

INTELLIGENCE COMMUNITY ACT

—————
JUNE 13, 1996.—Ordered to be printed
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Mr. COMBEST, from the Permanent Select Committee on
Intelligence, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 3237]

[Including cost estimate of the Congressional Budget Office]

The Permanent Select Committee on Intelligence, to whom was referred the bill (H.R. 3237) to provide for improved management and operation of intelligence activities of the Government by providing for a more corporate approach to intelligence, to reorganize the agencies of the Government engaged in intelligence activities so as to provide an improved Intelligence Community for the 21st century, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are 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 Community Act”.

SEC. 2. ORGANIZATION OF ACT; TABLE OF CONTENTS.

(a) ORGANIZATION OF ACT.—This Act is organized as follows:

TITLE I—INTELLIGENCE COMMUNITY GENERALLY

Subtitle A—Director of Central Intelligence
Subtitle B—Deputy Directors of Central Intelligence
Subtitle C—The Intelligence Community
Subtitle D—Annual Reports

TITLE II—INTELLIGENCE COMMUNITY MANAGEMENT

Subtitle A—Intelligence Community Functions
 Subtitle B—National Foreign Intelligence Program
 Subtitle C—Personnel
 Subtitle D—Infrastructure Support Office
 Subtitle E—Intelligence Community Administration

TITLE III—INTELLIGENCE COMMUNITY AGENCIES

Subtitle A—Central Intelligence Agency
 Subtitle B—The National Intelligence Evaluation Council
 Subtitle C—Future of Intelligence Collection

TITLE IV—DEPARTMENT OF DEFENSE FUNCTIONS IN THE INTELLIGENCE COMMUNITY

Subtitle A—Secretary of Defense
 Subtitle B—Director of Military Intelligence
 Subtitle C—Defense Intelligence Agency
 Subtitle D—The Military Departments
 Subtitle E—Planning and Budgeting
 Subtitle F—Civilian Intelligence Personnel Policy

TITLE V—NATIONAL SECURITY COUNCIL AND RELATED BOARDS AND COMMITTEES

TITLE VI—TECHNICAL AND CONFORMING AMENDMENTS AND EFFECTIVE DATE

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

Sec. 1. Short title.
 Sec. 2. Organization of Act; table of contents.
 Sec. 3. Findings and purposes.
 Sec. 4. Definitions.

TITLE I—INTELLIGENCE COMMUNITY GENERALLY

Subtitle A—Director of Central Intelligence

Sec. 101. Director of Central Intelligence.
 Sec. 102. General intelligence responsibilities of the Director.
 Sec. 103. Preparation of annual budget for National Foreign Intelligence Program.
 Sec. 104. Foreign intelligence collection.
 Sec. 105. Protection of sources and methods.
 Sec. 106. Promotion and evaluation of the usefulness of intelligence to consumers.
 Sec. 107. Elimination of waste and unnecessary duplication.
 Sec. 108. Other functions.
 Sec. 109. Prohibition on law enforcement powers and internal security functions.
 Sec. 110. Access to intelligence.
 Sec. 111. Coordination with foreign governments.

Subtitle B—Deputy Directors of Central Intelligence

Sec. 121. Deputy Directors of Central Intelligence.
 Sec. 122. Deputy Director of Central Intelligence.
 Sec. 123. Deputy Director of Central Intelligence for Community Management.
 Sec. 124. Civilian and military status of Director of Central Intelligence and Deputies.

Subtitle C—The Intelligence Community

Sec. 131. Elements of the Intelligence Community.
 Sec. 132. Intelligence Community Inspector General Forum.

Subtitle D—Annual Reports

Sec. 141. Annual report on Intelligence Community activities.

TITLE II—INTELLIGENCE COMMUNITY MANAGEMENT

Subtitle A—Intelligence Community Functions

Sec. 201. Community Management Staff.
 Sec. 202. Functions of the Community Management Staff.

Subtitle B—National Foreign Intelligence Program

Sec. 221. Budgets.
 Sec. 222. Comptroller functions of Community Management Staff.
 Sec. 223. Limitations on transfers and reprogramming.
 Sec. 224. Transfer of funds or personnel within the National Foreign Intelligence Program.
 Sec. 225. Limitation on reprogramming.

Subtitle C—Personnel

Sec. 231. Use of personnel.
 Sec. 232. Authority to terminate employment of certain employees.
 Sec. 233. Intelligence Community Reserve.

Subtitle D—Infrastructure Support Office

Sec. 241. Establishment of Infrastructure Support Office.
 Sec. 242. Responsibilities of Director of the Infrastructure Support Office.

Subtitle E—Intelligence Community Administration

Sec. 251. Secrecy agreements used in intelligence activities.
 Sec. 252. Coordination of counterintelligence matters with the Federal Bureau of Investigation.
 Sec. 253. Intelligence Community contracting.

TITLE III—INTELLIGENCE COMMUNITY AGENCIES

Subtitle A—Central Intelligence Agency

- Sec. 301. Central Intelligence Agency.
- Sec. 302. Duties of Director of Central Intelligence with regard to the Central Intelligence Agency.
- Sec. 303. Functions of the Central Intelligence Agency.
- Sec. 304. Agreement to transfer DOD clandestine humint to CIA.

Subtitle B—The National Intelligence Evaluation Council

- Sec. 321. National Intelligence Evaluation Council.
- Sec. 322. Functions of the National Intelligence Evaluation Council.
- Sec. 323. Staffing of the National Intelligence Evaluation Council.

Subtitle C—Future of Intelligence Collection

- Sec. 331. Panel on the future of intelligence collection.

TITLE IV—DEPARTMENT OF DEFENSE FUNCTIONS IN THE INTELLIGENCE COMMUNITY

Subtitle A—Secretary of Defense

- Sec. 401. Overall Secretary of Defense functions.
- Sec. 402. Requirement that budgets for intelligence components be adequate.
- Sec. 403. Implementation of Director of Central Intelligence policies and resource decisions.
- Sec. 404. Relationship of NFIP activities to tactical intelligence activities.
- Sec. 405. Responsiveness to operational military forces.
- Sec. 406. Elimination of waste and unnecessary duplication.
- Sec. 407. Joint and corporate conduct of Defense intelligence activities.
- Sec. 408. Signals intelligence activities.
- Sec. 409. Imagery collection, processing, and exploitation.
- Sec. 410. Overhead reconnaissance systems.
- Sec. 411. Use of elements of Department of Defense.
- Sec. 412. Consultations regarding appointment of certain intelligence officials.

Subtitle B—Director of Military Intelligence

- Sec. 421. Director of Military Intelligence.
- Sec. 422. Functions of the Director of Military Intelligence.
- Sec. 423. Role of Director of Military Intelligence in the Intelligence Community.
- Sec. 424. Planning and budget functions.
- Sec. 425. Staff.

Subtitle C—Defense Intelligence Agency

- Sec. 441. Defense Intelligence Agency generally.
- Sec. 442. Functions of the Defense Intelligence Agency.

Subtitle D—The Military Departments

- Sec. 451. Intelligence capabilities of the military departments.

Subtitle E—Planning and Budgeting

- Sec. 461. Joint Military Intelligence Program.
- Sec. 462. Tactical Intelligence and Related Activities (TIARA).
- Sec. 463. Notice to Congress of changes in JMIP and TIARA.

Subtitle F—Civilian Intelligence Personnel Policy

- Sec. 481. Standardization of personnel policies for intelligence components of Department of Defense
- Sec. 482. Temporary program for civilian workforce reduction in the National Security Agency.

TITLE V—NATIONAL SECURITY COUNCIL AND RELATED BOARDS AND COMMITTEES

- Sec. 501. Recodification of laws relating to National Security Council and related boards and committees in Executive Office of the President.
- Sec. 502. Committee on Foreign Intelligence.
- Sec. 503. Transnational threats.
- Sec. 504. Prohibition of direct participation by National Security Council staff in execution of intelligence operations.

TITLE VI—TECHNICAL AND CONFORMING AMENDMENTS AND EFFECTIVE DATE

- Sec. 601. Restatement of National Security Agency Act of 1959.
- Sec. 602. Amendments to title 5, United States Code.
- Sec. 603. Repeal of provisions recodified in new Act.
- Sec. 604. National Security Act of 1947.
- Sec. 605. Abolition of National Intelligence Council.
- Sec. 606. Effective date.

SEC. 3. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress makes the following findings:

(1) The United States must maintain a strong, capable, and increasingly flexible intelligence capability to collect and analyze information concerning world events that may threaten its security so as to be in a position to anticipate and respond to such events in an effective and timely manner.

(2) The existing framework for the conduct of United States intelligence activities, established by the National Security Act of 1947, has evolved largely without changes to the original statutory framework, but rather as a matter of Executive order and directive.

(3) Although the Director of Central Intelligence has had an overall, coordinating role for United States intelligence activities, under existing law and by Executive order the Director has, in fact, lacked sufficient authorities to exercise this responsibility effectively, leaving control largely decentralized within elements of the Intelligence Community.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide a corporate framework for the improved management of United States intelligence activities at all levels and within all intelligence disciplines;

(2) to provide an institutional structure that will continue to ensure that the Intelligence Community serves the needs of the Government as a whole in an effective, timely, and corporate manner;

(3) to clarify by law the responsibilities of United States intelligence agencies; and

(4) to improve the congressional oversight of intelligence activities.

SEC. 4. DEFINITIONS.

For the purposes of this Act:

(1) INTELLIGENCE.—The term “intelligence” includes foreign intelligence and counterintelligence.

(2) FOREIGN INTELLIGENCE.—The term “foreign intelligence” means information relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, foreign transnational entities, or foreign persons.

(3) COUNTERINTELLIGENCE.—The term “counterintelligence” means information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, foreign transnational entities, or foreign persons, or international terrorist activities.

(4) NATIONAL INTELLIGENCE AND INTELLIGENCE RELATED TO NATIONAL SECURITY.—The terms “national intelligence” and “intelligence related to the national security”—

(A) each refer to intelligence that pertains to the interests of the Government generally, rather than to the interests of a single department or agency of Government, or to a component of such department or agency;

(B) do not refer to intelligence necessary to plan or conduct tactical military operations by United States Armed Forces; and

(C) do not refer to counterintelligence or law enforcement activities conducted by the Federal Bureau of Investigation except to the extent provided for in procedures agreed to by the Director of Central Intelligence and the Attorney General, or otherwise as expressly provided for in this Act.

(5) NATIONAL FOREIGN INTELLIGENCE PROGRAM.—The term “National Foreign Intelligence Program” refers to all programs, projects, and activities of the Intelligence Community that are intended to produce national intelligence, as well as any other programs of the Intelligence Community designated jointly by the Director of Central Intelligence and the head of a United States department or agency or by the President. Such term does not include programs, projects, or activities of the military departments to acquire intelligence solely for the planning and conduct of tactical military operations by United States Armed Forces.

(6) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term “congressional intelligence committees” means—

(A) the Select Committee on Intelligence of the Senate; and

(B) the Permanent Select Committee on Intelligence of the House of Representatives.

TITLE I—INTELLIGENCE COMMUNITY GENERALLY

Subtitle A—Director of Central Intelligence

SEC. 101. DIRECTOR OF CENTRAL INTELLIGENCE.

(a) DIRECTOR OF CENTRAL INTELLIGENCE.—There is a Director of Central Intelligence. The Director of Central Intelligence is—

(1) the principal adviser to the President and the National Security Council for intelligence matters related to the national security; and

(2) the head of the Intelligence Community.

(b) APPOINTMENT.—The Director of Central Intelligence is appointed by the President, by and with the advice and consent of the Senate.

SEC. 102. GENERAL INTELLIGENCE RESPONSIBILITIES OF THE DIRECTOR.

(a) PROVISION OF INTELLIGENCE TO THE PRESIDENT.—Under the direction of the National Security Council, the Director of Central Intelligence shall be responsible for providing intelligence to the President.

(b) PROVISION OF INTELLIGENCE TO OTHERS.—Under the direction of the National Security Council, the Director of Central Intelligence shall be responsible for providing intelligence—

- (1) to the heads of departments and agencies of the executive branch;
- (2) to the Chairman of the Joint Chiefs of Staff, to the commanders of the unified combatant commands, and to other senior military commanders; and
- (3) to the Senate and House of Representatives and the appropriate committees thereof.

(c) INTELLIGENCE TO BE OBJECTIVE AND TIMELY.—Intelligence provided by the Director pursuant to this section should be timely and objective and shall be provided independent of political considerations or bias and based upon all sources available to the Intelligence Community.

SEC. 103. PREPARATION OF ANNUAL BUDGET FOR NATIONAL FOREIGN INTELLIGENCE PROGRAM.

The Director of Central Intelligence shall develop (in accordance with subtitle B of title II) and present to the President an annual budget for the National Foreign Intelligence Program of the United States.

SEC. 104. FOREIGN INTELLIGENCE COLLECTION.

The Director of Central Intelligence shall establish the requirements and priorities to govern the collection of national intelligence by elements of the Intelligence Community and shall manage the collection capabilities of the Intelligence Community to ensure that national requirements are met.

SEC. 105. PROTECTION OF SOURCES AND METHODS.

The Director of Central Intelligence shall protect intelligence sources and methods from unauthorized disclosure.

SEC. 106. PROMOTION AND EVALUATION OF THE USEFULNESS OF INTELLIGENCE TO CONSUMERS.

The Director of Central Intelligence shall promote and evaluate the quality and usefulness of national intelligence to consumers within the Government.

SEC. 107. ELIMINATION OF WASTE AND UNNECESSARY DUPLICATION.

The Director of Central Intelligence, in cooperation with the heads of the elements of the Intelligence Community shall eliminate waste and unnecessary duplication within the Intelligence Community.

SEC. 108. OTHER FUNCTIONS.

The Director of Central Intelligence shall perform such other functions as the President or the National Security Council may direct.

SEC. 109. PROHIBITION ON LAW ENFORCEMENT POWERS AND INTERNAL SECURITY FUNCTIONS.

The Director of Central Intelligence shall have no police, subpoena, or law enforcement powers or internal security functions.

SEC. 110. ACCESS TO INTELLIGENCE.

To the extent recommended by the National Security Council and approved by the President, the Director of Central Intelligence shall have access to all intelligence related to the national security which is collected by any department, agency, or other entity of the United States.

SEC. 111. COORDINATION WITH FOREIGN GOVERNMENTS.

Under the direction of the National Security Council and in a manner consistent with section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927), the Director shall coordinate the relationships between elements of the Intelligence Community and the intelligence or security services of foreign governments on all matters involving intelligence related to the national security or involving intelligence acquired through clandestine means.

Subtitle B—Deputy Directors of Central Intelligence

SEC. 121. DEPUTY DIRECTORS OF CENTRAL INTELLIGENCE.

(a) POSITIONS.—There is a Deputy Director of Central Intelligence, and there is a Deputy Director of Central Intelligence for Community Management.

(b) APPOINTMENT.—Each Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate.

(c) QUALIFICATIONS.—Each Deputy Director shall have extensive national security experience.

SEC. 122. DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE.

(a) IN GENERAL.—The Deputy Director of Central Intelligence shall act for, and exercise the powers of, the Director of Central Intelligence during the Director's absence or disability or during a vacancy in office of the Director of Central Intelligence.

(b) PRECEDENCE.—The Deputy Director of Central Intelligence takes precedence immediately after the Director of Central Intelligence.

SEC. 123. DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE FOR COMMUNITY MANAGEMENT.

Subject to the direction of the Director of Central Intelligence, the Deputy Director of Central Intelligence for Community Management shall be responsible for the following:

- (1) Directing the operations of the Community Management Staff.
- (2) Directing the operations of the Infrastructure Support Office.
- (3) Performing community-wide management functions, including the management of personnel, resources, and requirements.
- (4) Managing community-wide research and development.

SEC. 124. CIVILIAN AND MILITARY STATUS OF DIRECTOR OF CENTRAL INTELLIGENCE AND DEPUTIES.

(a) LIMITATION ON ACTIVE DUTY STATUS.—Not more than one individual serving in the following positions may be on active duty in the Armed Forces while serving in that position:

- (1) The Director of Central Intelligence.
- (2) The two Deputy Directors of Central Intelligence.

(b) APPOINTMENT AND RANK.—An individual serving in a position specified in paragraph (1) or (2) of subsection (a) who is on active duty in the Armed Forces shall be appointed from among the officers of the Armed Forces on the active-duty list. The Director of Central Intelligence may hold the grade of general or admiral while so serving and a Deputy Director of Central Intelligence may hold the rank of lieutenant general or vice admiral while so serving.

(c) ROLE AS OFFICER OF ARMED FORCES.—A commissioned officer of the Armed Forces, while serving in a position specified in paragraph (1) or (2) of subsection (a)—

- (1) shall not be subject to supervision or control by the Secretary of Defense or by any officer or employee of the Department of Defense;
- (2) 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 authorized by this title; and
- (3) 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 that officer.

(d) MILITARY BENEFITS.—Except as provided in paragraph (1) or (2) of subsection (c), the appointment of an officer of the Armed Forces to a position specified in paragraph (1) or (2) of subsection (a) shall not 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.

(e) PAY.—An officer of the Armed Forces appointed to a position specified in paragraph (1) or (2) of subsection (a), while serving in such position, shall continue to receive military pay and allowances payable to a commissioned officer of that 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. In addition to any pay or allowance payable under this subsection, such officer shall also receive, out of funds available to the Director of Central Intelligence, annual compensation in an amount by which the annual rate of compensation payable for

such position exceeds the total of that officer's annual rate of military pay and allowances.

Subtitle C—The Intelligence Community

SEC. 131. ELEMENTS OF THE INTELLIGENCE COMMUNITY.

The Intelligence Community of the United States Government consists of the following:

- (1) The Office of the Director of Central Intelligence, which shall include the Offices of the Deputy Directors of Central Intelligence and such other offices as the Director may designate.
- (2) The Community Management Staff.
- (3) The National Intelligence Evaluation Council.
- (4) The Central Intelligence Agency.
- (5) The Defense Intelligence Agency.
- (6) The National Security Agency.
- (7) The National Reconnaissance Office.
- (8) The Central Imagery Office.
- (9) The Infrastructure Support Office.
- (10) The intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard.
- (11) The intelligence elements of the Federal Bureau of Investigation, the Department of the Treasury, the Department of Energy, and the Drug Enforcement Administration.
- (12) The Bureau of Intelligence and Research of the Department of State.
- (13) Such other offices and entities as are established by law under the authority of the Director of Central Intelligence or as may be provided by law or by the President to be a component of the Intelligence Community.

SEC. 132. INTELLIGENCE COMMUNITY INSPECTOR GENERAL FORUM.

(a) **ESTABLISHMENT.**—There is hereby established an Intelligence Community Inspector General Forum (hereinafter in this section referred to as the "Forum").

(b) **MISSION.**—The Forum shall provide a mechanism for sharing information among those Inspectors General whose duties and responsibilities include audit, inspection, or investigation relating to programs and operations of elements within the Intelligence Community to ensure adequate Inspector General oversight with respect to those programs and operations and to coordinate efforts with a view toward preventing duplication.

(c) **MEMBERSHIP.**—

(1) The Forum shall consist of the following members:

- (A) The Inspector General of the Department of Defense.
- (B) The Inspector General of the Central Intelligence Agency.
- (C) The Inspector General of the Department of State.
- (D) The Inspector General of the Department of the Treasury.
- (E) The Inspector General of the Department of Justice.
- (F) The Inspector General of the Department of Energy.
- (G) The Inspector General of any other element within the Intelligence Community, regardless of whether the position of such Inspector General is created by statute.
- (H) Such other Federal officials as the co-chairs of the Forum may invite to attend meetings whenever matters of interest to them are scheduled to be discussed.

(2) The Forum shall be co-chaired by the Inspector General of the Department of Defense and the Inspector General of the Central Intelligence Agency.

(3) The co-chairs may establish such subcommittees or working groups as they consider appropriate to support the work of the Forum.

(4) There shall be an Executive Secretary for the Forum to be appointed from the Office of the Inspector General of the Department of Defense.

(d) **MEETINGS.**—The Forum shall meet at least quarterly, and more often as the co-chairs consider necessary. The Director of Central Intelligence, the Secretaries of Defense, State, the Treasury, and Energy, and the Attorney General of the United States shall be given as much advance notice as practicable before each meeting of the Forum.

(e) **FUNCTIONS.**—

(1) The Forum shall ensure adequate Inspector General oversight over programs and operations of elements within the Intelligence Community under the jurisdiction of two or more statutory Inspectors General. In this regard, the Di-

rector of Central Intelligence, the Secretaries of Defense, State, the Treasury, and Energy, and the Attorney General may each submit to the Forum or to their respective statutory Inspector General requests for an Inspector General audit, inspection, or investigation with respect to any program or operation of an element within the Intelligence Community under the jurisdiction of two or more statutory Inspectors General.

(2) The Forum shall serve as a focal point for discussions of mutual interest to the Inspectors General concerning oversight of elements within the Intelligence Community, including—

(A) policies and procedures for conducting audits, inspections, or investigations into programs and operations of elements within the Intelligence Community under the jurisdiction of two or more statutory Inspectors General; and

(B) qualifications and training for auditors, inspectors, and investigators who will be assigned to conduct audits, inspections, or investigations into programs and operations of elements within the Intelligence Community under the jurisdiction of two or more statutory Inspectors General.

(3) The Forum shall keep the Director of Central Intelligence, the Secretary of the appropriate Department, and the head of the appropriate element within the Intelligence Community informed of issues identified in audits, inspections or investigations of programs, or operations of elements within the Intelligence Community under the jurisdiction of two or more statutory Inspectors General.

(4) This section shall not preclude and is not intended to preclude an Inspector General from independently initiating any audit, inspection, or investigation of programs or operations within their respective establishment as they consider appropriate in accordance with the Inspector General Act of 1978, or section 17 of the Central Intelligence Agency Act of 1949, as appropriate.

(f) RESPONSIBILITIES.—Members of the Forum shall—

(1) designate a point of contact within their respective organizations to receive and provide information regarding Forum activities; and

(2) provide staff and other resources for the audits, inspections and investigations of programs, or operations that involve two or more elements within the Intelligence Community.

(g) REPORT ON INSPECTOR GENERAL FOR THE INTELLIGENCE COMMUNITY.—Not later than April 15, 1997, the Forum shall submit to the congressional intelligence committees a report on the feasibility of, and costs and benefits associated with, creating an Inspector General for the Intelligence Community.

Subtitle D—Annual Reports

SEC. 141. ANNUAL REPORT ON INTELLIGENCE COMMUNITY ACTIVITIES.

(a) IN GENERAL.—The Director of Central Intelligence shall submit to Congress an annual report on the activities of the Intelligence Community. The annual report shall be unclassified.

(b) MATTERS TO BE COVERED IN ANNUAL REPORT.—Each report under this section shall describe—

(1) the activities of the Intelligence Community during the preceding fiscal year, including significant successes and failures that can be described in an unclassified manner; and

(2) the areas of the world and the issues that the Director expects will require increased or unusual attention from the Intelligence Community during the next fiscal year.

(c) TIME FOR SUBMISSION.—The report under this section for any year shall be submitted at the same time that the President submits the budget for the next fiscal year pursuant to section 1105 of title 31, United States Code.

TITLE II—INTELLIGENCE COMMUNITY MANAGEMENT

Subtitle A—Intelligence Community Functions

SEC. 201. COMMUNITY MANAGEMENT STAFF.

There is a Community Management Staff.

SEC. 202. FUNCTIONS OF THE COMMUNITY MANAGEMENT STAFF.

(a) **IN GENERAL.**—The Deputy Director of Central Intelligence for Community Management, acting through the Community Management Staff, shall provide corporate management of the following Intelligence Community-wide functions:

(1) Requirements and collection management.

(2) Planning, programming, budgeting, and accounting for the National Foreign Intelligence Program.

(3) Research and development activities.

(b) **COORDINATION WITH THE DMI STAFF.**—The Deputy Director of Central Intelligence for Community Management shall coordinate the functions referred to in paragraphs (1) through (3) of subsection (a) with the Director of Military Intelligence.

Subtitle B—National Foreign Intelligence Program

SEC. 221. BUDGETS.

(a) **PREPARATION.**—The Deputy Director of Central Intelligence for Community Management, in consultation with the elements of the Intelligence Community, shall prepare the annual budgets of the National Foreign Intelligence Program.

(b) **APPROVAL OF BUDGETS.**—The Director of Central Intelligence shall approve the budgets prepared under subsection (a) before their incorporation in the National Foreign Intelligence Program.

(c) **ACCOUNTING.**—The Director of Central Intelligence, acting through the Deputy Director of Central Intelligence for Community Management, shall budget and account for financial resources on a community-wide basis by the functional categories of collection, processing, exploitation, analysis, dissemination, and infrastructure.

(d) **IDENTIFICATION OF CONSTITUENT COMPONENTS OF BASE INTELLIGENCE BUDGET.**—The Director of Central Intelligence shall include in the congressional budget justification materials provided to the congressional intelligence committees in connection with the annual submission of the National Foreign Intelligence Program for a fiscal year the same level of budgetary detail for that part of the National Foreign Intelligence Program budget identified as the Base Budget that is provided for that part of such budget identified as Ongoing Initiatives and New Initiatives.

SEC. 222. COMPTROLLER FUNCTIONS OF COMMUNITY MANAGEMENT STAFF.

(a) **EXECUTION REVIEW.**—The Community Management Staff shall perform budget execution review of elements of the Intelligence Community and shall have the authority to recommend to the comptroller of the Department of Defense that authorized and appropriated intelligence funds be withheld in those instances in which elements of the Intelligence Community within the Department of Defense are not complying with guidance from the Director of Central Intelligence or applicable law.

(b) **ACCOUNTING SYSTEM.**—The Deputy Director of Central Intelligence for Community Management shall establish and maintain an Intelligence Community-wide automated system for programming, budgeting, accounting, and execution review of the National Foreign Intelligence Program.

SEC. 223. LIMITATIONS ON TRANSFERS AND REPROGRAMMING.

(a) **LIMITATION ON NEW USE OF FUNDS AVAILABLE FOR INTELLIGENCE ACTIVITIES.**—Funds may not be made available through transfer, reprogramming, or other means between the Central Intelligence Agency and the Department of Defense for any intelligence or special activity different from that previously justified to the Congress unless the Director of Central Intelligence or the Secretary of Defense notifies in advance the Permanent Select Committee on Intelligence of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Committees on Appropriations of the Senate and House of Representatives of the intent to make such funds available for such activity.

(b) **LIMITATION ON AMOUNTS TRANSFERRED.**—The amount that may be transferred from any account of an element of the Intelligence Community for any fiscal year may not exceed five percent of the aggregate portion of the National Foreign Intelligence Program budget of that element for that fiscal year.

(c) **LIMITATION ON TRANSFER OF FUNDS AVAILABLE FOR DRUG INTERDICTION OR COUNTER-DRUG PURPOSES.**—None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

SEC. 224. TRANSFER OF FUNDS OR PERSONNEL WITHIN THE NATIONAL FOREIGN INTELLIGENCE PROGRAM.

(a) **GENERAL AUTHORITY.**—In addition to any other authorities available under law for such purposes, the Director of Central Intelligence, with the approval of the Director of the Office of Management and Budget, may transfer funds appropriated for a program within the National Foreign Intelligence Program to another such program and, in accordance with procedures to be developed by the Director and the heads of affected departments and agencies, may transfer personnel authorized for an element of the Intelligence Community to another such element for periods up to a year.

(b) **CONDITIONS.**—A transfer of funds or personnel may be made under this section only if—

(1) the funds or personnel are being transferred to an activity that is a higher priority intelligence activity;

(2) the need for funds or personnel for such activity is based on unforeseen requirements;

(3) the transfer does not involve a transfer of funds to the Reserve for Contingencies of the Director of Central Intelligence; and

(4) the transfer does not involve a transfer of funds or personnel from the Federal Bureau of Investigation.

(c) **AVAILABILITY OF TRANSFERRED FUNDS.**—Funds transferred under this subsection shall remain available for the same period as the appropriations account to which such funds are transferred.

(d) **NOTIFICATION OF CONGRESS.**—Any transfer of funds under this section shall be carried out in accordance with existing procedures applicable to reprogramming notifications for the appropriate congressional committees. Any proposed transfer for which notice is given to the appropriate congressional committees shall be accompanied by a report explaining the nature of the proposed transfer and how it satisfies the requirements of this subsection. In addition, the congressional intelligence committees shall be promptly notified of any transfer of funds made pursuant to this subsection in any case in which the transfer would not have otherwise required reprogramming notification under procedures in effect as of October 24, 1992.

(e) **REPORT ON PERSONNEL TRANSFERS.**—The Director shall promptly submit to the congressional intelligence committees and, in the case of the transfer of personnel to or from the Department of Defense, the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives, a report on any transfer of personnel made pursuant to this section. The Director shall include in any such report an explanation of the nature of the transfer and how it satisfies the requirements of this subsection.

SEC. 225. LIMITATION ON REPROGRAMMING.

No funds made available under the National Foreign Intelligence Program may be reprogrammed by any element of the Intelligence Community without the prior approval of the Director of Central Intelligence except in accordance with procedures issued by the Director.

Subtitle C—Personnel

SEC. 231. USE OF PERSONNEL.

The Director of Central Intelligence shall, in coordination with the heads of departments and agencies with elements in the Intelligence Community, institute policies and programs within the Intelligence Community—

(1) to provide for the rotation of personnel between the elements of the Intelligence Community, where appropriate, and to make such rotated service a factor to be considered for promotion to senior positions;

(2) to consolidate, wherever possible, personnel, administrative, and security programs to reduce the overall costs of these activities within the Intelligence Community;

(3) to ensure the maintenance of effective performance evaluation systems with common standards throughout the national Intelligence Community; and

(4) to develop a community-wide career development program that emphasizes corporate management skills.

SEC. 232. AUTHORITY TO TERMINATE EMPLOYMENT OF CERTAIN EMPLOYEES.

(a) **IN GENERAL.**—The Director of Central Intelligence may, in the Director's discretion, terminate the employment of any officer or employee of the Central Intelligence Agency or the Community Management Staff whenever the Director consid-

ers such termination to be necessary or advisable in the interests of the United States.

(b) OTHER EMPLOYMENT IN THE GOVERNMENT.—Any such termination does not affect the right of the individual whose employment is so terminated to seek or accept employment in any other department or agency of the Government if declared eligible for such employment by the Office of Personnel Management.

SEC. 233. INTELLIGENCE COMMUNITY RESERVE.

(a) ESTABLISHMENT.—The Director of Central Intelligence shall establish an Intelligence Community Reserve.

