collection costs must be reduced over the long-term and funding increased for numerous processing activities. Moreover, we remain very concerned about the Community's ability to utilize the anticipated volume of information from planned collection increases.

Finally, throughout the review the Committee applied a philosophy that is also central to the IC21 process: to avoid short-term thinking about intelligence priorities, needs and capabilities and to look longer range at these issues in the 21st Century.

Centralizing authorities to improve cross-program management and operational efficiency and an effort to end needless redundancies in collection and, to a lesser degree, analysis;

Denial and deception;

Improving support to the military, but over the longer term bearing in mind the need to balance support to the policymaker and the military, especially given the significant policy challenges that are likely to be encountered in the 21st Century;

Establishing priorities among and evaluating intelligence requirements;

Limiting intelligence collection and analysis to those activities that justify the use of expensive and sometimes risky intelligence capabilities; and

Improving counterintelligence, security, counterterrorism and counterproliferation capabilities.

With the exception of one significant area, the President's request was largely funded by the Committee. We have taken a careful look at our national imagery program and the funds that are being allocated for it. We have studied the systems that are being procured to insure that they adequately address all the threats that our nation can reasonably foresee and that we have the appropriate mix of collectors at the lowest cost available to the U.S. taxpayer. Finally, the Committee believes that the authorization levels it has recommended are neither excessive nor will they encourage needless duplication of intelligence collection by the various agencies and departments that are funded by this bill.

AREAS OF SPECIAL INTEREST

Personnel issues

In the fiscal year 1993 Intelligence Authorization Act, Congress mandated a 17.5 percent reduction in the number of civilian personnel in three agencies within the National Foreign Intelligence Program (NFIP): the Central Intelligence Agency (CIA), the National Security Agency (NSA), and the Defense Intelligence Agency (DIA). Congress directed that the reduction target be met by the end of fiscal year 1997. Former Director of Central Intelligence, R. James Woolsey, extended the downsizing program for another two years to achieve an overall reduction of 22.5 percent by the end of Fiscal Year 1999.

These reductions reflected a changed perspective in the Intelligence Community and the Committee on the personnel skills mix needed to meet a radically different threat. It was the Committee's hope that these personnel reductions would also make funds available for critically needed capital investment as well as permit hiring fresh talent.

The Community has been successful over the last three years in meeting its overall reduction goals. It has been helped significantly by Congressionally authorized voluntary separation incentives. Were it not for these incentive programs, the agencies concerned would have had considerably less leeway both to hire needed new personnel and to stay within their mandated personnel ceilings. The Committee views these programs as useful personnel management tools and urges their continued application. Indeed, the Committee bill extends the CIA Voluntary Separation Pay Act through Fiscal Year 1999 to ensure that the Director of Central Intelligence has this essential tool available as he manages and directs long-term downsizing. The Committee also realizes that the effectiveness of early retirement programs has decreased since the pool of likely candidates has dwindled because of incentive offerings over the past three years. As a result, the Committee has pushed the community to develop new proposals and submit them for consideration. One of these was adopted in the Committee bill.

There is consensus in the Intelligence Community that serious personnel, issues remain unaddressed. The Committee has addressed them at hearings, in correspondence and, exhaustively, in Committee report language. Yet, senior community managers still

appear unwilling to make admittedly difficult choices. The Acting Director of Central Intelligence formed a personnel task force to review community personnel policies. –It would have been useful if it had been completed prior to the beginning of this year's budgetary cycle.

In keeping with the IC21 examination of the needs of the Intelligence Community in the year 2000 and beyond, the Committee believes it is vital for each NFIP agency to conduct a full skills mix study (as only NSA has done) to determine what its personnel requirements will be at the end of the downsizing period. Employees currently in the work force should be given effective career counseling to enable them to determine their relevance to future intelligence missions, the likelihood that they will make a significant contribution to them, and whether they are currently on a positive career track. Outplacement assistance should be improved at some agencies. The Committee notes once again that the Intelligence Community has failed overall to establish a personnel evaluation system that objectively evaluates the performance and contribution of each of its employees. There is no systematic ranking of employees. Therefore, should the Intelligence Community have to make selective involuntary personnel cuts, most managers do not have objective criteria with which to weed out those who are underachievers. The Committee recognizes that the current personnel system is very successful in finding, hiring and retaining well qualified and highly motivated personnel. Nonetheless, there are poor performers who remain entrenched in the system. A better evaluation system coupled with annual rankings would help to remedy this problem. Therefore, the Committee expects in next year's budget request that the Intelligence Community will present a personnel program designed to evaluate all Intelligence Community employees on an annual basis, ranking them to identify the high achievers and under-performers. Further, the Committee expects that CIA and DIA will conduct a full skills mix study to identify the appropriate personnel complement that should exist at the conclusion of the mandated personnel reductions on October 1, 1999.

Recognizing that NSA has a particularly severe problem with the size, age, skills and make-up of its workforce, and in consideration of the work that NSA has already completed in this area, the Committee bill requires the Secretary of Defense to establish a temporary program to permit the Director of NSA to offer, on a one time basis, an opportunity for eligible employees in the Civil Service Retirement System at NSA to take early retirement and receive unreduced annuities. This program will address skills mix problems at NSA and permit the retention of newly hired employees who represent the diverse employee environment that the NSA and our nation demands.

The Committee continues to watch carefully hiring and promotion practices at CIA, DIA and NSA pertaining to minorities and women. The representation of minorities at these agencies lags behind the percentage of minority employees throughout the federal sector. Women are also under-represented, although not to the same degree as minorities.

The Committee believes that the United States' diverse work force is not being tapped fully to bring to the Intelligence Community the very best minds. Many citizens have native fluency in languages other than English and intimate knowledge of diverse and different cultures. Although they may have recently gained their U.S. citizenship, they should not be excluded from employment simply because they were born abroad. Accordingly, the Committee will be holding another hearing on diversity hiring practices later this session to continue the same focus on these issues as in past years.

Terrorism

Even as the conspiracy trials of the New York City bomb plotters continued, the United States was rocked again by a terrorist bombing. This time, the alleged perpetrators of the destruction of the Oklahoma City Federal Building were of domestic origin. Regardless, the horrific dimensions of the blast and the vulnerability of our nation to these acts were utmost in everyone's minds. In the wake of that event, increased attention has focused on how the U.S. Government is addressing the terrorist threat, what the nature of the threat is, and how the government can develop more effective means of deterring and investigating terrorist activities. The Committee, in its mark, has provided added support to the Intelligence Community programs focused on the terrorist threat.

The Committee has a long-standing interest in anti-terrorism program issues, resources levels and interagency cooperation. Recently, the Committee also has seen a strong need to define appropriate intelligence support to law enforcement that may be required in some terrorist cases. The new DCI has indicted that he recognizes the importance of the interplay between intelligence and law enforcement; and the Committee looks forward to working with him on this issue.

Overall, the Committee believes that the work of the U.S. intelligence agencies against terrorism has been an exemplar of effective coordination and information sharing. Areas may remain, however, where information sharing processes may need continued improvement. Generally, the Committee is reluctant to see any one agency assume new authorities over the others with regard to counterterrorism intelligence gathering or operations. Each agency brings unique capabilities and a unique focus with responsibilities and programs that frequently cannot or should not be undertaken by its counterparts. That being said, the sharing of information in a timely and meaningful way is vitally important; the Committee will be looking into this in greater detail in the coming months.

Satellite architecture

The Committee's major departure from the Administration's NFIP request this year occurred in the satellite area. The significance is most apparent in terms of long-term policy. Although the National Reconnaissance Program (NRP) received 99 percent of the amount requested, funds were significantly redistributed, primarily from base accounts, in order to address areas that we consider urgent.

In taking money from National Reconnaissance Office (NRO) support base accounts or, at the NRO's optional, from program funding, the Committee insists that support costs must be reduced and that the agency must become more streamlined, turning back toward its roots, when personnel, paperwork, studies and unproductive expenditures were minimized. Although the NRO remains relatively streamlined compared to the rest of DOD in this regard, it has drifted from its founding philosophy and practices. Fortunately, this need has become apparent even as the "faster, cheaper, better" approach has gained respectability, momentum and inroads within other space organizations. Management attention to this issue should be a very high priority.

Program costs also must be curbed. The NRO must learn to balance technical elegance with cost-efficient solutions. Ever rising program costs no longer can be tolerated. There are other options and we believe that, with creativity and cost consciousness, most requirements can be met for far less money.

This year, we concentrated on the imagery area, where many exciting developments in the commercial arena point the way toward large potential cost savings in national security programs. Over the past ten years, there have been major technology advances that reduce spacecraft weight, volume and power requirements. Since launch has been a primary cost driver, these potential weight reductions, coupled with new launch options, present the possibility of substantial savings even while largely retaining or even increasing spacecraft capabilities, especially when combined with shortened schedules and the management reforms discussed above. These developments have been particularly fruitful in the imagery area, where U.S. companies are marketing high performance systems, with resolutions of one-to-three meters, at costs much reduced from those to which we have become accustomed.

Esclating denial and deception by target countries also is an urgent problem that the Intelligence Community must address without delay. Our very success in developing various types of worldwide surveillance, and the growing public and foreign knowledge of that success, has spawned a widespread drive by potential targets to "go underground," both literally and figuratively. The Intelligence Community must meet the new challenge though more innovative collection, exploitation and analytical techniques. It has been slow in so doing. Accordingly, the Committee has initiated a number of new departures to address this problem.

Aerial reconnaissance

Defense Airborne Reconnaissance Office

The Committee is concerned that the Defense Airborne Reconnaissance Office's (DARO's) organizational subordination to the Under Secretary of Defense (Acquisition and Technology) does not provide a dedicated intelligence focus and may lead to fractured management of programs within the Joint Military Intelligence Program (JMIP). Therefore, the Committee strongly urges the Department to realign DARO under the Assistant Secretary of Defense for Command, Control, Communication and Intelligence (C^3I). The Committee's view is that a C^3I management structure

will provide better JMIP stability and better long-term focus on the intelligence and reconnaissance support requirements of the Community.

HUNTER joint tactical unmanned aerial vehicle

The Committee remains concerned about continuing technical development and management problems within the HUNTER joint tactical unmanned aerial vehicle's (UAV) program. Also, the Committee is deeply troubled by the apparent willingness of the Department to restructure a fixed-price contract, particularly since several other major programs have been canceled to avoid this. Further, the Committee is not convinced by the Army's argument that tactical reconnaissance support requires physical ownership of air vehicles at all combat echelons. The Committee believes that are alternatives to the HUNTER that bear considerable review. Specifically, the PREDATOR medium altitude endurance UAV offers a potential for fulfilling the medium altitude and short/close range missions. This option appears viable, assuming a shift in operational concepts. Indeed, this bill specifically authorizes $20 million in fiscal year 1995 monies that had been previously appropriated but not authorized to augment the Predator fleet by ten aircraft. However, because of the significant "sunk costs" in infrastructure and the apparent progress toward overcoming the technical problems, the Committee believes that is sufficient merit in continuing the HUNTER program until a thorough evaluation of the system can be accomplished.

Therefore, the bill authorizes DOD to continue research and development (R&D) of the HUNTER UAV. However, no fiscal year 1996 procurement funds of additional/ attrition HUNTER air vehicles or systems may be expended until the DARO conducts, and reports back to the Committee on, a joint-service objective field test and evaluation of both the HUNTER and the Predator systems at operation units. This evaluation should determine and compare the capabilities of both, and determine whether a single air vehicle can be selected to fulfill both missions as well as the close-range mission. This evaluation should also include the infrastructure—training, logistics and maintenance—necessary to compare the two systems on an equal basis. This comparison should provide an analysis of the current level of electronics/imagery processing capabilities for each system and their upgrade potential. In addition, the report should provide the Department's rationale for changing the terms of a fixed-price contract if the Department wants to proceed with HUNTER. The Department shall provide its recommendations to the Committee no later than February 1, 1996

Predator MAE UAV

The bill authorizes $45.9 million for continuing R&D of the PREDATOR UAV, $25.9 million over the amount requested. This additional funding is to be used to develop and test a sea-based version of the PREDATOR (at least four air vehicles) and a single sea-based ground station.