(b) MEMBERS.—The Intelligence Community Reserve may consist of former or retired personnel of elements of the Intelligence Community (including individuals with expertise in all-source analysis and individuals who are linguists) and of other qualified individuals drawn from non-Intelligence Community sources, as determined by the Director of Central Intelligence. Each member of the Intelligence Community Reserve shall agree that, during any period of emergency (as determined by the Director), the member shall enter into or return to active civilian status within the Intelligence Community and shall perform such duties as the Director may assign.

(c) MONETARY INCENTIVES.—In order to attract individuals to become members of the Intelligence Community Reserve, the Director, without regard to subchapter IV of chapter 55 of title 5, United States Code, may provide special monetary incentives to individuals eligible to become members of the Reserve who agree to become members of the Intelligence Community Reserve and to acquire or retain proficiency in such skills as the Director shall specify.

(d) TRAINING AND SUPPORT.—In order to provide training and support for members of the Intelligence Community Reserve, the Director—

(1) may pay all or part of the expenses related to the training of individuals in the Intelligence Community Reserve; and

(2) may pay benefits and allowances in accordance with chapters 57 and 59 of title 5, United States Code, to individuals in the Intelligence Community Reserve who are assigned to training at sites away from their homes or regular places of business.

(e) SERVICE AGREEMENTS.—(1) The Director, before providing training under this section to any individual, may obtain an agreement with that individual that—

(A) in the case of current employees, pertains to continuation of service of the employee, and repayment of the expenses of such training for failure to fulfill the agreement, consistent with the provisions of section 4108 of title 5, United States Code; and

(B) in the case of individuals accepted for membership in the Intelligence Community Reserve, pertains to return to service when requested, and repayment of the expenses of such training for failure to fulfill the agreement, consistent with the provisions of section 4108 of title 5, United States Code.

(2) The Director, under regulations prescribed under this section, may waive, in whole or in part, a right of recovery under an agreement made under this subsection if it is shown that the recovery would be against equity and good conscience or against the public interest.

(f) APPLICABILITY OF VOLUNTARY SEPARATION PAY ACT.—(1) Participation in the Intelligence Community Reserve through the receipt of monetary incentives under subsection (c) does not constitute employment with the Government of the United States for purposes of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403–4).

(2) Performing service in an active duty status under subsection (d) does constitute employment with the Government of the United States for purposes of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403–4), and the repayment requirement of section 2(b) of that Act applies unless waived in accordance with such section 2(b).

Subtitle D—Infrastructure Support Office

SEC. 241. ESTABLISHMENT OF INFRASTRUCTURE SUPPORT OFFICE.

(a) ESTABLISHMENT.—There is within the Intelligence Community the Infrastructure Support Office.

(b) DIRECTOR.—The Office shall be headed by a Director, who shall be appointed by the Director of Central Intelligence.

SEC. 242. RESPONSIBILITIES OF DIRECTOR OF THE INFRASTRUCTURE SUPPORT OFFICE.

(a) **IN GENERAL.**—Under the direction of the Deputy Director of Central Intelligence for Community Management, the Director of the Infrastructure Support Office shall be responsible for administrative and logistical functions relating to infrastructure and services of common concern to elements of the Intelligence Community. Such functions shall include the following:

- (1) Personnel management.
- (2) Security.
- (3) Community-level training.
- (4) Communications.
- (5) Automation.
- (6) Such additional functions as may be assigned by the Director of Central Intelligence.

(b) **AUTOMATION EQUIPMENT.**—The Director of the Infrastructure Support Office shall establish standards and information architectures for automation equipment throughout the Intelligence Community. The Director shall be responsible for life-cycle management, replacement, and upgrading of such equipment.

(c) **COORDINATION AMONG ELEMENTS OF INTELLIGENCE COMMUNITY.**—The Director of Central Intelligence and the Secretary of Defense, as appropriate, shall require the head of each element of the Intelligence Community to report to the Director of the Infrastructure Support Office on those functions and activities that can be consolidated in the Infrastructure Support Office so as to achieve cost savings and efficiencies for the Intelligence Community as a whole.

Subtitle E—Intelligence Community Administration

SEC. 251. 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—

- (1) 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; and
- (2) provide that the form or agreement does not bar—
 - (A) disclosures to Congress; or
 - (B) disclosures to an authorized official of an executive agency that are considered essential to reporting a violation of United States law.

SEC. 252. COORDINATION OF COUNTERINTELLIGENCE MATTERS WITH THE FEDERAL BUREAU OF INVESTIGATION.

(a) **COORDINATION BY OTHER AGENCIES WITH FBI.**—(1) The head of each department or agency within the executive branch shall ensure that the Director of the Federal Bureau of Investigation is informed immediately of any information, regardless of its origin, which indicates that classified information is being, or may have been, disclosed in an unauthorized manner to a foreign power or an agent of a foreign power.

(2) Following the making of a report under paragraph (1), the head of the department or agency making the report shall ensure that the Director of the Federal Bureau of Investigation is consulted with respect to all subsequent actions that may be undertaken by the department or agency to determine the source of such unauthorized disclosure.

(3) When, after appropriate consultation with the head of the department or agency concerned, the Director of the Federal Bureau of Investigation undertakes investigative activities to determine the source of the unauthorized disclosure, the head of the department or agency concerned shall ensure that the Director is given complete and timely access to the employees and records of that department or agency for purposes of such investigative activities.

(b) **COORDINATION BY FBI WITH OTHER AGENCIES.**—(1) The Director of the Federal Bureau of Investigation shall ensure that when the Bureau obtains espionage information pertaining to the personnel, operations, or information of another department or agency of the executive branch, such information is provided through appropriate channels to the head of that department or agency.

(2) The Director shall ensure that when the Bureau undertakes an espionage investigation which involves the personnel, operations, or information of another department or agency of the executive branch after a report is provided pursuant to subsection (a)(1), the head of that department or agency is consulted with respect to that investigation.

(c) **PRESIDENTIAL WAIVER AUTHORITY.**—(1) When essential to meet extraordinary circumstances affecting vital national security interests of the United States as determined by the President, the President may, on a case-by-case basis, waive the requirements of subsection (a) or (b), as they apply to the head of a particular department or agency or to the Director of the Federal Bureau of Investigation.

(2) Such a waiver shall be in writing and shall fully state the justification for the waiver.

(3) Within 30 days after issuing such a waiver, the President shall notify the congressional intelligence committees that the waiver has been issued and, at that time or as soon thereafter as national security considerations permit, shall provide those committees with a complete explanation of the circumstances which necessitated the waiver.

(d) **ANNUAL REPORT.**—The Director of the Federal Bureau of Investigation shall, not later than February 1 of each year, submit to the congressional intelligence committees and, in accordance with applicable security procedures, the Committees on the Judiciary of the Senate and House of Representatives a report with respect to compliance with subsections (a) and (b) during the previous calendar year. Each such report shall be prepared in consultation with the Director of Central Intelligence and the Secretary of Defense.

(e) **RELATIONSHIP TO DEPARTMENT OF DEFENSE AUTHORITY OVER PERSONS SUBJECT TO UCMJ.**—Nothing in this section may be construed to—

(1) alter the jurisdictional arrangements in effect as of October 14, 1994, between the Federal Bureau of Investigation and the Department of Defense with respect to investigations of persons subject to the Uniform Code of Military Justice (chapter 47 of title 10, United States Code); or

(2) impose reporting requirements upon the Department of Defense with respect to such investigations beyond those required by law and executive branch policy as of October 14, 1994.

(f) **DEFINITIONS.**—As used in this section, the terms “foreign power” and “agent of a foreign power” have the meanings set forth in sections 101(a) and 101(b), respectively, of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

SEC. 253. INTELLIGENCE COMMUNITY CONTRACTING.

The Director of Central Intelligence shall direct that elements of the Intelligence Community, whenever compatible with the national security interests of the United States and consistent with the operational and security concerns related to the conduct of intelligence activities, and where fiscally sound, shall award contracts in a manner that would maximize the procurement of products in the United States.

TITLE III—INTELLIGENCE COMMUNITY AGENCIES

Subtitle A—Central Intelligence Agency

SEC. 301. CENTRAL INTELLIGENCE AGENCY.

There is a Central Intelligence Agency. The Central Intelligence Agency is the principal all-source national intelligence analytical agency. The Director of Central Intelligence is the head of the Central Intelligence Agency.

SEC. 302. DUTIES OF DIRECTOR OF CENTRAL INTELLIGENCE WITH REGARD TO THE CENTRAL INTELLIGENCE AGENCY.

The Director of Central Intelligence, as head of the Central Intelligence Agency, shall—

- (1) correlate and evaluate intelligence related to the national security;
- (2) provide appropriate dissemination of such intelligence; and
- (3) coordinate and manage all human intelligence activities within the Intelligence Community.

SEC. 303. FUNCTIONS OF THE CENTRAL INTELLIGENCE AGENCY.

The Director of Central Intelligence, as head of the Central Intelligence Agency, shall perform the following functions:

(1) ANALYSIS AND PRODUCTION.—

(A) Correlating and evaluating intelligence related to national security collected from all sources available throughout the Intelligence Community and facilitating appropriate dissemination of such intelligence.

(B) Coordinating analyses conducted by the elements of the Intelligence Community and establishing procedures for collaborative all-source analysis.

(C) Producing national intelligence estimates.

(D) Managing the acquisition and incorporation of all-source intelligence into the community all-source analytical process.

(2) COLLECTION OF INTELLIGENCE THROUGH HUMAN SOURCES.—

(A) Collecting national intelligence clandestinely through human sources and by other appropriate means, using the elements of the Intelligence Community authorized to undertake such collection.

(B) Ensuring that the most effective use is made of resources authorized for the purposes of subparagraph (A) and minimizing the risks to the United States inherent in clandestine collection operations.

(C) Managing the administrative and technical support activities of the Intelligence Community necessary to carrying out clandestine collection.

(D) Performing such other functions as the Director of Central Intelligence may direct.

SEC. 304. AGREEMENT TO TRANSFER DOD CLANDESTINE HUMINT TO CIA.

The Secretary of Defense shall enter into an agreement with the Director of Central Intelligence to transfer from the Secretary of Defense the responsibilities and authorities of the Secretary for the clandestine collection of intelligence by human sources conducted by the Defense Human Intelligence Service as of the date of the enactment of this Act.

Subtitle B—The National Intelligence Evaluation Council

SEC. 321. NATIONAL INTELLIGENCE EVALUATION COUNCIL.

(a) **ESTABLISHMENT.**—There is within the Intelligence Community the National Intelligence Evaluation Council.

(b) **MEMBERS.**—The National Intelligence Evaluation Council shall be composed of senior analysts within the Intelligence Community and may include substantive experts from the public and private sector. Members of the Council shall be appointed by, report to, and serve at the pleasure of, the Director of Central Intelligence. The Director of Central Intelligence shall appoint the head of the Council from among its members, who shall report directly to the Director of Central Intelligence.

(c) **SECURITY REQUIREMENTS.**—The Director of Central Intelligence shall prescribe appropriate security requirements for personnel appointed from the private sector as a condition of service on the Council to ensure the protection of intelligence sources and methods while avoiding, wherever possible, unduly intrusive requirements which the Director considers to be unnecessary for this purpose.

SEC. 322. FUNCTIONS OF THE NATIONAL INTELLIGENCE EVALUATION COUNCIL.

The National Intelligence Evaluation Council shall evaluate Intelligence Community-wide collection and production of intelligence, as well as the requirements and resources for such collection and production. Such evaluation shall be performed in consultation with both Deputy Directors of Central Intelligence and with the Director of Military Intelligence.

SEC. 323. STAFFING OF THE NATIONAL INTELLIGENCE EVALUATION COUNCIL.

The Director of Central Intelligence shall make available to the National Intelligence Evaluation Council such staff as may be necessary to permit the Council to carry out its responsibilities under this subtitle and shall take appropriate measures to ensure that the Council and its staff satisfy the needs of policymaking officials and other consumers of intelligence.

Subtitle C—Future of Intelligence Collection

SEC. 331. PANEL ON THE FUTURE OF INTELLIGENCE COLLECTION.

(a) **STUDY.**—The Director of Central Intelligence and the Secretary of Defense shall arrange for a study to be conducted on the future of intelligence collection, in terms of managing collection resources in a more consolidated, synergistic manner. The study is not limited to, but should include specific examination of the following:

(1) Establishing within the Intelligence Community a single agency with responsibility for—

(A) the clandestine collection of intelligence through human sources and other clandestine techniques;

(B) covert action; and

(C) representing the Director of Central Intelligence in liaison with foreign intelligence and security services.

(2) Establishing a single agency for the conduct of technical intelligence collection activities, including—

(A) signals intelligence (SIGINT), imagery intelligence (IMINT), and measurement and signatures intelligence (MASINT);

(B) first-phase (or initial) exploitation of the results of such collection;

(C) dissemination of such collection in a timely manner;

(D) development of processing and exploitation technologies to support these functions; and

(E) serving as the sole agent within the Intelligence Community for—

(i) the specification of technical requirements for such reconnaissance systems as may be needed to meet the signals intelligence, imagery intelligence, and measurement and signatures intelligence collection requirements of the Intelligence Community; and

(ii) the operation and final disposition of such systems.

(3) Establishing a single agency—

(A) to serve as the sole agent within the Intelligence Community for the conduct of research, development, test, and evaluation, for procurement, and for launch of satellite reconnaissance systems that may be required to satisfy the intelligence collection requirements of the Intelligence Community; and

(B) to serve as the primary agent within the Intelligence Community for the conduct of research, development, test, evaluation and for procurement of reconnaissance, surveillance, and sensor systems, including airborne and maritime reconnaissance capabilities within the National Foreign Intelligence Program and the Joint Military Intelligence Program.

(4) Establishing a single agency for collection and processing of imagery and geospatial information. This should be examined as both a stand-alone agency and as a subset of the agency described in paragraph (2). Specifically, the study should evaluate the substantive advantages and disadvantages of consolidating imagery collection into an overall collection agency.

(b) **CRITERIA.**—The study under subsection (a) shall—

(1) take into account current and future technological capabilities and intelligence requirements;

(2) take into account the costs and benefits associated with establishing each of the agencies described in paragraphs (1) through (4) of subsection (a) as well as the costs and benefits of maintaining the current system of distinct “collection stovepipes”; and

(3) examine establishing each of the agencies described in paragraphs (1) through (4) of subsection (a) both on their individual merits and also with a view toward having such agencies co-exist as an entire new organizational structure.

(c) **PANEL MEMBERS.**—

(1) **SELECTION.**—The Director of Central Intelligence and the Secretary of Defense, jointly, shall select individuals for membership on a panel to conduct the study under subsection (a) who are—

(A) current and former members of the Intelligence Community and senior policy makers who are knowledgeable about a diverse range of intelligence requirements; and

(B) such other public or private individuals as the Director and the Secretary deem appropriate.

(2) **BALANCE.**—Membership on the panel shall be balanced in terms of technical and operational knowledge and views so as to ensure the objectivity of the panel’s report.

(3) **DIRECTOR.**—The Director of Central Intelligence shall appoint a director of the panel from among its members. The director of the panel may create such sub-panels as the director deems appropriate.

(d) **REPORT.**—No later than April 15, 1997, the panel shall submit a report of the study to the Director of Central Intelligence, who shall forward the report to the President, the Secretary of Defense, and to the congressional intelligence committees.

TITLE IV—DEPARTMENT OF DEFENSE FUNCTIONS IN THE INTELLIGENCE COMMUNITY

Subtitle A—Secretary of Defense

SEC. 401. OVERALL SECRETARY OF DEFENSE FUNCTIONS.

The Secretary of Defense shall perform such intelligence functions as may be directed by the President by Executive order or otherwise.

SEC. 402. REQUIREMENT THAT BUDGETS FOR INTELLIGENCE COMPONENTS BE ADEQUATE.

The Secretary of Defense shall ensure that the budgets of the elements of the Intelligence Community within the Department of Defense for any fiscal year are adequate to satisfy the overall intelligence needs of the Department of Defense, including—

- (1) the needs of the chairman of the Joint Chiefs of Staff;
- (2) the needs of the commanders of the unified and specified commands; and
- (3) the needs of other departments and agencies, as appropriate.

SEC. 403. IMPLEMENTATION OF DIRECTOR OF CENTRAL INTELLIGENCE POLICIES AND RESOURCE DECISIONS.

The Secretary of Defense shall ensure appropriate implementation of the policies and resource decisions of the Director of Central Intelligence by elements of the Department of Defense within the National Foreign Intelligence Program.

SEC. 404. RELATIONSHIP OF NFIP ACTIVITIES TO TACTICAL INTELLIGENCE ACTIVITIES.

The Secretary of Defense shall ensure that the tactical intelligence activities of the Department of Defense complement, and are compatible with, intelligence activities under the National Foreign Intelligence Program. The Secretary shall carry out this section through the Director of Military Intelligence.

SEC. 405. RESPONSIVENESS TO OPERATIONAL MILITARY FORCES.

The Secretary of Defense shall ensure that the elements of the Intelligence Community within the Department of Defense are responsive and timely with respect to satisfying the needs of operational military forces.

SEC. 406. ELIMINATION OF WASTE AND UNNECESSARY DUPLICATION.

The Secretary of Defense shall eliminate waste and unnecessary duplication among the intelligence activities of the Department of Defense.

SEC. 407. JOINT AND CORPORATE CONDUCT OF DEFENSE INTELLIGENCE ACTIVITIES.

The Secretary of Defense shall ensure that, when appropriate, intelligence activities of the Department of Defense are conducted (1) jointly, and (2) cooperatively with elements of the Intelligence Community outside the Department of Defense.

SEC. 408. SIGNALS INTELLIGENCE ACTIVITIES.

The Secretary of Defense shall ensure through the National Security Agency (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the conduct of signals intelligence activities and shall ensure that the product is disseminated in a timely manner to authorized recipients.

SEC. 409. IMAGERY COLLECTION, PROCESSING, AND EXPLOITATION.

The Secretary of Defense shall ensure through the Central Imagery Office (except as otherwise directed by the President or the National Security Council), with appropriate representation from the Intelligence Community, the continued operation of an effective unified organization within the Department of Defense for carrying out tasking of imagery collection, for the coordination of imagery processing and exploitation activities, and for ensuring the dissemination of imagery in a timely manner to authorized recipients.

SEC. 410. OVERHEAD RECONNAISSANCE SYSTEMS.

The Secretary of Defense shall ensure through the National Reconnaissance Office (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the research and development, acquisition, and operation of overhead reconnaissance systems necessary to satisfy the requirements of all elements of the Intelligence Community.

SEC. 411. USE OF ELEMENTS OF DEPARTMENT OF DEFENSE.

The Secretary of Defense, in carrying out the functions of the Secretary under this Act, may use such elements of the Department of Defense as may be appropriate for the execution of those functions, in addition to, or in lieu of, the elements specifically identified in this Act for the performance of those functions.

SEC. 412. CONSULTATIONS REGARDING APPOINTMENT OF CERTAIN INTELLIGENCE OFFICIALS.

(a) IN GENERAL.—Section 201 of title 10, United States Code, is amended to read as follows:

“§ 201. Consultation regarding appointment of heads of certain intelligence components

“(a) CONSULTATIONS WITH REGARD TO DIRECTORS OF NSA AND NRO.—Before submitting a recommendation to the President regarding the appointment of an individual to the position of Director of the National Security Agency or Director of the National Reconnaissance Office, the Secretary of Defense shall consult with the Director of Central Intelligence regarding the recommendation.

“(b) APPOINTMENT OF HEAD OF CENTRAL IMAGERY OFFICE.—The Secretary shall appoint, upon the recommendation of the Director of Central Intelligence, the head of the Central Imagery Office within the Department of Defense.”.

(b) CLERICAL AMENDMENT.—The item relating to section 201 in the table of sections at the beginning of subchapter II of chapter 8 of such title is amended to read as follows:

“201. Consultation regarding appointment of heads of certain intelligence components.”.

Subtitle B—Director of Military Intelligence**SEC. 421. DIRECTOR OF MILITARY INTELLIGENCE.**

(a) ESTABLISHMENT OF POSITION.—There is a Director of Military Intelligence, appointed by the President, by and with the advice and consent of the Senate, from the officers of the regular components of the Armed Forces on active duty. The Director, while so serving, holds the grade of lieutenant general or vice admiral.

(b) NOMINATION.—A recommendation by the Secretary of Defense to the President for appointment of an officer as Director of Military Intelligence may be made only after consultation with the Director of Central Intelligence.

SEC. 422. FUNCTIONS OF THE DIRECTOR OF MILITARY INTELLIGENCE.

(a) SENIOR MILITARY INTELLIGENCE ADVISER.—The Director of Military Intelligence is the senior military intelligence adviser to the Secretary of Defense.

(b) DIRECTOR OF DIA.—The Director of Military Intelligence is the Director of the Defense Intelligence Agency.

(c) PROGRAM MANAGER FOR JMIP.—The Director of Military Intelligence is the program manager for the Joint Military Intelligence Program (or any successor program).

(d) PROGRAM COORDINATOR FOR TIARA.—The Director of Military Intelligence is the program coordinator for the activities in the Department of Defense known as Tactical Intelligence and Related Activities (TIARA).

SEC. 423. ROLE OF DIRECTOR OF MILITARY INTELLIGENCE IN THE INTELLIGENCE COMMUNITY.

(a) NATIONAL INTELLIGENCE.—The Director of Military Intelligence, as director of the Defense Intelligence Agency, is accountable to the Director of Central Intelligence in matters relative to the collection and prosecution of national intelligence.

(b) INTELLIGENCE REQUIREMENTS OF THE SECRETARY OF DEFENSE AND THE JOINT CHIEFS OF STAFF.—The Director of Military Intelligence shall be responsible for ensuring that the intelligence requirements of the Secretary of Defense and the Joint Chiefs of Staff are met.

SEC. 424. PLANNING AND BUDGET FUNCTIONS.

(a) **JMIP RESPONSIBILITY.**—The Director of Military Intelligence is responsible within the Department of Defense for development and submission of the Joint Military Intelligence Program for any fiscal year.

(b) **TIARA RESPONSIBILITY.**—The Director is responsible within the Department of Defense for coordination of the development and submission of the budget for any fiscal year for programs, projects, and activities included within Tactical Intelligence and Related Activities.

(c) **OVERALL BUDGET COORDINATION.**—The Director is the central point of contact in the Department of Defense for budget coordination with the Deputy Director of Central Intelligence for Community Management relating to the development and submission of the National Foreign Intelligence Program for any fiscal year.

SEC. 425. STAFF.

The Director of Military Intelligence shall have a staff sufficient to enable the Director to carry out the functions of the Director, including responsibilities with respect to budget development, planning, programming, and coordination. The Director shall ensure that the staff acts in a coordinated and corporate way with the Community Management Staff and the Infrastructure Support Office.

Subtitle C—Defense Intelligence Agency

SEC. 441. DEFENSE INTELLIGENCE AGENCY GENERALLY.

(a) **IN GENERAL.**—There is within the Department of Defense a Defense Agency designated as the Defense Intelligence Agency. The Director of Military Intelligence is the head of the Defense Intelligence Agency.

(b) **SUPERVISION.**—The Director of Military Intelligence shall carry out the Director's responsibilities as head of the Defense Intelligence Agency under the direction of the Secretary of Defense and subject to the authority and guidance of the Director of Central Intelligence for those activities that support national intelligence requirements.

SEC. 442. FUNCTIONS OF THE DEFENSE INTELLIGENCE AGENCY.

(a) **PRODUCTION.**—The Director of Military Intelligence, in the Director's capacity as head of the Defense Intelligence Agency, shall produce timely, objective military and military-related intelligence, independent of political considerations or bias and based upon all sources available to the Intelligence Community.

(b) **DISSEMINATION OF INTELLIGENCE.**—The Director shall ensure the appropriate dissemination of intelligence produced pursuant to subsection (a) to authorized recipients.

(c) **MANAGEMENT OF JOINT INTELLIGENCE CENTER.**—The Director shall manage the Joint Intelligence Center as provided by section 923 of Public Law 102–190 (10 U.S.C. 201 note; 105 Stat. 1453).

(d) **COORDINATION.**—The Director shall coordinate the exercise pursuant to section 924 of Public Law 102–190 (10 U.S.C. 113 note; 105 Stat. 1454) of national intelligence collections systems and exploitation organizations that would be used to provide intelligence support, including support of the combatant commands, during a crisis or conflict.

(e) **DEFENSE ATTACHE SYSTEM.**—The Director shall manage the Defense Attache system.

(f) **ADDITIONAL FUNCTIONS.**—The Director shall perform such additional services of common concern to the intelligence elements of the Department of Defense as the Secretary of Defense determines can be more efficiently accomplished centrally.

Subtitle D—The Military Departments

SEC. 451. INTELLIGENCE CAPABILITIES OF THE MILITARY DEPARTMENTS.

(a) **REQUIREMENT FOR MAINTENANCE OF CAPABILITIES.**—Under the direction of the Secretary of Defense, the Secretaries of the military departments shall maintain sufficient capabilities to collect and produce intelligence to meet—

- (1) the requirements of the Director of Central Intelligence;
- (2) the requirements of the Secretary of Defense or the Chairman of the Joint Chiefs of Staff; and
- (3) the specialized requirements of the military departments for intelligence necessary to support—

- (A) tactical commanders;
- (B) military planners;
- (C) the research and development process;
- (D) the acquisition of military equipment; and
- (E) training and doctrine.

(b) **LEVEL AND FORM OF CAPABILITIES TO BE MAINTAINED.**—The Secretaries of the military departments shall ensure that the capabilities maintained pursuant to subsection (a) do not exceed that which is necessary to satisfy the requirements of their respective departments. To the extent feasible, the Secretaries shall provide for such capabilities to be maintained jointly and in the most efficient and cost-effective form.

Subtitle E—Planning and Budgeting

SEC. 461. JOINT MILITARY INTELLIGENCE PROGRAM.

(a) **IN GENERAL.**—The Joint Military Intelligence Program consists of those programs, projects, and activities of the Department of Defense that are intended to provide intelligence, surveillance, and reconnaissance capabilities that support multiple defense-wide or joint theater-level consumers.

(b) **COMPONENTS.**—The Joint Military Intelligence Program includes the programs, projects, and activities that as of the date of the enactment of this Act are designated as follows:

- (1) The Defense Imagery Program.
- (2) The Defense Cryptologic Program.
- (3) The Defense Mapping, Charting, and Geodesy Program.
- (4) The Defense General Intelligence Applications Program, including—
 - (A) the Defense Airborne Reconnaissance Program;
 - (B) the Defense Space Reconnaissance Program;
 - (C) the Defense Intelligence Counterdrug Program;
 - (D) the Defense Intelligence Tactical Program; and
 - (E) the Defense Intelligence Special Technologies Program.

(c) **ADDITIONAL COMPONENTS.**—The Joint Military Intelligence Program includes such additional programs, projects, and activities as are specified by law or are designated by the Secretary of Defense.

SEC. 462. TACTICAL INTELLIGENCE AND RELATED ACTIVITIES (TIARA).

(a) **IN GENERAL.**—The set of programs, projects, and activities in the Department of Defense referred to as Tactical Intelligence and Related Activities are those programs, projects, and activities of the Department of Defense that—

- (1) provide intelligence, surveillance, and reconnaissance capabilities that are unique to one of the military services; and
- (2) are part of a force structure organic to one of the military services at the component level and below.

(b) **INCLUDED PERSONNEL ACTIVITIES.**—Those activities include activities that train personnel for intelligence duties or provide an intelligence reserve.

(c) **CERTAIN WEAPONS TARGETING PROGRAMS EXCLUDED.**—Those activities do not include programs that are so closely integrated with a weapons system that their primary function is to provide immediate-use targeting data.

SEC. 463. NOTICE TO CONGRESS OF CHANGES IN JMIP AND TIARA.

The Secretary of Defense may not add to or remove program elements from (other than a change provided by law) the Joint Military Intelligence Program or the Tactical Intelligence and Related Activities aggregation for any fiscal year unless the Secretary included notice of the proposed change with the budget justification materials submitted to the congressional intelligence committees for the preceding fiscal year. The Secretary shall include with any such notice a statement providing an explanation and justification for the proposed change.

Subtitle F—Civilian Intelligence Personnel Policy

SEC. 481. STANDARDIZATION OF PERSONNEL POLICIES FOR INTELLIGENCE COMPONENTS OF DEPARTMENT OF DEFENSE

(a) **CONSOLIDATION AND STANDARDIZATION.**—Chapter 83 of title 10, United States Code, is amended—

- (1) by redesignating section 1602 as section 1607 and transferring that section so as to appear after section 1606; and

(2) by striking out sections 1601, 1603, and 1604 and inserting in lieu thereof the following:

“§ 1601. Management of civilian intelligence personnel

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

“(1) establish such excepted service positions, including positions in the Intelligence Senior Executive Service and positions that may be designated as Intelligence Senior Level positions under section 1602(c) of this title, for civilian intelligence officers and employees of the intelligence components of the Department of Defense as may be necessary to carry out the intelligence functions of such components;

“(2) appoint individuals to such positions with appropriate consideration of veterans’ preference; and

“(3) fix the compensation of such individuals for service in such 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 this section 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, a civilian intelligence employee of an intelligence component of the Department of Defense, including an Intelligence Senior Level employee or a member of the Intelligence Senior Executive Service, may not be paid basic pay in excess of the maximum rate payable under section 5306(e), section 5376, or section 5382 of title 5, respectively.

“(2) The Secretary of Defense may provide civilian employees of the intelligence components of the Department of Defense compensation (in addition to basic pay) including benefits, incentives, and allowances consistent with, and not in excess of the level authorized for, comparable positions authorized by title 5.

“(c) PREVAILING RATE 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 for civilian employees in or under which the Department may employ individuals described by section 5342(a)(2)(A) of such title.

“(d) ALLOWANCES BASED ON LIVING COSTS AND ENVIRONMENT.—(1) In addition to the basic pay payable under subsection (b), civilian intelligence officers and employees of the intelligence components of the Department of Defense who are citizens or nationals of the United States and are stationed outside the continental United States or in Alaska may be paid allowances, in accordance with regulations prescribed by the Secretary of Defense, at a rate not in excess of the allowance authorized to be paid by section 5941(a) of title 5 for employees whose rates of basic pay are fixed by statute.

“(2) Such allowances shall be based on—

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

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

“(C) both of the factors specified in subparagraphs (A) and (B).

“§ 1602. Intelligence Senior Executive Service

“(a) INTELLIGENCE SENIOR EXECUTIVE SERVICE.—With regard to any positions equivalent to the Senior Executive Service which may be established pursuant to section 1601 of this title, the Secretary of Defense shall prescribe regulations which are consistent with the requirements set forth in sections 3131, 3132(a)(2), 3396(c), 3592, 3595(a), 5384, and 6304 of title 5 and subsections (a), (b), and (c) of section 7543 of title 5 (except that any hearing or appeal shall be held or decided pursuant to regulations issued by the Secretary). To the extent practicable, the Secretary shall also prescribe regulations to implement such other provisions of title 5 as apply to members of the Senior Executive Service or to individuals applying for positions in the Senior Executive Service.

“(b) AWARD OF RANK TO MEMBERS OF THE INTELLIGENCE SENIOR EXECUTIVE SERVICE.—The President, based on the recommendations of the Secretary of Defense, may award a rank referred to in section 4507 of title 5 to members of the Intelligence Senior Executive Service whose positions may be established pursuant to this section. The awarding of such rank shall be made in a manner consistent with the provisions of that section.

“(c) INTELLIGENCE SENIOR LEVEL POSITIONS.—In carrying out section 1601(a) of this title, the Secretary of Defense may designate positions as Intelligence Senior Level positions. Positions which may be so designated are those which require functional expertise and advisory capacity, but do not have the organizational or program management functions necessary for inclusion in the Intelligence Senior Executive Service. Before designating any such position, the Secretary shall prescribe regulations to implement this subsection.

“§ 1603. Administrative provisions

“(a) TIME LIMITED APPOINTMENTS.—(1) The Secretary of Defense may by regulation authorize the use of time-limited appointments when hiring and appointing an employee to certain prescribed positions within an intelligence component of the Department of Defense. An employee who has a time-limited appointment is not eligible for conversion to a permanent Intelligence Senior Executive Service position without competition.

“(2) In this subsection, the term ‘time-limited appointment’ means an appointment to a position within an intelligence component of the Department of Defense for a period not to exceed five years.

“(b) TERMINATION OF CIVILIAN INTELLIGENCE EMPLOYEES.—(1) Notwithstanding any other provision of law, the Secretary of Defense may terminate the employment of any civilian intelligence officer or employee of an intelligence component of the Department of Defense if the Secretary—

“(A) considers that 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 officer or employee cannot be invoked in a manner consistent with national security.

“(2) A decision by the Secretary 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 officer or employ under the authority of this section.

“(4) Any termination of employment under this subsection does 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 that officer or 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 or (with respect to officers and employees under their respective jurisdictions) the heads of the intelligence components of the Department of Defense. An action to terminate employment of any civilian intelligence officer or employee of the Department by any such officer may be appealed to the Secretary of Defense.

“(c) ADJUSTMENT IN FORCE.—(1) Notwithstanding sections 3501(b) and 3502 of title 5 and subject to paragraph (2), the Secretary of Defense may prescribe regulations for the separation of civilian employees of the intelligence components of the Department of Defense including members of the Intelligence Senior Executive Service and employees assigned to Intelligence Senior Level positions, in an adjustment in force which give effect to—

“(A) performance;

“(B) tenure of employment;

“(C) length of service as computed under section 3502(a) (A), (B), and (C) of title 5; and

“(D) veterans’ preference, subject to sections 3501(a)(3) and 3502(b) of title 5.

“(2) An adjustment in force in the Intelligence Senior Executive Service shall be consistent with section 3595(a) of title 5.

“(3) The regulations prescribed under paragraph (1) shall include provisions for appeal rights within the Department in lieu of the provisions of any other law or regulations for all employees affected by actions under this subsection.

“(d) NOTIFICATION OF CONGRESS.—The Secretary of Defense shall notify Congress of any regulations prescribed to carry out this section or section 1601 or 1602 of this title. Such notice shall be provided by submitting a copy of the regulations to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate at least 60 days before such regulations take effect.

“§ 1604. Intelligence components of the Department of Defense defined

“In this chapter, the term ‘intelligence component of the Department of Defense’ means any of the following:

- “(1) The National Security Agency.
- “(2) The Defense Intelligence Agency.
- “(3) The Central Imagery Office.
- “(4) The National Reconnaissance Office.
- “(5) The intelligence components of the military departments.
- “(6) Any other intelligence component of the Department of Defense so designated by the Secretary of Defense.
- “(7) Any successor to any such agency or office.”.

(b) REPEAL OF SUPERSEDED PROVISIONS.—The following provisions of law are repealed:

- (1) Section 1590 of title 10, United States Code.
- (2) Section 303 of the Internal Security Act of 1950 (50 U.S.C. 833).

(c) CLERICAL AMENDMENTS.—(1)(A) The heading of chapter 83 of title 10, United States Code, is amended to read as follows:

“CHAPTER 83—DEFENSE INTELLIGENCE CIVILIAN PERSONNEL”.

(B) The items relating to such chapter in the tables of chapters at the beginning of subtitle A, and at the beginning of part II of subtitle A, of such title are amended by striking out “Agency and Central Imagery Office”.

(2) The table of sections at the beginning of chapter 81 of such title is amended by striking out the item relating to section 1590.

(3) The table of sections at the beginning of chapter 83 of such title is amended—
(A) by striking out the items relating to sections 1601, 1602, 1603, and 1604 and inserting in lieu thereof the following:

- “1601. Management of civilian intelligence personnel.
- “1602. Intelligence Senior Executive Service.
- “1603. Administrative provisions.
- “1604. Intelligence components of the Department of Defense defined.”; and

(B) by inserting after the item relating to section 1606 the following new item:

“1607. Merit pay system: Defense Intelligence Agency and Central Imagery Office.”.

(3) The heading of section 1607, as transferred and redesignated by subsection (a), is amended to read as follows:

“§ 1607. Merit pay system: Defense Intelligence Agency and Central Imagery Office”.**SEC. 482. TEMPORARY PROGRAM FOR CIVILIAN WORKFORCE REDUCTION IN THE NATIONAL SECURITY AGENCY.**

(a) VOLUNTARY EARLY RETIREMENT PROGRAM.—The Secretary of Defense may authorize the Director of the National Security Agency to permit eligible employees to retire early from service voluntarily by obtaining a lump-sum payment representing the present value of the 2 percent per annum early retirement penalty provided in section 8339(h) of title 5, United States Code.

(b) CONDITIONS FOR PAYMENT.—Under the program, the payment may be offered only—

- (1) with the prior consent, or on the authority, of the Secretary of Defense;
- (2) to employees of the National Security Agency;
- (3) to employees within such occupational groups or geographic locations, or subject to such other similar limitations or conditions as the Director of the National Security Agency may require; and
- (4) for a period not to exceed 90 consecutive days during the period from October 1, 1996, to September 30, 1997.

(c) TERMS OF PAYMENT.—Such payment shall—

- (1) be paid in a lump sum;
- (2) be equal to the present value of the total reduction in the annuity pursuant to section 8339(h) of title 5, United States Code, as calculated using appropriate present value factors supplied by the Director of the Office of Personnel Management;
- (3) not be a basis for payment, and not be included in the computation, of any other type of Government benefit;
- (4) not be provided to employees who elect to receive separation pay under section 5597 of title 5, United States Code; and
- (5) be subject to the availability of appropriations pursuant to subsection (e).

(d) REPAYMENT UPON REEMPLOYMENT BY THE UNITED STATES.—(1) An individual who has received a payment under this section and subsequently accepts employment with the United States shall be required to repay, before the individual's first day of employment, the entire amount of the lump-sum payment to the National Security Agency.

(2) For the purpose of this section, the term "employment" includes—

(A) employment of any length or under any type of appointment, but does not include employment that is without compensation; and

(B) employment under a personal services contract, as defined in the Federal Procurement Regulations.

(e) SOURCE OF PAYMENT.—(1) A lump-sum payment under this section may be paid by the Director of the National Security Agency only out of appropriations available to the National Security Agency for salaries and expenses.

(2) Funds authorized to be appropriated for operation and maintenance for the National Security Agency in the Intelligence Authorization Act for Fiscal Year 1997 are authorized to be made available for lump sum payments under this section.

(f) DEFINITION.—For purposes of this section, the term "employee" means an individual who on the date of the enactment of this Act is an employee of the National Security Agency, serving under an appointment without time limitation, who has been employed as of that date for a period of at least 60 months, and 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. Such term does not include—

(1) a reemployed annuitant under subchapter III of chapter 83 of such title;

or

(2) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under chapter 83 of such title.

TITLE V—NATIONAL SECURITY COUNCIL AND RELATED BOARDS AND COMMITTEES

SEC. 501. RECODIFICATION OF LAWS RELATING TO NATIONAL SECURITY COUNCIL AND RELATED BOARDS AND COMMITTEES IN EXECUTIVE OFFICE OF THE PRESIDENT.

Title I of the National Security Act of 1947 is amended by striking out the title heading and sections 101 through 107 and inserting in lieu thereof the following:

“TITLE I—NATIONAL SECURITY COUNCIL AND RELATED BOARDS AND COMMITTEES

“SEC. 101. NATIONAL SECURITY COUNCIL.

“(a) IN GENERAL.—There is in the Executive Office of the President the National Security Council. The Council is composed of the following:

“(1) The President.

“(2) The Vice President.

“(3) The Secretary of State.

“(4) The Secretary of Defense.

“(b) ADDITIONAL PARTICIPANTS.—Subject to the direction of the President, the following officers may attend and participate in meetings of the National Security Council:

“(1) DIRECTOR OF CENTRAL INTELLIGENCE.—The Director of Central Intelligence (or, in the Director's absence, a Deputy Director of Central Intelligence), in the performance of the Director's duties under this Act and the Intelligence Community Act.

“(2) CHAIRMAN OF THE JOINT CHIEFS OF STAFF.—The Chairman (or, in the Chairman's absence, the Vice Chairman) of the Joint Chiefs of Staff, in the Chairman's role as principal military adviser to the National Security Council.

“(3) DIRECTOR OF NATIONAL DRUG CONTROL POLICY.—The Director of National Drug Control Policy, in the Director's role as principal adviser to the National Security Council on national drug control policy, but only through the date specified in section 1009 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1506).

“(4) OTHERS DESIGNATED BY THE PRESIDENT.—Such additional officers as may be designated by the President.

“(c) FUNCTIONS.—The function of the Council shall be to advise the President with respect to the integration of domestic, foreign, and military policies relating to the

national security so as to enable the military services and the other departments and agencies of the Government to cooperate more effectively in matters involving the national security. In addition to performing such other functions as the President may direct, the Council (subject to the direction of the President) shall, for the purpose of more effectively coordinating the policies and functions of the departments and agencies of the Government relating to the national security—

“(1) assess and appraise the objectives, commitments, and risks of the United States in relation to our actual and potential military power, in the interest of national security, for the purpose of making recommendations to the President in connection therewith; and

“(2) consider policies on matters of common interest to the departments and agencies of the Government concerned with the national security and make recommendations to the President in connection therewith.

“(d) RECOMMENDATIONS AND REPORTS.—The Council shall, from time to time, make such recommendations and such other reports to the President as it considers appropriate or as the President may require.

“(e) STAFF.—The Council shall have a staff to be headed by a civilian executive secretary who shall be appointed by the President. The executive secretary, subject to the direction of the Council, may subject to the civil-service laws, appoint and fix the compensation of such personnel as may be necessary to perform such duties as may be prescribed by the Council in connection with the performance of its functions.

“SEC. 104. BOARD FOR LOW INTENSITY CONFLICT.

“(a) ESTABLISHMENT OF BOARD.—The President shall establish within the National Security Council a board to be known as the ‘Board for Low Intensity Conflict’.

“(b) FUNCTION.—The principal function of the board shall be to coordinate the policies of the United States for low intensity conflict.

“SEC. 105. NATIONAL COUNTERINTELLIGENCE POLICY BOARD.

“(a) ESTABLISHMENT OF BOARD.—There is within the executive branch of the Government a National Counterintelligence Policy Board. The Board shall report to the President through the National Security Council.

“(b) FUNCTION OF THE BOARD.—The Board shall serve as the principal mechanism for—

“(1) developing policies and procedures for the approval of the President to govern the conduct of counterintelligence activities; and

“(2) resolving conflicts, as directed by the President, which may arise between elements of the Government which carry out such activities.”.

SEC. 502. COMMITTEE ON FOREIGN INTELLIGENCE.

Title I of the National Security Act of 1947, as amended by section 501, is further amended by inserting after section 101 the following new section 102:

“SEC. 102. COMMITTEE ON FOREIGN INTELLIGENCE.

“(a) ESTABLISHMENT OF COMMITTEE.—There is established within the National Security Council a Committee on Foreign Intelligence. The Committee shall be composed of the following:

“(1) The Assistant to the President for National Security Affairs, who shall serve as chairman of the Committee.

“(2) The following officers or their respective deputies:

“(A) The Director of Central Intelligence.

“(B) The Secretary of State.

“(C) The Secretary of Defense.

“(D) The Attorney General.

“(E) The Chairman of the Joint Chiefs of Staff.

“(3) Such other members as the President may designate.

“(b) FUNCTION.—The function of the Committee on Foreign Intelligence shall be—

“(1) to establish, consistent with the policy and objectives of the President, the overall requirements and priorities for the Intelligence Community; and

“(2) to assess regularly, on behalf of the President, how effectively the Intelligence Community has performed its responsibilities under this Act and the Intelligence Community Act.

“(c) SEMIANNUAL STRATEGIC INTELLIGENCE REVIEW PROCESS WITH CONGRESS.—Not less often than every six months, the Committee on Foreign Intelligence shall convene a meeting with the members of the congressional intelligence committees to conduct a comprehensive, global strategic intelligence review. Each semiannual meeting shall review significant strategic intelligence trends, strategic intelligence

reporting, and anticipated Intelligence Community requirements for the following six to twelve months.”.

SEC. 503. TRANSNATIONAL THREATS.

Title I of the National Security Act of 1947, as amended by sections 501 and 502, is further amended by inserting after section 102 the following new section 103:

“SEC. 103. COMMITTEE ON TRANSNATIONAL THREATS.

“(a) ESTABLISHMENT.—There is established within the National Security Council a Committee on Transnational Threats. The Committee shall be composed of the following:

“(1) The Assistant to the President for National Security Affairs, who shall serve as chairman of the Committee.

“(2) The following officers or their respective deputies:

“(A) The Director of Central Intelligence.

“(B) The Secretary of State.

“(C) The Secretary of Defense.

“(D) The Attorney General.

“(3) Such other members as the President may designate.

“(b) FUNCTION.—The function of the Committee on Transnational Threats shall be to coordinate and direct the activities of the United States Government relating to combating transnational threats. In carrying out its function, the Committee shall—

“(1) identify transnational threats;

“(2) develop strategies to enable the United States Government to respond to transnational threats identified under paragraph (1);

“(3) monitor implementation of such strategies;

“(4) make recommendations as to appropriate responses to specific transnational threats;

“(5) assist in the resolution of operational and policy differences among Federal departments and agencies in their responses to transnational threats;

“(6) develop policies and procedures to ensure the effective sharing of information about transnational threats among Federal departments and agencies, including law enforcement agencies and the elements of the intelligence community; and

“(7) develop guidelines to enhance and improve the coordination of Federal law enforcement activities overseas.

“(c) DEFINITION OF TRANSNATIONAL THREAT.—For purposes of this section, the term ‘transnational threat’ means the following:

“(1) Any transnational activity (including international terrorism, narcotics trafficking, the proliferation of weapons of mass destruction and the delivery systems for such weapons, and organized crime) that threatens the national security of the United States.

“(2) Any individual or group that engages in an activity referred to in paragraph (1).”.

TITLE VI—TECHNICAL AND CONFORMING AMENDMENTS AND EFFECTIVE DATE

SEC. 601. RESTATEMENT OF NATIONAL SECURITY AGENCY ACT OF 1959.

The National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended to read as follows:

“SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

“(a) SHORT TITLE.—This Act may be cited as the ‘National Security Agency Act of 1959’.

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

“Sec. 1. Short title; table of contents.

“Sec. 2. General personnel authorities.

“Sec. 3. Protection of identities of employees.

“Sec. 4. Authority to lease real property outside the United States.

“Sec. 5. Benefits for personnel assigned to special cryptologic activities outside the United States.

“Sec. 10. Language training for cryptologic personnel.

“Sec. 11. Protection of facilities by General Services Administration.

“Sec. 12. Senior Cryptologic Executive Service.

“Sec. 13. Grants for cryptologic research.

“Sec. 14. Availability of certain appropriations.

“Sec. 15. Protection of agency name from unauthorized use.

“Sec. 16. Recruitment of qualified personnel.

“Sec. 17. Authority to pay certain expenses for employees dying while on rotational tour of duty in the United States.

“SEC. 2. GENERAL PERSONNEL AUTHORITIES.

“(a) **IN GENERAL.**—General personnel authorities of the Secretary of Defense with respect to the National Security Agency are provided in chapter 83 of title 10, United States Code.

“(b) **AUTHORITY FOR ADDITIONAL COMPENSATION FOR CERTAIN EMPLOYEES.**—Officers and employees of the National Security Agency who are citizens or nationals of the United States may be granted additional compensation, in accordance with regulations which shall be prescribed by the Secretary of Defense, not in excess of additional compensation authorized by section 5941 of title 5, United States Code, for employees whose rates of basic compensation are fixed by statute.

“SEC. 3. PROTECTION OF IDENTITIES OF EMPLOYEES.

“Nothing in this Act or any other law shall be construed to require the disclosure of the organization or any function of the National Security Agency, of any information with respect to the activities thereof, or of the names, titles, salaries, or number of the persons employed by such agency.

“SEC. 4. AUTHORITY TO LEASE REAL PROPERTY OUTSIDE THE UNITED STATES.

“(a) **AUTHORITY.**—Notwithstanding section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), section 5536 of title 5, United States Code, and section 2675 of title 10, United States Code, the Director of the National Security Agency, on behalf of the Secretary of Defense, may lease real property outside the United States, for periods not exceeding ten years, for the use of the National Security Agency for special cryptologic activities and for housing for personnel assigned to such activities.

“(b) **LIMITATION TO APPROPRIATED FUNDS.**—The authority of the Director of the National Security Agency, on behalf of the Secretary of Defense, to make payments under subsection (a), and under contracts for leases entered into under subsection (a), is effective for any fiscal year only to the extent that appropriated funds are available for such purpose.

“SEC. 5. BENEFITS FOR PERSONNEL ASSIGNED TO SPECIAL CRYPTOLOGIC ACTIVITIES OUTSIDE THE UNITED STATES.

“(a) **AUTHORITY TO PROVIDE CERTAIN BENEFITS.**—The Director of the National Security Agency, on behalf of the Secretary of Defense, may provide to certain civilian and military personnel of the Department of Defense who are assigned to special cryptologic activities outside the United States and who are designated by the Secretary of Defense for the purposes of this subsection the following:

“(1) Allowances and benefits—

“(A) comparable to those provided by the Secretary of State to members of the Foreign Service under chapter 9 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4081 et seq.) or any other provision of law; and

“(B) in the case of selected personnel serving in circumstances similar to those in which personnel of the Central Intelligence Agency serve, comparable to those provided by the Director of Central Intelligence to personnel of the Central Intelligence Agency.

“(2) Housing (including heat, light, and household equipment) without cost to such personnel, if the Director of the National Security Agency, on behalf of the Secretary of Defense, determines that it would be in the public interest to provide such housing.

“(3) Special retirement accrual in the same manner provided 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.

“(b) **LIMITATION TO APPROPRIATED FUNDS.**—The authority of the Director of the National Security Agency, on behalf 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) **PROHIBITION OF DUPLICATION OF BENEFITS.**—Members of the Armed Forces may not receive benefits under both subsection (a)(1) and under title 37, United States Code, for the same purpose. The Secretary of Defense shall prescribe such regulations as may be necessary to carry out this subsection.

“(d) **REGULATIONS.**—Regulations prescribed under subsection (a)(1) shall be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate before such regulations take effect.

“SEC. 10. LANGUAGE TRAINING FOR CRYPTOLOGIC PERSONNEL.

“(a) **LANGUAGE TRAINING PROGRAMS.**—The Director of the National Security Agency shall arrange for, and shall prescribe regulations concerning, language and language-related training programs for military and civilian cryptologic personnel. In

establishing programs under this section for language and language-related training, the Director—

“(1) may provide for the training and instruction to be furnished, including functional and geographic area specializations;

“(2) may arrange for training and instruction through other Government agencies and, in any case in which appropriate training or instruction is unavailable through Government facilities, through nongovernmental facilities that furnish training and instruction useful in the fields of language and foreign affairs;

“(3) may support programs that furnish necessary language and language-related skills, including, in any case in which appropriate programs are unavailable at Government facilities, support through contracts, grants, or cooperation with nongovernmental educational institutions; and

“(4) may obtain by appointment or contract the services of individuals to serve as language instructors, linguists, or special language project personnel.

“(b) FOREIGN LANGUAGE PROFICIENCY INCENTIVES.—(1) In order to maintain necessary capability in foreign language skills and related abilities needed by the National Security Agency, the Director, without regard to subchapter IV of chapter 55 of title 5, United States Code, may provide special monetary or other incentives to encourage civilian cryptologic personnel of the Agency to acquire or retain proficiency in foreign languages or special related abilities needed by the Agency.

“(2) In order to provide linguistic training and support for cryptologic personnel, the Director—

“(A) may pay all or part of the tuition and other expenses related to the training of personnel who are assigned or detailed for language and language-related training, orientation, or instruction; and

“(B) may pay benefits and allowances to civilian personnel in accordance with chapters 57 and 59 of title 5, United States Code, and to military personnel in accordance with chapter 7 of title 37, United States Code, and applicable provisions of title 10, United States Code, when such personnel are assigned to training at sites away from their designated duty station.

“(c) CRYPTOLOGIC LINGUIST RESERVE.—(1) To the extent not inconsistent, in the opinion of the Secretary of Defense, with the operation of military cryptologic reserve units and in order to maintain necessary capability in foreign language skills and related abilities needed by the National Security Agency, the Director may establish a Cryptologic Linguist Reserve.

“(2) The Cryptologic Linguist Reserve may consist of former or retired civilian or military cryptologic personnel of the National Security Agency and of other qualified individuals, as determined by the Director of the Agency. Each member of the Cryptologic Linguist Reserve shall agree that, during any period of emergency (as determined by the Director), the member shall return to active civilian status with the National Security Agency and shall perform such linguistic or linguistic-related duties as the Director may assign.

“(3) In order to attract individuals to become members of the Cryptologic Linguist Reserve, the Director, without regard to subchapter IV of chapter 55 of title 5, United States Code, may provide special monetary incentives to individuals eligible to become members of the reserve who agree to become members of the cryptologic linguist reserve and to acquire or retain proficiency in foreign languages or special related abilities.

“(4) In order to provide training and support for members of the Cryptologic Linguist Reserve, the Director—

“(A) may pay all or part of the tuition and other expenses related to the training of individuals in the Cryptologic Linguist Reserve who are assigned or detailed for language and language-related training, orientation, or instruction; and

“(B) may pay benefits and allowances in accordance with chapters 57 and 59 of title 5, United States Code, to individuals in the Cryptologic Linguist Reserve who are assigned to training at sites away from their homes or regular places of business.

“(d) SERVICE AGREEMENTS.—(1) The Director, before providing training under this section to any individual, may obtain an agreement with that individual that—

“(A) in the case of current employees, pertains to continuation of service of the employee, and repayment of the expenses of such training for failure to fulfill the agreement, consistent with the provisions of section 4108 of title 5, United States Code; and

“(B) in the case of individuals accepted for membership in the Cryptologic Linguist Reserve, pertains to return to service when requested, and repayment

of the expenses of such training for failure to fulfill the agreement, consistent with the provisions of section 4108 of title 5, United States Code.

“(2) The Director, under regulations prescribed under this section, may waive, in whole or in part, a right of recovery under an agreement made under this subsection if it is shown that the recovery would be against equity and good conscience or against the public interest.

“(e) LANGUAGE TRAINING FOR FAMILY MEMBERS.—(1) Subject to paragraph (2), the Director may provide to family members of military and civilian cryptologic personnel assigned to representational duties outside the United States, in anticipation of the assignment of such personnel outside the United States or while outside the United States, appropriate orientation and language training that is directly related to the assignment abroad.

“(2) Language training under paragraph (1) may not be provided to any individual through payment of the expenses of tuition or other cost of instruction at a non-Government educational institution unless appropriate instruction is not available at a Government facility.

“(f) WAIVER AUTHORITY.—The Director may waive the applicability of any provision of chapter 41 of title 5, United States Code, to any provision of this section if he finds that such waiver is important to the performance of cryptologic functions.

“(g) LIMITATION TO APPROPRIATED FUNDS.—The authority of the Director to enter into contracts or to make grants under this section is effective for any fiscal year only to the extent that appropriated funds are available for such purpose.

“(h) REGULATIONS.—Regulations prescribed under this section shall be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate before such regulations take effect.

“(i) TRAVEL AND TRANSPORTATION EXPENSES IN CONNECTION WITH TRAINING OUTSIDE THE UNITED STATES.—The Director of the National Security Agency, on behalf of the Secretary of Defense, may, without regard to section 4109(a)(2)(B) of title 5, United States Code, pay travel, transportation, storage, and subsistence expenses under chapter 57 of such title to civilian and military personnel of the Department of Defense who are assigned to duty outside the United States for a period of one year or longer which involves cryptologic training, language training, or related disciplines.

“SEC. 11. PROTECTION OF FACILITIES BY GENERAL SERVICES ADMINISTRATION.

“The Administrator of General Services, upon the application of the Director of the National Security Agency, may provide for the protection in accordance with section 3 of the Act of June 1, 1948 (40 U.S.C. 318b), of certain facilities (as designated by the Director of such Agency) which are under the administration and control of, or are used by, the National Security Agency in the same manner as if such facilities were property of the United States over which the United States has acquired exclusive or concurrent criminal jurisdiction.

“SEC. 12. SENIOR CRYPTOLOGIC EXECUTIVE SERVICE.

“(a) AUTHORITY TO ESTABLISH SCES.—(1) The Secretary of Defense (or his designee) may by regulation establish a personnel system for senior civilian cryptologic personnel in the National Security Agency to be known as the Senior Cryptologic Executive Service. The regulations establishing the Senior Cryptologic Executive Service shall do the following:

“(A) Meet the requirements set forth in section 3131 of title 5, United States Code, for the Senior Executive Service.

“(B) Provide that positions in the Senior Cryptologic Executive Service meet requirements that are consistent with the provisions of section 3132(a)(2) of such title.

“(C) Provide, without regard to section 2, rates of pay for the Senior Cryptologic Executive Service that are not in excess of the maximum rate or less than the minimum rate of basic pay established for the Senior Executive Service under section 5382 of such title, and that are adjusted at the same time and to the same extent as rates of basic pay for the Senior Executive Service are adjusted.

“(D) Provide a performance appraisal system for the Senior Cryptologic Executive Service that conforms to the provisions of subchapter II of chapter 43 of such title.

“(E) Provide for removal consistent with section 3592 of such title, and removal or suspension consistent with subsections (a), (b), and (c) of section 7543 of such title (except that any hearing or appeal to which a member of the Senior Cryptologic Executive Service is entitled shall be held or decided pursuant to procedures established by regulations of the Secretary of Defense).

“(F) Permit the payment of performance awards to members of the Senior Cryptologic Executive Service consistent with the provisions applicable to performance awards under section 5384 of such title.

“(G) Provide that members of the Senior Cryptologic Executive Service may be granted sabbatical leaves consistent with the provisions of section 3396(c) of such title.

“(H) Provide for the recertification of members of the Senior Cryptologic Executive Service consistent with the provisions of section 3393a of such title.

“(2) Except as otherwise provided in paragraph (1), the Secretary of Defense may—

“(A) make applicable to the Senior Cryptologic Executive Service any of the provisions of title 5, United States Code, applicable to applicants for or members of the Senior Executive Service; and

“(B) appoint, promote, and assign individuals to positions established within the Senior Cryptologic Executive Service without regard to the provisions of title 5, United States Code, governing appointments and other personnel actions in the competitive service.

“(3) The President, based on the recommendations of the Secretary of Defense, may award ranks to members of the Senior Cryptologic Executive Service in a manner consistent with the provisions of section 4507 of title 5, United States Code.

“(4) Notwithstanding any other provision of this section, the Director of the National Security Agency may detail or assign any member of the Senior Cryptologic Executive Service to serve in a position outside the National Security Agency in which the member’s expertise and experience may be of benefit to the National Security Agency or another Government agency. Any such member shall not by reason of such detail or assignment lose any entitlement or status associated with membership in the Senior Cryptologic Executive Service.

“(b) MERIT PAY SYSTEM.—The Secretary of Defense may by regulation establish a merit pay system for such employees of the National Security Agency as the Secretary of Defense considers appropriate. The merit pay system shall be designed to carry out purposes consistent with those set forth in section 5401(a) of title 5, United States Code.

“(c) LIMITATION ON TOTAL COMPENSATION.—Nothing in this section shall be construed to allow the aggregate amount payable to a member of the Senior Cryptologic Executive Service under this section during any fiscal year to exceed the annual rate payable for positions at level I of the Executive Schedule in effect at the end of such year.

“SEC. 13. GRANTS FOR CRYPTOLOGIC RESEARCH.

“(a) GRANT AUTHORITY.—The Director of the National Security Agency may make grants to private individuals and institutions for the conduct of cryptologic research. An application for a grant under this section may not be approved unless the Director determines that the award of the grant would be clearly consistent with the national security.

“(b) APPLICABLE LAW.—The grant program established by subsection (a) shall be conducted in accordance with the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.) to the extent that such Act is consistent with and in accordance with section 6 of this Act.

“(c) LIMITATION TO APPROPRIATED FUNDS.—The authority of the Director to make grants under this section is effective for any fiscal year only to the extent that appropriated funds are available for such purpose.

“SEC. 14. AVAILABILITY OF CERTAIN APPROPRIATIONS.

“Funds appropriated to an entity of the Federal Government other than an element of the Department of Defense that have been specifically appropriated for the purchase of cryptologic equipment, materials, or services with respect to which the National Security Agency has been designated as the central source of procurement for the Government shall remain available for a period of three fiscal years.

“SEC. 15. PROTECTION OF AGENCY NAME FROM UNAUTHORIZED USE.

“(a) PROHIBITION ON UNAUTHORIZED USE.—No person may, except with the written permission of the Director of the National Security Agency, knowingly use the words ‘National Security Agency’, the initials ‘NSA’, the seal of the National Security Agency, or any colorable imitation of such words, initials, or seal in connection with any merchandise, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the National Security Agency.