LO HAE UAV

The bill authorizes $83.0 million for the Low Observable High Altitude Endurance (LO HAE) UAV program. This addition of $35.0 million over the Department's request is to be used for the early development and procurement of air vehicles three and four. The Committee believes there is merit, both from industrial base and cost savings perspectives, in accelerating procurement of these two planned additional air vehicles. The Committee believes that moving this procurement forward will allow for a more coherent and meaningful customer demonstration phase.

Additionally, the Committee is concerned that the unique capabilities of the LO HAE will not be fully realized because of the imposed $10 million per vehicle cost limitations. Therefore the Committee directs the Department to investigate the potential for increasing the LO HAE's edurence and payload capabilities. The Committee requests that the Department provide a report before the fiscal year 1996 authorization conference. The report should provide an assessment of what intelligence support capability improvements can be realized by increasing the vehicle's fly-away cost to no more than $20.0 million.

U–2/Conventional HAE

The Committee believes the Tier II+, or Conventional High-Altitude Endurance (CONHAE) UAV, duplicates the capabilities, concepts of operation, and some of the missions of the U–2. Developing a follow-on to the U–2 would be reasonable if the U–2 were nearing the end of this useful life or if the proposed follow-on offered substantially better performance and/or significantly lower life-cycle costs. Other than increased endurance, the Department has not made the case than any of these conditions exist. In fact, DOD has not advanced any of these arguments, and has failed to recognize and acknowledge that the CONHAE duplicates the mission of the U–2.

DOD will have invested approximately $500 million in the U–2 fleet by the end of the decade to preserve its viability for at least another 30 years. The proposed CONHAE is designed to have much longer endurance that the U–2, but the U–2 carries almost three times the payload, as well as multiple sensors simultaneously. Although the CONHAE is being designed for low aircraft unit costs, development and acquisition costs will not be trivial, whereas the cost of developing and acquiring the U–2 has already been borne. In terms of operating costs, no data are available to demonstrate that a CONHAE fleet will be less expensive to operate than the U–2 fleet for a given set of operational capabilities—much less that a CONHAE fleet's operating costs will be so low as to more than compensate for the cost of its development and procurement.

Developing a CONHAE fleet also would be justified if the number of U–2s was clearly insufficient to meet the needs of the two-MRC strategy. Again, however, DOD has provided no data to the Committee that would support such an assertion. Indeed, the Department has yet to seek funds to procure even a reasonably full complement of sensors for the U–2 fleet, suggesting that the existing fleet is under-utilized and that additional capability could be

acquired faster and cheaper by buying additional sensors for the U–2 than by procuring newly designed aircraft and sensors.

Since defense modernization funds are extremely scarce, the Committee is hard passed to endorse the need for the CONHAE system at this time. At the same time, the Committee is reluctant to terminate this innovative program without giving the Department an opportunity to make a better case. Accordingly, the Committee expects that not more than 25 percent of the funds authorized and appropriated for the CONHAE program for fiscal year 1996 will be obligated for the CONHAE program until thirty days after the Department submits a report to this Committee and the House National Security Committee that provides:

(1) an independent cost analysis of the life-cycle costs of the U–2 and the proposed CONHAE based one equal operational performance;

(2) the number of U–2, CONHAE, or a mix of both systems (including sensor numbers and types) required to support the combatant commanders in peacetime and wartime and the costs of each approach; and,

(3) recommendations and a program plan for the Secretary of Defense for high-altitude, endurance airborne reconnaissance systems.

If the Secretary of Defense decides that the CONHAE program cannot be justified at this time, the Secretary may utilize funds ($117 million) requested for CONHAE to acquire additional sensors and a modernized cockpit for the U–2. Specifically, at least $50 million is used for competitive acquisition of a total of 12 long-range electro-optical cameras, with multi-spectral and targeting-quality geolocation systems, to enable the U–2 to carry multiple imaging sensors as well as other intelligence payloads simultaneously. Achieving this would, in effect, free up a sizable number of aircraft for additional duties in a two-MRC (major regional conflict) scenario. If the Secretary determines that the CONHAE should be continued, the plan should include a U–2 retirement profile and provide for a transition of the CONHAE from an advanced concept technology demonstration to a formal procurement program.

RC–135 rivet joint

The bill authorizes $37.0 million above the Department's request, and intends for the Air Force to modify one existing C–135 aircraft into an RC–135 RIVET JOINT configuration. The Air Force is also directed to develop this aircraft using existing RIVET JOINT baseline equipment to the maximum extent possible. The Air Force, however, is directed to make the infrastructure modifications necessary to make this implementation compliant with Joint Airborne SIGINT Architecture (JASA) standards. The Committee's intent is to make this the first JASA implementation aircraft.

SR–71

The resurrection of the SR–71 program has been controversial. The Committee opposed this action in fiscal year 1995. Although the Department has made no request for the SR–71 program for fiscal year 1996, the Committee specifically denies authorization of any funds for SR–71 R&D, procurement, or operations. The Depart-

ment is to use remaining fiscal year 1995 funds to terminate the program.

Joint airborne SIGINT architecture

The Committee remains extremely interested in the evolving concept and development of the Department's Joint Airborne SIGINT Architecture (JASA). The Committee commends the Department's efforts to comply with Congressional direction to move to a common architecture with associated, enforceable standards applicable to all airborne SIGINT platforms. The Committee is also pleased that the Directors of the National Security Agency and the Defense Airborne Reconnaissance Office have elevated JASA to a "top priority" initiative and have established the Joint Airborne SIGINT program office (JASPO) to oversee implementation of competitive solutions.

The Committee is concerned, however, about the funding available over the Future Year Defense Program (FYDP) and beyond to effectively implement the architecture in all major airborne SIGINT platforms. The Department's Joint Airborne SIGINT System (JASS) approach to providing a scalable, commercial-off-the-shelf (COTS)-based, open architecture has the potential for reducing service duplication of effort in acquiring and supporting new airborne SIGINT systems. The Department, however, acknowledges this approach may be, at least initially, more costly than previous individual service efforts. Further, this apparent funding shortfall is made substantially worse because the Navy has apparently contributed almost nothing to the common pool of funds created to field JASA. Without additional funding, the Department could be forced to recommend a reduction in SIGINT platform force structure. Indeed, the Department has initiated a force mix study, in part to address this issue.

The Committee is concerned about the prospect of significantly changing the force mix for several reasons. First, airborne SIGINT force structure reductions would be completely inconsistent with the Department's report to Congress on the RC–135/EP–3 tradeoff study. Second, all the major airborne SIGINT systems are experiencing high OPTEMPO rates, and the Air Force is requesting additional RC–135s. Third, the Department's decision to use an EP–3 aircraft as the lead Joint Airborne SIGINT System (JASS) integration effort suggests that the Navy will, in effect, be rewarded for failing to contribute monetarily to the joint program. The force mix study leads the Committee to question the Department's commitment to manned tactical airborne SIGINT support to the warfighter.

Further, the Committee is most concerned about sustaining current operational systems and eliminating the potential for an airborne SIGINT modernization gap prior to fielding JASA components. This particular concern is most important when viewed against the explosion of commercial communications technologies. The funding shortfall discussed above would be compounded by any near-term improvements needed to ensure that operational capabilities are adequately maintained during the transition to JASA. The need for such improvements depends both on the pace of advances in commercial communications technologies, and on an as-

sessment of the cost, schedule and technical risk in the JASA program.

After in-depth review, and based on the Department's assurances of open competition, the Committee remains guardedly optimistic concerning the JASS approach. Specifically, the Committee is very interested in the Department's management of technical risk in developing a single common system solution; its ability to respond to near and mid-term threats; its capitalization of previous investments in currently fielded collection exploitation technologies; and its approach to fully exploiting the commercial sector's ability to rapidly evolve technology. In light of the above, the Committee requests the following actions:

(1) The Under Secretary of Defense for Acquisition and Technology (USD (A&T)) is to conduct an independent cost and capability analysis comparing the FYDP and life-cycle costs of the JASS program to an evolutionary product-improvement approach. The comparison should be made on the basis of equivalent system performance. The analysis should evaluate cost and schedule risk as well. The Committee requests an interim report prior to conference on the Fiscal Year 1996 Defense Authorization Act. The report should also include the Department's assessment of its ability to predict both the future threat and technology environments. Not more than 25 percent of the funds authorized for the JASS program may be obligated until a final report is submitted to this Committee and the House National Security Committee.

(2) to ensure there are no airborne SIGINT capability gaps during the transition to JASA, DARO shall determine and implement necessary quick-reaction and evolutionary improvements to existing airborne systems. The Committee's intent is to provide a balanced approach to JASA development by allowing the services to program funds for such evolutionary upgrades, provided they comply with an overall migration to the JASA architecture. These upgrades should comply with JASA standards, and should not be service-unique. These upgrades should be funded through the service DARP accounts. DARO should submit a report on any service proposals, and DARO's recommendations thereon, along with future fiscal year budget submissions. The Committee is encouraged by DARO's preliminary plans to incorporate NSA-developed quick reaction capabilities across multiple platforms, as well as to improve the U–2 in compliance with JASA.

The Committee concurs with the Department's position that the Joint Airborne SIGINT Program Office (JASPO) become the single focal point for all research and development efforts to field new airborne SIGINT capabilities. The JASPO should ensure that all other non-developmental, procurement and integration efforts comply with JASA standards. DARO should make maximum practical use of existing subsystems and capabilities in the transition to the JASA architecture, and ensure that open competition is applied to hardware and software acquisitions wherever possible.

Finally, the Committee rejects DARO's decision to use an operational EP–3 platform as the first JASA integration. There is inherent risk in this course of action, and the Committee believes there is a more appropriate option. As noted elsewhere, the Committee authorizes $37 million to modify an existing C–135 aircraft

into an RC–135 RIVET JOINT platform. This aircraft will use existing RC–135 equipment and technologies to the maximum extent possible consistent with implementation of the JASA infrastructure and new capabilities. The Committee believes this balanced approach is consistent with the development of an advanced joint airborne SIGINT architecture that satisfies 21st Century defense needs while preserving today's warfighting readiness.

PACER COIN

The Committee denies all of the requested $25.0 million for continuation of the Air Force's PACER COIN program. PACER COIN currently supports only Southern Command's missions. The Committee understands the Air Force plan is to turn the mission over to the Air National Guard in fiscal year 1996, supporting SOUTHCOM on a rotational basis. The Committee believes that service support for, and the operational utility of, this counterdrug-focused mission has been steadily declining, indicating a need to either expand its mission or terminate this marginally employed system. The Committee does not see support for an expanded mission and, therefore, recommends termination. However, the Committee strongly recommends that the Department of the Navy consider modifying the PACER COIN aircraft to become REEF POINT mission capable and evaluate assuming operational control of the aircraft. The Navy should provide an evaluation of this recommendation to the Committee prior to the fiscal year 1996 authorization conference.

JSTARS communications

The Committee recommends authorization of an additional $20.0 million for the joint surveillance and target attack radar system (JSTARS). The baseline JSTARS program does not include satellite communications to permit command and control information to be exchanged with the platform beyond line of sight or to disseminate JSTARS moving target indicator (MTI) radar data to a remote air operations center. This capability is ranked highly on the Air Force priority list for future improvements to the aircraft, but no funding has been programmed. Similarly, the Army has an unfunded requirement for JSTARS to disseminate target track data directly to attack helicopters, and has successfully tested an improved data modem (IDM) for use with existing voice radios for this purpose. The Committee believes that both of these proposals are critically important and should be pursued expeditiously. The Committee recommends that $15.0 million of the additional funds be allocated for satellite communications, and that the remainder be applied to developing an IDM capability. the IDM effort should investigate the feasibility and cost of integrating the IDM data link into the JSTARS workstation to provide automated target updates rather than requiring an operator to prepare manually and transmit target updates.