“(b) ENFORCEMENT.—Whenever it appears to the Attorney General that any person is engaged or is about to engage in an act or practice which constitutes or will

constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.

“SEC. 16. RECRUITMENT OF QUALIFIED PERSONNEL.

“(a) **PURPOSE.**—The purpose of this section is to establish an undergraduate training program, which may lead to the baccalaureate degree, to facilitate the recruitment of individuals, particularly minority high school students, with a demonstrated capability to develop skills critical to the mission of the National Security Agency, including mathematics, computer science, engineering, and foreign languages.

“(b) **ASSIGNMENT OF CIVILIAN EMPLOYEES.**—The Secretary of Defense may, in the Secretary’s discretion, assign civilian employees of the National Security Agency as students at accredited professional, technical, and other institutions of higher learning for training at the undergraduate level in skills critical to effective performance of the mission of the Agency.

“(c) **LIMITATION TO APPROPRIATED FUNDS.**—The National Security Agency may pay, directly or by reimbursement to employees, expenses incident to assignments under subsection (b), in any fiscal year only to the extent that appropriated funds are available for such purpose.

“(d) **EMPLOYEE AGREEMENT.**—(1) To be eligible for assignment under subsection (b), an employee of the Agency must agree in writing to the following:

“(A) To continue in the service of the Agency for the period of the assignment and to complete the educational course of training for which the employee is assigned.

“(B) To continue in the service of the Agency following completion of the assignment for a period of one-and-a-half years for each year of the assignment or part thereof.

“(C) To reimburse the United States for the total cost of education (excluding the employee’s pay and allowances) provided under this section to the employee if, before the employee’s completing the educational course of training for which the employee is assigned, the assignment or the employee’s employment with the Agency is terminated either by the Agency due to misconduct by the employee or by the employee voluntarily.

“(D) To reimburse the United States if, after completing the educational course of training for which the employee is assigned, the employee’s employment with the Agency is terminated either by the Agency due to misconduct by the employee or by the employee voluntarily, before the employee’s completion of the service obligation period described in subparagraph (B), in an amount that bears the same ratio to the total cost of the education (excluding the employee’s pay and allowances) provided to the employee as the unserved portion of the service obligation period described in subparagraph (B) bears to the total period of the service obligation described in subparagraph (B).

“(2) Subject to paragraph (3), the obligation to reimburse the United States under an agreement described in paragraph (1), including interest due on such obligation, is for all purposes a debt owing the United States.

“(3)(A) A discharge in bankruptcy under title 11, United States Code, shall not release a person from an obligation to reimburse the United States required under an agreement described in paragraph (1) if the final decree of the discharge in bankruptcy is issued within five years after the last day of the combined period of service obligation described in subparagraphs (A) and (B) of paragraph (1).

“(B) The Secretary of Defense may release a person, in whole or in part, from the obligation to reimburse the United States under an agreement described in paragraph (1) when, in the Secretary’s discretion, the Secretary determines that equity or the interests of the United States so require.

“(C) The Secretary of Defense shall permit an employee assigned under this section who, before commencing a second academic year of such assignment, voluntarily terminates the assignment or the employee’s employment with the Agency, to satisfy his obligation under an agreement described in paragraph (1) to reimburse the United States by reimbursement according to a schedule of monthly payments which results in completion of reimbursement by a date five years after the date of termination of the assignment or employment or earlier at the option of the employee.

“(e) **DISCLOSURE TO EDUCATIONAL INSTITUTION OF AGENCY AFFILIATION OF EMPLOYEE.**—(1) When an employee is assigned under this section to an institution, the

Agency shall disclose to the institution to which the employee is assigned that the Agency employs the employee and that the Agency funds the employee's education.

“(2) Agency efforts to recruit individuals at educational institutions for participation in the undergraduate training program established by this section shall be made openly and according to the common practices of universities and employers recruiting at such institutions.

“(f) INAPPLICABILITY OF CERTAIN LAWS.—Chapter 41 of title 5 and subsections (a) and (b) of section 3324 of title 31, United States Code, shall not apply with respect to this section.

“(g) REGULATIONS.—The Secretary of Defense may prescribe such regulations as may be necessary to implement this section.

“SEC. 17. AUTHORITY TO PAY CERTAIN EXPENSES FOR EMPLOYEES DYING WHILE ON ROTATIONAL TOUR OF DUTY IN THE UNITED STATES.

“(a) AUTHORITY.—The Secretary of Defense may pay the expenses referred to in section 5742(b) of title 5, United States Code, in the case of any employee of the National Security Agency who dies while on a rotational tour of duty within the United States or while in transit to or from such tour of duty.

“(b) DEFINITION.—For the purposes of this section, the term ‘rotational tour of duty’, with respect to an employee, means a permanent change of station involving the transfer of the employee from the National Security Agency headquarters to another post of duty for a fixed period established by regulation to be followed at the end of such period by a permanent change of station involving a transfer of the employee back to such headquarters.”.

SEC. 602. AMENDMENTS TO TITLE 5, UNITED STATES CODE.

(a) PAY.—Section 5314 of title 5, United States Code, is amended by striking out “Deputy Director of Central Intelligence” and inserting in lieu thereof “Deputy Directors of Central Intelligence (2)”.

(b) MERIT SYSTEM PRINCIPLES.—Section 2305 of title 5, United States Code, is amended by striking out “section 102 of the National Security Act of 1947 (61 Stat. 495; 50 U.S.C. 403),” and inserting in lieu thereof “subtitle A of title I of the Intelligence Community Act,”.

SEC. 603. REPEAL OF PROVISIONS RECODIFIED IN NEW ACT.

(a) FISCAL YEAR 1996 INTELLIGENCE AUTHORIZATION ACT.—Section 306 of the Intelligence Authorization Act for Fiscal Year 1996 (Public Law 104–93; 50 U.S.C. 435 note; 109 Stat. 966) is repealed.

(b) FISCAL YEAR 1995 INTELLIGENCE AUTHORIZATION ACT.—The following provisions of the Intelligence Authorization Act for Fiscal Year 1995 (Public Law 103–359) are repealed:

(1) Section 603 (50 U.S.C. 403–3 note; 108 Stat. 3433).

(2) Section 811 (50 U.S.C. 402a; 108 Stat. 3455).

(c) FISCAL YEAR 1992 INTELLIGENCE AUTHORIZATION ACT.—Section 403 of the Intelligence Authorization Act for Fiscal Year 1992 (Public Law 102–183; 50 U.S.C. 403–2; 105 Stat. 1267) is repealed.

(d) NATIONAL SECURITY ACT OF 1947.—Section 109 of the National Security Act of 1947 (50 U.S.C. 404d) is repealed.

(e) FISCAL YEAR 1995 DEFENSE APPROPRIATIONS ACT.—Section 8154 of the Department of Defense Appropriations Act, 1995 (10 U.S.C. 384 note; 50 U.S.C. 403f note; 108 Stat. 2658) is repealed.

(f) FISCAL YEAR 1994 DEFENSE APPROPRIATIONS ACT.—Section 8107 of the Department of Defense Appropriations Act, 1994 (50 U.S.C. 414 note; 107 Stat. 1464) is repealed.

SEC. 604. NATIONAL SECURITY ACT OF 1947.

(a) TABLE OF CONTENTS.—The table of contents in the first section of the National Security Act of 1947 is amended—

(1) by inserting after the item relating to section 2 the following new item:

“Sec. 3. Definitions.”;

(2) by striking out the items relating to the heading for title I and sections 101 through 107 and inserting in lieu thereof the following:

“TITLE I—NATIONAL SECURITY COUNCIL AND RELATED BOARDS AND COMMITTEES

“Sec. 101. National Security Council.

“Sec. 102. Committee on Foreign Intelligence.

“Sec. 103. Committee on Transnational Threats.

“Sec. 104. Board for Low Intensity Conflict.

“Sec. 105. National Counterintelligence Policy Board.”;

(3) by striking out the item relating to section 109 and the item following that item (relating to section 104); and

(4) by striking out the items relating to sections 202 through 204, 208 through 214, 301, 302, and 304 through 306.

(b) **FORMAT AMENDMENTS.**—Title IX of such Act is amended—

(1) in section 904 (50 U.S.C. 441c), by striking out “required to be imposed by” and all that follows and inserting in lieu thereof “required to be imposed by any of the following provisions of law:

“(1) The Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title III of Public Law 102–182).

“(2) The Nuclear Proliferation Prevention Act of 1994 (title VIII of Public Law 103–236).

“(3) Section 11B of the Export Administration Act of 1979 (50 U.S.C. App. 2410b).

“(4) Chapter 7 of the Arms Export Control Act (22 U.S.C. 2797 et seq.).

“(5) The Iran-Iraq Arms Non-Proliferation Act of 1992 (title XVI of Public Law 102–484).

“(6) The following provisions of annual appropriations Acts:

“(A) Section 573 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994 (Public Law 103–87; 107 Stat. 972).

“(B) Section 563 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Public Law 103–306; 108 Stat. 1649).

“(C) Section 552 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 741).

“(7) Comparable provisions.”; and

(2) in section 905 (50 U.S.C. 441d), by striking out “on the date which is one year after the date of the enactment of this title” and inserting in lieu thereof “on January 6, 1997”.

SEC. 605. ABOLITION OF NATIONAL INTELLIGENCE COUNCIL.

The National Intelligence Council is abolished.

SEC. 606. EFFECTIVE DATE.

Except as otherwise specifically provided in this Act, this Act and the amendments made by this Act shall take effect six months after the date of the enactment of this Act, except that the President may prescribe an earlier date. Any such date prescribed by the President shall be published in the Federal Register.

Amend the title so as to read:

A bill to provide for improved management and operation of intelligence activities of the Government by providing for a more corporate approach to intelligence so as to provide an improved Intelligence Community for the 21st century, and for other purposes.

PURPOSE

The purposes of this Act are:

(1) To provide a corporate framework for the improved management of United States intelligence activities at all levels and within all intelligence disciplines:

(2) To provide an institutional structure that will continue to ensure that the Intelligence Community serves the needs of the Government as a whole in an effective timely and corporate manner:

(3) To clarify by law the responsibilities of United States intelligence agencies; and

(4) To improve the congressional oversight of intelligence activities.

IC21: THE INTELLIGENCE COMMUNITY IN THE 21ST CENTURY

At the outset of the 104th Congress, the Committee began a review of the current roles, functions, missions and capabilities of the

Intelligence Community, with an emphasis on how well suited these were to address likely national security concerns in the 21st century. This review was intended to be parallel and complementary to the work being begun by the Commission on the Roles and Capabilities of the United States Intelligence Community, which had been created by the Intelligence Authorization Act for Fiscal Year 1995 (P.L. 103-359). This Committee project was given the name *IC21: The Intelligence Community in the 21st Century*.

GUIDING CONCEPTS OF IC21

IC21 has been guided by the following broad concepts:

The United States continues to need a strong, highly capable and increasingly flexible Intelligence Community. This need has not diminished with the end of the Cold War. Indeed, the current international situation is, in many ways, more complex and more difficult to deal with than was the relatively stable, bi-polar Cold War. Thus, although we find our national security less threatened, the demands for intelligence remain and may likely increase. The focus of our national security has changed, but the mission of the Intelligence Community has not changed: to ensure that our nation never again suffers a crippling, strategic surprise; to provide timely, assessed intelligence to civil and military policy-makers that is the basis for sound decision making; supporting military operations; and, carrying out certain non-traditional intelligence operations—including covert action—in accordance with laws and as tasked by legally responsible officials.

A key issue is *opportunity*, not reform. U.S. national security interests are less threatened than at any time since 1940. This is a propitious moment in which to review major aspects of our national security apparatus and to update them in an atmosphere relatively free from crisis. Although Congress and the Executive continue to deal with issues regarding the propriety of certain operations (oversight and—occasionally—legality), these are not the main driving issues as they were in the mid-1970s.

Every facet and institution within the Intelligence Community was reviewed; nothing was above scrutiny, no agency or mission was immune from scrutiny. There also were no preconceptions as to the “right answer” for the future of the Intelligence Community.

IC21 is not an exercise designed to reduce, or even to shape the intelligence budget. The goal is to provide the broad shape of the Intelligence Community that will best meet U.S. national security needs into the next century. The question of whether the price for this type of Intelligence Community is acceptable can only be decided by Congress and the Executive during their budget deliberations.

The Committee examined and considered major structural changes in detail to ensure that support and a firm basis for these changes existed, and that they would yield the appropriate results. Any major recommendation for organizational change must come only from well-defined intelligence or policy-maker needs.

Although the Committee’s sole jurisdiction over the national Intelligence community is broad, it shares jurisdiction with the House National Security Committee over tactical and joint intelligence programs. Reforms and structural change can only be considered in

conjunction with that Committee. It is important to keep the primary focus on those issues that might require legislative remedies. Changes that can be carried out by or within the Executive should also be noted, as should findings for which no specific recommendations are made.

Any changes must result in improved processes or products to be worth the cost of short-lived dislocations.

To the greatest extent possible, the *IC21* process has been public and unclassified. One of the goals of *IC21* has been to renew a national consensus to support a strong, diverse and capable Intelligence Community. Such a consensus must rely on an easily accessible body of information. This is an especially important function because, as several witnesses told the Committee, beyond Congress and the Executive there is no natural constituency for intelligence in the United States.

Finally, the focus has been on where the Intelligence Community needs to be in the next 10–15 years, not a snapshot of where we are today.

SCOPE OF THE IC21 PROCESS

Defining the issues

Committee staff began by defining the types of issues that either had to be addressed or could be most profitably addressed regarding the future of the Intelligence Community. This led, first, to a set of detailed questions about the Intelligence Community that were sent out to over 40 former and current national security officials, academics and intelligence veterans.

Based on these preliminary efforts and on the responses to the questions, *IC21* was undertaken with the view that it would be most profitable to look at the Intelligence Community largely in terms of broad functional categories, rather than agency-by-agency. An agency-by-agency approach would largely lead to either a confirmation or rejection of the *status quo* without providing a basis for projecting future intelligence needs and how best to meet them. The following were the defining intelligence functions:

Management Functions

- Requirements
- Resource Management
- Collection Management
- Production Management

Execution Functions

- Systems Development
- Collection via open sources, human intelligence, signals intelligence, imagery, measurement and signatures intelligence
- Analysis

Support Functions

- Infrastructure Support

Evaluation, which is both a management and an execution function.

Expert testimony

The Committee undertook a series of hearings and staff panels to help shape the project and to provide expert testimony on *IC21*

issues. The following hearings were held, all but one of which were open—in keeping with the guiding concept of an open process. (The transcript of the one closed hearing has since been declassified and is being publishing along with the other hearings.)

Former Directors of Central Intelligence, May 22, 1995

Honorable Richard Helms; Honorable James Schlesinger; Honorable William E. Colby; Honorable Stansfield Turner; Honorable William H. Webster; Honorable R. James Woolsey.

Future of Technology, July 13, 1995

Bill Richardson, Director, the Advanced Technologies Office, Director of Central Intelligence's Community Management Staff; Dr. Lee Buchanan, Director, Defense Sciences Office, Advanced Research Projects Agency; Dr. Curtis R. Carlson, Executive Vice President, David Sarnoff Research Center.

Policy Makers and Intelligence, July 27, 1995

Lt. General Brent Scowcroft, USAF (ret.), former National Security Adviser to Presidents Ford and Bush; Ambassador Robert Kimmit, former Ambassador to Germany and Under Secretary of State for Political Affairs; Dr. Joseph Massey, former Assistant U.S. Trade Representative.

Enabling Technologies, October 18, 1995

Honorable Paul G. Kaminski, Under Secretary of Defense for Acquisition and Technology; Norm Augustine, President, Lockheed-Martin Corporation; Edward McCracken, Chairman and CEO, Silicon Graphics Incorporated.

Intelligence Community "Wise Men," November 16, 1995

John N. McMahon, former Deputy Director of Central Intelligence; Richard J. Kerr, former Deputy Director of Central Intelligence; Lt. General James R. Clapper, USAF (ret.), former Director, Defense Intelligence Agency.

Director of Central Intelligence, December 19, 1995

Honorable John M. Deutch, Director of Central Intelligence.

In addition to these hearings specifically devoted to *IC21* issues, the Committee gleaned much useful information relevant to *IC21* during the extensive 1995 budget authorization process, which included 11 full Committee hearings, 20 Member briefings and over 200 staff briefings.

Immediately before H.R. 3237 was introduced on April 15, 1996, the Committee held further hearings on *IC21* issues. On March 6, the Committee heard from former Secretary of Defense Harold Brown and former Senator Warren Rudman, the Chairman, and Vice Chairman, respectively, of the Commission on the Roles and Capabilities of the United States Intelligence Community. At two further hearings on *IC21*-related issues, witnesses included Deputy Director of Central Intelligence George Tenet; Assistant Secretary of State for Intelligence and Research Toby Gati; Deputy Assistant Secretary of Defense of Intelligence Joan Dempsey; and another hearing with Director of Central Intelligence Deutch. *IC21* issues

were also examined during the six full Committee hearings on the FY 1997 intelligence authorization held in early 1996. On May 29, 1996, Director of Central Intelligence Deutch and Deputy Secretary of Defense John White briefed the Committee on their views of the bill as reported.

Finally, as noted, staff conducted dozens of interviews and held several staff panels and conducted scores of interviews with experts covering aspects of signals intelligence; imagery intelligence; measurement and signals intelligence; the clandestine service; Intelligence Community “surge” capability; and public perceptions of intelligence.

Staff studies

Simultaneous with these other efforts, Majority staff prepared 14 staff studies, covering the range of issues first defined in 1995. These studies were published in April 1996, offering detailed analysis, as well as 87 findings and 105 recommendations on:

- Intelligence Community Management
- Intelligence Requirements Process
- Collection Synergy
- Signals Intelligence (SIGINT)
- Imagery Intelligence (IMINT)
- Measurement and Signatures Intelligence (MASINT)
- Collection: Launch
- Intelligence Community “Surge” Capability
- Intelligence Support to Military Operations
- Intelligence Centers
- Intelligence and Law Enforcement
- Intelligence Communications
- Congressional Oversight.

H.R. 3237 is based on this entire body of work. Moreover, once the bill was introduced, in addition to the further hearings noted above, staff continued its broad consultations with a wide variety of experts in and out of the Intelligence Community, with non-intelligence Executive Branch agencies, and with other interested Congressional staff and Members. As a result, the bill as originally introduced was further refined, resulting in the amendment in the nature of a substitute that is reported favorably herein.

COMMITTEE FINDINGS

The Committee found that the phrase “intelligence community” as a more apt description of how this important function is organized and managed than most people realize. It is the product of a half century of *ad hoc* development—largely through executive order and directive rather than statute. This has resulted in a vast array of organizations. Each of these entities makes sense individually but, as a whole, the Intelligence Community fails to achieve the coherence one would expect, even accounting for the fact that intelligence is housed in a number of separate departments and agencies, and supports separate and distinct consumers: the policy community and the military.

The major thematic finding of *IC21* and embodied in H.R. 3237 is the need for a more “corporate” Intelligence Community, *i.e.*, one in which all components understand that they are part of a larger

coherent process aiming at a single goal: the delivery of timely intelligence to decision makers at various levels. What this means, in practical terms, is that central management of the Intelligence Community should be strengthened; core competencies (collection, analysis, operations) should be reinforced; and infrastructure should be consolidated wherever possible.

This finding is not very different from that made by Vice President Gore's *National Performance Review* on the Intelligence Community (September 1993; p. 1), which observed:

. . . The first and perhaps most important finding of the National Performance Review is that there must be an overarching vision for the Intelligence Community. The members must come together as a team working toward common goals and must realign resources and functions to make the Community most effective in a post-Cold War environment.

In addition to providing a more corporate framework and a more coherent Intelligence Community structure in statute, H.R. 3237 also finds that the authorities of the Director of Central Intelligence are not commensurate with his responsibilities for coordinating all U.S. intelligence activities.

Several specific findings underscore these broader ones:

The DCI should be thought of as the "chief executive officer" of a more corporate Intelligence Community. As such, he should have a greater voice in the appointment of his "corporate team," particularly the directors of National Foreign Intelligence Program Defense agencies.

It has been difficult for Intelligence Community management to look at activities, budgets and programs as a whole. Instead, these have been looked at in three distinct blocks: the National Foreign Intelligence Program; the Joint Military Intelligence Program; and Tactical Intelligence and Related Activities.

Even within the National Foreign Intelligence Program, the DCI lacks requisite authorities over program managers, particularly in the areas of budget and personnel.

In addition to a strengthened DCI, there should be a Director of Military Intelligence with increased authority over non-National Foreign Intelligence Program defense intelligence programs.

The Intelligence Community lacks and needs an improved ability to evaluate the intelligence process from end-to-end, that is, to be better able to relate requirements, tasking, collection and production.

COMMITTEE RECOMMENDATIONS

Based on these findings, H.R. 3237 makes changes in six major areas. First, the bill addresses the Community structures available to support the DCI in his role over the entire Intelligence Community. The bill creates a second Deputy DCI for Community Management, in addition to the current Deputy DCI who continues to support the DCI across his entire role. This new Deputy DCI, working through an enhanced Community Management Staff, will give the DCI a more central role in the areas of budget, resources, requirements, collection tasking, and research and development. This role

of the Community Management Staff is further enhanced by the creation of an Infrastructure Support Office to manage administrative and logistical issues like training, security, personnel, computer procurement that are common to all intelligence agencies. The bill also creates a National Intelligence Evaluation Council, reporting to the DCI, to provide him with a staff to perform the end-to-end evaluations of the entire intelligence process that currently do not occur.

Second, the DCI's own authorities over the National Foreign Intelligence Program are directly enhanced by giving him the right to transfer limited amounts of money within that program and to detail personnel for limited periods of national needs. Both of these will make the DCI more of a direct participant in the formulation, execution and direction of Intelligence Community policies and less just an interested observer, as is currently the case. Closely related to this personnel initiative is the creation of an Intelligence Community Reserve, which—relying on intelligence veterans and retirees, or knowledgeable experts in academia and the private sector—can be used to buttress Intelligence Community capabilities (“surge capacity”) during crises.

Third, the bill designates the Director, Defense Intelligence Agency as the Director of Military Intelligence (DMI), in order to achieve more corporate management within the defense intelligence community. This position is further enhanced by the creation of a DMI Staff, which will work closely with the Community Management Staff to bridge the gaps among the three blocks of the intelligence program, especially on budgeting issues.

Fourth, in order to improve executive guidance and direction of the DCI and the Intelligence Community, which is currently assigned to the National Security Council (NSC) but usually devolved to some subordinate body, the bill creates a Committee on Foreign Intelligence and a Committee on Transnational Threats on the NSC.

Fifth, the bill creates a Civilian Intelligence Personnel Management System in the Defense Department. This would allow the Secretary of Defense to create an excepted personnel service, which would improve the ability of the Defense Department to attract and promote highly qualified personnel in intelligence, and to manage civilian intelligence personnel with greater flexibility and responsiveness to current needs.

Sixth, H.R. 3237 authorizes the DCI and the Secretary of Defense to undertake a study on the future of intelligence collection. H.R. 3237, as originally introduced, proposed several significant changes in this area: separating the Clandestine Service (DO) from the CIA; creating a Technical Collection Agency to manage signals intelligence, imagery intelligence and measurement and signatures intelligence; and creating a Technology Development Office to manage collection research and development. Similarly, DCI Deutch proposed merging a number of imagery and mapping entities into a National Imagery and Mapping Agency. All of these proposals have far reaching consequences. Although the amended H.R. 3237 recedes from its original proposals in this area, the Committee believed that there was sufficient agreement about the future of intelligence collection to warrant further study on these various con-

cepts and others that may be of interest. The Committee recognizes that the level of concern outpaces, at present, any clear consensus about viable or acceptable solutions. In having the DCI and the Secretary of Defense undertake this study, we are assured that the two officials with the most direct interest at stake will be involved.

Finally, the rationale behind the structure of the bill should be noted. Many sections of the bill recodify current law. This stems directly from the finding that much of the growth and development of the Intelligence Community has not been guided by statute. It was believed, during the drafting of the bill, that it was important for those reading the bill to be able to comprehend its intellectual coherence. Rather than simply include those sections that are either being added to or are amending current law—which would appear as unconnected entities—the Committee believed it would be better to include other relevant sections of intelligence law, so that this body of law could be seen in its entirety as well as how the changes proposed in H.R. 3237 fit in.

LEGISLATIVE STRUCTURE

H.R. 3237 is a comprehensive restatement of existing law in one piece of legislation coupled with appropriate changes that will streamline and make the Intelligence Community a more corporate entity capable of meeting the diverse challenges of the 21st century. The Committee intends that this Act will become a touchstone for the community, much as the National Security Act of 1947 has become a living document that shaped our nation's response to the Cold War. As such, elements of existing law that remain vibrant and relevant to the challenges of the 21st century have been included in H.R. 3237.

SECTION-BY-SECTION ANALYSIS OF BILL AS REPORTED

Section 1—Short title

This Act may be cited as the “Intelligence Community Act”.

Section 2—Organization of act; table of contents

(a) Organization of Act.—This Act is organized as follows:

Section 3—Findings and purposes

New provision. General statement of findings and purposes based on the conclusions of the Committee's recently published staff studies entitled “IC21: Intelligence Community in the 21st Century.”

Section 4—Definitions

Based on section 3 of the National Security Act of 1947, definitions include the following terms: intelligence, foreign intelligence, counterintelligence, national intelligence, intelligence related to national security, National Foreign Intelligence Program, and Congressional intelligence committees.

TITLE I—INTELLIGENCE COMMUNITY GENERALLY

SUBTITLE A—DIRECTOR OF CENTRAL INTELLIGENCE

Section 101—Director of Central Intelligence

Current law. This is a brief restatement of the roles allocated to the Director of Central Intelligence in Section 102 of the National Security Act of 1974.

Section 102—General intelligence responsibilities of the Director

Current law. Restatement of Section 103(a) of the National Security Act of 1947.

Section 103—Preparation of annual budget for national foreign intelligence program

Current law. Restatement of Section 103(c)(1) of the National Security Act of 1947.

Section 104—Foreign intelligence collection

Current law. Restatement of Section 103(c)(2) of the National Security Act of 1947.

Section 105—Protection of sources and methods

Current law. Restatement of Section 103(c)(5) of the National Security Act of 1947.

Section 106—Promotion and evaluation of the usefulness of intelligence to consumers

Current law. Restatement of Section 103(c)(3) of the National Security Act of 1947.

Section 107—Elimination of waste and unnecessary duplication

Current law. Restatement of Section 103(c)(4) of the National Security Act of 1947.

Section 108—Other functions

Current law. Restatement of Section 103(c)(6) of the National Security Act of 1947.

Section 109—Prohibition on law enforcement powers and internal security functions

Current law. Restatement of Section 103(d)(1) of the National Security Act of 1947.

Section 110—Access to intelligence

Current law. Restatement of Section 103(a) of the National Security Act of 1947.

Section 111—Coordination with foreign governments

Current law. Restatement of Section 103(e) of the National Security Act of 1947.

SUBTITLE B—DEPUTY DIRECTORS OF CENTRAL INTELLIGENCE

Section 121—Deputy directors of Central Intelligence

New provision. There are two Deputy DCIs: a DDCI, which currently exists in law, and a DDCI for Community Management. Each DDCI is appointed by the President and confirmed by the Senate. Each DDCI shall have “extensive national security experience” as a qualification for office. The Committee recognizes that DCIs are chosen by Presidents for a variety of reasons and has done nothing to limit the President’s choice in filling that principal intelligence position. Given that latitude, it is also important that the DCI’s two deputies have experience in national security affairs so as to be of major assistance to the DCI. National security experience is viewed by the Committee as including but not necessarily limited to intelligence; extensive foreign or defense policy experience is also viewed as fulfilling this requirement.

Section 122—Deputy Director of Central Intelligence

New provision. This section specifies that the DDCI acts for and has the authority of the DCI during that official’s absence or if the office is vacant, and also that this DDCI has precedence immediately after the DCI, thus making clear the relationship between the DDCI and the DDCI for Community Management.

Section 123—Deputy Director of Central Intelligence for Community Management

New provision. The DDCI for Community Management works under the direction of the DCI and is responsible for assisting him in carrying out his responsibilities as head of the Intelligence Community. The DDCI for Community Management will direct the Community Management Staff and the Infrastructure Support Office; and will manage community-wide functions, including personnel, resources, requirements, and research and development. Creating this position will give the DCI more support and better enable him to exercise his community-wide responsibilities. DCI Deutch has made a similar proposal.

Section 124—Civilian and military status of Director of Central Intelligence and deputies

New provision. Under current law, either the DCI or the DDCI may be (but is not required to be) on active duty in the armed forces. Although Sec. 123 creates an additional DDCI, the limit of only one of these three positions (DCI, two DDCIs) being held by someone on active duty in the armed forces remains. Members of the armed forces have served as DCI or DDCI in many instances and bring valuable backgrounds to these positions. Their availability for such service should continue. At the same time, the importance of maintaining strong civilian leadership within the highest circles of the Intelligence Community remains.

Paragraph (b) specifies that a DCI may hold the rank of general or admiral and DDCIs the rank of lieutenant general or vice admiral while serving in those positions. Paragraphs (c), (d) and (e) retain current law (50 U.S.C. 403 (c)): commissioned officers serving in these positions are not subject to the supervision or control of

the Secretary of Defense or the Defense Department, may not supervise any Defense personnel except as authorized by this title, and will not count against authorized numbers and percentages of ranks and grades in their military department; their military benefits will not be affected by such an appointment; and are eligible to receive compensation as DCI or DDCI if that is in excess of their pay and allowances for grade and length of service.

SUBTITLE C—THE INTELLIGENCE COMMUNITY

Section 131—Elements of the intelligence community

Current law with some modification. This section identifies the various components of the Intelligence Community as set forth in Section 3(4) of the National Security Act of 1947. This provision also notes the newly enhanced roles of the Community Management Staff, the National Intelligence Evaluation Council, and the Infrastructure Support Office.

Section 132—Intelligence community Inspector General forum

New provision. In earlier drafts of Intelligence Community reform legislation, it was proposed that there be a single Inspector General for the various components of the Intelligence Community. Proponents of this concept argued that a single Inspector General would encourage “corporateness” within the Intelligence Community as well as result in greater inter-agency coordination and efficiencies. However, the Inspectors General of several departments, notably the Departments of Defense and State, strongly opposed this proposal.

Following a request from HPSCI staff, the Inspector General of the Department of Defense made a counterproposal to legislatively charter and Intelligence Community Inspector General Forum. The Inspector General of the CIA and other affected Inspectors General within the Intelligence Community have endorsed this counterproposal. As noted in subsection (c), the Forum consists of the Inspectors General of: the Central Intelligence Agency, the Department of Defense, the Department of State, the Department of the Treasury, the Department of Justice, the Department of Energy, and any other components within the Intelligence Community. As noted in subsection (c)(2), the Forum is to be co-chaired by the Inspectors General of the CIA and the Department of Defense. As established in subsection (d), the Forum is to meet on at least a quarterly basis. The Committee urges the Forum participants to meet more frequently, so as to improve their coordination and consultation efforts.

Subsection (e) sets forth the functions of the Forum, including: (1) adequate Inspector General oversight over programs and operations of elements within the Intelligence Community under the jurisdiction of two or more statutory Inspectors General; (2) serving as a focal point for sharing information on policies and procedures for conducting audits, inspections, or investigations into programs and operations of components within the Intelligence Community; (3) serving as a focal point for sharing information on qualifications for auditors, inspectors, and investigators within the Intelligence Community; and (4) keeping the DCI and appropriate depart-

mental secretaries informed of issues identified in audits, inspections or investigations into programs and operations of elements within the Intelligence Community. This provision is not intended to preclude an Inspector General for any Intelligence Community component agency from independently initiating any audit, inspection, or investigation of programs or operations under their current legal purview, in accordance with the Inspector General Act of 1978 or section 17 of the Central Intelligence Agency Act of 1949.

Subsection (f) requires each of the Inspectors General to: (1) designate a point of contact within their respective agencies and to provide information regarding Forum activities; and (2) provide sufficient staff and other resources for any audits, inspections, and investigations of programs or operations that involve two or more elements within the Intelligence Community.

Subsection (g) requires the Forum to submit a report to the Congressional Intelligence committees no later than April 15, 1997 on the feasibility of, and costs and benefits associated with, creating an Inspector General for the Intelligence Community.

SUBTITLE D—ANNUAL REPORTS

Section 141—Annual report on intelligence activities

Current law. Restatement of 50 United States Code 404(d).

TITLE II—INTELLIGENCE COMMUNITY MANAGEMENT

SUBTITLE A—INTELLIGENCE COMMUNITY FUNCTIONS

Section 201—Community management staff

New provision. This section provides for an Intelligence Community Management Staff (CMS). This staff is directly subordinate to the DDCI for Community Management.

Section 202—Functions of the community management staff

New provision. The CMS, working closely with the Director of Military Intelligence (DMI) staff, is responsible for providing coordinated management of the Intelligence Community activities, including intelligence collection, analysis, production and dissemination functions. The CMS provides community-wide guidance for all-discipline requirements and collection management. The CMS provides community-wide budgetary guidance and, in coordination with the DMI Staff and other Departmental agencies, builds the President's National Foreign Intelligence Program budget. The CMS also provides management oversight of community-wide research and development programs to ensure coordination of effort and maximize use of available resources. This provision enhances the role and authority of CMS, making it better able to support the DCI in his role as head of the Intelligence Community.

SUBTITLE B—NATIONAL FOREIGN INTELLIGENCE PROGRAM

Section 221—Budgets

Current law with some revisions. Paragraphs 221 (a), (b) and (c) are a restatement of section 104(b) of the National Security Act of 1947 as modified to incorporate the role of the Deputy Director of

Central Intelligence for Community Management. Paragraph 221(d) is a restatement of 50 United States Code 403–3 note as well as section 603 of the Fiscal Year 1995 Intelligence Authorization bill. As required in section 202 of this bill, and in consultation with the DMI Staff and other elements of the Intelligence Community, the CMS is responsible to the Director of Central Intelligence for preparing and approving the community's yearly budget requests. During a budget execution year, the CMS is responsible to the DCI for accurate accounting of funds provided to the Intelligence Community within the National Foreign Intelligence Program. The staff will be responsible for accounting for funds by the functional categories of collection, processing, exploitation, analysis, dissemination and infrastructure such that oversight agencies will be able to specifically track and understand community costs. The CMS will also provide, in budget requests to the Congress, detailed breakouts of all requested money, whether categorized as base or as an ongoing or new initiative.

Section 222—Comptroller functions of community management staff

New provision. The CMS is responsible for reviewing and analyzing intelligence community-wide budget execution performance. When IC elements of the Department of Defense are not in compliance with community-wide guidance established by the DCI, the CMS is also responsible for recommending, if necessary, the withholding of appropriate execution year funds to the Comptroller of the Department of Defense. The CMS is also responsible for instituting an automated accounting system for developing future-year budgets and for tracking current-year budget execution.

Section 223—Limitation on transfers and reprogramming

Current law with some revisions. Paragraph 223(a) is derived from 50 United States Code 414, note as well as section 8107 and the FY 1994 Defense Department Appropriations Bill. Paragraph 223(b) seeks to limit the amounts that may be transferred from any account of an element of the Intelligence Community if those amounts exceed five percent of the aggregate portion of the National Foreign Intelligence Program budget of that element. Paragraph 223(c) is derived from 50 United States Code 403(f), note as well as section 8154(b) of the FY 1995 Defense Department Appropriations Bill.

This section states that the DCI and the Secretary of Defense may not transfer funds authorized and appropriated for National Foreign Intelligence Programs without the consent of the Congressional intelligence and appropriations committees. This section also provides authority for the DCI, with congressional approval, to transfer funds within the NFIP with or without the concurrence of the losing NFIP program element manager. This DCI authority is limited to five percent of the losing program manager's total year budget. This authority does not extend to funds specifically authorized and appropriated for drug interdiction or counter-drug purposes.

Section 224—Transfer of funds or personnel within the national foreign intelligence program

Current law. Restatement of section 104(d) of the National Security Act of 1947.

Section 225—Limitation on reprogramming

Current law. Restatement of section 104(c) of the National Security Act of 1947.

SUBTITLE C—PERSONNEL

Section 231—Use of personnel

Current law. Restatement of section 104(g) of the National Security Act of 1947.

Section 232—Authority to terminate employment of certain employees

Current law. Restatement of section 104(g) of the National Security Act of 1947.

Section 233—Intelligence community reserve

New provision. This section directs the DCI to establish an Intelligence Community Reserve, providing the necessary provisions for monetary incentives, retirement, and training and support. This section defines three basic component groups that would be included in this program: (1) those individuals who are former or retired employees of the Intelligence Community; (2) those individuals who have had little, if any, association with the Intelligence Community, but have extensive experience in a subject area, region or issue that is of interest or concern to the Intelligence Community; and (3) linguists.

Significant reductions in personnel and other resources throughout the Intelligence Community over the past few years combined with significant increases in the utility and need for intelligence information have created a severe shortfall in analytic resources, especially in the areas of all-source analysis and linguists. Ad hoc crises, such as Rwanda and Somalia, further emphasize that, to be effective in the future, the Intelligence Community must be flexible enough to “surge” resources to meet immediate needs while also having the capability to augment existing resources in order to develop and maintain a worldwide “base” of knowledge. Such an intelligence “base” should allow for identification of trends and other changes that could portend future actions by U.S. policy makers. This warning function becomes critical to the policy maker in allowing time to manage an impending situation so that it does not develop into a crisis, or to the military commander in case the proper policy response includes military activity. DCI Deutch has been addressing the same concerns in his “Hard Target/Global Coverage” efforts.

It is unlikely that internal Intelligence Community resources will ever be robust enough to meet all of the requirements that will be levied, nor should it be. The ability augment existing resources with individuals who have intelligence experience and have maintained a level of substantive knowledge, could prove invaluable in

addressing what appears to be an ongoing pattern of small, often regional crises and situations. In this respect, a portion of the Intelligence Community Reserve would operate similarly to existing military intelligence reserve resources, with periodic training and service within the Community in order to maintain expertise. In some cases, individuals who are our country's experts in certain areas are likely to be outside of the Intelligence Community—in industry or academia, for example—and should remain so in order to maintain their level of knowledge and contacts worldwide. In those cases, however, it would be extremely beneficial for the Intelligence Community to have access to this knowledge on an occasional basis. Although it is not envisioned that someone outside of the Community would be asked to “serve” the Intelligence Community Reserve in the same capacity as those individuals who have had a prior association, it is envisioned that these “experts” might be held on a type of retainer, while asking them to notify the Community of significant trends and changes in their areas. Finally, the need to pay specific attention to building a linguistic “surge” capability, especially in more unique or less known languages, that can be used when needed, has already proven to be necessary during crisis periods and should be maintained.

Due to the complexities of issues such as pay, security, training and support, the Committee believes that the Intelligence Community Reserve should be managed and funded at the Community level (within the Community Management Staff), ensuring that all valid “surge” requirements by all agencies/offices within the Intelligence Community are planned for and addressed as necessary.

Finally, the Committee notes that the Intelligence Community Reserve is not intended as a panacea for addressing shortfalls in intelligence analytical expertise. Clearly, specific attention must be paid toward maintaining an experienced analytic workforce in specific subject areas that are of national security and policy concerns.

SUBTITLE D—INFRASTRUCTURE SUPPORT OFFICE

Section 241—Establishment of infrastructure support office

New provision. This section establishes the Infrastructure Support Office (ISO) for and within the Intelligence Community. The Director of the ISO is to be appointed by the DCI.

Section 242—Responsibilities of Director of Infrastructure Support Office

New provision. This section establishes the responsibilities of the Director of the ISO, whose is to be placed under the direction of the DDCI for Community Management. These responsibilities include administrative and logistical functions relating to infrastructure and services of common concern, including: personnel management, security, Community-level training, communications and automation. Moreover, this section directs the Director of the ISO to establish standards and information architectures for automation equipment throughout the Intelligence Community, including being responsible for life-cycle management, replacement, and upgrading of such equipment.

The growth of the Intelligence Community and the proliferation of distinct agencies have led to unwarranted duplication in what are, essentially, administrative and logistical functions. This is not only duplicative and costly, but also can harm the ability of the Intelligence Community to operate as a corporate whole. Numerous studies and reviews of the Community, including Vice President Gore's National Performance Review, have concluded that there are efficiencies and potential cost savings to be had by consolidating infrastructure and "services of common concern." The Committee believes that it makes sense to combine under centralized management such Community functions as personnel management, certain types of training, communications and automation. Although many of the personnel performing these functions could remain physically in place as support detachments, the ISO should manage these individuals and areas across the Community, replacing individual agency offices in these subject areas.

SUBTITLE—INTELLIGENCE COMMUNITY ADMINISTRATION

Section 251—Secrecy agreements used in intelligence activities

Current law. Restatement of 50 United States Code 435, note as well as section 306 of the FY 1996 Intelligence Authorization Bill.

Section 252—Coordination of counterintelligence matters with the Federal Bureau of Investigation

Current law. Restatement of 50 United States Code 402a(c) as well as section 811(c) of the FY 1995 Intelligence Authorization Bill.

Section 253—Intelligence community contracting

Current law. Restatement of 50 United States Code 403–2 as well as section 403 of the FY 1992 Intelligence Authorization Bill.

TITLE III—INTELLIGENCE COMMUNITY AGENCIES

SUBTITLE A—CENTRAL INTELLIGENCE AGENCY

Section 301—Central Intelligence Agency

New provision. This section legislates the existence of a Central Intelligence Agency meant to function as the U.S. Government's principal all-source, national (e.g. non-departmental) analytic agency. It is to be headed by the Director of Central Intelligence and is to be managed through its executive manager, the Deputy Director of Central Intelligence.

Section 302—Duties of Director of Central Intelligence with respect to the Central Intelligence Agency

Current law. Restatement of section 103(d)(3) of the National Security Act of 1947.

Section 303—Functions of the Central Intelligence Agency

New provision. This provision outlines the principal functions of the Central Intelligence Agency—functions that, according to Section 302, properly come directly under the Director of Central Intelligence's authorities and responsibilities. The functions are

grouped under analytic and human source collection categories. The functions described roughly correlate to those currently performed by the Central Intelligence Agency and parts of the National Intelligence Council.

Analytic: The Central Intelligence Agency is to correlate, evaluate, produce and disseminate intelligence derived from all sources available to the Intelligence Community relating to national security issues. It is to be the nation's preeminent, non-departmental, source of such intelligence of the use of the President and national leaders. The Central Intelligence Agency is also responsible for the coordination of analysis within the Intelligence Community and the establishment of procedures for collaborative all-source analysis. This would include the production of collaborative intelligence products such as National Intelligence Estimates. These functions are based on the Central Intelligence Agency's acting as the "central" analytic entity under the Director of Central Intelligence's direct control.

Human Source Collection: The Central Intelligence Agency is responsible for national intelligence collection using clandestine human sources and other appropriate means. These other means would include a variety of clandestine technical techniques and the exploitation of covert relationships with foreign entities. The Central Intelligence Agency is to undertake those activities in the most effective manner possible to facilitate the production of intelligence of value to the President and other national consumers, while also minimizing to the degree possible the risks inherent in clandestine collection. The Central Intelligence Agency is also to manage the administrative and technical support activities necessary to carry out the clandestine collection mission.

Finally, the section states that the Central Intelligence Agency will perform "such other functions" as the Director of Central Intelligence may direct. This may include those functions given the Director of Central Intelligence under Section 108 above.

Section 304—Agreement to transfer DOD clandestine humint to Central Intelligence Agency

New provision. This section would provide for the consolidation of certain clandestine human-source collection activities currently conducted by the Defense HUMINT Service (DHS) within the Department of Defense into the directorate of Operations of the Central Intelligence Agency. This consolidation was recommended by the Aspin-Brown Commission. The Commission found that, although military personnel are important to the successful collection of information from human sources about military topics, it is inefficient for the Department of Defense to maintain a large, separate infrastructure of military collectors who serve only a few years before returning to their regular career tracks.

This section would require the DCI and the Secretary of Defense to enter into an agreement, no later than June 30, 1997, providing for the transfer of the clandestine collection elements of the Defense HUMINT Service to the CIA, which should be accomplished no later than June 30, 1998. CIA would be responsible for all intelligence collection from human sources, except those clandestine HUMINT activities undertaken by DOD elements in advance of, or

as a part of, a specific military operation. In collecting HUMINT on foreign military targets, CIA should, as needed, use military personnel on detail from DOD or the military services.

SUBTITLE B—THE NATIONAL INTELLIGENCE EVALUATION COUNCIL

Section 321—National Intelligence Evaluation Council

New provision. This section establishes a National Intelligence Evaluation Council (NIEC) within the Intelligence Community. Paragraph (b) specifies that NIEC members from among senior Intelligence Community analysts and may include substantive experts from the public and private sector. The DCI shall appoint the members and a Director of the NIEC, who will report to the DCI. The Committee believes that it is important for the Intelligence Community to broaden its analytic base, where possible, drawing upon resources beyond the Intelligence Community.

One of the frequent drawbacks to using private sector specialists more frequently is CIA security requirements, that may be more appropriate for full-time employees than for part-time ones. Given the desire to draw on private sector specialists, paragraph (c) allows the DCI to prescribe appropriate security measures for these NIEC members, protecting intelligence sources and methods, but giving the DCI leeway regarding security requirements that he may deem unnecessary.

Section 322—Functions of the National Intelligence Evaluation Council

New provision. The NIEC's major purpose is to serve as a means of evaluating the resources devoted to intelligence and the intelligence that is subsequently produced. Such evaluations are rarely done in the Intelligence Community now, in part because there is no strong locus for them. The current National Intelligence Council has an Evaluation Staff, but it is the intent of this section to strengthen that staff and function by elevating it as the NIEC.

Such "means to ends" correlations are not only useful in and of themselves, but are of increasing importance as resources become more constrained and, in a world where there are no dominant national security issues—leading to a greater competition among them for resources. In order to carry out this role, the NIEC will work closely with the two staffs within the Intelligence Community which shall be responsible for major resources and tasking decisions, the Community Management Staff and the DMI Staff.

Section 323—Staffing of the National Intelligence Evaluation Council

New provision. The DCI is responsible for making such staff and appropriate measures available to the NIEC as needed to carry out its functions.

SUBTITLE C—FUTURE OF INTELLIGENCE COLLECTION

Section 331—Panel of the Future of Intelligence Collection

New provision. This section directs the Director of Central Intelligence and the Secretary of Defense to establish a panel to look at the appropriate organization and management of intelligence

collection for the future. Its report is to be provided to the DCI no later than April 15, 1997. The report will go to the President, the Secretary of Defense and the Congressional intelligence committees. The Committee believes there is broad agreement on the need to re-examine intelligence collection, but no consensus on what needs to be done.

The panel, which may be organized into sub-panels, is to have a membership consisting of past and current members of the Intelligence Community, senior policy makers as well as any public officials or private citizens as the DCI and the Secretary of Defense deem fit. They should ensure that the membership is balanced in terms of views and technical and operational knowledge of the matters under study. The DCI and the Secretary of Defense will choose a director of the panel from among the panel's membership.

The panel is to examine several proposals, each of which would involve significant change to the existing organization and management of intelligence collection. In its deliberations the panel should strive to look to how the Intelligence Community can best function *in the future*, and not perform an examination of the effectiveness of the Intelligence Community at present or in the recent past, except as such an examination illuminates the direction that must be taken in the future.

The section specifies that, in preparing its report, the panel must specifically perform feasibility studies of four changes to the current Intelligence Community structure: (1) the establishment of Clandestine Service; (2) the establishment of a Technical Collection Agency; (3) the establishment of a Technology Development Office; and (4) the establishment of a National Imagery and Mapping Agency.

The Clandestine Service under consideration would be the NFIP agency responsible for the clandestine collection of intelligence through human sources and other clandestine means; the carrying out of covert action and other appropriate policy-related activities as the DCI is directed to do by the President; and acting as the DCI's principal entity in carrying out liaison with foreign intelligence and security services. In making its deliberations the panel must keep in mind that this particular entity, the Clandestine Service, (unlike the others under consideration) will have roles and missions outside the realm of intelligence collection. The panel should also pay particular attention to the fact that the Clandestine Service's activities are, generally speaking, intrinsically risky and require the close oversight of the DCI. The panel should also pay particular attention as to how military personnel may be integrated into the Clandestine Service in a manner allowing their proper career development and their being able to function as clandestine collectors under operational guidelines developed under DCI authorities.

The panel should consider whether there are significant benefits to be gained from consolidating technical collection activities and exploitation into a single agency, not necessarily in one physical location but under a unified management structure. This agency would include all current signals intelligence, imagery intelligence and measurement and signatures intelligence collection and time-sensitive exploitation activities, including the operation of satellite

collection systems, and excluding those clandestine operations which are conducted jointly by the CIA and NSA. The goal of such a consolidation would be to improve synergistic collection at the operator level, integrated multi-source tasking at the collection management level, and cross-discipline trade-offs at the resource management level. The panel should consider in particular how the agency as proposed would further or hinder these goals, and how the first-phase analysts exploiting the collected data for time-sensitive reporting should be integrated with the all-source analytical community.

When studying the concept of a National Imagery and Mapping Agency, the panel should specifically examine whether such an agency is the most effective way to consolidate the imagery “community,” either as a new, stand-alone “stovepipe” or as a subset of a Technical Collection Agency, as addressed previously. The panel should consider the overall effectiveness of such an agency in terms of whether and how both national-level and military requirements can be met, how such an agency should be legislated (in Title 10 or in Title 50, for example) and specifically what DCI authorities are needed to ensure that the DCI can manage collection in a corporate fashion, the utility of merging imagery and geospatial resources and the effect on military and civilian customers and to what level should imagery analysts be incorporated into such an agency, or whether imagery analysts should become more integrated in the all-source process.

The panel should consider whether there are significant benefits to be gained from consolidating research, development and acquisition activities for reconnaissance systems into a single agency responsible primarily for space-based, airborne and maritime reconnaissance systems. The goal of such a consolidation would be to improve coherent development of complementary architectures, particularly in the space and air realms; promote development of common ground processing and dissemination capabilities; and to reduce unnecessary duplication and promote the sharing of appropriate technologies.

TITLE IV—DEPARTMENT OF DEFENSE FUNCTIONS IN THE INTELLIGENCE COMMUNITY

SUBTITLE A—SECRETARY OF DEFENSE

Section 401—Overall Secretary of Defense functions

New provision. This section states that the Secretary of Defense is responsible for performing those intelligence functions that he is directed to do by competent authority.

Section 402—Requirement that budgets for intelligence components be adequate

Current law. Restatement of 50 United States Code 403–5(a)(1).

Section 403—Implementation of Director of Central Intelligence policies and resources decisions

Current law. Restatement of 50 United States Code 403–5(a)(2).

Section 404—Relationship of NFIP activities to tactical intelligence activities

Current law. Restatement of 50 United States Code 403–5(a)(3).

Section 405—Responsiveness to operational military forces

Current law. Restatement of 50 United States Code 403–5(a)(4).

Section 406—Elimination of waste and unnecessary duplication

Current law. Restatement of 50 United States Code 403–5(a)(5).

Section 407—Joint and corporate conduct of defense intelligence

Current law. Restatement of 50 United States Code 403–5(a)(6), with slight modification to encourage corporate behavior within and among the Intelligence Community agencies.

Section 408—Signals intelligence activities

Current law. Restatement of Section 105(b)(1) of the National Security Act of 1947.

Section 409—Imagery collection, processing, and exploitation

Current law. Restatement of Section 105(b)(2) of the National Security Act of 1947.

Section 410—Overhead reconnaissance systems

Current law. Restatement of Section 105(b)(3) of the National Security Act of 1947.

Section 411—Use of elements of Department of Defense

Current law. Restatement of 50 United States Code 403–5(c).

Section 412—Consultations regarding appointment of certain intelligence officials

Current law with some modification. Paragraph (a) is a restatement of provisions first enacted by the Congress on December 5, 1991 in section 922(a)(2) of Public Law 102–190. This provision urged formal consultation between the Secretary of Defense and the Director of Central Intelligence prior to the Secretary making a formal recommendation to the President on the appointments of the Director of the Defense Intelligence Agency or the Director of the National Security Agency. This provision seeks to extend the consultation requirement of the nomination processes of the Director of the National Reconnaissance Office and the Head of the Central Imagery Office.

SUBTITLE B—DIRECTOR OF MILITARY INTELLIGENCE

Section 421—Director of Military Intelligence

New provision. This section establishes the position of the Director of Military Intelligence (DMI) to serve as the military focal point for management of military intelligence functions within the Intelligence Community. The DMI shall hold the rank of either a lieutenant general or vice admiral and be appointed by the President, by and with the advise and consent of the Senate. Consistent with the consultation requirement set forth in Section 412 of this

bill, this provision requires that the Secretary of Defense consult with the DCI prior to forwarding a DMI nominee's recommendation for appointment to the President.

Section 422—Functions of the Director of Military Intelligence

New provision. The intent of the DMI position is to provide the single military focal point for management within the national intelligence community. The DMI is the senior uniformed military intelligence advisor to the Secretary of Defense and the Joint Chiefs of Staff. The DMI is responsible for intelligence support to military forces world-wide by managing and executing the Joint Military Intelligence Program (JMIP) and coordinating the individual service Tactical Intelligence and Related Activities (TIARA) efforts. This includes the responsibility to ensure the military portions of the intelligence community operate as a single end-to-end architectural entity and that systems meet established technical interoperability standards.

Section 423—Role of Director of Military Intelligence in the intelligence community

New provision. This section states that, as Director of the Defense Intelligence Agency and as a senior member of the Intelligence Community, the DMI is responsible to Director of Central Intelligence (DCI) for the conduct of national intelligence operations. The intent is for the DMI to function both as the senior military intelligence officer within the Department of Defense, reporting to the Secretary of Defense, and as a senior official within the Intelligence Community responsible for the DCI.

Section 424—Planning and budget functions

New provision. The DMI is the responsible agent within the Department of Defense for coordinating and building the military portions of the overall intelligence community budgets. This includes the Joint Military Intelligence Program (JMIP), Tactical Intelligence and Related Activities (TIARA), and Defense Department portions of the National Foreign Intelligence Program (NFIP). As the manager of the JMIP, the DMI is specifically responsible for building the JMIP budget. As coordinating authority for the service TIARA budget requests, the DMI is responsible within the larger intelligence community architectures. In this capacity the DMI is to ensure service systems meet established technical interoperability standards.

Section 425—Staff

New provision. The DMI's staff will be sufficient to support the DMI's roles and functions as well as to provide necessary coordination between the DMI and the Community Management Staff. The DMI Staff is a necessary counterpart to CMS and provides a "bridge" between national and defense intelligence.

SUBTITLE C—DEFENSE INTELLIGENCE AGENCY

Section 441—Defense Intelligence Agency generally

Current law with some modifications. Consistent with section 1.12(a) of Executive Order 12333, this section identifies the DMI serving concurrently as the Director of the Defense Intelligence Agency. Paragraph(b) notes that the DMI shall carry out his responsibilities as head of the DIA under the direction of the Secretary of Defense; the head of the DIA shall also be subject to the authority and guidance of the DCI for those activities that support national intelligence requirements.

Section 442—Functions of the Defense Intelligence Agency

Current law. Restatement of 50 United States Code 403–5(b)(4) and 50 United States Code 403–5(b)(5).

SUBTITLE D—THE MILITARY DEPARTMENTS

Section 451—Intelligence capabilities of the military departments

Current law. Restatement of 50 United States Code 403–5(b)(6).

SUBTITLE E—PLANNING AND BUDGETING

Section 461—Joint military intelligence program

New provision. This section defines the Joint Military Intelligence program and lists its component programs. The DMI is the program manager for the JMIP.

Section 462—Tactical intelligence and related activities (tiara)

New provision. This section defines the Tactical Intelligence and Related Activities (TIARA) aggregation. The TIARA aggregation provides for those systems, functions and operations necessary for individual service and agency direct intelligence support.

Section 463—Notice to Congress of changes in JMIP and TIARA

New provision. The intent of this section is to restrict the Department of Defense's ability to unilaterally remove or add programs to the JMIP or TIARA accounts without notifying, and proving sufficient justification to, Congress one year in advance.

SUBTITLE F—CIVILIAN INTELLIGENCE PERSONNEL POLICY

Section 481—Standardization of personnel policies for intelligence components of Department of Defense

New provision. This section would amend Chapter 83 of title 10, United States Code, authorizing the Secretary of Defense to establish by regulation an excepted service personnel management architecture common to all components of the defense intelligence community. This would expand existing authority under Chapter 83 of Title 10. It would create the Civilian Intelligence Personnel Management System, amended in Title 10 in 1986.

Intelligence community leaders want, and need, the capability to adjust the defense intelligence community personnel force in response to factors such as obsolete missions, obsolete skills, elimination or reduction of lowest priority missions and functions, and

investment in future technological and mission skills. This bill would provide for a performance based personnel system that will help meet these needs for the intelligence components of the Department into the 21st century. This provision would function under the assumption that the delegation of implementing authority to the intelligence components will be continued.

Subsection (a) of the amended section 1601 would authorize the Secretary to establish a common personnel architecture for all components of the defense intelligence community, with general and senior level positions and a senior executive service. Existing veterans' preference policies will remain in place for each intelligence component. Subsection (a) was amended to remove the statutory cap for senior executive positions. This subsection currently contains language that places a cap of one-half of one percent of the total number of all civilian intelligence positions for senior executive service positions in the military service components of the defense intelligence community. SES positions in the defense intelligence agencies, such as DIA and NSA, are not now capped in this manner, however. This disparity hampers community management. To permit the Secretary the ability to allocate most effectively SES positions across the entire Department of Defense components within the Intelligence Community, the proposed legislation would remove the cap from military service components of the Intelligence Community. This much needed flexibility, however, will not lead to an increase in the overall number of SES positions in the Defense Department's components of the Intelligence Community. Senior executive service ceilings currently set under Congressional oversight will not be exceeded.

Subsection (b) of Section 1601 would authorize the Secretary to fix basic rates of pay throughout the defense intelligence community in relation to subpart D of part III of Title 5, United States Code, for similar levels of duties and responsibilities, and to pay other allowances for comparable positions authorized by Title 5. In addition, the word "benefits" in this subsection would ensure inclusion of currently authorized foreign service-type overseas benefits. Subsection (b) would ensure comparability with Senior Executive Service positions established pursuant to section 3132 (a) (2) of title 5 and Senior Level positions above GS-15 established pursuant to section 5108 (a) of Title 5.

Subsections (c) and (d) of Section 1601 would be amended to apply to all components of the Intelligence Community within the Department of Defense.

In creating a new Section 1602 to Title 10, subsections (a) and (b) would authorize the Secretary to establish an Intelligence Senior Executive Service within the Department of Defense intelligence components and to award rank to members of that Service in accordance with section 4507 of title 5.

Subsection (c) of the new Section 1602 would authorize the Secretary to appoint Intelligence Senior Level positions where necessary to successfully compete on the market for needed technological expertise where executive management skills are not necessary.

In establishing a new Section 1603 to Title 10, subsection (a) would clarify the authority of the Secretary to use time limited ap-

pointments when needed to meet a temporary surge requirement such as a need for additional linguistic capacity for a current “hot spot”. Time limited appointments may also be used for up to a 5 year period where a current need for an increase in skills may eventually evolve into a more permanent requirement. In such an event, observed good performers under a time limited appointment may be hired into the defense intelligence community service at the conclusion of their time limited appointment.

Subsection (b) of the new Section 1603 would continue the termination authority currently held by all components of the Department of Defense components of the Intelligence Community to terminate an employee of the Department of Defense intelligence services, whenever that action is in the interests of the United States and other termination provisions of law cannot be invoked consistent with the national security. It is envisioned that this authority would be invoked within the defense community only when absolutely necessary, consistent with past practice.

Subsection (c) of the new Section 1603 would authorize the Secretary to prescribe regulations for the separation of Department of Defense Intelligence Community employees to adjust the defense intelligence force in order to maintain the necessary and required skills mix within the Intelligence Community. Such separations are to be performance based. Employees under this Act will be reviewed for separation, retraining, or transfer in consideration of:

- (A) performance;
- (B) tenure of employment;
- (C) length of service; and
- (D) veterans’ preference.

Paragraph (3) of this subsection would require the Secretary of Defense to prescribe regulations providing appeal rights within the Department of Defense. It is intended that all employees affected by an action under this new Adjustment of Force authority have the same right to appeal within the Department and that there be no administrative review outside the Department such as under Chapters 35 and 75 of Title 5, United States Code, or any other law which would otherwise provide for such review.

Subsection (b) of the new Section 1603 would provide for notification of Congress of the regulations prescribed under this legislation.