The Committee is encouraged by the recent contract award to complete development of message formats for the JSTARS Joint Tactical Information Dissemination System (JTIDS) subsystem to enable operators to disseminate ground target tracks to any JTIDS-equipped user in near-real time. This long overdue effort is essen-

tial for our tactical air forces to exploit JSTARS effectively and attack moving ground forces with precision-guided weapons. However, a comprehensive JTIDS capability on-board JSTARS is worth little unless the Services procure and install JTIDS data links on tactical aircraft and heavy bombers. Although the Navy appears to be serious about making this investment, it has not exhibited much interest in, or even knowledge of, how useful JSTARS could be in improving navy interdiction capabilities. The Air Force has yet to demonstrate that JTIDS data links for the ground-attack mission for all its combat aircraft is even a priority, despite assurances in the roles and missions debate that battlefield air interdiction is an important Air Force mission.

The Committee is concerned that the nation's large investment in intelligence systems able to support targeting, expensive combat aircraft, and new, advanced conventional munitions will be substantially cheapened by a failure to procure simple, but robust, data links.

Battlegroup passive horizon extension system (BGPHES)

The bill authorizes $7.1 million, an increase of $5.0 million, for continuing R&D on the Navy's BGPHES surface terminal. The Committee directs the Navy to continue development of the Surface Terminal to process additional collection system data as well as emitter locations from other service platforms. The Committee believes these improvements are critical to ensuring that the Navy can receive and process reconnaissance data from other service platforms.

Common imagery ground/surface system

The Committee authorizes $182.0 million for the Common Imagery Ground/Surface System. This increase of $16.0 million over the Department's request is to help fix a near-term funding shortfall for DARO's "migration" of the various imagery ground stations to a common architecture. The Committee believes the Department's shortfall is actually greater, but also believes it is inherently a DoD action to properly fund for migration. However, the Committee intends to signal its support for the Department's move to the Distributed Common Ground System, that incorporates all intelligence disciplines, and for which the CIGSS is a necessary first step.

Intelligence broadcasts and receivers

Intelligence dissemination architecture

The Committee is concerned that the Department of Defense has not developed a coherent near-real time intelligence data dissemination architecture. Additionally, there appears to be no single dissemination focal point for ensuring cohesive development of standards or oversight of hardward/software procurement. This lack of firm leadership and direction has forced the various services to develop independently their own dissemination architectures (TRAP, TIBS, TRIXS, TADIXS–B, TDDS, etc.) and to build separate tactical receiver equipment (TRE, MATT, CITT, TRU, QUADNET, etc.). Although these efforts have developed critical dissemination

capabilities, they have led to service rivalries, competition for hardware development funds and a general inability to ensure that critical data is made available to joint consumers. Further, this has forced users to own, and integrate, multiple radios to ensure receipt of the various data broadcasts.

The Committee is fully aware of, and appreciates, the Department's study to "migrate" the broadcasts and receiver efforts, but is not pleased that a formal, implementable plan has yet to result. This is an issue that has been languishing for several years. Unique development and acquisition efforts are continuing, and the Committee believes, had these efforts been coordinated, authorized funds would have been better spent ensuring interoperability. Additionally, the Department has directed a "migration" to a common data format (TADIL–J, Link 16), but the Committee is not aware of any enforcement mechanism for implementation of these various dissemination capabilities. The Department appears unable or unwilling to make the tough decisions necessary to eliminate duplication of effort or to terminate the rivalries between systems and programs.

Therefore, the Committee requests that no more than 25 percent of fiscal year 1996 authorized and appropriated funds for intelligence/information data broadcasts and their related tactical receivers be obligated until 30 days after the Department provides the Committee formal plans for:

(1) "migrating" to a single data broadcast format and an integrated intelligence broadcast/dissemination architecture; and,

(2) "evolving" to a single, related receiver family.

Due to its developmental/technical maturity, the Committee believes the Commanders' Tactical Terminal family of receivers is a likely candidate for basing a future Joint Tactical Terminal, and has authorized additional funding to this program. The Committee is very interested in, and wishes to remain informed of the future potential of ARPA's SPEAK EASY radio effort, which may have the potential to evolve into the future software programmable joint tactical terminal.

The Committee believes a robust architecture does not imply a single dissemination system, but rather a system of systems that relies on a common data format. It is not the Committee's intention to force a specific solution, but rather to promote an architectural construct that is independent of transmission media (e.g. UHF SATCOM) and that provides for a wide range of customers with varying data requirements. This suggests an implementation that allows for multiple data transmission rates, varied media (terrestrial and space-based) and multiple information security levels, but one that is interoperable and minimizes unique data processing requirements.

Commander's tactical terminal

The bill authorizes $31.4 million for procuring additional Commander's Tactical Terminals, an increase of $18.7 million over the Administration's request. The Committee believes that rapid procurement and fielding of this receiver will improve tactical intelligence support to operational forces and allow the community to move forward with the development of the logical functional basis

for the future Joint Tactical Terminal (JTT). However, the Committee is concerned about the proliferation of intelligence data broadcasts and associated tactical receivers. Therefore, the Committee fences $23.5 million of the authorized funds until the Department develops and submits both a broadcast dissemination architecture and a plan for "migrating" the associated receivers into a single family development.

Fusion development

The Committee understands that the Army's All Source Analysis System (ASAS) program office at Ft. Huachuca has been working with the other services to improve functional interoperability among the various service intelligence fusion systems: the Army's ASAS, the Navy's Joint Maritime Command Information System (JMCIS), the Air Force's Combat Intelligence System (CIS), and the Marine Corps' Intelligence Analysis System (IAS). The Committee applauds this long-overdue effort and recommends an additional $2.0 million to further this endeavor, with the proviso that the SOCOM SOCRATES system be included in the integration effort, and that all recommendations/actions remain Joint Deployable Intelligence Support System (JDISS)-compatible. The Committee requests that a memorandum of agreement among the services and a spending plan be provided to the Intelligence Systems Board for validation prior to the beginning of the fiscal year, and that the ISB provide a copy to the intelligence committees and the defense committees.

Tactical space operations

The bill authorizes $10.0 million, an increase of $5.0 million for the Navy's national imagery support program element. This additional funding is provided for lease of commercial satellite communications to continue Challenge Athena tactical support. The Committee is pleased by the Navy's successful use of commercial satellite communications to support intelligence and operations as well as morale and welfare applications, and urges the Navy to proceed with the proposed multi-ship demonstration.

Intelligence support to targeting

The Committee has been concerned for some time that intelligence support to targeting is not being managed in a coherent manner. The concern has intensified with the increasing doctrinal reliance upon and development of precision weapons and munitions. In the hearing on this topic held by the Technical and Tactical Subcommittee, it was clear that some progress is being made in addressing intelligence support issues during the development phase of some weapons systems, rather than after the fact, through the Joint Warfighting Capabilities Assessment (JWCA) process and the expanded Joint Requirements Oversight Council (JROC). Although this is an improvement, the Committee still sees no viable mechanism or organization charged with ensuring that national or theater systems respond, whenever technically and fiscally feasible, to today's ever more stringent targeting requirements. There is good work being done in this area on a variety of fronts, but progress is uneven. In the SIGINT arena, experiments with cross-

platform geolocation using various reconnaissance assets have been quite successful, but the Committee is concerned about competing national and tactical architectures and insufficient management coordination. In the imagery realm, there is less solid progress and some concern about the United States Imagery System's (USIS) ability to support real-time targeting applications in addition to providing imagery products for intelligence purposes. In its authorization bill for 1996, the Committee has recommended that $2.0 million be provided to the Central Imagery Office (CIO) or its successor organization to look at how the USIS—including all national and theater imagery collection platforms; all types of imagery products, including the Defense Mapping Agency's; and all imagery exploitation software packages—can better support targeting of precision weapons. The Committee also requests that the CIO also look at how imagery targeting support could be enhanced by greater interaction with SIGINT collectors, both national and theater-level. The Committee requests a report from the CIO by March 1, 1996, on what actions, in priority order, could be taken to improve imagery support in this area, how much they would cost, and who the responsible agency would be. The Committee requests that the report be coordinated with the Defense Intelligence Agency, and any dissenting views noted.

SECTION-BY-SECTION ANALYSIS OF BILL AS REPORTED

TITLE 1—INTELLIGENCE ACTIVITIES

Section 101—Authorization of appropriations

Section 101 lists the departments, agencies, and other elements of the United States Government for whose intelligence and intelligence-related activities the Act authorizes appropriations for fiscal year 1996.

Section 102—Classified schedule of authorizations

Section 102 makes clear that the details of the amounts authorized to be appropriated for intelligence and intelligence-related activities and applicable personnel ceilings covered under this title for fiscal year 1996 are contained in a classified Schedule of Authorizations. The Schedule of Authorizations is incorporated into the Act by this section. The details of the Schedule are explained in the classified annex to this report.

Section 103—Personnel ceiling adjustments

Section 103 authorizes the Director of Central Intelligence, with the approval of the Director of the Office of Management and Budget, in fiscal year 1996 to exceed the personnel ceilings applicable to the components of the Intelligence Community under section 102 by an amount not to exceed two percent. The Director may exercise this authority only when doing so is necessary to the performance of important intelligence functions. Any exercise of this authority must be reported to the two intelligence committees of the Congress.

The Committee emphasizes that the authority conferred by Section 103 is not intended to permit the wholesale raising of personnel strength in any intelligence component. Rather, the section pro-

vides the Director of Central Intelligence with flexibility to adjust personnel levels temporarily for contingencies and for overages caused by an imbalance between hiring of new employees and attrition of current employees. The Committee does not expect the Director of Central Intelligence to allow heads of intelligence components to plan to exceed levels set in the Schedule of Authorizations except for the satisfaction of clearly identified personnel needs which are consistent with the authorization of personnel strengths in this bill. In no case is this authority to be used to provide for positions denied by this bill.

Section 104—Community management account

Section 104 authorizes appropriations for the Community Management Account of the Director of Central Intelligence and sets the personnel end-strength for the Community Management Staff for fiscal year 1996.

Subsection (a) authorizes appropriations of $80,713,000 for fiscal year 1996 for the activities of the Community Management Account of the Director of Central Intelligence. It also authorizes funds identified for the Advanced Research and Development Committee and the Environmental Task Force to remain available for two years.

Subsection (b) authorizes 247 full-time personnel for the Community Management Staff for fiscal year 1996 and provides that such personnel may be permanent employees of the Staff 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 of less than one year.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Section 201—Authorization of appropriations

Section 201 authorizes appropriations in the amount of $213,900,000 for fiscal year 1996 for the Central Intelligence Agency Retirement and Disability Fund.

TITLE III—GENERAL PROVISIONS

Section 301—Increase in employee compensation and benefits authorized by law

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

Section 302—Restriction on conduct of intelligence activities

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

Section 303—Application of sanctions laws to intelligence activities

Section 303 amends the National Security Act of 1947 to add a new title IX entitled "Application of Sanctions Laws to Intelligence Activities."

Section 901 of the new title authorizes the President, notwithstanding any other provision of law, to stay the imposition of an economic, cultural, diplomatic, or other sanction or related action by the United States Government when the President determines that to proceed without delay would seriously risk the compromise of an ongoing criminal investigation or an intelligence source or method. The President is to lift the stay when he determines that it is no longer necessary to that purpose.

Section 902 of the new title requires that whenever a stay is authorized, and additionally whenever its duration exceeds 120 days, the President shall promptly report the rationale and circumstances for the stay to the congressional intelligence committees in the case of intelligence sources and methods and to the congressional judiciary committees in the case of an ongoing criminal investigation.

Sanctions have been useful policy tool in encouraging behavior consistent with U.S. nonproliferation and other foreign and security policies. U.S. law requires sanctions to be imposed for violations of key norms in the area of missile technology controls; chemical and biological weapons; terrorism; certain transfers of munition items; proliferation of nuclear weapons; and transfer of advanced conventional weapons to Iran or Iraq.