A new Section 1604 of Title 10 would define the Department of Defense’s components within the Intelligence Community for the purposes of this legislation. In order to ensure maximum mobility between all Intelligence Community components and to eliminate the bureaucratic approach required today, all intelligence functional components, including the Office of the Assistant Secretary of Defense for Command, Control, Communications and Intelligence, are defined. Subsection (b) repeals several provisions which are now superseded by this legislation. Subsection (c) makes several clerical amendments to Chapter 83 of Title 10 so as to extend coverage of the provisions in the new Sections 1601, 1602, 1603, and 1604 to civilian intelligence employees of the Defense Intelligence Agency and the Central Imagery Office.

Section 482—Temporary program for civilian workforce reduction in the National Security Agency

New provision. This section would provide the National Security Agency (NSA), through the authority of the Secretary of Defense, with a temporary tool during fiscal year 1997 to stimulate voluntary attrition through early retirements if necessary to achieve workforce downsizing goals.

Subsection (a) would authorize NSA to establish a program to encourage eligible employees to take early retirement. These employee requirements would help NSA achieve its downsizing objectives by contributing to the downward glide path for the size of the workforce and facilitating a reapportionment of budget dollars from personnel to investment expenditures. The incentive for early retirement is a lump-sum payment representing the total amount of the annuity reduction required by 5 United States Code section 8339(h). Under Section 8339(h), the Civil Service Retirement System (CSRS) annuities are reduced by $\frac{1}{6}$ th of 1 percent for each month (equaling two percent for each year) the employee is under age 55 at the time of retirement. Subsection (a) would authorize NSA to offer a one-time payment equal to the present value of the total early retirement penalty incurred under 5 United States Code Section 8339(h).

Subsection (b)(1) would require NSA to obtain the approval of the Secretary of Defense before exercising this authority.

Subsection (b)(2) would restrict this incentive to NSA employees.

Subsection (b)(3) would permit the Director of NSA, to limit the scope of the program and offer the incentive selectively. Selective use of the incentive would allow NSA to encourage attrition of employees in over-strength career fields, rather than offering the incentive across the board and possibly losing personnel with critical skills.

Subsection (b)(4) would limit this authority to a one-time program, lasting no more than ninety days, in fiscal year 1997.

Subsection (c)(1) would require NSA to make a single payment.

Subsection (c)(2) would require the payment to equal the total present value amount of the early retirement penalty incurred pursuant to 5 United States Code Section 8339(h).

Subsection (c)(3) would provide that the payment may not be used to calculate entitlement to any other government benefit.

Subsection (c)(4) would prohibit employees from obtaining both the lump sum payment under this section and the separation pay provided in 5 United States Code Section 5597. While NSA is striving to downsize its workforce, there is no rationale to support giving a double benefit for employees who voluntarily separate.

Subsection (c)(5) would stipulate that payment is subject to availability of appropriations.

Subsection (d) would require retired employees to repay the lump sum to the NSA in accordance with the provisions set forth in the legislation.

Subsection (e) would identify the source for the lump sum payments to be those funds appropriated for the National Security Agency which may be properly used for the payment of salaries and expenses.

Subsection (d)(2) would clarify that NSA may use Operation and Maintenance funds authorized for NSA in the 1997 Intelligence Authorization Act for lump sum payments. This section would not, and is not intended to, facilitate an increase in the NSA operating budget for fiscal year 1997.

Subsection (f) would define “employee” to limit its applicability in this section to employees of NSA who are covered by CSRS.

TITLE V—NATIONAL SECURITY COUNCIL AND RELATED BOARDS AND COMMITTEES

Section 501—Recodification of laws relating to National Security Council and related boards and committees in Executive Office of the President

Current law. Restatement of 50 United States Code 402(a)–(f), (h).

Section 502—Committee on Foreign Intelligence

New Provision. This section amends Section 101 of the National Security Act of 1947 by adding a new Section 103, which creates a Committee on Foreign Intelligence (CFI) of the National Security Council. The CFI would consist of the Director of Central Intelligence, the Secretary of State, the Secretary of Defense, the Attorney General, the Chairman of the Joint Chiefs of Staff, and the Assistant to the President for National Security Affairs, who would serve as Chairman of the CFI—or their deputies.

The purpose of the CFI, which was recommended by the Aspin-Brown Commission and DCI Deutch, would be to provide a better institutional mechanism to provide policy-level guidance for the conduct of U.S. intelligence activities. The CFI would identify the intelligence required to address U.S. national security interests, and establish priorities to address these requirements. The NSC has, on occasion, issued statements of intelligence requirements, but the Committee believes that the process for setting requirements and priorities should be institutionalized and should be performed on a regular basis by a group that will be more readily available than is the NSC itself, which is comprised of the President, the Vice President and the Secretaries of State and Defense.

The CFI would also establish policy guidelines for intelligence activities, such as whether intelligence agencies should collect economic or environmental intelligence; whether they should target friendly governments for intelligence collection; whether they should use certain forms of cover; and whether they should enter into relationships with individuals or other governments whose conduct may not live up to U.S. standards. Intelligence agencies have historically been left to make these difficult decisions themselves; in the Committee’s view, these decisions should be made at the policy level.

Paragraph (c) proposes the creation of a semiannual strategic intelligence review process between the CFI and the Congressional intelligence committees. Each semiannual review meeting would review significant strategic intelligence trends, strategic intelligence reporting, and anticipated Intelligence Community requirements for the following six to twelve months.

The President recently announced his intent to create a CFI by executive order. The Committee applauds the President's decision to create the CFI, but believes that the entity should be created by statute, rather than by executive order, to ensure continuity from Administration to Administration. The Committee notes, in this regard, that the CFI was first created in President Ford's Executive Order 11905 in 1976; that executive order has been superseded twice since then. With such broad agreement as to the utility and structure of the CFI, enactment by statute appears appropriate and desirable.

Section 503—Transnational threats

New provision. This section amends Title 1 of the National Security Act of 1947 by adding a new Section 104, which would establish a Committee on Transnational Threats of the National Security Council. The Committee would consist of the DCI, the Secretary of Defense, the Secretary of State, the Attorney General, and the Assistant to the President for National Security Affairs, who would chair the Committee.

The creation of such a Committee was recommended by the Aspin-Brown Commission, which found that the Federal government is not well organized to combat certain "transnational" activities—international terrorism, drug trafficking, weapons proliferation, and organized crime—that threaten the national security of the United States. The Aspin-Brown Commission referred to transnational activities as "global crime" to emphasize their links to global criminal elements. The Committee prefers to continue to refer to such activities as "transnational threats" to emphasize, as discussed below, that law enforcement is only one of several possible Federal government responses to the problem.

A number of federal departments and agencies play important roles in combatting transnational threats, but their activities are not well coordinated. Moreover, in the absence of higher level direction, law enforcement agencies have usually been left to take the lead. This has often resulted in conflicts with other agencies, including and within the various components of the Intelligence Community. In the Committee's view, a high-level group is needed to decide, as a policy matter, when to give priority to law enforcement, to intelligence, or to foreign policy or other considerations in responding to transnational threats. The Committee believes that a committee of the National Security Council would be best suited to fulfill this role. As with the Committee on Foreign Intelligence, the Committee believes the Committee on Transnational Threats should be established by legislation.

The Committee on Transnational Threats would identify transnational threats; develop strategies to respond to them in a coordinated way; assist in resolving operational differences among federal departments and agencies; develop policies and procedures to ensure the effective sharing of information among federal departments and agencies, including between the law enforcement and foreign policy communities; and develop guidelines for coordination of federal law enforcement and intelligence activities overseas.

The Department of Justice has objected to giving the Committee on Transnational Threats authority to “direct” law enforcement activities on the ground that law enforcement activities should not be directed on the basis of considerations unrelated to the enforcement of law. In the Committee’s view, one of the key reasons to create a high-level Committee on Transnational Threats is to ensure that considerations other than law enforcement are taken into account in the Federal Government’s response to terrorism and other transnational threats. The Attorney General and law enforcement officials would still be responsible for directing law enforcement operations on a day-to-day basis, but the broader policy decisions regarding whether to give priority to law enforcement, or to intelligence, or to foreign policy interests, should be made at a higher level.

TITLE VI—TECHNICAL AND CONFORMING AMENDMENTS, AND
EFFECTIVE DATE

Section 601—Restatement of National Security Agency Act of 1959

Current law. Restatement of National Security Act of 1959. This redrafting retains the original text while reorganizing and establishing the bill into a more comprehensible format.

Section 602—Amendments to title V, United States Code

Technical and conforming amendments.

Section 603—Repeal of provisions recodified in new act

Technical and conforming amendments.

Section 604—National Security Act of 1947

Technical and conforming amendments.

Section 605—Abolition of National Intelligence Council

The creation of the National Intelligence Evaluation Council in sections 321, 322, and 323 of this legislation will replace the National Intelligence Council (NIC), which this section dissolves. Those analysts (National Intelligence Officers and their support) currently preparing the estimates will be housed under the auspices of CIA or DIA, as appropriate. It is envisioned by the Committee that these analysts will be called upon, as appropriate, to act as the senior issue managers for their areas of expertise.

Section 606—Effective date

This legislation shall take effect six months after the enactment of the Intelligence Community Act.

COMMITTEE POSITION

On May 9, 1996, 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 6 ayes to 3 noes, ordered it favorably reported. On that recorded vote the Members present voted as follows: Mr. Combest (Chairman)—aye; Mr. Young—aye; Mr. Hansen—aye; Mr. Lewis—aye; Mr. Goss—aye; Mr. McCollum—aye; Mr. Dicks—no; Mr. Rich-

ardson—no; Mr. Coleman—no. 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(1)(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(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee held 6 hearings, as well as 20 Member briefings and over 200 staff briefings, on the issues raised by H.R. 3237. Testimony was heard from the Director of Central Intelligence, Deputy Secretary of Defense, numerous program managers and various other knowledgeable witnesses on the activities and plans of the Intelligence Community covered by the Intelligence Community Act. The bill, as reported by the Committee, reflects conclusions reached by the Committee in light of that oversight activity.

FISCAL DATA

Pursuant to clause of Rule XIII of the Rules of the House of Representatives, the Committee attempted to ascertain annual outlays resulting from the bill during fiscal year 1997 and the four following fiscal years. The results of such efforts are reflected in the cost estimate prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974, which is included in this report pursuant to clause 2(1)(3)(C) of House Rule XI.

CONGRESSIONAL BUDGET COMMITTEE

In compliance with clause 2(1)(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, May 28, 1996.

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. 3237, the Intelligence Community Act, as ordered reported by the House Permanent Select Committee on Intelligence on May 9, 1996.

The bill would affect direct spending and thus would be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

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

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 3237.
2. Bill title: Intelligence Community Act.
3. Bill status: As ordered reported by the House Permanent Select Committee on Intelligence on May 9, 1996.
4. Bill purpose: The bill would define the responsibilities of various federal agencies for intelligence functions. It would provide certain authorities concerning financial and personnel management including creation of a program to maintain a pool of personnel with skills that are important to intelligence activities and who could be called to service during an emergency.
5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
DIRECT SPENDING							
Civil Service Retirement							
Spending Under Current Law:							
Budget Authority	39,120	41,146	43,067	45,057	47,062	49,149	51,316
Estimated Outlays	39,041	41,064	42,980	44,967	46,968	49,051	51,214
Proposed Changes:							
Estimated Budget Authority	0	6	12	10	9	7	5
Estimated Outlays	0	6	12	10	9	7	5
Civil Service Retirement							
Spending Under the Bill:							
Estimated Budget Authority	39,120	41,152	43,079	45,067	47,071	49,156	51,321
Estimated Outlays	39,041	41,070	42,992	44,977	46,977	49,058	51,219
SPENDING SUBJECT TO APPROPRIATIONS ACTION							
Estimated Authorization Level	0	40	2	2	2	2	2
Estimated Outlays	0	40	2	2	2	2	2

6. Basis of estimate: The estimate assumes that H.R. 3237 will be enacted by October 1, 1996, and that the full amounts authorized will be appropriated. CBO used historical spending rates for estimating outlays.

Direct spending. Section 482 would provide incentives for National Security Agency (NSA) employees to retire before age 55. CBO estimates that this section would increase direct spending outlays by \$6 million in 1997, \$12 million in 1998, \$10 million in 1999, \$9 million in 2000, \$7 million in 2001, and \$5 million in 2002 for benefit payments from the Civil Service Retirement System (CSRS). 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 at retirement. This section would allow the NSA to pay to employees retiring before age 55 a lump-sum payment equal to the present value of the penalty projected over their expected lifetime. Eligibility for the incentive under sec-

tion 482 would be limited to a 90-day period during fiscal year 1997.

Direct spending costs would result because some employees under age 55, who would have waited for their normal retirement age—assumed to be 55—would accelerate their retirement. CBO estimates that 15 percent, or about 450, of those employees under age 55 would take the incentive and retire. Because NSA currently has the authority to offer early retirement and separation incentive payments of up to \$25,000, some of the 450 employees would retire early under current law anyway. CBO estimates that about 310 employees under age 55 retiring under the bill would not retire under current law. Based on data supplied by NSA showing the distribution by age of employees under age 55 CBO estimates the average age of an employee taking advantage of the benefits of section 482 to be 50 and the average annuity of these individuals to be about \$39,000 in 1997.

Spending subject to appropriations action. CBO estimates the provisions to centralize and redefine the responsibilities of agencies performing intelligence functions would have no significant budgetary effect. Depending on how the bill is implemented, these provisions could result in increased costs or some savings in appropriated funds, but in either case the budgetary impact would be relatively small.

Two other provisions, however, would provide new authority that would clearly increase costs. First, section 233 would establish an Intelligence Community Reserve—a pool of specialists who could be called to service in an emergency. A cadre of approximately 100 consultants would periodically provide expertise that the intelligence community does not routinely possess on geographic regions and languages. The Director of Central Intelligence would be authorized to provide monetary incentives, training, and support. In addition, funding would be needed for an information data base. Assuming the reserve is implemented as currently envisioned, this provision would cost about \$2 million annually.

Second, section 482, which would allow NSA to provide incentives for employees to retire before reaching age 55, also would result in costs that would be funded by appropriations. The incentive payments made by NSA to employees equaling the present value of the 2 percent annuity penalty would total \$38 million in fiscal year 1997. CBO assumes the average incentive payment made to nearly 450 people would be about \$84,000.

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. The bill would have the following pay-as-you-go impact:

[By fiscal year, in millions of dollars]

	1996	1997	1998
Change in Outlays	0	6	12
Change in Receipts		(1) ¹	

¹ Not applicable.

8. Estimated cost to state, local, and tribal governments: Section 4 of Public Law 104-4 excludes from application of that act legislative provisions that are necessary for the national security. CBO

has determined that all the provisions of H.R. 3237 fit within this exclusion.

9. Estimated impact on the private sector: CBO has determined that all the provisions of H.R. 3237 fit within the national security exclusion.

10. Previous CBO estimate: None.

11. Estimate prepared by: Federal Cost Estimate: Wayne Boyington, Jeannette Van Winkle. Impact on State, Local, and Tribal Governments: Marjorie Miller, Pepper Santalucia. Impact on Private Sector: Neil Singer.

12. Estimate approved by: Robert A. Sunshine for Paul N. Van de Water, Assistant Director for Budget Analysis.

COMMITTEE COST ESTIMATES

The Committee agrees with the estimate of the Congressional Budget Office.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(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.

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 italic, existing law in which no change is proposed is shown in roman):

TITLE 10, UNITED STATES CODE

* * * * *

Subtitle A—General Military Law

PART I—ORGANIZATION AND GENERAL MILITARY POWERS

Chap.		Sec.
1.	Definitions	101
	* * * * *	

PART II—PERSONNEL

	* * * * *	
83.	Defense Intelligence [Agency and Central Imagery Office] Civilian Personnel	1601
	* * * * *	

CHAPTER 8—DEFENSE AGENCIES AND DEPARTMENT OF DEFENSE FIELD ACTIVITIES

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SUBCHAPTER II—MISCELLANEOUS DEFENSE AGENCY MATTERS

Sec. **[201. Consultation regarding appointment of certain intelligence officials.]**
 201. *Consultation regarding appointment of heads of certain intelligence components.*
 * * * * *

[§ 201. Consultation regarding appointment of certain intelligence officials

[Before submitting a recommendation to the President regarding the appointment of an individual to the position of Director of the Defense Intelligence Agency or Director of the National Security Agency, the Secretary of Defense shall consult with the Director of Central Intelligence regarding the recommendation.**]**

§ 201. Consultation regarding appointment of heads of certain intelligence components

(a) *CONSULTATIONS WITH REGARD TO DIRECTORS OF NSA AND NRO.—*Before submitting a recommendation to the President regarding the appointment of an individual to the position of Director of the National Security Agency or Director of the National Reconnaissance Office, the Secretary of Defense shall consult with the Director of Central Intelligence regarding the recommendation.

(b) *APPOINTMENT OF HEAD OF CENTRAL IMAGERY OFFICE.—*The Secretary shall appoint, upon the recommendation of the Director of Central Intelligence, the head of the Central Imagery Office within the Department of Defense.

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PART II—PERSONNEL

	* * * * *	
Chap.		Sec.
31.	Enlistments	501
	* * * * *	
83.	Defense Intelligence [Agency and Central Imagery Office] Civilian Personnel	1601
	* * * * *	

CHAPTER 81—CIVILIAN EMPLOYEES

Sec. 1581. Foreign National Employees Separation Pay Account.
 * * * * *
[1590. Management of civilian intelligence personnel of the military departments.]
 * * * * *

[§ 1590. Management of civilian intelligence personnel of the military departments

[(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, including positions in the Senior Executive Service, for civilian intelligence officers and em-

ployees of the military departments as may be necessary to carry out the intelligence functions of such departments, except that the total number of positions in the Senior Executive Service established pursuant to this section may not exceed one-half of one percent of the total number of all civilian intelligence positions established pursuant to this section;

[(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. The Secretary shall also fix rates of pay for positions in the Senior Executive Service established pursuant to this section that are not in excess of the maximum rate or less than the minimum rate of basic pay established pursuant to section 5382 of title 5. Except in the case of a civilian intelligence officer or employee of a military department serving as a member of the Senior Executive Service of a military department, no civilian intelligence officer or employee of a military department may be paid basic pay at a rate in excess of the highest rate of basic pay payable under 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 for civilian intelligence officers or employees in or under which the military departments may employ individuals described by section 5342(a)(2)(A) of such title.

[(d) In addition to the basic pay payable under subsection (b), civilian intelligence officers and employees of the military departments who are citizens or nationals of the United States and who are stationed outside the continental United States or in Alaska may be paid allowances, 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 of 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 intelligence officer or employee of a military department 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 employee 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 Committee 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 or the Secretary concerned or both. An action to terminate any civilian intelligence officer or employee of a military department by either such officer shall be appealable to the Secretary of Defense.

[(f) With regard to any position in the Senior Executive Service which may be established pursuant to this section, the Secretary of Defense shall prescribe regulations to implement this section which are consistent with the requirements set forth in sections 3131, 3132(a)(2), 3393a, 3396(c), 3592, 3595(a), 5384, and 6304, subsections (a), (b), and (c) of section 7543 (except that any hearing or appeal to which a member of the Senior Executive Service is entitled shall be held or decided pursuant to regulations issued by the Secretary), and subchapter II of chapter 43 of title 5. The Secretary of Defense shall also prescribe, to the extent practicable, regulations to implement such other provisions of title 5 as apply to members of the Senior Executive Service or to individuals applying for positions in the Senior Executive Service.

[(g) The President, based on the recommendations of the Secretary of Defense, may award a rank referred to in section 4507 of title 5 to members of the Senior Executive Service whose positions may be established pursuant to this section. The awarding of such a rank shall be made in a manner consistent with the provisions of that section.]

* * * * *

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

CHAPTER 83—DEFENSE INTELLIGENCE CIVILIAN PERSONNEL

Sec.

- 1601. Defense Intelligence Senior Executive Service.
- 1602. Defense Intelligence Agency merit pay system.
- 1603. Limit on pay.
- 1604. Civilian personnel management.】
- 1601. *Management of civilian intelligence personnel.*
- 1602. *Intelligence Senior Executive Service.*
- 1603. *Administrative provisions.*
- 1604. *Intelligence components of the Department of Defense defined.*

* * * * *

- 1607. *Merit pay system: Defense Intelligence Agency and Central Imagery Office.*

* * * * *

【§ 1601. Defense Intelligence Senior Executive Service

【(a) The Secretary of Defense may by regulation establish a personnel system for senior civilian personnel within the Defense Intelligence Agency and the Central Imagery Office to be known as the Defense Intelligence Senior Executive Service. The regulations establishing the Defense Intelligence Senior Executive Service shall—

【(1) meet the requirements set forth in section 3131 of title 5 for the Senior Executive Service;

【(2) provide that positions in the Defense Intelligence Senior Executive Service meet requirements that are consistent with the provisions of section 3132(a)(2) of title 5;

【(3) provide rates of pay for the Defense Intelligence Senior Executive Service that are not in excess of the maximum rate or less than the minimum rate of basic pay established for the Senior Executive Service under section 5382 of title 5, and that are adjusted at the same time and to the same extent as rates of basic pay for the Senior Executive Service are adjusted;

【(4) provide a performance appraisal system for the Defense Intelligence Senior Executive Service that conforms to the provisions of subchapter II of chapter 43 of title 5;

【(5) provide for removal consistent with section 3592 of such title, and removal or suspension consistent with subsections (a), (b), and (c) of section 7543 of title 5 (except that any hearing or appeal to which a member of the Defense Intelligence Senior Executive Service is entitled shall be held or decided pursuant to procedures established by regulations of the Secretary of Defense);

【(6) permit the payment of performance awards to members of the Defense Intelligence Senior Executive Service consistent with the provisions applicable to performance awards under section 5384 of title 5;

【(7) provide that members of the Defense Intelligence Senior Executive Service may be granted sabbatical leaves consistent with the provisions of section 3396(c) of title 5; and

【(8) provide for the recertification of members of the Defense Intelligence Senior Executive Service consistent with the provisions of section 3393a of title 5.

【(b) Except as otherwise provided in subsection (a), the Secretary of Defense may—

【(1) make applicable to the Defense Intelligence Senior Executive Service any of the provisions of title 5 applicable to applicants for or members of the Senior Executive Service; and

【(2) appoint, promote, and assign individuals to positions established within the Defense Intelligence Senior Executive Service without regard to the provisions of title 5 governing appointments and other personnel actions in the competitive service.

【(c) The President, based on the recommendations of the Secretary of Defense, may award ranks to members of the Defense Intelligence Senior Executive Service in a manner consistent with the provisions of section 4507 of title 5.

【(d) Notwithstanding any other provision of this section, the Secretary of Defense may detail or assign any member of the Defense

Intelligence Senior Executive Service to serve in a position outside the Defense Intelligence Agency or the Central Imagery Office in which the member's expertise and experience may be of benefit to the Defense Intelligence Agency, the Central Imagery Office, or another Government agency. Any such member shall not by reason of such detail or assignment lose any entitlement or status associated with membership in the Defense Intelligence Senior Executive Service.

[(e) The Secretary of Defense shall each year submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, at the time the Budget is submitted by the President to the Congress for the next fiscal year, a report on the executive personnel in the Defense Intelligence Agency and the Central Imagery Office. The report shall include—

[(1) the total number of positions added to or deleted from the Defense Intelligence Senior Executive Service during the preceding fiscal year;

[(2) the number of executive personnel (including all members of the Defense Intelligence Senior Executive Service) being paid at each grade level and pay rate in effect at the end of the preceding fiscal year;

[(3) the number, distribution, and amount of awards paid to members of the Defense Intelligence Senior Executive Service during the preceding fiscal year; and

[(4) the number of individuals removed from the Defense Intelligence Senior Executive Service during the preceding fiscal year for less than fully successful performance.

[(§ 1602. Defense Intelligence Agency merit pay system

The Secretary of Defense may by regulation establish a merit pay system for such employees of the Defense Intelligence Agency and Central Imagery Office as the Secretary considers appropriate. The merit pay system shall be designed to carry out purposes consistent with those set forth in section 5401 of title 5, as in effect on October 31, 1993.

[(§ 1603. Limit on pay

[(Nothing in sections 1601 and 1602 of this title shall be construed to allow the aggregate amount payable to a member of the Defense Intelligence Senior Executive Service under those sections during any fiscal year to exceed the annual rate payable for positions at level I of the Executive Schedule in effect at the end of such year.

[(§ 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 employ-

ment 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, when combined with the total number of positions in the Defense Intelligence Senior Executive Service under section 1601 of this title, may not exceed the total 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.]

§ 1601. Management of civilian intelligence personnel

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

(1) *establish such excepted service positions, including positions in the Intelligence Senior Executive Service and positions that may be designated as Intelligence Senior Level positions under section 1602(c) of this title, for civilian intelligence officers and employees of the intelligence components of the Department of Defense as may be necessary to carry out the intelligence functions of such components;*

(2) *appoint individuals to such positions with appropriate consideration of veterans' preference; and*

(3) *fix the compensation of such individuals for service in such 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 this section 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, a civilian intelligence employee of an intelligence component of the Department of Defense, including an Intelligence Senior Level employee or a member of the Intelligence Senior Executive Service, may not be paid basic pay in excess of the maximum rate payable under section 5306(e), section 5376, or section 5382 of title 5, respectively.*

(2) *The Secretary of Defense may provide civilian employees of the intelligence components of the Department of Defense compensation (in addition to basic pay) including benefits, incentives, and allowances consistent with, and not in excess of the level authorized for, comparable positions authorized by title 5.*

(c) *PREVAILING RATE 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 for civilian employees in or under which the Department may employ individuals described by section 5342(a)(2)(A) of such title.*

(d) *ALLOWANCES BASED ON LIVING COSTS AND ENVIRONMENT.*—(1) *In addition to the basic pay payable under subsection (b), civilian intelligence officers and employees of the intelligence components of the Department of Defense who are citizens or nationals of the United States and are stationed outside the continental United States or in Alaska may be paid allowances, in accordance with regulations prescribed by the Secretary of Defense, at a rate not in excess of the allowance authorized to be paid by section 5941(a) of title 5 for employees whose rates of basic pay are fixed by statute.*

(2) *Such allowances shall be based on—*

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

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

(C) *both of the factors specified in subparagraphs (A) and (B).*

§ 1602. Intelligence Senior Executive Service

(a) *INTELLIGENCE SENIOR EXECUTIVE SERVICE.*—*With regard to any positions equivalent to the Senior Executive Service which may be established pursuant to section 1601 of this title, the Secretary of Defense shall prescribe regulations which are consistent with the requirements set forth in sections 3131, 3132(a)(2), 3396(c), 3592, 3595(a), 5384, and 6304 of title 5 and subsections (a), (b), and (c) of section 7543 of title 5 (except that any hearing or appeal shall be held or decided pursuant to regulations issued by the Secretary). To the extent practicable, the Secretary shall also prescribe regulations to implement such other provisions of title 5 as apply to members of the Senior Executive Service or to individuals applying for positions in the Senior Executive Service.*

(b) *AWARD OF RANK TO MEMBERS OF THE INTELLIGENCE SENIOR EXECUTIVE SERVICE.*—*The President, based on the recommendations of the Secretary of Defense, may award a rank referred to in section 4507 of title 5 to members of the Intelligence Senior Executive Service whose positions may be established pursuant to this section. The awarding of such rank shall be made in a manner consistent with the provisions of that section.*

(c) *INTELLIGENCE SENIOR LEVEL POSITIONS.*—*In carrying out section 1601(a) of this title, the Secretary of Defense may designate positions as Intelligence Senior Level positions. Positions which may be so designated are those which require functional expertise and advisory capacity, but do not have the organizational or program management functions necessary for inclusion in the Intelligence Senior Executive Service. Before designating any such position, the Secretary shall prescribe regulations to implement this subsection.*

§ 1603. Administrative provisions

(a) *TIME LIMITED APPOINTMENTS.*—(1) *The Secretary of Defense may by regulation authorize the use of time-limited appointments when hiring and appointing an employee to certain prescribed positions within an intelligence component of the Department of Defense. An employee who has a time-limited appointment is not eligible for conversion to a permanent Intelligence Senior Executive Service position without competition.*

(2) *In this subsection, the term “time-limited appointment” means an appointment to a position within an intelligence component of the Department of Defense for a period not to exceed five years.*

(b) **TERMINATION OF CIVILIAN INTELLIGENCE EMPLOYEES.**—(1) *Notwithstanding any other provision of law, the Secretary of Defense may terminate the employment of any civilian intelligence officer or employee of an intelligence component of the Department of Defense if the Secretary—*

(A) *considers that 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 officer or employee cannot be invoked in a manner consistent with national security.*

(2) *A decision by the Secretary 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 officer or employ under the authority of this section.*

(4) *Any termination of employment under this subsection does 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 that officer or 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 or (with respect to officers and employees under their respective jurisdictions) the heads of the intelligence components of the Department of Defense. An action to terminate employment of any civilian intelligence officer or employee of the Department by any such officer may be appealed to the Secretary of Defense.*

(c) **ADJUSTMENT IN FORCE.**—(1) *Notwithstanding sections 3501(b) and 3502 of title 5 and subject to paragraph (2), the Secretary of Defense may prescribe regulations for the separation of civilian employees of the intelligence components of the Department of Defense including members of the Intelligence Senior Executive Service and employees assigned to Intelligence Senior Level positions, in an adjustment in force which give effect to—*

(A) *performance;*

(B) *tenure of employment;*

(C) *length of service as computed under section 3502(a) (A), (B), and (C) of title 5; and*

(D) *veterans’ preference, subject to sections 3501(a)(3) and 3502(b) of title 5.*

(2) *An adjustment in force in the Intelligence Senior Executive Service shall be consistent with section 3595(a) of title 5.*

(3) *The regulations prescribed under paragraph (1) shall include provisions for appeal rights within the Department in lieu of the provisions of any other law or regulations for all employees affected by actions under this subsection.*

(d) **NOTIFICATION OF CONGRESS.**—*The Secretary of Defense shall notify Congress of any regulations prescribed to carry out this sec-*

tion or section 1601 or 1602 of this title. Such notice shall be provided by submitting a copy of the regulations to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate at least 60 days before such regulations take effect.

§ 1604. Intelligence components of the Department of Defense defined

In this chapter, the term “intelligence component of the Department of Defense” means any of the following:

- (1) *The National Security Agency.*
- (2) *The Defense Intelligence Agency.*
- (3) *The Central Imagery Office.*
- (4) *The National Reconnaissance Office.*
- (5) *The intelligence components of the military departments.*
- (6) *Any other intelligence component of the Department of Defense so designated by the Secretary of Defense.*
- (7) *Any successor to any such agency or office.*

* * * * *

§ 1607. Merit pay system: Defense Intelligence Agency and Central Imagery Office

The Secretary of Defense may by regulation establish a merit pay system for such employees of the Defense Intelligence Agency and Central Imagery Office as the Secretary considers appropriate. The merit pay system shall be designed to carry out purposes consistent with those set forth in section 5401 of title 5, as in effect on October 31, 1993.