The Committee does not wish to undermine current sanctions law. However, it does believe there may be cases when it is necessary to delay temporarily the imposition of sanctions to protect a sensitive source or method or an ongoing criminal investigation. In particular, the Committee is concerned that situations may arise where the imposition of a sanction risks the life of a sensitive human source supplying information on activities that trigger sanction actions. The Committee is also concerned that under current law the imposition of a required sanction may impede the flow of information that is necessary to the full imposition of sanctions against all violators involved.

The Committee wishes to make clear that the stay of the imposition of a sanction provided under this section is appropriate in limited cases. It expects that the stay authority will be used rarely and not to protect generic or speculative intelligence interest. Although the Committee does not place a limit on the duration of a stay, the delay should not be indefinite and the time provided should be used to resolve sources and methods or law enforcement concerns. The President must have sufficient information to determine whether the risk to intelligence sources and methods is significant and outweighs potential harm to U.S. or other foreign policy or security objectives nonproliferation. The Committee thus expects that determinations to invoke a stay authorized under this section will be preceded by a rigorous interagency review process in which the recommendations, of all relevant agencies, together with supporting facts, are made available to the President. The Committee intends to closely monitor the use of the authority provided under this section.

Section 304—Thrift savings plan forfeiture

Section 304 adds a new subsection to section 8432(g) of title 5, United States Code, to provide that the Government's contribution to the Thrift Savings Plan under the Federal Employees Retirement System (FERS) and interest earned on that contribution shall be forfeited if the employee's annuity has been forfeited under subchapter II of Chapter 83, title 5, United States Code. This provision closes a loophole that was created when the FERS was established.

Prior to the enactment of the FERS, an employee's retirement annuity was based entirely on contributions made by the employee and by the Government to the applicable retirement fund. Under subchapter II of Chapter 83, any employee convicted of various national security offenses, including espionage, would forfeit his annuity and be entitled to receive only his monetary contributions to the annuity. A new retirement benefit, however, was created with the establishment of FERS, payable under the Thrift Savings Plan.

The Thrift Savings Plan now permits the employee to contribute into the Government-managed fund and requires that the Government also contribute to the fund on the employee's behalf. When FERS was enacted, the forfeiture provisions of subchapter II were not amended to cover the Government's contributions to the Plan. This situation clearly undermines the intent of subchapter II by permitting an employee convicted of espionage to retain the Government's contributions to the Plan. Section 304 corrects this anomaly by requiring the forfeiture of the Government's contribution to the Plan and earnings attributable to that contribution in situations where an individual's annuity is forfeited under subchapter II.

Section 305—Authority to restore spousal pension benefits to spouses who cooperate in criminal investigations and prosecutions for national security offenses

Section 305 amends section 8318 of title 5, United States Code, to make the spouse of an individual whose annuity or retired pay has been forfeited under section 8312 or 8313 of title 5 eligible for spousal pension benefits if the Attorney General determines that the spouse fully cooperated in the criminal investigation and prosecution of the individual. Enactment of this legislation will help to protect the national security interests of the United States by encouraging the spouses of federal employees who know or suspect that their husband or wife is engaged in espionage activities to inform the Government and to cooperate in a subsequent criminal investigation and prosecution. Current law actually discourages cooperation with the Government, since under current law pension benefits are lost fully upon conviction and forfeiture of the husband's or wife's annuity, even if the spouse has cooperated fully with the Government.

Section 306—Secrecy agreements used in intelligence activities

Section 306 addresses a problem that CIA has experienced with secrecy agreements in the conduct of authorized intelligence activities. Beginning with the Treasury, Postal Service, and General Government Appropriations Act for fiscal year 1991 and in each year thereafter, Congress has required that agreements to protect

classified information must contain certain prescribed language to put the executor on notice that the agreement does not supersede specified laws and Executive Order 12356. The language is as follows:

> These restrictions are consistent with and do not supersede, conflict with or otherwise alter the employee obligations, rights or liabilities created by Executive Order 12356; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents), and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. section 783(b)). The definitions, requirements, obligations, rights, sanctions and liabilities created by said Executive Order and listed statutes are incorporated into this Agreement and are controlling.

Notwithstanding that several of the laws cited apply only to federal employees, the Treasury appropriations acts have required CIA to include the specified language in nondisclosure agreements intended to be executed by private parties. The recitation of numerous statutes in the overbearing but required "legalese" has caused confusion, complicated authorized intelligence activities, and even disrupted them when parties refused to sign agreements containing provisions that do not apply to them. The required language is intimidating and has chilled otherwise promising intelligence relationships.

Consequently, section 306 clarifies that CIA and other intelligence agencies have the flexibility to tailor nondisclosure agreements according to the needs of the intelligence activity at hand, as long as the agreement at a minimum requires nondisclosure without specific authorization. The section makes it clear, however, that the prescribed language must still be included in the nondisclosure agreements to be signed by federal employees and officers. This section, when enacted, will permit the use of secrecy agreements stated in plain and understandable English, that will not intimidate the layman, and that will not send him in frantic search of his lawyer. The provision will make it easier for people to understand their rights and obligations when signing a secrecy agreement, which will ultimately enhance the protection of national security information.

Section 307—Limitation on availability of funds for automatic declassification of records over 25 years old

Section 307 limits the availability of funds to a maximum of $2,500,000 for each agency of the National Foreign Intelligence Program for automatic declassification of records over 25 years old consistent with section 3.4 of Executive Order 12958. The President is required to submit a request in the President's fiscal year 1997 budget that specifically identifies the funds necessary to implement section 3.4. The Committee believes that the potential costs associated with the declassification programs required by Executive Order 12958 have not been fully evaluated. This section would permit preliminary work to be done in FY 1996 to assess the scope and cost of the declassification program. In the budget submission, for FY 1997, the President would then provide a detailed request supported by firm estimates of declassification costs.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

Section 401—Extension of the CIA Voluntary Separation Pay Act

Section 401 amends section 2(f) of the CIA Voluntary Separation Pay Act, 50 U.S.C. § 403–4(f), to extend the Agency's authority to offer separation incentives until September 30, 1999. Without this amendment, the Agency's authority to offer such incentives will expire on September 30, 1997.

CIA's separation incentive program has been an effective force reduction tool. It is necessary to extend this authority until September 30, 1999, because CIA, like DoD, will continue to downsize through that year. Enactment of this provision will ensure that CIA can more effectively manage downsizing and will minimize the need to separate employees involuntarily.

Section 402—Volunteer Service Program

Sectoin 402 authorizes the Director to establish a limited volunteer service program for fiscal years 1996 through 2001, whereby no more than 50 retirees can volunteer their services to the CIA to assist the Agency in its systematic or mandatory review for declassification or downgrading of classified information under certain Executive Orders and Public Law 102–526. The provision limits expenditures to no more than $100,000.

This section authorizes the Agency to pay costs incidental to the use of the services of volunteers, such as training, equipment, lodging, subsistence, equipment and supplies. It also ensures that volunteers are covered by workers compensation and the Federal Torts Claim Act. Without this legislation, the CIA would be unable to pay costs incident to the use of gratuitous services provided by volunteers, such as training and equipment. The program established under this section will be temporary and limited.

TITLE V—DEPARTMENT OF DEFENSE

Sectoin 501—Defense intelligence senior level positions

Section 501 amends section 1604 of title 10, United States Code, by authorizing the Secretary of Defense to establish the Defense Intelligence Senior Level (DISL) personnel system for the Defense

Intelligence Agency (DIA) and the Central Imagery Office (CIO). Section 1604 currently authorizes the Secretary of Defense to establish positions for civilian officers and employees in DIA and CIO. The rates of basic pay for these positions, however, are fixed in relation to the rates of basic pay provided in the General Schedule under section 5332 of title 5. Section 5332, however, which limits the grades of employees to GS–15, is insufficient for the needs of DIA and CIO.

In 1991 two Army field activities were transferred to DIA. The employees at the Missile and Space Intelligence Center and the Armed Forces Medical Intelligence Center are high level technical employees. Their positions do not meet the management and program criteria for Senior Executive Service (SES) inclusion, but they do exceed the GS–15 criteria. DIA is also acquiring the Human Intelligence (HUMINT) resources of the Military Services. This functional transfer will add over 1,000 civilian and military personnel to DIA's rolls, and there may be a need to structure at least one senior advisory assignment as part of the Defense HUMINT Service (DHS) architecture. Additionally, the increased Defense intelligence leadership roles of DIA and CIO require increased high level activity in technical analysis, liaison and advisory services.

The primary purpose of DISL positions will be to provide technical expertise and advisory services beyond the GS–15 level established by DIA and CIO. Employees in DISL positions will not be responsible for managerial and program oversight, which are functions of the SES. DISL positions will include Defense Intelligence Senior Technical (DIST) and Defense Intelligence Senior Professional (DISP) assignments. These positions are classifiable above the DIA and CIO GS–15 level but do not involve the organizational or program management functions necessary for the Defense Intelligence Senior Executive Service.

DIST positions are those that involve research and development; test and evaluation; or substantive analysis, liaison, and/or advisory activity focusing on engineering, physical sciences, computer science, mathematics, medicine, biology, chemistry, or other closely related scientific and technical fields; and intelligence disciplines including production, collection, and operations in close association with the preceding or related activities.

DISP positions are those that emphasize staff, liaison, analytical, advisory, or other activity focusing on intelligence, law, finance and accounting, program and budget, human resources management, training, information services, logistics, and other appropriate support fields.

DISL positions will provide DIA and CIO with the flexibility that is essential to recruit effectively and to retain highly competent employees with scientific, technical, or other complex skills. This provision would allow the Secretary of Defense to establish a basic rate of pay that does not exceed the rate paid to Executive Level IV. It would also authorize the Secretary of Defense to provide to DIA and CIO employees other benefits, allowances, incentives, or compensation that similarly situated federal employees are eligible to receive under title 5, United States Code.

Section 502—Comparable benefits and allowances for civilian and military personnel assigned to defense intelligence functions overseas

Section 502 amends section 1605 of title 10, United States Code, and section 431 of title 37, United States Code, to provide to civilian personnel and members of the armed forces serving with the Defense HUMINT Service outside the United States benefits and allowances comparable to those provided by the Secretary of State to officers and employees of the Foreign Service.

The Secretary of Defense has the authority to provide to civilian personnel and members of the armed forces assigned to the Defense Attaché Offices and the Defense Intelligence Agency Liaison Offices outside the United States benefits and allowances comparable to those provided by the Secretary of State to officers and employees of the Foreign Service. This authority was attained in 1983 (P.L. 98–215) because travel allowances and related benefits for overseas personnel at the Defense Attaché Offices and the Defense Intelligence Agency Liaison Offices were different from Foreign Service personnel assigned overseas.

With the consolidation of Department of Defense human intelligence into the Defense HUMINT Service, the Defense Intelligence Agency will be responsible for a significant number of employees overseas. Although a number of these employees may be assigned to Defense Attaché Offices or Defense Intelligence Agency Liaison Offices outside the United States, there will be some assigned to other overseas locations. Since the Agency's authority to provide benefits and allowances to overseas employees is limited to the Defense Attaché Office and the Defense Intelligence Agency Liaison Offices, inequities will once again occur. Section 502 ensures comparable benefits for civilian and military personnel assigned to the Defense HUMINT Service overseas.

Section 503—Extension of authority to conduct intelligence commercial activities

Section 503 would extend for three years, until December 31, 1998, the authority of the Secretary of Defense to initiate intelligence commercial activities to provide cover security to intelligence collection activities undertaken abroad by the Defense Department. This authority permits the Secretary to waive compliance with certain types of federal laws and regulations pertaining to the management and administration of federal entities when he determines that compliance by the commercial cover activity would create an unacceptable risk of compliance by the commercial cover activity would create an unacceptable risk of compromise of an authorized intelligence collection activity. This authority is similar to the authority granted to the Central Intelligence Agency and the Federal Bureau of Investigation.