* * * * *

NATIONAL SECURITY ACT OF 1959

AN ACT To provide certain administrative authorities for the National Security Agency, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That this Act may be cited as the “National Security Agency Act of 1959”.

【SEC. 2. (a) The Secretary of Defense (or his designee) is authorized to establish such positions, and to appoint thereto, without regard to the civil service laws, such officers and employees, in the National Security Agency, as may be necessary to carry out the functions of such agency. The rates of basic pay for such positions shall be fixed by the Secretary of Defense (or his designee for this purpose) in relation to the rates of basic pay provided for in subpart D of part III of title 5, United States Code, for positions subject to such title which have corresponding levels of duties and responsibilities. Except as otherwise provided by law, no officer or employee of the National Security Agency shall be paid basic pay at a rate in excess of the maximum rate payable under section 5376 of such title and not more than 70 such officers and employees shall be paid within the range of rates authorized in section 5376 of such title.

[(b) The Secretary of Defense (or his designee) may provide officers and employees of the National Security Agency other compensation, benefits, incentives, and allowances which are consistent with, and do not exceed the levels authorized for, such compensation, benefits, incentives, or allowances by title 5, United States Code.

[SEC. 3. Section 1581(a) of title 10, United States Code, as modified by section 12(a) of the Federal Employees Salary Increase Act of 1958 (72 Stat. 213), is amended by striking out “, and not more than fifty civilian positions in the National Security Agency,” and the words “and the National Security Agency, respectively,”.

[SEC. 4. The Secretary of Defense (or his designee for the purpose) is authorized to—

[(1) establish in the National Security Agency (A) professional engineering positions primarily concerned with research and development and (B) professional positions in the physical and natural sciences, medicine, and cryptology; and

[(2) fix the respective rates of pay of such positions at rates equal to rates of basic pay contained in grades 16, 17, and 18 of the General Schedule set forth in section 5332 of title 5, United States Code.

Officers and employees appointed to positions established under this section shall be in addition to the number of officers and employees appointed to positions under section 2 of this Act who may be paid at rates equal to rates of basic pay contained in grades 16, 17, and 18 of the General Schedule.

[SEC. 5. Officers and employees of the National Security Agency who are citizens or nationals of the United States may be granted additional compensation, in accordance with regulations which shall be prescribed by the Secretary of Defense, not in excess of additional compensation authorized by section 207 of the Independent Offices Appropriation Act, 1949, as amended (5 U.S.C. 118h), for employees whose rates of basic compensation are fixed by statute.

[SEC. 6. (a) Except as provided in subsection (b) of this section, nothing in this Act or any other law (including, but not limited to, the first section and section 2 of the Act of August 28, 1935 (5 U.S.C. 654)) shall be construed to require the disclosure of the organization or any function of the National Security Agency, of any information with respect to the activities thereof, or of the names, titles, salaries, or number of the persons employed by such agency.

[(b) The reporting requirements of section 1582 of title 10, United States Code, shall apply to positions established in the National Security Agency in the manner provided by section 4 of this Act.

[SEC. 8. The foregoing provisions of this Act shall take effect on the first day of the first pay period which begins later than the thirtieth day following the date of enactment of this Act.

[SEC. 9. (a) Notwithstanding section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), section 5536 of title 5, United States Code, and section 2675 of title 10, United States Code, the Director of the National Security Agency, on behalf of the Secretary of Defense, may lease real property outside the United States, for periods not exceeding ten years, for the use of the National Security Agency for special cryptologic activities and for housing for personnel assigned to such activities.

[(b) The Director of the National Security Agency, on behalf of the Secretary of Defense, may provide to certain civilian and military personnel of the Department of Defense who are assigned to special cryptologic activities outside the United States and who are designated by the Secretary of Defense for the purposes of this subsection—

[(1) allowances and benefits—

[(A) comparable to those provided by the Secretary of State to members of the Foreign Service under chapter 9 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4081 et seq.) or any other provision of law; and

[(B) in the case of selected personnel serving in circumstances similar to those in which personnel of the Central Intelligence Agency serve, comparable to those provided by the Director of Central Intelligence to personnel of the Central Intelligence Agency;

[(2) housing (including heat, light, and household equipment) without cost to such personnel, if the Director of the National Security Agency, on behalf of the Secretary of Defense determines that it would be in the public interest to provide such housing; and

[(3) special retirement accrual in the same manner provided in section 303 of the Central Intelligence Agency Retirement Act (50 U.S.C. 403 note) and in section 18 of the Central Intelligence Agency Act of 1949.

[(c) The authority of the Director of the National Security Agency, on behalf of the Secretary of Defense, to make payments under subsections (a) and (b), and under contracts for leases entered into under subsection (a), is effective for any fiscal year only to the extent that appropriated funds are available for such purpose.

[(d) Members of the Armed Forces may not receive benefits under both subsection (b)(1) and title 37, United States Code, for the same purpose. The Secretary of Defense shall prescribe such regulations as may be necessary to carry out this subsection.

[(e) Regulations issued pursuant to subsection (b)(1) shall be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate before such regulations take effect.

[SEC. 10. (a) The Director of the National Security Agency shall arrange for, and shall prescribe regulations concerning, language and language-related training programs for military and civilian cryptologic personnel. In establishing programs under this section for language and language-related training, the Director—

[(1) may provide for the training and instruction to be furnished, including functional and geographic area specializations;

[(2) may arrange for training and instruction through other Government agencies and, in any case in which appropriate training or instruction is unavailable through Government facilities, through nongovernmental facilities that furnish training and instruction useful in the fields of language and foreign affairs;

[(3) may support programs that furnish necessary language and language-related skills, including, in any case in which ap-

appropriate programs are unavailable at Government facilities, support through contracts, grants, or cooperation with non-governmental educational institutions; and

[(4) may obtain by appointment or contract the services of individuals to serve as language instructors, linguists, or special language project personnel.

[(b)(1) In order to maintain necessary capability in foreign language skills and related abilities needed by the National Security Agency, the Director, without regard to subchapter IV of chapter 55 of title 5, United States Code, may provide special monetary or other incentives to encourage civilian cryptologic personnel of the Agency to acquire or retain proficiency in foreign languages or special related abilities needed by the Agency.

[(2) In order to provide linguistic training and support for cryptologic personnel, the Director—

[(A) may pay all or part of the tuition and other expenses related to the training of personnel who are assigned or detailed for language and language-related training, orientation, or instruction; and

[(B) may pay benefits and allowances to civilian personnel in accordance with chapters 57 and 59 of title 5, United States Code, and to military personnel in accordance with chapter 7 of title 37, United States Code, and applicable provisions of title 10, United States Code, when such personnel are assigned to training at sites away from their designated duty station.

[(c)(1) To the extent not inconsistent, in the opinion of the Secretary of Defense, with the operation of military cryptologic reserve units and in order to maintain necessary capability in foreign language skills and related abilities needed by the National Security Agency, the Director may establish a cryptologic linguist reserve. The cryptologic linguist reserve may consist of former or retired civilian or military cryptologic personnel of the National Security Agency and of other qualified individuals, as determined by the Director of the Agency. Each member of the cryptologic linguist reserve shall agree that, during any period of emergency (as determined by the Director), the member shall return to active civilian status with the National Security Agency and shall perform such linguistic or linguistic-related duties as the Director may assign.

[(2) In order to attract individuals to become members of the cryptologic linguist reserve, the Director, without regard to subchapter IV of chapter 55 of title 5, United States Code, may provide special monetary incentives to individuals eligible to become members of the reserve who agree to become members of the cryptologic linguist reserve and to acquire or retain proficiency in foreign languages or special related abilities.

[(3) In order to provide training and support for members of the cryptologic linguist reserve, the Director—

[(A) may pay all or part of the tuition and other expenses related to the training of individuals in the cryptologic linguist reserve who are assigned or detailed for language and language-related training, orientation, or instruction; and

[(B) may pay benefits and allowances in accordance with chapters 57 and 59 of title 5, United States Code, to individuals in the cryptologic linguist reserve who are assigned to

training at sites away from their homes or regular places of business.

[(d)(1) The Director, before providing training under this section to any individual, may obtain an agreement with that individual that—

[(A) in the case of current employees, pertains to continuation of service of the employee, and repayment of the expenses of such training for failure to fulfill the agreement, consistent with the provisions of section 4108 of title 5, United States Code; and

[(B) in the case of individuals accepted for membership in the cryptologic linguist reserve, pertains to return to service when requested, and repayment of the expenses of such training for failure to fulfill the agreement, consistent with the provisions of section 4108 of title 5, United States Code.

[(2) The Director, under regulations prescribed under this section, may waive, in whole or in part, a right of recovery under an agreement made under this subsection if it is shown that the recovery would be against equity and good conscience or against the public interest.

[(e)(1) Subject to paragraph (2), the Director may provide to family members of military and civilian cryptologic personnel assigned to representational duties outside the United States, in anticipation of the assignment of such personnel outside the United States or while outside the United States, appropriate orientation and language training that is directly related to the assignment abroad.

[(2) Language training under paragraph (1) may not be provided to any individual through payment of the expenses of tuition or other cost of instruction at a non-Government educational institution unless appropriate instruction is not available at a Government facility.

[(f) The Director may waive the applicability of any provision of chapter 41 of title 5, United States Code, to any provision of this section if he finds that such waiver is important to the performance of cryptologic functions.

[(g) The authority of the Director to enter into contracts or to make grants under this section is effective for any fiscal year only to the extent that appropriated funds are available for such purpose.

[(h) Regulations issued pursuant to this section shall be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate before such regulations take effect.

[(i) The Director of the National Security Agency, on behalf of the Secretary of Defense, may, without regard to section 4109(a)(2)(B) of title 5, United States Code, pay travel, transportation, storage, and subsistence expenses under chapter 57 of such title to civilian and military personnel of the Department of Defense who are assigned to duty outside the United States for a period of one year or longer which involves cryptologic training, language training, or related disciplines.

[SEC. 11. The Administrator of General Services, upon the application of the Director of the National Security Agency, may provide for the protection in accordance with section 3 of the Act of June

1, 1948 (40 U.S.C. 318b), of certain facilities (as designated by the Director of such Agency) which are under the administration and control of, or are used by, the National Security Agency in the same manner as if such facilities were property of the United States over which the United States has acquired exclusive or concurrent criminal jurisdiction.

【SEC. 12. (a)(1) The Secretary of Defense (or his designee) may by regulation establish a personnel system for senior civilian cryptologic personnel in the National Security Agency to be known as the Senior Cryptologic Executive Service. The regulations establishing the Senior Cryptologic Executive Service shall—

【(A) meet the requirements set forth in section 3131 of title 5, United States Code, for the Senior Executive Service;

【(B) provide that positions in the Senior Cryptologic Executive Service meet requirements that are consistent with the provisions of section 3132(a)(2) of such title;

【(C) provide, without regard to section 2, rates of pay for the Senior Cryptologic Executive Service that are not in excess of the maximum rate or less than the minimum rate of basic pay established for the Senior Executive Service under section 5382 of such title, and that are adjusted at the same time and to the same extent as rates of basic pay for the Senior Executive Service are adjusted;

【(D) provide a performance appraisal system for the Senior Cryptologic Executive Service that conforms to the provisions of subchapter II of chapter 43 of such title;

【(E) provide for removal consistent with section 3592 of such title, and removal or suspension consistent with subsections (a), (b), and (c) of section 7543 of such title (except that any hearing or appeal to which a member of the Senior Cryptologic Executive Service is entitled shall be held or decided pursuant to procedures established by regulations of the Secretary of Defense or his designee);

【(F) permit the payment of performance awards to members of the Senior Cryptologic Executive Service consistent with the provisions applicable to performance awards under section 5384 of such title;

【(G) provide that members of the Senior Cryptologic Executive Service may be granted sabbatical leaves consistent with the provisions of section 3396(c) of such title.

【(H) provide for the recertification of members of the Senior Cryptologic Executive Service consistent with the provisions of section 3393a of such title.

【(2) Except as otherwise provided in subsection (a), the Secretary of Defense (or his designee) may—

【(A) make applicable to the Senior Cryptologic Executive Service any of the provisions of title 5, United States Code, applicable to applicants for or members of the Senior Executive Service; and

【(B) appoint, promote, and assign individuals to positions established within the Senior Cryptologic Executive Service without regard to the provisions of title 5, United States Code, governing appointments and other personnel actions in the competitive service.

[(3) The President, based on the recommendations of the Secretary of Defense, may award ranks to members of the Senior Cryptologic Executive Service in a manner consistent with the provisions of section 4507 of title 5, United States Code.

[(4) Notwithstanding any other provision of this section, the Director of the National Security Agency may detail or assign any member of the Senior Cryptologic Executive Service to serve in a position outside the National Security Agency in which the member's expertise and experience may be of benefit to the National Security Agency or another Government agency. Any such member shall not by reason of such detail or assignment lose any entitlement or status associated with membership in the Senior Cryptologic Executive Service.

[(b) The Secretary of Defense (or his designee) may by regulation establish a merit pay system for such employees of the National Security Agency as the Secretary of Defense (or his designee) considers appropriate. The merit pay system shall be designed to carry out purposes consistent with those set forth in section 5401(a) of title 5, United States Code.

[(c) Nothing in this section shall be construed to allow the aggregate amount payable to a member of the Senior Cryptologic Executive Service under this section during any fiscal year to exceed the annual rate payable for positions at level I of the Executive Schedule in effect at the end of such year.

[SEC. 13. (a) The Director of the National Security Agency may make grants to private individuals and institutions for the conduct of cryptologic research. An application for a grant under this section may not be approved unless the Director determines that the award of the grant would be clearly consistent with the national security.

[(b) The grant program established by subsection (a) shall be conducted in accordance with the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.) to the extent that such Act is consistent with and in accordance with section 6 of this Act.

[(c) The authority of the Director to make grants under this section is effective for any fiscal year only to the extent that appropriated funds are available for such purpose.

[SEC. 14. Funds appropriated to an entity of the Federal Government other than an element of the Department of Defense that have been specifically appropriated for the purchase of cryptologic equipment, materials, or services with respect to which the National Security Agency has been designated as the central source of procurement for the Government shall remain available for a period of three fiscal years.

[SEC. 15. (a) No person may, except with the written permission of the Director of the National Security Agency, knowingly use the words "National Security Agency", the initials "NSA", the seal of the National Security Agency, or any colorable imitation of such words, initials, or seal in connection with any merchandise, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the National Security Agency.

[(b) Whenever it appears to the Attorney General that any person is engaged or is about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.

[SEC. 16. (a) The purpose of this section is to establish an undergraduate training program, which may lead to the baccalaureate degree, to facilitate the recruitment of individuals, particularly minority high school students, with a demonstrated capability to develop skills critical to the mission of the National Security Agency, including mathematics, computer science, engineering, and foreign languages.

[(b) The Secretary of Defense is authorized, in his discretion, to assign civilian employees of the National Security Agency as students at accredited professional, technical, and other institutions of higher learning for training at the undergraduate level in skills critical to effective performance of the mission of the Agency.

[(c) The National Security Agency may pay, directly or by reimbursement to employees, expenses incident to assignments under subsection (b), in any fiscal year only to the extent that appropriated funds are available for such purpose.

[(d)(1) To be eligible for assignment under subsection (b), an employee of the Agency must agree in writing—

[(A) to continue in the service of the Agency for the period of the assignment and to complete the educational course of training for which the employee is assigned;

[(B) to continue in the service of the Agency following completion of the assignment for a period of one-and-a-half years for each year of the assignment or part thereof;

[(C) to reimburse the United States for the total cost of education (excluding the employee's pay and allowances) provided under this section to the employee if, prior to the employee's completing the educational course of training for which the employee is assigned, the assignment or the employee's employment with the Agency is terminated either by the Agency due to misconduct by the employee or by the employee voluntarily; and

[(D) to reimburse the United States if, after completing the educational course of training for which the employee is assigned, the employee's employment with the Agency is terminated either by the Agency due to misconduct by the employee or by the employee voluntarily, prior to the employee's completion of the service obligation period described in subparagraph (B), in an amount that bears the same ratio to the total cost of the education (excluding the employee's pay and allowances) provided to the employee as the unserved portion of the service obligation period described in subparagraph (B) bears to the

total period of the service obligation described in subparagraph (B).

[(2) Subject to paragraph (3), the obligation to reimburse the United States under an agreement described in paragraph (1), including interest due on such obligation, is for all purposes a debt owing the United States.

[(3)(A) A discharge in bankruptcy under title 11, United States Code, shall not release a person from an obligation to reimburse the United States required under an agreement described in paragraph (1) if the final decree of the discharge in bankruptcy is issued within five years after the last day of the combined period of service obligation described in subparagraphs (A) and (B) of paragraph (1).

[(B) The Secretary of Defense may release a person, in whole or in part, from the obligation to reimburse the United States under an agreement described in paragraph (1) when, in his discretion, the Secretary determines that equity or the interests of the United States so require.

[(C) The Secretary of Defense shall permit an employee assigned under this section who, prior to commencing a second academic year of such assignment, voluntarily terminates the assignment or the employee's employment with the Agency, to satisfy his obligation under an agreement described in paragraph (1) to reimburse the United States by reimbursement according to a schedule of monthly payments which results in completion of reimbursement by a date five years after the date of termination of the assignment or employment or earlier at the option of the employee.

[(e)(1) When an employee is assigned under this section to an institution, the Agency shall disclose to the institution to which the employee is assigned that the Agency employs the employee and that the Agency funds the employee's education.

[(2) Agency efforts to recruit individuals at educational institutions for participation in the undergraduate training program established by this section shall be made openly and according to the common practices of universities and employers recruiting at such institutions.

[(f) Chapter 41 of title 5 and subsections (a) and (b) of section 3324 of title 31, United States Code, shall not apply with respect to this section.

[(g) The Secretary of Defense may issue such regulations as may be necessary to implement this section.

[SEC. 18. (a) The Secretary of Defense may pay the expenses referred to in section 5742(b) of title 5, United States Code, in the case of any employee of the National Security Agency who dies while on a rotational tour of duty within the United States or while in transit to or from such tour of duty.

[(b) For the purposes of this section, the term "rotational tour of duty", with respect to an employee, means a permanent change of station involving the transfer of the employee from the National Security Agency headquarters to another post of duty for a fixed period established by regulation to be followed at the end of such period by a permanent change of station involving a transfer of the employee back to such headquarters.]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the “National Security Agency Act of 1959”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. General personnel authorities.
- Sec. 3. Protection of identities of employees.
- Sec. 4. Authority to lease real property outside the United States.
- Sec. 5. Benefits for personnel assigned to special cryptologic activities outside the United States.
- Sec. 10. Language training for cryptologic personnel.
- Sec. 11. Protection of facilities by General Services Administration.
- Sec. 12. Senior Cryptologic Executive Service.
- Sec. 13. Grants for cryptologic research.
- Sec. 14. Availability of certain appropriations.
- Sec. 15. Protection of agency name from unauthorized use.
- Sec. 16. Recruitment of qualified personnel.
- Sec. 17. Authority to pay certain expenses for employees dying while on rotational tour of duty in the United States.

SEC. 2. GENERAL PERSONNEL AUTHORITIES.

(a) *IN GENERAL.*—General personnel authorities of the Secretary of Defense with respect to the National Security Agency are provided in chapter 83 of title 10, United States Code.

(b) *AUTHORITY FOR ADDITIONAL COMPENSATION FOR CERTAIN EMPLOYEES.*—Officers and employees of the National Security Agency who are citizens or nationals of the United States may be granted additional compensation, in accordance with regulations which shall be prescribed by the Secretary of Defense, not in excess of additional compensation authorized by section 5941 of title 5, United States Code, for employees whose rates of basic compensation are fixed by statute.

SEC. 3. PROTECTION OF IDENTITIES OF EMPLOYEES.

Nothing in this Act or any other law shall be construed to require the disclosure of the organization or any function of the National Security Agency, of any information with respect to the activities thereof, or of the names, titles, salaries, or number of the persons employed by such agency.

SEC. 4. AUTHORITY TO LEASE REAL PROPERTY OUTSIDE THE UNITED STATES.

(a) *AUTHORITY.*—Notwithstanding section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), section 5536 of title 5, United States Code, and section 2675 of title 10, United States Code, the Director of the National Security Agency, on behalf of the Secretary of Defense, may lease real property outside the United States, for periods not exceeding ten years, for the use of the National Security Agency for special cryptologic activities and for housing for personnel assigned to such activities.

(b) *LIMITATION TO APPROPRIATED FUNDS.*—The authority of the Director of the National Security Agency, on behalf of the Secretary of Defense, to make payments under subsection (a), and under contracts for leases entered into under subsection (a), is effective for any fiscal year only to the extent that appropriated funds are available for such purpose.

SEC. 5. BENEFITS FOR PERSONNEL ASSIGNED TO SPECIAL CRYPTOLOGIC ACTIVITIES OUTSIDE THE UNITED STATES.

(a) *AUTHORITY TO PROVIDE CERTAIN BENEFITS.*—The Director of the National Security Agency, on behalf of the Secretary of Defense, may provide to certain civilian and military personnel of the Department of Defense who are assigned to special cryptologic activities outside the United States and who are designated by the Secretary of Defense for the purposes of this subsection the following:

(1) Allowances and benefits—

(A) comparable to those provided by the Secretary of State to members of the Foreign Service under chapter 9 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4081 et seq.) or any other provision of law; and

(B) in the case of selected personnel serving in circumstances similar to those in which personnel of the Central Intelligence Agency serve, comparable to those provided by the Director of Central Intelligence to personnel of the Central Intelligence Agency.

(2) *Housing (including heat, light, and household equipment) without cost to such personnel, if the Director of the National Security Agency, on behalf of the Secretary of Defense, determines that it would be in the public interest to provide such housing.*

(3) *Special retirement accrual in the same manner provided 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.*

(b) *LIMITATION TO APPROPRIATED FUNDS.*—The authority of the Director of the National Security Agency, on behalf 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) *PROHIBITION OF DUPLICATION OF BENEFITS.*—Members of the Armed Forces may not receive benefits under both subsection (a)(1) and under title 37, United States Code, for the same purpose. The Secretary of Defense shall prescribe such regulations as may be necessary to carry out this subsection.

(d) *REGULATIONS.*—Regulations prescribed under subsection (a)(1) shall be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate before such regulations take effect.

SEC. 10. LANGUAGE TRAINING FOR CRYPTOLOGIC PERSONNEL.

(a) *LANGUAGE TRAINING PROGRAMS.*—The Director of the National Security Agency shall arrange for, and shall prescribe regulations concerning, language and language-related training programs for military and civilian cryptologic personnel. In establishing programs under this section for language and language-related training, the Director—

(1) may provide for the training and instruction to be furnished, including functional and geographic area specializations;

(2) may arrange for training and instruction through other Government agencies and, in any case in which appropriate training or instruction is unavailable through Government fa-

ilities, through nongovernmental facilities that furnish training and instruction useful in the fields of language and foreign affairs;

(3) may support programs that furnish necessary language and language-related skills, including, in any case in which appropriate programs are unavailable at Government facilities, support through contracts, grants, or cooperation with nongovernmental educational institutions; and

(4) may obtain by appointment or contract the services of individuals to serve as language instructors, linguists, or special language project personnel.

(b) FOREIGN LANGUAGE PROFICIENCY INCENTIVES.—(1) In order to maintain necessary capability in foreign language skills and related abilities needed by the National Security Agency, the Director, without regard to subchapter IV of chapter 55 of title 5, United States Code, may provide special monetary or other incentives to encourage civilian cryptologic personnel of the Agency to acquire or retain proficiency in foreign languages or special related abilities needed by the Agency.

(2) In order to provide linguistic training and support for cryptologic personnel, the Director—

(A) may pay all or part of the tuition and other expenses related to the training of personnel who are assigned or detailed for language and language-related training, orientation, or instruction; and

(B) may pay benefits and allowances to civilian personnel in accordance with chapters 57 and 59 of title 5, United States Code, and to military personnel in accordance with chapter 7 of title 37, United States Code, and applicable provisions of title 10, United States Code, when such personnel are assigned to training at sites away from their designated duty station.

(c) CRYPTOLOGIC LINGUIST RESERVE.—(1) To the extent not inconsistent, in the opinion of the Secretary of Defense, with the operation of military cryptologic reserve units and in order to maintain necessary capability in foreign language skills and related abilities needed by the National Security Agency, the Director may establish a Cryptologic Linguist Reserve.

(2) The Cryptologic Linguist Reserve may consist of former or retired civilian or military cryptologic personnel of the National Security Agency and of other qualified individuals, as determined by the Director of the Agency. Each member of the Cryptologic Linguist Reserve shall agree that, during any period of emergency (as determined by the Director), the member shall return to active civilian status with the National Security Agency and shall perform such linguistic or linguistic-related duties as the Director may assign.

(3) In order to attract individuals to become members of the Cryptologic Linguist Reserve, the Director, without regard to subchapter IV of chapter 55 of title 5, United States Code, may provide special monetary incentives to individuals eligible to become members of the reserve who agree to become members of the cryptologic linguist reserve and to acquire or retain proficiency in foreign languages or special related abilities.

(4) In order to provide training and support for members of the Cryptologic Linguist Reserve, the Director—

(A) may pay all or part of the tuition and other expenses related to the training of individuals in the Cryptologic Linguist Reserve who are assigned or detailed for language and language-related training, orientation, or instruction; and

(B) may pay benefits and allowances in accordance with chapters 57 and 59 of title 5, United States Code, to individuals in the Cryptologic Linguist Reserve who are assigned to training at sites away from their homes or regular places of business.

(d) *SERVICE AGREEMENTS.*—(1) The Director, before providing training under this section to any individual, may obtain an agreement with that individual that—

(A) in the case of current employees, pertains to continuation of service of the employee, and repayment of the expenses of such training for failure to fulfill the agreement, consistent with the provisions of section 4108 of title 5, United States Code; and

(B) in the case of individuals accepted for membership in the Cryptologic Linguist Reserve, pertains to return to service when requested, and repayment of the expenses of such training for failure to fulfill the agreement, consistent with the provisions of section 4108 of title 5, United States Code.

(2) The Director, under regulations prescribed under this section, may waive, in whole or in part, a right of recovery under an agreement made under this subsection if it is shown that the recovery would be against equity and good conscience or against the public interest.

(e) *LANGUAGE TRAINING FOR FAMILY MEMBERS.*—(1) Subject to paragraph (2), the Director may provide to family members of military and civilian cryptologic personnel assigned to representational duties outside the United States, in anticipation of the assignment of such personnel outside the United States or while outside the United States, appropriate orientation and language training that is directly related to the assignment abroad.

(2) Language training under paragraph (1) may not be provided to any individual through payment of the expenses of tuition or other cost of instruction at a non-Government educational institution unless appropriate instruction is not available at a Government facility.

(f) *WAIVER AUTHORITY.*—The Director may waive the applicability of any provision of chapter 41 of title 5, United States Code, to any provision of this section if he finds that such waiver is important to the performance of cryptologic functions.

(g) *LIMITATION TO APPROPRIATED FUNDS.*—The authority of the Director to enter into contracts or to make grants under this section is effective for any fiscal year only to the extent that appropriated funds are available for such purpose.

(h) *REGULATIONS.*—Regulations prescribed under this section shall be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate before such regulations take effect.

(i) *TRAVEL AND TRANSPORTATION EXPENSES IN CONNECTION WITH TRAINING OUTSIDE THE UNITED STATES.*—The Director of the National Security Agency, on behalf of the Secretary of Defense, may, without regard to section 4109(a)(2)(B) of title 5, United States

Code, pay travel, transportation, storage, and subsistence expenses under chapter 57 of such title to civilian and military personnel of the Department of Defense who are assigned to duty outside the United States for a period of one year or longer which involves cryptologic training, language training, or related disciplines.

SEC. 11. PROTECTION OF FACILITIES BY GENERAL SERVICES ADMINISTRATION.

The Administrator of General Services, upon the application of the Director of the National Security Agency, may provide for the protection in accordance with section 3 of the Act of June 1, 1948 (40 U.S.C. 318b), of certain facilities (as designated by the Director of such Agency) which are under the administration and control of, or are used by, the National Security Agency in the same manner as if such facilities were property of the United States over which the United States has acquired exclusive or concurrent criminal jurisdiction.

SEC. 12. SENIOR CRYPTOLOGIC EXECUTIVE SERVICE.

(a) AUTHORITY TO ESTABLISH SCES.—(1) The Secretary of Defense (or his designee) may by regulation establish a personnel system for senior civilian cryptologic personnel in the National Security Agency to be known as the Senior Cryptologic Executive Service. The regulations establishing the Senior Cryptologic Executive Service shall do the following:

(A) Meet the requirements set forth in section 3131 of title 5, United States Code, for the Senior Executive Service.

(B) Provide that positions in the Senior Cryptologic Executive Service meet requirements that are consistent with the provisions of section 3132(a)(2) of such title.

(C) Provide, without regard to section 2, rates of pay for the Senior Cryptologic Executive Service that are not in excess of the maximum rate or less than the minimum rate of basic pay established for the Senior Executive Service under section 5382 of such title, and that are adjusted at the same time and to the same extent as rates of basic pay for the Senior Executive Service are adjusted.

(D) Provide a performance appraisal system for the Senior Cryptologic Executive Service that conforms to the provisions of subchapter II of chapter 43 of such title.

(E) Provide for removal consistent with section 3592 of such title, and removal or suspension consistent with subsections (a), (b), and (c) of section 7543 of such title (except that any hearing or appeal to which a member of the Senior Cryptologic Executive Service is entitled shall be held or decided pursuant to procedures established by regulations of the Secretary of Defense).

(F) Permit the payment of performance awards to members of the Senior Cryptologic Executive Service consistent with the provisions applicable to performance awards under section 5384 of such title.

(G) Provide that members of the Senior Cryptologic Executive Service may be granted sabbatical leaves consistent with the provisions of section 3396(c) of such title.

(H) Provide for the recertification of members of the Senior Cryptologic Executive Service consistent with the provisions of section 3393a of such title.

(2) Except as otherwise provided in paragraph (1), the Secretary of Defense may—

(A) make applicable to the Senior Cryptologic Executive Service any of the provisions of title 5, United States Code, applicable to applicants for or members of the Senior Executive Service; and

(B) appoint, promote, and assign individuals to positions established within the Senior Cryptologic Executive Service without regard to the provisions of title 5, United States Code, governing appointments and other personnel actions in the competitive service.