The Secretary's intelligence commercial cover authority was originally enacted as part of the FY 1991 Intelligence Authorization Act (Public Law 102–88) August 14, 1991. However, the intelligence commercial cover authority did not become effective until December 2, 1992, after the statutorily required promulgation and submission to Congress of a directive from the Secretary governing the implementation of the statute. Due to a variety of reasons, in-

cluding the launching of a plan in 1993 to create a new Defense Humint Service under which all Defense Department Human intelligence activities are being consolidated, this intelligence commercial activities authority has not yet been used.

The Administration's intelligence authorization legislative proposal sought repeal of the existing "sunset" clause, thus making the Secretary intelligence commercial activities authority permanent. Senior officials from both the Defense Department and the Central Intelligence Agency testified to the continuing and growing need for the Secretary to have this authority under certain circumstances to provide bona fide commercial cover that can withstand detailed investigation by hostile foreign intelligence services as well as domestic scrutiny. The Committee agreed to the extension of the authority. However, in view of the lack of a record of use thus far, Section 503 extends the authority for three years, instead of the permanent extension originally sought by the Administration. Three years should provide time for the development and oversight of a track record on the use of this authority without encouraging overuse of it, and particularly its more elaborate and sophisticated applications. At the end of that time, and based on its oversight of the record, the Committee can address whether to make this authority permanent, extend it for a specific period or allow it to lapse.

Section 504—Availability of funds for tier II UAV

The Fiscal year 1995 authorization bill authorized full funding of the Defense Department's request for the Tier-2 Medium Altitude endurance Unmanned Aerial Vehicle (UAV) Advanced Concept Technology Demonstration. The Fiscal Year 1995 defense appropriations bill included appropriations $20 million above the amount authorized for the program. As these additional funds were not specifically authorized, as required by Section 504 of the National Security Act of 1947, the Department of Defense could not spend them. To remedy this problem, Section 504 of the bill specifically authorizes an additional $20 million for this program.

Section 505—Temporary program to waive mandatory reductions to annuities

During the current period of downsizing and reorganization, NSA has diligently worked to meet Congressionally—mandated work force reductions with good success. Three Voluntary Separation Incentive Programs (VSIPs) have been conducted by NSA to date, resulting in the attrition of almost 1900 employees. Although the VSIPs have enabled NSA to meet the yearly strength cuts thus far, some disconcerting trends have emerged. Interest in the program is sagging and smaller percentages of employees eligible for the retirement separation incentive are electing to retire. Of particular concern is the drop in retirements of the early-out eligible population—NSA's latest VSIP saw a 35 percent reduction in the percentage of early-out eligible employees who elected to retire. Considering that almost four times as many employees are eligible for early-out retirement as compared to regular retirement, this downward trend will have significant negative consequences for the success of any future VSIPs. This points to the need for a more imagi-

native and aggressive strategy to foster voluntary attrition in order to forestall more draconian approaches.

To help ensure continued downsizing through voluntary attrition, Section 505 authorizes the Director of the NSA to waive the 2 percent retirement annuity reduction penalty employees normally incur when accepting an early retirement (25 years of service at any age or with 20 years of service at age 50). The annuity reduction penalty is 2 percent for every year under age 55. For example, if an employee retires at age 50, with 25 years of service, his or her annuity is reduced 10 percent. This is a major impediment to employees who would otherwise be willing to consider early retirement.

Although the provision was not cleared by the Office of Management and Budget (OMB), NSA management strongly supports this pilot program, a one time 2 percent waiver authorization, as an innovative approach to downsizing that is not fraught with the many negative consequences of involuntary reductions. Working in a highly sensitive and technical arena, with strict security clearance requirements, NSA is committed to exercising every option possible to forestall or eliminate the possibility of an involuntary Reduction-In-Force (RIF). Enhancing voluntary attrition through the use of a 2 percent penalty waiver initiative, as opposed to the use of involuntary reductions, is the clear choice to minimize any negative impact to mission, morale, and diversity while also reducing the possibility of security-related problems resulting from a RIF.

Although this authority does not preclude offering both separation pay under 5 U.S.C. Section 5597 and a waiver of the penalty under 5 U.S.C. Section 8339(h), the Committee recommends that the Secretary authorize the Agency to grant both incentives only if required to achieve the desired workforce reduction and with prior consultation with both the House and Senate Intelligence Committees.

Under the program authorized by this section, the waiver of the annuity reduction may be offered by the National Security Agency only to employees within such occupational groups or geographic locations, or subject to similar limitations or conditions, as the Director of NSA may require and for a period not to exceed ninety days during the period from 1 October 1995 to 30 September 1996.

The Committee intends under Section 505 for NSA to cover the net present value of the long-run actuarial cost to the retirement system of this retirement incentive program. Section 505 requires NSA to remit to the Office of Personnel Management (OPM) for deposit in the Treasury to the credit of the Civil Service Retirement and Disability Fund (CSRDF) the amount equivalent to the additional costs of the unreduced annuities payable under this section. Since the amount would be determined by the number of respondents and the particulars of their retirement circumstances, payment would have to occur after the penalty waiver window. The Committee intends for this to be done as soon as feasible, but no later than the end of fiscal year 1996.

The Committee intends for the payment to be calculated for the full life cycle of this retirement benefit. Using OPM's standard inflation and pay growth assumptions and actuarial tables, a total dollar amount should be determined that would hold the Civil

Service Retirement Fund harmless. This is done by discounting the annual pension amounts by 7 percent per year back to the present value of the differences between early and regular pension payments for each retiree who received a penalty waiver. These annual payments are also reduced to reflect deaths in the penalty waiver population using OPM's mortality tables for pensioners. Pension outlays are projected into the future far enough to a low for the possibility that the youngest penalty waiver retiree lives to the age of 109 years. Using the same OPM actuarial table and OMB's discount rate, the Committee intends that NSA will also compensate OPM for the 7 percent of salary that each penalty waiver retiree would have paid to OPM if they had not retired early in response to the penalty waiver but had instead worked until they were 55 years of age and could retire without penalty.

The Committee plans to hold a public hearing on this legislation. Representatives from NSA, the Office of Personnel Management and others have been invited to address this legislation. Testimony will be heard both on the effect it will have at NSA as well as its implications for federal employees at other agencies and departments that are beginning congressionally-mandated downsizing.

The Committee commends NSA for seeking authorities that are not presently available to the Director of the NSA to encourage downsizing of its workforce while avoiding involuntary terminations and reductions in force with the problems associated with such reductions. This a one-time, 90-day program, and the Committee does not intend to extend it. Should the workforce at NSA fail to respond to this enhanced incentive, and any others that the NSA exercises, then involuntary separations options must be re-examined. If NSA is forced to resort to involuntary terminations to meet its workforce requirements, it must have a system of realistic employee evaluations in place and available as a reference tool for managers to rank employees and assess their relative skills and contributions in meeting NSA's present and future mission.

TITLE VI—TECHNICAL AMENDMENTS

Section 601—Clarification with respect to pay for Director or Deputy Director of Central Intelligence appointed from commissioned officers of the Armed Forces

Section 601 amends section 102(c)(3)(C) of the National Security Act of 1947 by striking out the parenthetical reference "including military pay" and inserting "active duty" before "commissioned." These technical corrections clarify that a retired military officer appointed as Director or Deputy Director of Central Intelligence can receive compensation at the appropriate level of the Executive Schedule under 5 U.S.C. § 5313 (Director) or 5 U.S.C. § 5314 (Deputy Director). This clearly reflects the intent of the drafters of this provision which was included in the Intelligence Authorization Act for Fiscal Year 1993 to ensure that an active duty military officer appointed as Director or Deputy Director only receives his or her military pay, not to restrict the compensation of a retired military officer appointed to one of the two positions.

Section 602—Change of designation of CIA Office of Security

Section 602 amends the CIA Information Act of 1984 to reflect the recent reorganization of the CIA Office of Security into the Office of Personnel Security and the Office of Security Operations. The amendment will ensure that the Office of Personnel Security, where the records intended to be subject to the Act are kept, will continue to receive the benefit of the Act's exception from search and review under the Freedom of Information Act.

TITLE VII

Section 701—Consolidation of watch component of the Bureau of Intelligence and Research

The State Department's Bureau of Intelligence and Research (INR) is one of three all-source analytical groups within the Intelligence Community and the Secretary of State's own intelligence support agency. Concomitant with these functions, INR has its own 24-Hour Watch. Reaching this status and capability has taken INR many years, in particular struggling to achieve necessary independence from the Secretary's Operations Center.

Like most other departments and agencies, the State Department is seeking ways to reduce duplication and costs. The Committee understands and supports these necessary economies. As part of this effort, the Secretary of State has agreed to a proposal that would eliminate INR's 24-Hour Watch and consolidate its functions with the Secretary's Operations Center. This reversal of over 30 years of policy calls into question the future envisioned for INR within the State Department and the Intelligence community.

The overwhelming priority of the Secretary's Operations Center is the servicing of the Secretary and his principal subordinates, and coordinating virtually all Operations Center activities towards that goal. The Committee has grave doubts as to the ability and willingness of the Operations Center to devote to INR on a regular and consistent basis the types of support it needs to maintain its functions. The Committee is concerned that INR will be treated as a second-class customer when it relies on the Operations Center for support.

Moreover, there are functions carried out by the INR 24-Hour Watch for which the Secretary's Operations Center is not currently well suited. The Committee is particularly concerned about the Operations Center's ability to handle the large amounts of highly sensitive information that regularly flow into INR's 24-Hour Watch so that this information is properly safeguarded and is transmitted to INR in a timely manner. The Committee has learned that tests of the consolidated function have revealed deficiencies in this area. Addressing these shortcomings will likely entail costs that will offset the savings expected to be gained by the consolidation.

The elimination of the 24-Hour Watch makes INR dependent on the Operations Center for services vital to its functions. ONe of INR's great strengths has been it close proximity to its policy customers and its ability to be very responsive to their needs. An INR that is little more than a subsidiary of the Secretary's Operations Center is unlikely to be as responsive. Moreover, an INR that is

greatly reduced in function will be less able to participate in national intelligence products.

Therefore, the Committee has sought a postponement of this proposed consolidation until 60 days after the submission of a report from the Secretary of State to this Committee, its Senate counterpart and the committees with jurisdiction over the State Department. The Secretary is asked to report on: (1) steps to be taken within the Operations Center specifically to support INR under this proposal; (2) steps to be taken to update the ability of the Operating Center to handle highly sensitive information and to distribute it in an efficient and timely manner (this section is to be written in consultation with the Director of Central Intelligence, given his responsibility for the protection of intelligence sources and methods); and (3) a comparison of the savings to be realized by eliminating the INR 24-Hour Watch versus the costs necessary to update the Operations Center.

COMMITTEE POSITION

On May 18, 1995, the Permanent Select Committee on Intelligence, a quorum being present, approved the bill, as amended by an amendment in the nature of a substitute, and, by a recorded vote of 9 ayes to 0 noes, ordered it favorably reported. On that recorded vote the Members present voted as follows: Mr. Combest (Chairman)—aye; Mr. Young—aye; Mr. Lewis—aye; Mr. Goss—aye; Mr. McCollum—aye; Mr. Castle—aye; Mr. Dicks—aye; Mr. Dixon—aye; Ms. Pelosi—aye. The Committee, by voice vote, also authorized and directed the Chairman, or his designee, to make a motion under rule XX of the House at the appropriate time to expedite taking the bill to conference with the Senate.

FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

With respect to clause 2(l)(3)(D) of rule XI of the House of Representatives, the Committee has not received a report from the Committee on Government Reform and Oversight pertaining to the subject of this bill.

OVERSIGHT FINDINGS

With respect to clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee held 13 hearings, as well as a number of briefings, on the classified legislative, personnel, programmatic and budgetary issuers raised by H.R. 1655. Testimony was heard from the Acting Director of Central Intelligence, the Director of the National Security Agency, the Director of the Defense Intelligence Agency, numerous program managers and various other knowledgeable witnesses on the activities and plans of the Intelligence Community covered by this intelligence authorization bill. The bill, as reported by the Committee, reflects conclusions reached by the Committee in light of that oversight activity.

FISCAL YEAR COST PROJECTIONS

The Committee has attempted pursuant to clause 7(a)(1) of rule XIII of the Rules of the House of Representatives to ascertain the

outlays that will occur in fiscal year 1996 and the five years following if these amounts are appropriated. These estimates are contained in the classified annex and are in accordance with those of the executive branch.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

In compliance with clause 2(l)(3)(B) and (C) of rule XI of the Rules of the House of Representatives, an estimate prepared by the Congressional Budget Office submitted pursuant to sections 308 and 403 of the Congressional Budget Act of 1974 is as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 12, 1995.

Hon. LARRY COMBEST,
Chairman, Permanent Select Committee on Intelligence,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1655, the Intelligence Authorization Act for Fiscal Year 1996, as ordered reported by the House Permanent Select Committee on Intelligence on May 18, 1995.

The bill would affect direct spending and thus would be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act.

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

Sincerely,

JAMES L. BLENSE,
(For June E. O'Neill).

Enclosure.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: H.R. 1655.
2. Bill title: Intelligence Authorization Act for Fiscal Year 1996.
3. Bill status: As ordered reported by the House Permanent Select Committee on Intelligence on May 18, 1995.
4. Bill purpose: H.R. 1655 would authorize appropriations for fiscal year 1996 for intelligence activities of the United States government, the Community Management Staff of the Director of Central Intelligence, and the Central Intelligence Agency Retirement and Disability System (CIARDS).
5. Estimated cost to the Federal Government of titles I (except sections 101–103), II, III (except section 301), IV, V, and VI:

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000
DIRECT SPENDING						
Direct spending:						
Estimated budget authority	0	−2	27	30	32	28
Estimated outlays	0	−2	27	30	32	28
SPENDING SUBJECT TO APPROPRIATIONS ACTION						
Spending under current law						
Budget Authority[1]	291	0	0	0	0	0

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000
Estimated outlays	291	38	22	9	0	0
Proposed changes:						
Estimated authorization level [2]	0	310	([3])	4	5	([3])
Estimated outlays	0	279	23	11	7	([3])
Spending under H.R. 1655:						
Estimated authorization level	291	310	([3])	4	5	([3])
Estimated outlays	291	317	45	20	7	([3])

[1] The 1995 figure is the amount already appropriated.
[2] Because parts of this bill are highly classified, CBO is unable to provide a full accounting of the bill's costs over the 1996–2000 period and a comparison with the 1995 level.
[3] Less than $500,000.

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 above table, therefore, reflect only the costs of section 104 and Titles II, III (except section 301), IV, V, and VI.

6. Basis of estimate:

For proposes of this estimate, CBO assumed that H.R. 1655 will be enacted by October 1, 1995, and that the full amounts authorized will be appropriated for fiscal year 1996. Outlays are estimated according to historical spending patterns for intelligence programs.

DIRECT SPENDING

CIA separation incentives.—Section 401 would allow the Central Intelligence Agency (CIA) to offer separation incentive payments to employees from the end of fiscal year 1997 to the end of fiscal year 1999. Additional retirement costs would occur in the near term because employees who retire under this program would receive their annuities earlier than they would otherwise. The cost of these annuities would constitute direct spending. CBO estimates no costs to occur in 1996 and 1997 as a result of section 401. However, direct spending costs are estimated to be $2 million in 1998, $3 million in 1999, and $1 million in 2000.

Based on projections from the CIA, CBO estimates that 550 employees would be offered an incentive payment in 1998 and 700 in 1999. The CIA expects that one quarter of those offered an incentive payment would take the incentive and retire. The estimate assumes that about 60 percent of the retirees would have retired anyway, without the incentive. The estimate assumes that the remaining 40 percent who accept the incentive would retire one or two years earlier than they would have otherwise.

Changes in annuities for NSA retirees.—Section 505 would allow employees at the National Security Agency (NSA) enrolled in the Civil Service Retirement System (CSRS) who retire before reaching age 55 to receive unreduced annuities. Under current law, employees who take early retirement receive a permanent reduction in their annuity of 2 percent per year for each year under age 55. Eligibility for benefits under section 505 would be limited to a 90-day period established by the Director of the NSA during fiscal year 1996. This section also requires NSA to deposit to the Civil Service Trust Fund amounts necessary to cover the cost to the retirement

system of this retirement incentive program. Receipt of these agency contributions would cause the net impact on direct spending in 1996 to be $2 million. After 1996, the bill would have net direct spending costs of $27 million in 1997, $28 million in 1998, $29 million in 1999, and $27 million in 2000.

Since fiscal year 1993, NSA has had the authority to offer voluntary separation incentive payments of up to $25,000 to encourage employees to retire or quit. The authority lasts until the end of fiscal year 1999. According to NSA, the separation incentive payment program has not been successful in inducing enough employees who are eligible for early retirement to leave. NSA offered incentive payments twice and about 6 percent of eligible employees took an incentive during the first offering and 4 percent took the second offering. Although the penalty for early retirees under age 55 has never been waived before, CBO assumes that many more people would be induced to leave since the penalty has a significant impact on a retiree's lifetime benefit. For example, employees retiring at age 50 under current law would receive a permanent reduction in their annuities of 10 percent. This estimate assumes that 25 percent of NSA employees eligible for early retirement would retire with unreduced annuities.

Direct spending costs would result for two reasons. First, some employees (NSA projects about 80) who would have taken early retirement under current law with reduced annuities would now retire with larger, unreduced benefits. Second, many employees under age 55, who would have waited for their normal retirement age, assumed to be age 58, would accelerate their retirement. The benefits paid to these estimated 925 retirees constitute direct spending. Based on data supplied by NSA, which shows the distribution by age of employees eligible for early retirement, CBO estimates the average age of an employee taking advantage of the penalty waiver to be 50.

Section 505 would also require NSA to make special contributions to the retirement trust fund for each person who retires before reaching age 55 with an unreduced annuity. Section 505(d) is intended to require NSA to contribute amounts necessary to cover the long-run actuarial cost to the retirement system of this retirement incentive program. Although CBO believes that the language in the reported bill does not adequately define cost, the cost estimate is based on the explanation in the Committee's report and section-by-section analysis. According to the report, this payment would occur after the penalty waiver window, but no later than the end of fiscal year 1996. The payment would recognize the costs associated with not reducing the advanced benefit payments of early retirees and forgoing the retirement contributions the employees would have made had they remained in federal service. To estimate the contributions required under this section, CBO used a preliminary Office of Personnel Management (OPM) analysis, which estimates the actuarial cost of the penalty waiver. Based on the OPM analysis, CBO estimates that the average cost is 57 percent of final salary for each person retiring before reaching age 55 with an unreduced annuity. The receipt of these payments from NSA into the trust fund would offset retirement benefit costs.

Thrift savings plan (TSP) forfeiture.—Section 304 would allow forfeiture of the U.S. government contribution to the TSP under the Federal Employees Retirement System, along with interest, if an employee is convicted of national security offenses. According to the CIA, savings from this provision would not exceed $35,000 annually.

Spousal pension benefits.—Section 305 would allow restoration of spousal pension benefits to those spouses who cooperate in criminal investigations and prosecutions for national security offenses. According to the CIA, costs from this provision would not exceed $35,000 annually.

AUTHORIZATIONS OF APPROPRIATIONS

Section 104 would authorize appropriations of $80.7 million for 1996 for the Intelligence Community Management Account of the Director of Central Intelligence (DCI). Similarly, section 201 specifies an authorization of appropriations for a contribution to the Central Intelligence Agency Retirement and Disability Fund of $213.9 million.

In addition to the added retirement costs, section 401 (discussed above under direct spending) would increase discretionary spending for incentive costs. The cash incentives would cost $4 million in 1998 and $5 million in 1999. 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 payments in this estimate.

Section 502 would extend comparable benefits and allowances to civilian and military personnel assigned to defense intelligence functions overseas. According to the Defense Intelligence Agency, this provision would increase personnel costs by approximately $200,000 annually.

In addition to the added retirement costs, section 505 would require NSA to make a one-time payment to the CSRS trust fund to cover the long-run actuarial cost to the retirement system of this incentive program. CBO estimates that this payment would total $15 million in 1996.

7. Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. CBO estimates that H.R. 1655 would have the following pay-as-you-go impact:

[By fiscal years, in millions of dollars]

	1995	1996	1997	1998
Change in outlays	0	−2	27	30
Change in receipts	(1)	(1)	(1)	(1)

[1] Not applicable.

8. Estimated cost to State and local governments: None.

9. Estimate comparison: None.

10. Previous CBO estimate: None

11. Estimate prepared by: Wayne Boyington and Elizabeth Chambers.

12. Estimate approved by:

ROBERT A. SUNSHINE
(For Paul N. Van de Water,
Assistant Director for Budget Analysis).

COMMITTEE COST ESTIMATES

The Committee is in overall agreement with the estimate of the Congressional Budget Office (CBO). Nevertheless, with regard to that part of the estimate dealing with the limited, one-time authority for the Director of the National Security Agency (NSA) to waive the 2 percent per year reduction in the annuity of Civil Service Retirement System (CSRS) participants who retire before the age of 55, the Committee would note two things. First, given the technical rules under which the CBO must prepare its estimates and the assumptions used, the Committee understands and accepts the estimate on this provision. Second, those technical rules do not take into account as cost saving offsets the salary savings that will occur to the Government from those NSA employees induced by the 2 percent waiver to retire earlier than they otherwise would because, unlike the annuity payments, the foregone salary payments are not direct spending.

However, the cost analysis done by NSA, which takes these salary savings into account, demonstrates a net life cycle cost savings to the Government, even after offsetting the cost of NSA's contribution to the CSRS trust fund to cover the present value of providing an unreduced annuity to early retirees under this provision. In fact, based on an assumption that 20 percent of the eligible NSA population takes advantage of this one-time early retirement option, NSA estimates that the Government would realize a net life cycle cost savings of $146.5 million.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee has attempted to estimate the inflationary impact of enactment of the bill.

The Committee finds no adequate method to identify the inflationary impact of this legislation. The bill does not provide specific budget authority but rather authorizations for appropriations. Thus, any inflationary impact would depend on the amounts actually appropriated and the effects that supplies of materials, production capacity or other economic resources would have on prices and costs in the operation of the national economy.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

NATIONAL SECURITY ACT OF 1947

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TITLE I—COORDINATION FOR NATIONAL SECURITY

* * * * * * *

CENTRAL INTELLIGENCE AGENCY

SEC. 102. (a) * * *

* * * * * * *

(c)(1) * * *

* * * * * * *

(3)(A) A commissioned officer of the Armed Forces appointed [pursuant to paragraph (2) or (3)] *to the position of Director or Deputy Director*, while serving in such position—

(i) shall not be subject to supervision or control by the Secretary of Defense or by any officer or employee of the Department of Defense;

(ii) shall not exercise, by reason of the officer's status as a commissioned officer, any supervision or control with respect to any of the military or civilian personnel of the Department of Defense except as otherwise authorized by law; and

(iii) shall not be counted against the numbers and percentages of commissioned officers of the rank and grade of such officer authorized for the military department of which such officer is a member.

(B) Except as provided in clause (i) or (ii) of [paragraph (A)] *subparagraph (A)*, the appointment of a commissioned officer of the Armed Forces [pursuant to paragraph (2) or (3)] *to the position of Director or Deputy Director* shall in no way affect the status, position, rank, or grade of such officer in the Armed Forces, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, position, rank, or grade.

[(C) A commissioned officer of the Armed Forces appointed pursuant to subsection (a) or (b), while serving in such position, shall continue to receive military pay and allowances (including retired pay) payable to a commissioned officer of the officer's grade and length of service for which the appropriate military department shall be reimbursed from funds available to the Director of Central Intelligence.]

(C) A commissioned officer of the Armed Forces on active duty who is appointed to the position of Director or Deputy Director, while serving in such position and while remaining on active duty, shall continue to receive military pay and allowances. Funds from which such pay and allowances are paid shall be reimbursed from funds available to the Director.

* * * * * * *

TITLE VII—PROTECTION OF OPERATIONAL FILES OF THE CENTRAL INTELLIGENCE AGENCY

EXEMPTION OF CERTAIN OPERATIONAL FILES FROM SEARCH, REVIEW, PUBLICATION, OR DISCLOSURE

SEC. 701. (a) * * *

(b) For the purposes of this title the term "operational files" means—

(1) * * *

* * * * * * *

(3) files of the [Office of Security] *Office of Personnel Security* which document investigations conducted to determine the suitability of potential foreign intelligence or counterintelligence sources;

except that files which are the sole repository of disseminated intelligence are not operational files.

* * * * * * *

TITLE IX—APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES

STAY OF SANCTIONS

SEC. 901. Notwithstanding any other provision of law, the President may stay the imposition of an economic, cultural, diplomatic, or other sanction or related action by the United States Government concerning a foreign country, organization, or person when the President determines that to proceed without delay would seriously risk the compromise of an ongoing criminal investigation or an intelligence source or method. The President shall lift any such stay when the President determines that such stay is no longer necessary to that purpose.

REPORTS

SEC. 902. Whenever any stay is imposed pursuant to section 901, and whenever the duration of any such stay exceeds 120 days, the President shall promptly report to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives the rationale and circumstances that led the President to exercise the stay authority with respect to an intelligence source or method, and to the Judiciary Committees of the Senate and the House of Representatives the rationale and circumstances that led the President to exercise the stay authority with respect to an ongoing criminal investigation.

TITLE 5, UNITED STATES CODE

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PART III—EMPLOYEES

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Subpart G—Insurance and Annuities

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CHAPTER 83—RETIREMENT

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SUBCHAPTER II—FORFEITURE OF ANNUITIES AND RETIRED PAY

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§ 8318. Restoration of annuity or retired pay

(a) * * *

* * * * * * *

(e) The spouse of an individual whose annuity or retired pay is forfeited under section 8312 or 8313 after the date of enactment of this subsection shall be eligible for spousal pension benefits if the Attorney General of the United States determines that the spouse fully cooperated with Federal authorities in the conduct of a criminal investigation and subsequent prosecution of the individual which resulted in such forfeiture.

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CHAPTER 84—FEDERAL EMPLOYEES' RETIREMENT SYSTEM

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SUBCHAPTER III—THRIFT SAVINGS PLAN

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§ 8432. Contributions

(a) * * *

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(g)(1) * * *

* * * * * * *

(5)(A) Notwithstanding any other provision of law, contributions made by the Government for the benefit of an employee or Member under subsection (c), and all earnings attributable to such contributions, shall be forfeited if the annuity of the employee or Member, or that of a survivor or beneficiary, is forfeited under subchapter II of chapter 83.

(B) Forfeitures under this paragraph shall occur only if the offenses upon which the requisite annuity forfeitures are based happened subsequent to the enactment of this paragraph.

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SECTION 2 OF THE CENTRAL INTELLIGENCE AGENCY VOLUNTARY SEPARATION PAY ACT

SEC. 2. SEPARATION PAY.

(a) * * *

* * * * * * *

(f) TERMINATION.—No amount shall be payable under this section based on any separation occurring after [September 30, 1997] *September 30, 1999*.

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TITLE 10, UNITED STATES CODE

Subtitle A—General Military Law

* * * * * * *

PART I—ORGANIZATION AND GENERAL MILITARY POWERS

* * * * * * *

CHAPTER 21—DEPARTMENT OF DEFENSE INTELLIGENCE MATTERS

* * * * * * *

SUBCHAPTER II—INTELLIGENCE COMMERCIAL ACTIVITIES

* * * * * * *

§ 431. Authority to engage in commercial activities as security for intelligence collection activities

(a) AUTHORITY.—The Secretary of Defense, subject to the provisions of this subchapter, may authorize the conduct of those commercial activities necessary to provide security for authorized intelligence collection activities abroad undertaken by the Department of Defense. No commercial activity may be initiated pursuant to this subchapter after December 31, [1995] *1998*.

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PART II—PERSONNEL

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CHAPTER 83—DEFENSE INTELLIGENCE AGENCY AND CENTRAL IMAGERY OFFICE CIVILIAN PERSONNEL

* * * * * * *

[§ 1604. Civilian personnel management

[(a) The Secretary of Defense may, without regard to the provisions of any other law relating to the number, classification, or compensation of employees—

[(1) establish such positions for civilian officers and employees in the Defense Intelligence Agency and the Central Imagery Office, as may be necessary to carry out the functions of such Agency;

[(2) appoint individuals to such positions; and

[(3) fix the compensation of such individuals for service in such positions.

[(b) The Secretary of Defense shall, subject to subsection (c), fix the rates of basic pay for positions established under subsection (a) in relation to the rates of basic pay provided in the General Schedule under section 5332 of title 5 for positions subject to such Schedule which have corresponding levels of duties and responsibilities. Except in the case of an officer or employee of the Defense Intelligence Agency or the Central Imagery Office serving as a member of the Defense Intelligence Senior Executive Service, no officer or employee of the Defense Intelligence Agency or the Central Imagery Office may be paid basic compensation at a rate in excess of the highest rate of basic pay contained in such General Schedule.

[(c) The Secretary of Defense is authorized, consistent with section 5341 of title 5, to adopt such provisions of such title as provide for prevailing rate systems of basic pay and to apply such provisions to positions in or under which the Defense Intelligence Agency or the Central Imagery Office may employ individuals described by section 5342(a)(2)(A) of such title.

[(d) In addition to the basic compensation payable under subsection (b), officers and employees of the Defense Intelligence Agency and the Central Imagery Office who are citizens or nationals of the United States and who are stationed outside the continental United States or in Alaska may be paid compensation, in accordance with regulations prescribed by the Secretary of Defense, not in excess of an allowance authorized to be paid by section 5941(a) of title 5 for employees whose rates of basic pay are fixed by statute. Such allowances shall be based on—

[(1) living costs substantially higher than in the District of Columbia;

[(2) conditions of environment which differ substantially from conditions of environment in the continental United States and warrant an allowance as a recruitment incentive; or

[(3) both the factors described in paragraphs (1) and (2).

[(e)(1) Notwithstanding any other provision of law, the Secretary of Defense may terminate the employment of any civilian officer or employee of the Defense Intelligence Agency or the Central Imagery Office whenever he considers that action to be in the interests of the United States and he determines that the procedures prescribed in other provisions of law that authorize the termination of the employment of such officer or employees cannot be invoked in a manner consistent with the national security. The decisions of the Secretary under this paragraph are final and may not be appealed or reviewed outside the Department of Defense. The Secretary of Defense shall promptly notify the Permanent Select Com-

mittee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever this termination authority is exercised.

[(2) Any termination of employment under this subsection shall not affect the right of the officer or employee involved to seek or accept employment with any other department or agency of the United States if he is declared eligible for such employment by the Director of the Office of Personnel Management.

[(3) The Secretary of Defense may delegate authority under this subsection only to the Deputy Secretary of Defense, the Director of the Defense Intelligence Agency, the Director of the Central Imagery Office, or all three. An action to terminate any civilian officer or employee by any such officer shall be appealable to the Secretary of Defense.]

§ 1604. Civilian personnel management

(a) GENERAL PERSONNEL AUTHORITY.—The Secretary of Defense may, without regard to the provisions of any other law relating to the number, classification, or compensation of Federal employees—

(1) establish such positions for employees in the Defense Intelligence Agency and the Central Imagery Office as the Secretary considers necessary to carry out the functions of that Agency and Office, including positions designated under subsection (f) as Defense Intelligence Senior Level positions;

(2) appoint individuals to those positions; and

(3) fix the compensation for service in those positions.

(b) AUTHORITY TO FIX RATES OF BASIC PAY; OTHER ALLOWANCES AND BENEFITS.—(1) The Secretary of Defense shall, subject to subsection (c), fix the rates of basic pay for positions established under subsection (a) in relation to the rates of basic pay provided in subpart D of part III of title 5 for positions subject to that title which have corresponding levels of duties and responsibilities. Except as otherwise provided by law, an employee of the Defense Intelligence Agency or the Central Imagery Office may not be paid basic pay at a rate in excess of the maximum rate payable under section 5376 of title 5.

(2) The Secretary of Defense may provide employees of the Defense Intelligence Agency and the Central Imagery Office compensation (in addition to basic pay under paragraph (1)) and benefits, incentives, and allowances consistent with, and not in excess of the levels authorized for, comparable positions authorized by title 5.

(c) PREVAILING RATES SYSTEMS.—The Secretary of Defense may, consistent with section 5341 of title 5, adopt such provisions of that title as provide for prevailing rate systems of basic pay and may apply those provisions to positions in or under which the Defense Intelligence Agency or the Central Imagery Office may employ individuals described by section 5342(a)(2)(A) of such title.

(d) ALLOWANCES BASED ON LIVING COSTS AND ENVIRONMENT FOR EMPLOYEES STATIONED OUTSIDE CONTINENTAL UNITED STATES OR IN ALASKA.—(1) In addition to the basic compensation payable under subsection (b), employees of the Defense Intelligence Agency and the Central Imagery Office described in paragraph (3) may be paid an allowance, in accordance with regulations prescribed by the Secretary of Defense, at a rate not in excess of the allowance author-

ized to be paid under section 5941(a) of title 5 for employees whose rates of basic pay are fixed by statute.

(2) Such allowance shall be based on—

(A) living costs substantially higher than in the District of Columbia;

(B) conditions of environment which—

(i) differ substantially from conditions of environment in the continental United States; and

(ii) warrant an allowance as a recruitment incentive; or

(C) both of those factors.

(3) This subsection applies to employees who—

(A) are citizens or nationals of the United States; and

(B) are stationed outside the continental United States or in Alaska.

(e) TERMINATION OF EMPLOYEES.—(1) Notwithstanding any other provision of law, the Secretary of Defense may terminate the employment of any employee of the Defense Intelligence Agency or the Central Imagery Office if the Secretary—

(A) considers such action to be in the interests of the United States; and

(B) determines that the procedures prescribed in other provisions of law that authorize the termination of the employment of such employee cannot be invoked in a manner consistent with the national security.

(2) A decision by the Secretary of Defense to terminate the employment of an employee under this subsection is final and may not be appealed or reviewed outside the Department of Defense.

(3) The Secretary of Defense shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever the Secretary terminates the employment of any employee under the authority of this subsection.

(4) Any termination of employment under this subsection shall not affect the right of the employee involved to seek or accept employment with any other department or agency of the United States if that employee is declared eligible for such employment by the Director of the Office of Personnel Management.

(5) The authority of the Secretary of Defense under this subsection may be delegated only to the Deputy Secretary of Defense, the Director of the Defense Intelligence Agency (with respect to employees of the Defense Intelligence Agency), and the Director of the Central Imagery Office (with respect to employees of the Central Imagery Office). An action to terminate employment of an employee by any such officer may be appealed to the Secretary of Defense.

(f) DEFENSE INTELLIGENCE SENIOR LEVEL POSITIONS.—(1) In carrying out subsection (a)(1), the Secretary may designate positions described in paragraph (3) as Defense Intelligence Senior Level positions. The total number of positions designated under this subsection and in the Defense Intelligence Senior Executive Service under section 1601 of this title may not exceed the number of positions in the Defense Intelligence Senior Executive Service as of June 1, 1995.

(2) Positions designated under this subsection shall be treated as equivalent for purposes of compensation to the senior level positions to which section 5376 of title 5 is applicable.

(3) Positions that may be designated as Defense Intelligence Senior Level positions are positions in the Defense Intelligence Agency and Central Imagery Office that (A) are classified above the GS–15 level, (B) emphasize functional expertise and advisory activity, but (C) do not have the organizational or program management functions necessary for inclusion in the Defense Intelligence Senior Executive Service.

(4) Positions referred to in paragraph (3) include Defense Intelligence Senior Technical positions and Defense Intelligence Senior Professional positions. For purposes of this subsection—

(A) Defense Intelligence Senior Technical positions are positions covered by paragraph (3) that involve any of the following:

(i) Research and development.

(ii) Test and evaluation.

(iii) Substantive analysis, liaison, or advisory activity focusing on engineering, physical sciences, computer science, mathematics, biology, chemistry, medicine, or other closely related scientific and technical fields.

(iv) Intelligence disciplines including production, collection, and operations in close association with any of the activities described in clauses (i), (ii), and (iii) or related activities; and

(B) Defense Intelligence Senior Professional positions are positions covered by paragraph (3) that emphasize staff, liaison, analytical, advisory, or other activity focusing on intelligence, law, finance and accounting, program and budget, human resources management, training, information services, logistics, security, and other appropriate fields.

(g) "EMPLOYEE" DEFINED AS INCLUDING OFFICERS.—In this section, the term "employee", with respect to the Defense Intelligence Agency or the Central Imagery Office, includes any civilian officer of that Agency or Office.

§ 1605. Benefits for certain employees of the Defense Intelligence Agency

(a)*(1)* The Secretary of Defense may provide to civilian personnel ⟦of the Department of Defense who are United States nationals, who are assigned to Defense Attaché Offices and Defense Intelligence Agency Liaison Offices outside the United States, and who are designated by the Secretary of Defense for the purposes of this subsection,⟧ *described in subsection (d)* allowances and benefits comparable to those provided by the Secretary of State to officers and employees of the Foreign Service under paragraphs (2), (3), (4), (5), (6), (7), (8), and (13) of section 901 and sections 705 and 903 of the Foreign Service Act of 1980 (22 U.S.C. 4081 (2), (3), (4), (5), (6), (7), (8), and (13), 4025, 4083) and under section 5924(4) of title 5.

(2) The Secretary may also provide to any such civilian personnel special retirement accrual benefits in the same manner provided for certain officers and employees of the Central Intelligence Agency in section 303 of the Central Intelligence Agency Retirement Act

(50 U.S.C. 2153) and in section 18 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403r).

(b) The authority of the Secretary of Defense to make payments under subsection (a) is effective for any fiscal year only to the extent that appropriated funds are available for such purpose.

[(c) Regulations issued pursuant to subsection (a) shall be submitted to the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Armed Services and the Select Committee on Intelligence of the Senate before such regulations take effect.**]**

(c) Regulations prescribed under subsection (a) may not take effect until the Secretary of Defense has submitted such regulations to—

(1) the Committee on Armed Services and the Select Committee on Intelligence of the Senate; and

(2) the Committee on National Security and the Permanent Select Committee on Intelligence of the House of Representatives.

(d) Subsection (a) applies to civilian personnel of the Department of Defense who—

(1) are United States nationals;

(2) in the case of employees of the Defense Intelligence Agency, are assigned to duty outside the United States and, in the case of other employees, are assigned to Defense Attaché Offices or Defense Intelligence Agency Liaison Offices outside the United States; and

(3) are designated by the Secretary of Defense for the purposes of subsection (a).

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SECTION 431 OF TITLE 37, UNITED STATES CODE

§ 431. Benefits for certain members assigned to the Defense Intelligence Agency

(a) The Secretary of Defense may provide to members of the armed forces **[**who are assigned to Defense Attaché Offices and Defense Intelligence Agency Liaison Offices outside the United States and who are designated by the Secretary of Defense for the purposes of this subsection**]** *described in subsection (e)* allowances and benefits comparable to those provided by the Secretary of State to officers and employees of the Foreign Service under paragraphs (2), (3), (4), (6), (7), (8), and (13) of section 901 and sections 705 and 903 of the Foreign Service Act of 1980 (22 U.S.C. 4081 (2), (3), (4), (6), (7), (8), and (13), 4025, 4083) and under section 5924(4) of title 5.

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[(d) Regulations prescribed pursuant to subsection (a) shall be submitted to the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Armed Services and the Select Committee on Intelligence of the Senate before such regulations take effect.**]**

(d) Regulations prescribed under subsection (a) may not take effect until the Secretary of Defense has submitted such regulations to—

(1) the Committee on Armed Services and the Select Committee on Intelligence of the Senate; and

(2) the Committee on National Security and the Permanent Select Committee on Intelligence of the House of Representatives.

(e) Subsection (a) applies to members of the armed forces who—

(1) are assigned—

(A) to Defense Attaché Offices or Defense Intelligence Agency Liaison Offices outside the United States; or

(B) to the Defense Intelligence Agency and engaged in intelligence-related duties outside the United States; and

(2) are designated by the Secretary of Defense for the purposes of subsection (a).

MINORITY AND ADDITIONAL VIEWS

INTRODUCTION

We wish to make clear that our support for the bill as reported does not reflect complete satisfaction with all of its provisions. We have particular reservations, which we hope will be addressed in conference, with the Committee's position on the programs managed by the National Reconnaissance Office (NRO), the funding level for the Environmental Task Force, and the implementation of the provision for the automatic declassification of certain records as required by Executive Order 12958.

The classified annex to this report contains a thorough discussion of our concerns about actions the Committee recommends with respect to certain NRO activities. These actions involve programs which, because of their classified status, cannot be discussed even in general terms here. The actions, however, are predicated on critical conclusions about the management of the NRO which we do not believe are justified. We urge that our views be carefully considered because the Committee's actions represent a significant change of direction for the NRO. This change has the potential for sizeable risk and substantial long-term costs and, in our judgment, the evidentiary basis for it is not compelling.

The classified annex also contains additional views of Congressman Dicks on a maritime collection program.

DECLASSIFICATION

Section 308 of the bill limits each agency of the National Foreign Intelligence Program to use no more than $2.5 million to carry out section 3.4 of Executive Order 12958 on Classified National Security Information. This executive order, signed by President Clinton on April 17, 1995, prescribes a uniform system for classifying, safeguarding, and declassifying national security information. It is intended to protect information critical to our national security, but recognizes that the nation's democratic principles require that the America people be informed of the activities of their government when it is possible to do so. Section 3.4 requires that, unless grounds for an exemption exist, classified information contained in records that are over 25 years old, and of permanent historical value, shall be automatically declassified within five years of the order whether or not the records have been reviewed. Information is exempt from declassification if, among other reasons, its release can be expected to reveal the identity of human sources; impair U.S. cryptologic systems or activities; undermine ongoing diplomatic activities; or assist in the development of weapon of mass destruction.

Section 3.4 has proven to be controversial in the Committee, largely because of concerns about the costs of reviewing documents

to determine whether they contain information that fits in one of the nine categories for exemption. In part these concerns are the product of the widely varying estimates of the costs of compliance generated by intelligence agencies. As an example, one agency informed the Committee in writing in 1995 that its costs to comply with Section 3.4 would be an amount thirty times greater than the estimate the same agency provided to the Community Management Staff during the interagency review of the draft executive order in 1994.

Our lack of confidence in the current estimates of the cost of compliance are the result of the Community Management Staff's failure to develop an adequate methodology to account for the costs of protecting classified information under the former executive order despite this Committee's repeated requests that it do so. The Joint Security Commission, chartered by the Secretary of Defense and the Director of Central Intelligence to review and recommend changes to security and classification procedures, also expressed its frustration with the efforts of the intelligence community to capture security costs, calling the data produced by National Foreign Intelligence Program agencies "incomplete, inconsistent, and not coherently integrated." Nevertheless, additional information should be available in July when certain intelligence agencies are required under Section 702 of Public Law 103–359 to submit a phased plan to implement the declassification provisions of Executive Order 12958. The plans are to include an accounting of archived classified materials, levels of classification, types of storage media and locations, review methods to be employed, and estimated costs of the declassification activity itself, as well as an assessment of the projected costs of classification management activities for the succeeding five years.

While uncertainties over costs might under some circumstances be grounds for not proceeding with an activity, we believe that a carefully proscribed system for declassifying those documents which remain classified for no reason other than inertia is long overdue. Accordingly, we are pleased that the Committee agreed to require the agencies of the National Foreign Intelligence Program to begin to comply with Section 3.4, while limiting the cost of compliance in fiscal year 1996 to no more than $2.5 million per agency. This should give the agencies and the Committee a chance to better assess actual compliance costs rather than speculative ones. It should also, in combination with the requirement that the President submit a specific budget request for implementation of Section 3.4 in the fiscal year 1997 budget request, clarify the extent of the effort in comparison to other classification management expenditures in the future.

ENVIRONMENTAL TASK FORCE

We are encouraged that the Committee agreed to the continuation of the Environmental Task Force (ETF), although at only $5 million for fiscal year 1996. We would have preferred funding authorized at or near the $17.6 million level requested by the President and believe the Committee should reconsider its reduction in the program prior to the conference on the bill.

The Environmental Task Force (ETF) is a collection of several efforts designed to make environmental information derived from intelligence assets more accessible to the general public, the scientific community, and personnel from federal agencies that do not currently receive top secret intelligence products. The information has national security, as well as environmental, applications. For example, the ETF has helped to educate senior defense officials of potential dual-use applications for national technical assets—with particular benefit for the development of naval warfare doctrine.

The ETF began in 1993 when approximately 60 highly esteemed hydrologists, geologists, and other environmental scientists from universities around the country received security clearances to review the potential application of classified technologies and data to environmental problems. These scientists (now known as the MEDEA group) concluded that the intelligence community's holdings and technologies are unique and would be valuable for scientific research. This led to President Clinton signing Executive Order 12951, on February 22, 1995, declassifying the Corona, Lanyard, and Argon satellites and their associated images, and directing a complete set of the imagery (a total of 860,000 images collected between 1960 and 1972) be transferred to the National Archives and the Department of the Interior. (We understand that when four of these images were released on the Internet over 500,000 requests for the data were received the next day.)

In addition, the Environmental Task Force includes an effort involving intelligence community agencies and civil environmental agencies in the Departments of Commerce, Defense, Energy, Interior, Transportation, the National Aeronautics and Space Administration the Environmental Protection Agency, and the National Science Foundation to allow the environmental agencies to utilize data collected by national technical assets on problems such as disaster relief assessments, environmental science, and international environmental policy. This effort has involved developing protocols for tasking systems, collecting and processing imagery, and disseminating images to appropriately cleared personnel. A fully operational system should be in place, if funding is maintained at the requested level, within four fiscal years. The ETF also involves reviewing whether slight modifications in planned reconnaissance technology could bring corresponding benefits to environmental science.

Furthermore, the ETF has provided support for the first joint U.S.-Russian Ecological/Environmental Seminar, led by Dr. D. James Baker, Under Secretary of Commerce for Oceans and Atmosphere and Administrator of the National Oceanic and Atmospheric Administration, and Dr. Viktor I. Danilov-Danilyan, Minister of the Russian Ministry of Environmental Protection and Natural Resources. This seminar brought together for five days in Washington senior U.S. and Russian scientists, policy makers, and military and intelligence officials for an unclassified exchange of ideas and information including discussions of areas in which remote sensing and other methodologies are being used in the U.S. and Russia for ecological or environmental applications. Further discussions may lead to joint projects to use remote sensing technologies for environmental monitoring.

Some have criticized the ETF for engaging in activities outside the "normal" mission of the intelligence community and have asserted that the civilian agencies should pay for the information they receive. This argument ignores the fact that the function of intelligence is to support policymakers. Processing and disseminating to policymakers information collected by intelligence assets is at the heart of what intelligence agencies do, and those agencies are unarguably in the best position to task the system, exploit the data it provides, and protect the sources and methods involved. While there may be merit in developing a system whereby intelligence consumers are "billed" in some way for intelligence products (in fact, the Committee in the past has advocated pilot projects to test this concept), such a system should apply to all consumers. Currently, no consumer is required to pay for intelligence information. Nevertheless, the ETF envisions that once the information system it is developing for the environmental agencies is operational, those agencies will fund its operation and maintenance.

The Environmental Task Force effort is an important initiative. It promises to lead to better understanding of long-term environmental change as well as better management of crisis situations involving natural and ecological disasters. The country has made an enormous investment in classified systems and technologies. For a relatively modest additional expenditure, these resources can be exploited to benefit science and the environment for the well-being of future generations of Americans.

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