(3) The President, based on the recommendations of the Secretary of Defense, may award ranks to members of the Senior Cryptologic Executive Service in a manner consistent with the provisions of section 4507 of title 5, United States Code.

(4) Notwithstanding any other provision of this section, the Director of the National Security Agency may detail or assign any member of the Senior Cryptologic Executive Service to serve in a position outside the National Security Agency in which the member's expertise and experience may be of benefit to the National Security Agency or another Government agency. Any such member shall not by reason of such detail or assignment lose any entitlement or status associated with membership in the Senior Cryptologic Executive Service.

(b) **MERIT PAY SYSTEM.**—The Secretary of Defense may by regulation establish a merit pay system for such employees of the National Security Agency as the Secretary of Defense considers appropriate. The merit pay system shall be designed to carry out purposes consistent with those set forth in section 5401(a) of title 5, United States Code.

(c) **LIMITATION ON TOTAL COMPENSATION.**—Nothing in this section shall be construed to allow the aggregate amount payable to a member of the Senior Cryptologic Executive Service under this section during any fiscal year to exceed the annual rate payable for positions at level I of the Executive Schedule in effect at the end of such year.

SEC. 13. GRANTS FOR CRYPTOLOGIC RESEARCH.

(a) **GRANT AUTHORITY.**—The Director of the National Security Agency may make grants to private individuals and institutions for the conduct of cryptologic research. An application for a grant under this section may not be approved unless the Director determines that the award of the grant would be clearly consistent with the national security.

(b) **APPLICABLE LAW.**—The grant program established by subsection (a) shall be conducted in accordance with the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.) to the extent that such Act is consistent with and in accordance with section 6 of this Act.

(c) **LIMITATION TO APPROPRIATED FUNDS.**—The authority of the Director to make grants under this section is effective for any fiscal

year only to the extent that appropriated funds are available for such purpose.

SEC. 14. AVAILABILITY OF CERTAIN APPROPRIATIONS.

Funds appropriated to an entity of the Federal Government other than an element of the Department of Defense that have been specifically appropriated for the purchase of cryptologic equipment, materials, or services with respect to which the National Security Agency has been designated as the central source of procurement for the Government shall remain available for a period of three fiscal years.

SEC. 15. PROTECTION OF AGENCY NAME FROM UNAUTHORIZED USE.

(a) *PROHIBITION ON UNAUTHORIZED USE.*—No person may, except with the written permission of the Director of the National Security Agency, knowingly use the words “National Security Agency”, the initials “NSA”, the seal of the National Security Agency, or any colorable imitation of such words, initials, or seal in connection with any merchandise, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the National Security Agency.

(b) *ENFORCEMENT.*—Whenever it appears to the Attorney General that any person is engaged or is about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.

SEC. 16. RECRUITMENT OF QUALIFIED PERSONNEL.

(a) *PURPOSE.*—The purpose of this section is to establish an undergraduate training program, which may lead to the baccalaureate degree, to facilitate the recruitment of individuals, particularly minority high school students, with a demonstrated capability to develop skills critical to the mission of the National Security Agency, including mathematics, computer science, engineering, and foreign languages.

(b) *ASSIGNMENT OF CIVILIAN EMPLOYEES.*—The Secretary of Defense may, in the Secretary’s discretion, assign civilian employees of the National Security Agency as students at accredited professional, technical, and other institutions of higher learning for training at the undergraduate level in skills critical to effective performance of the mission of the Agency.

(c) *LIMITATION TO APPROPRIATED FUNDS.*—The National Security Agency may pay, directly or by reimbursement to employees, expenses incident to assignments under subsection (b), in any fiscal year only to the extent that appropriated funds are available for such purpose.

(d) *EMPLOYEE AGREEMENT.*—(1) To be eligible for assignment under subsection (b), an employee of the Agency must agree in writing to the following:

(A) To continue in the service of the Agency for the period of the assignment and to complete the educational course of training for which the employee is assigned.

(B) To continue in the service of the Agency following completion of the assignment for a period of one-and-a-half years for each year of the assignment or part thereof.

(C) To reimburse the United States for the total cost of education (excluding the employee's pay and allowances) provided under this section to the employee if, before the employee's completing the educational course of training for which the employee is assigned, the assignment or the employee's employment with the Agency is terminated either by the Agency due to misconduct by the employee or by the employee voluntarily.

(D) To reimburse the United States if, after completing the educational course of training for which the employee is assigned, the employee's employment with the Agency is terminated either by the Agency due to misconduct by the employee or by the employee voluntarily, before the employee's completion of the service obligation period described in subparagraph (B), in an amount that bears the same ratio to the total cost of the education (excluding the employee's pay and allowances) provided to the employee as the unserved portion of the service obligation period described in subparagraph (B) bears to the total period of the service obligation described in subparagraph (B).

(2) Subject to paragraph (3), the obligation to reimburse the United States under an agreement described in paragraph (1), including interest due on such obligation, is for all purposes a debt owing the United States.

(3)(A) A discharge in bankruptcy under title 11, United States Code, shall not release a person from an obligation to reimburse the United States required under an agreement described in paragraph (1) if the final decree of the discharge in bankruptcy is issued within five years after the last day of the combined period of service obligation described in subparagraphs (A) and (B) of paragraph (1).

(B) The Secretary of Defense may release a person, in whole or in part, from the obligation to reimburse the United States under an agreement described in paragraph (1) when, in the Secretary's discretion, the Secretary determines that equity or the interests of the United States so require.

(C) The Secretary of Defense shall permit an employee assigned under this section who, before commencing a second academic year of such assignment, voluntarily terminates the assignment or the employee's employment with the Agency, to satisfy his obligation under an agreement described in paragraph (1) to reimburse the United States by reimbursement according to a schedule of monthly payments which results in completion of reimbursement by a date five years after the date of termination of the assignment or employment or earlier at the option of the employee.

(e) DISCLOSURE TO EDUCATIONAL INSTITUTION OF AGENCY AFFILIATION OF EMPLOYEE.—(1) When an employee is assigned under this section to an institution, the Agency shall disclose to the institution to which the employee is assigned that the Agency employs the employee and that the Agency funds the employee's education.

(2) *Agency efforts to recruit individuals at educational institutions for participation in the undergraduate training program established by this section shall be made openly and according to the common practices of universities and employers recruiting at such institutions.*

(f) *INAPPLICABILITY OF CERTAIN LAWS.—Chapter 41 of title 5 and subsections (a) and (b) of section 3324 of title 31, United States Code, shall not apply with respect to this section.*

(g) *REGULATIONS.—The Secretary of Defense may prescribe such regulations as may be necessary to implement this section.*

SEC. 17. AUTHORITY TO PAY CERTAIN EXPENSES FOR EMPLOYEES DYING WHILE ON ROTATIONAL TOUR OF DUTY IN THE UNITED STATES.

(a) *AUTHORITY.—The Secretary of Defense may pay the expenses referred to in section 5742(b) of title 5, United States Code, in the case of any employee of the National Security Agency who dies while on a rotational tour of duty within the United States or while in transit to or from such tour of duty.*

(b) *DEFINITION.—For the purposes of this section, the term “rotational tour of duty”, with respect to an employee, means a permanent change of station involving the transfer of the employee from the National Security Agency headquarters to another post of duty for a fixed period established by regulation to be followed at the end of such period by a permanent change of station involving a transfer of the employee back to such headquarters.*

SECTION 303 OF THE INTERNAL SECURITY ACT OF 1950

【TERMINATION OF EMPLOYMENT

【SEC. 303. (a) Notwithstanding section 14 of the Act of June 27, 1944, chapter 287, as amended (5 U.S.C. 863), section 1 of the Act of August 26, 1950, chapter 803, as amended (5 U.S.C. 22–1), or any other provision of law, the Secretary may terminate the employment of any officer or employee of the Agency whenever he considers that action to be in the interest of the United States, and he determines that the procedures prescribed in other provisions of law that authorize the termination of the employment of that officer or employee cannot be invoked consistently with the national security. Such a determination is final.

【(b) Termination of employment under this section 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 United States Civil Service Commission.

【(c) Notwithstanding section 113(d) of title 10, United States Code, any authority vested in the Secretary of Defense by subsection (a) may be delegated only to the Deputy Secretary of Defense or the Director of the National Security Agency, or both.】

NATIONAL SECURITY ACT OF 1947

SHORT TITLE

That this Act may be cited as the “National Security Act of 1947”.

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[TITLE I—COORDINATION FOR NATIONAL SECURITY

[NATIONAL SECURITY COUNCIL

[SEC. 101. (a) There is hereby established a council to be known as the National Security Council (hereinafter in this section referred to as the “Council”).

[The President of the United States shall preside over meetings of the Council: *Provided*, That in his absence he may designate a member of the Council to preside in his place.

[The function of the Council shall be to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security so as to enable the military services and the other departments and agencies of the Government to cooperate more effectively in matters involving the national security.

[The Council shall be composed of—

[(1) the President;

[(2) the Vice President;

[(3) the Secretary of State;

[(4) the Secretary of Defense;

[(5) the Director for Mutual Security;

[(6) the Chairman of the National Security Resources Board;

and

[(7) The Secretaries and Under Secretaries of other executive departments and the military departments, the Chairman of the Munitions Board, and the Chairman of the Research and Development Board, when appointed by the President by and with the advice and consent of the Senate, to serve at his pleasure.

[(b) In addition to performing such other functions as the President may direct, for the purpose of more effectively coordinating the policies and functions of the departments and agencies of the Government relating to the national security, it shall, subject to the direction of the President, be the duty of the Council—

[(1) to assess and appraise the objectives, commitments, and risks of the United States in relation to our actual and potential military power, in the interest of national security, for the purpose of making recommendations to the President in connection therewith; and

[(2) to consider policies on matters of common interest to the departments and agencies of the Government concerned with the national security, and to make recommendations to the President in connection therewith.

[(c) The Council shall have a staff to be headed by a civilian executive secretary who shall be appointed by the President, and who shall receive compensation at the rate of \$10,000 a year. The executive secretary, subject to the direction of the Council, is hereby authorized, subject to the civil-service laws and the Classification Act of 1923, as amended, to appoint and fix the compensation of such personnel as may be necessary to perform such duties as may be prescribed by the Council in connection with the performance of its functions.

[(d) The Council shall, from time to time, make such recommendations, and such other reports to the President as it deems appropriate or as the President may require.

[(e) The Chairman (or in his absence the Vice Chairman) of the Joint Chiefs of Staff may, in his role as principal military adviser to the National Security Council and subject to the direction of the President, attend and participate in meetings of the National Security Council.

[(f) The Director of National Drug Control Policy may, in his role as principal adviser to the National Security Council on national drug control policy, and subject to the direction of the President, attend and participate in meetings of the National Security Council.

[(g) The President shall establish with the National Security Council a board to be known as the "Board for Low Intensity Conflict". The principal function of the board shall be to coordinate the policies of the United States for low intensity conflict.

[(h) The Director of Central Intelligence (or, in the Director's absence, the Deputy Director of Central Intelligence) may, in the performance of the Director's duties under this Act and subject to the direction of the President, attend and participate in meetings of the National Security Council.

【CENTRAL INTELLIGENCE AGENCY

【SEC. 102. (a)(1) There is hereby established a Central Intelligence Agency.

【(2) There shall be a Director of Central Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall—

【(A) serve as head of the United States intelligence community;

【(B) act as the principal adviser to the President for intelligence matters related to the national security; and

【(C) serve as head of the Central Intelligence Agency.

【(b) To assist the Director of Central Intelligence in carrying out the Director's responsibilities under this Act, there shall be a Deputy Director of Central Intelligence, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall act for, and exercise the powers of, the Director during the Director's absence or disability.

【(c)(1) The Director or Deputy Director of Central Intelligence may be appointed from among the commissioned officers of the Armed Forces, or from civilian life, but at no time shall both positions be simultaneously occupied by commissioned officers of the Armed Forces, whether in an active or retired status.

【(2) It is the sense of the Congress that under ordinary circumstances, it is desirable that either the Director or the Deputy Director be a commissioned officer of the Armed Forces or that either such appointee otherwise have, by training or experience, an appreciation of military intelligence activities and requirements.

【(3)(A) A commissioned officer of the Armed Forces appointed 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 subparagraph (A), the appointment of a commissioned officer of the Armed Forces 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 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 and shall not receive the pay prescribed for the Director or Deputy Director. Funds from which such pay and allowances are paid shall be reimbursed from funds available to the Director.

[(d) The Office of the Director of Central Intelligence shall, for administrative purposes, be within the Central Intelligence Agency.

[(e) In the event that neither the Director nor Deputy Director of Central Intelligence is a commissioned officer of the Armed Forces, a commissioned officer of the Armed Forces appointed to the position of Associate Director of Central Intelligence for Military Support, while serving in such position, shall not be counted against the numbers and percentages of commissioned officers of the rank and grade of such officer authorized for the armed force of which such officer is a member.

[RESPONSIBILITIES OF THE DIRECTOR OF CENTRAL INTELLIGENCE

[SEC. 103. (a) PROVISION OF INTELLIGENCE.—(1) Under the direction of the National Security Council, the Director of Central Intelligence shall be responsible for providing national intelligence—

[(A) to the President;

[(B) to the heads of departments and agencies of the executive branch;

[(C) to the Chairman of the Joint Chiefs of Staff and senior military commanders; and

[(D) where appropriate, to the Senate and House of Representatives and the committees thereof.

[(2) Such national intelligence should be timely, objective, independent of political considerations, and based upon all sources available to the intelligence community.

[(b) NATIONAL INTELLIGENCE COUNCIL.—(1)(A) There is established within the Office of the Director of Central Intelligence the National Intelligence Council (hereafter in this section referred to as the "Council"). The Council shall be composed of senior analysts within the intelligence community and substantive experts from

the public and private sector, who shall be appointed by, report to, and serve at the pleasure of, the Director of Central Intelligence.

[(B) The Director shall prescribe appropriate security requirements for personnel appointed from the private sector as a condition of service on the Council to ensure the protection of intelligence sources and methods while avoiding, wherever possible, unduly intrusive requirements which the Director considers to be unnecessary for this purpose.

[(2) The Council shall—

[(A) produce national intelligence estimates for the Government, including, whenever the Council considers appropriate, alternative views held by elements of the intelligence community; and

[(B) otherwise assist the Director in carrying out the responsibilities described in subsection (a).

[(3) Within their respective areas of expertise and under the direction of the Director, the members of the Council shall constitute the senior intelligence advisers of the intelligence community for purposes of representing the views of the intelligence community within the Government.

[(4) The Director shall make available to the Council such staff as may be necessary to permit the Council to carry out its responsibilities under this subsection and shall take appropriate measures to ensure that the Council and its staff satisfy the needs of policymaking officials and other consumers of intelligence.

[(5) The heads of elements within the intelligence community shall, as appropriate, furnish such support to the Council, including the preparation of intelligence analyses, as may be required by the Director.

[(c) HEAD OF THE INTELLIGENCE COMMUNITY.—In the Director's capacity as head of the intelligence community, the Director shall—

[(1) develop and present to the President an annual budget for the National Foreign Intelligence Program of the United States;

[(2) establish the requirements and priorities to govern the collection of national intelligence by elements of the intelligence community;

[(3) promote and evaluate the utility of national intelligence to consumers within the Government;

[(4) eliminate waste and unnecessary duplication within the intelligence community;

[(5) protect intelligence sources and methods from unauthorized disclosure; and

[(6) perform such other functions as the President or the National Security Council may direct.

[(d) HEAD OF THE CENTRAL INTELLIGENCE AGENCY.—In the Director's capacity as head of the Central Intelligence Agency, the Director shall—

[(1) collect intelligence through human sources and by other appropriate means, except that the Agency shall have no police, subpoena, or law enforcement powers or internal security functions;

[(2) provide overall direction for the collection of national intelligence through human sources by elements of the intel-

ligence community authorized to undertake such collection and, in coordination with other agencies of the Government which are authorized to undertake such collection, ensure that the most effective use is made of resources and that the risks to the United States and those involved in such collection are minimized;

[(3) correlate and evaluate intelligence related to the national security and provide appropriate dissemination of such intelligence;

[(4) perform such additional services as are of common concern to the elements of the intelligence community, which services the Director of Central Intelligence determines can be more efficiently accomplished centrally; and

[(5) perform such other functions and duties related to intelligence affecting the national security as the President or the National Security Council may direct.

[AUTHORITIES OF THE DIRECTOR OF CENTRAL INTELLIGENCE

[SEC. 104. (a) ACCESS TO INTELLIGENCE.—To the extent recommended by the National Security Council and approved by the President, the Director of Central Intelligence shall have access to all intelligence related to the national security which is collected by any department, agency, or other entity of the United States.

[(b) APPROVAL OF BUDGETS.—The Director of Central Intelligence shall provide guidance to elements of the intelligence community for the preparation of their annual budgets and shall approve such budgets before their incorporation in the National Foreign Intelligence Program.

[(c) ROLE OF DCI IN REPROGRAMMING.—No funds made available under the National Foreign Intelligence Program may be reprogrammed by any element of the intelligence community without the prior approval of the Director of Central Intelligence except in accordance with procedures issued by the Director.

[(d) TRANSFER OF FUNDS OR PERSONNEL WITHIN THE NATIONAL FOREIGN INTELLIGENCE PROGRAM.—(1) In addition to any other authorities available under law for such purposes, the Director of Central Intelligence, with the approval of the Director of the Office of Management and Budget, may transfer funds appropriated for a program within the National Foreign Intelligence Program to another such program and, in accordance with procedures to be developed by the Director and the heads of affected departments and agencies, may transfer personnel authorized for an element of the intelligence community to another such element for periods up to a year.

[(2) A transfer of funds or personnel may be made under this subsection only if—

[(A) the funds or personnel are being transferred to an activity that is a higher priority intelligence activity;

[(B) the need for funds or personnel for such activity is based on unforeseen requirements;

[(C) the transfer does not involve a transfer of funds to the Reserve for Contingencies of the Central Intelligence Agency;

[(D) the transfer does not involve a transfer of funds or personnel from the Federal Bureau of Investigation; and

[(E) the Secretary or head of the department which contains the affected element or elements of the intelligence community does not object to such transfer.

[(3) Funds transferred under this subsection shall remain available for the same period as the appropriations account to which transferred.

[(4) Any transfer of funds under this subsection shall be carried out in accordance with existing procedures applicable to reprogramming notifications for the appropriate congressional committees. Any proposed transfer for which notice is given to the appropriate congressional committees shall be accompanied by a report explaining the nature of the proposed transfer and how it satisfies the requirements of this subsection. In addition, the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives shall be promptly notified of any transfer of funds made pursuant to this subsection in any case in which the transfer would not have otherwise required reprogramming notification under procedures in effect as of the date of the enactment of this section.

[(5) The Director shall promptly submit to the Select Committee on Intelligence of the Senate and to the Permanent Select Committee on Intelligence of the House of Representatives and, in the case of the transfer of personnel to or from the Department of Defense, the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives, a report on any transfer of personnel made pursuant to this subsection. The Director shall include in any such report an explanation of the nature of the transfer and how it satisfies the requirements of this subsection.

[(e) COORDINATION WITH FOREIGN GOVERNMENTS.—Under the direction of the National Security Council and in a manner consistent with section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927), the Director shall coordinate the relationships between elements of the intelligence community and the intelligence or security services of foreign governments on all matters involving intelligence related to the national security or involving intelligence acquired through clandestine means.

[(f) USE OF PERSONNEL.—The Director shall, in coordination with the heads of departments and agencies with elements in the intelligence community, institute policies and programs within the intelligence community—

[(1) to provide for the rotation of personnel between the elements of the intelligence community, where appropriate, and to make such rotated service a factor to be considered for promotion to senior positions; and

[(2) to consolidate, wherever possible, personnel, administrative, and security programs to reduce the overall costs of these activities within the intelligence community.

[(g) TERMINATION OF EMPLOYMENT OF CIA EMPLOYEES.—Notwithstanding the provisions of any other law, the Director may, in the Director's discretion, terminate the employment of any officer or employee of the Central Intelligence Agency whenever the Director shall deem such termination necessary or advisable in the interests of the United States. Any such termination shall not affect

the right of the officer or employee terminated to seek or accept employment in any other department or agency of the Government if declared eligible for such employment by the Office of Personnel Management.

RESPONSIBILITIES OF THE SECRETARY OF DEFENSE PERTAINING TO THE NATIONAL FOREIGN INTELLIGENCE PROGRAM

SEC. 105. (a) IN GENERAL.—The Secretary of Defense shall—

【(1) ensure that the budgets of the elements of the intelligence community within the Department of Defense are adequate to satisfy the overall intelligence needs of the Department of Defense, including the needs of the chairman of the Joint Chiefs of Staff and the commanders of the unified and specified commands and, wherever such elements are performing governmentwide functions, the needs of other departments and agencies;

【(2) ensure appropriate implementation of the policies and resource decisions of the Director of Central Intelligence by elements of the Department of Defense within the National Foreign Intelligence Program;

【(3) ensure that the tactical intelligence activities of the Department of Defense complement and are compatible with intelligence activities under the National Foreign Intelligence Program;

【(4) ensure that the elements of the intelligence community within the Department of Defense are responsive and timely with respect to satisfying the needs of operational military forces;

【(5) eliminate waste and unnecessary duplication among the intelligence activities of the Department of Defense; and

【(6) ensure that intelligence activities of the Department of Defense are conducted jointly where appropriate.

(b) RESPONSIBILITY FOR THE PERFORMANCE OF SPECIFIC FUNCTIONS.—Consistent with sections 103 and 104 of this Act, the Secretary of Defense shall ensure—

【(1) through the National Security Agency (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the conduct of signals intelligence activities and shall ensure that the product is disseminated in a timely manner to authorized recipients;

【(2) through the Central Imagery Office (except as otherwise directed by the President or the National Security Council), with appropriate representation from the intelligence community, the continued operation of an effective unified organization within the Department of Defense for carrying out tasking of imagery collection, for the coordination of imagery processing and exploitation activities, and for ensuring the dissemination of imagery in a timely manner to authorized recipients;

【(3) through the National Reconnaissance Office (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the research and development, acquisition, and oper-

ation of overhead reconnaissance systems necessary to satisfy the requirements of all elements of the intelligence community;

[(4) through the Defense Intelligence Agency (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified system within the Department of Defense for the production of timely, objective military and military-related intelligence, based upon all sources available to the intelligence community, and shall ensure the appropriate dissemination of such intelligence to authorized recipients;

[(5) through the Defense Intelligence Agency (except as otherwise directed by the President or the National Security Council), effective management of Department of Defense human intelligence activities, including defense attaches; and

[(6) that the military departments maintain sufficient capabilities to collect and produce intelligence to meet—

[(A) the requirements of the Director of Central Intelligence;

[(B) the requirements of the Secretary of Defense or the Chairman of the Joint Chiefs of Staff;

[(C) the requirements of the unified and specified combatant commands and of joint operations; and

[(D) the specialized requirements of the military departments for intelligence necessary to support tactical commanders, military planners, the research and development process, the acquisition of military equipment, and training and doctrine.

[(c) USE OF ELEMENTS OF DEPARTMENT OF DEFENSE.—The Secretary of Defense, in carrying out the functions described in this section, may use such elements of the Department of Defense as may be appropriate for the execution of those functions, in addition to, or in lieu of, the elements identified in this section.

ADMINISTRATIVE PROVISIONS PERTAINING TO DEFENSE ELEMENTS
WITHIN THE INTELLIGENCE COMMUNITY

[SEC. 106. (a) CONSULTATIONS WITH REGARD TO CERTAIN APPOINTMENTS.—The Secretary of Defense shall undertake appropriate consultations with the Director of Central Intelligence before the appointment of any individual as head of the National Security Agency, the National Reconnaissance Office, or the Defense Intelligence Agency.

[(b) APPOINTMENT OF HEAD OF CENTRAL IMAGERY OFFICE.—The Secretary shall appoint, upon the recommendation of the Director, the head of the Central Imagery Office within the Department of Defense.

NATIONAL SECURITY RESOURCES BOARD

[SEC. 107. (a) The Director of the Office of Defense Mobilization, subject to the direction of the President, is authorized, subject to the civil-service laws and the Classification Act of 1949, to appoint and fix the compensation of such personnel as may be necessary to assist the Director in carrying out his functions.

[(b) It shall be the function of the Director of the Office of Defense Mobilization to advise the President concerning the coordination of military, industrial, and civilian mobilization, including—

[(1) policies concerning industrial and civilian mobilization in order to assure the most effective mobilization and maximum utilization of the Nation's manpower in the event of war.

[(2) programs for the effective use in time of war of the Nation's natural and industrial resources for military and civilian needs, for the maintenance and stabilization of the civilian economy in time of war, and for the adjustment of such economy to war needs and conditions;

[(3) policies for unifying, in time of war, the activities of Federal agencies and departments engaged in or concerned with production, procurement, distribution, or transportation of military or civilian supplies, materials, and products;

[(4) the relationship between potential supplies of, and potential requirements for, manpower, resources, and productive facilities in time of war;

[(5) policies for establishing adequate reserves of strategic and critical material, and for the conservation of these reserves;

[(6) the strategic relocation of industries, services, government, and economic activities, the continuous operation of which is essential to the Nation's security.

[(c) In performing his functions, the Director of the Office of Defense Mobilization shall utilize to the maximum extent the facilities and resources of the departments and agencies of the Government.]

TITLE I—NATIONAL SECURITY COUNCIL AND RELATED BOARDS AND COMMITTEES

SEC. 101. NATIONAL SECURITY COUNCIL.

(a) *IN GENERAL.*—*There is in the Executive Office of the President the National Security Council. The Council is composed of the following:*

- (1) *The President.*
- (2) *The Vice President.*
- (3) *The Secretary of State.*
- (4) *The Secretary of Defense.*

(b) *ADDITIONAL PARTICIPANTS.*—*Subject to the direction of the President, the following officers may attend and participate in meetings of the National Security Council:*

(1) *DIRECTOR OF CENTRAL INTELLIGENCE.*—*The Director of Central Intelligence (or, in the Director's absence, a Deputy Director of Central Intelligence), in the performance of the Director's duties under this Act and the Intelligence Community Act.*

(2) *CHAIRMAN OF THE JOINT CHIEFS OF STAFF.*—*The Chairman (or, in the Chairman's absence, the Vice Chairman) of the Joint Chiefs of Staff, in the Chairman's role as principal military adviser to the National Security Council.*

(3) *DIRECTOR OF NATIONAL DRUG CONTROL POLICY.*—The Director of National Drug Control Policy, in the Director's role as principal adviser to the National Security Council on national drug control policy, but only through the date specified in section 1009 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1506).

(4) *OTHERS DESIGNATED BY THE PRESIDENT.*—Such additional officers as may be designated by the President.

(c) *FUNCTIONS.*—The function of the Council shall be to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security so as to enable the military services and the other departments and agencies of the Government to cooperate more effectively in matters involving the national security. In addition to performing such other functions as the President may direct, the Council (subject to the direction of the President) shall, for the purpose of more effectively coordinating the policies and functions of the departments and agencies of the Government relating to the national security—

(1) assess and appraise the objectives, commitments, and risks of the United States in relation to our actual and potential military power, in the interest of national security, for the purpose of making recommendations to the President in connection therewith; and

(2) consider policies on matters of common interest to the departments and agencies of the Government concerned with the national security and make recommendations to the President in connection therewith.

(d) *RECOMMENDATIONS AND REPORTS.*—The Council shall, from time to time, make such recommendations and such other reports to the President as it considers appropriate or as the President may require.

(e) *STAFF.*—The Council shall have a staff to be headed by a civilian executive secretary who shall be appointed by the President. The executive secretary, subject to the direction of the Council, may subject to the civil-service laws, appoint and fix the compensation of such personnel as may be necessary to perform such duties as may be prescribed by the Council in connection with the performance of its functions.

SEC. 102. COMMITTEE ON FOREIGN INTELLIGENCE.

(a) *ESTABLISHMENT OF COMMITTEE.*—There is established within the National Security Council a Committee on Foreign Intelligence. The Committee shall be composed of the following:

(1) The Assistant to the President for National Security Affairs, who shall serve as chairman of the Committee.

(2) The following officers or their respective deputies:

(A) The Director of Central Intelligence.

(B) The Secretary of State.

(C) The Secretary of Defense.

(D) The Attorney General.

(E) The Chairman of the Joint Chiefs of Staff.

(3) Such other members as the President may designate.

(b) *FUNCTION.*—The function of the Committee on Foreign Intelligence shall be—

(1) to establish, consistent with the policy and objectives of the President, the overall requirements and priorities for the Intelligence Community; and

(2) to assess regularly, on behalf of the President, how effectively the Intelligence Community has performed its responsibilities under this Act and the Intelligence Community Act.

(c) **SEMIANNUAL STRATEGIC INTELLIGENCE REVIEW PROCESS WITH CONGRESS.**—Not less often than every six months, the Committee on Foreign Intelligence shall convene a meeting with the members of the congressional intelligence committees to conduct a comprehensive, global strategic intelligence review. Each semiannual meeting shall review significant strategic intelligence trends, strategic intelligence reporting, and anticipated Intelligence Community requirements for the following six to twelve months.

SEC. 103. COMMITTEE ON TRANSNATIONAL THREATS.

(a) **ESTABLISHMENT.**—There is established within the National Security Council a Committee on Transnational Threats. The Committee shall be composed of the following:

(1) The Assistant to the President for National Security Affairs, who shall serve as chairman of the Committee.

(2) The following officers or their respective deputies:

(A) The Director of Central Intelligence.

(B) The Secretary of State.

(C) The Secretary of Defense.

(D) The Attorney General.

(3) Such other members as the President may designate.

(b) **FUNCTION.**—The function of the Committee on Transnational Threats shall be to coordinate and direct the activities of the United States Government relating to combating transnational threats. In carrying out its function, the Committee shall—

(1) identify transnational threats;

(2) develop strategies to enable the United States Government to respond to transnational threats identified under paragraph (1);

(3) monitor implementation of such strategies;

(4) make recommendations as to appropriate responses to specific transnational threats;

(5) assist in the resolution of operational and policy differences among Federal departments and agencies in their responses to transnational threats;

(6) develop policies and procedures to ensure the effective sharing of information about transnational threats among Federal departments and agencies, including law enforcement agencies and the elements of the intelligence community; and

(7) develop guidelines to enhance and improve the coordination of Federal law enforcement activities overseas.

(c) **DEFINITION OF TRANSNATIONAL THREAT.**—For purposes of this section, the term “transnational threat” means the following:

(1) Any transnational activity (including international terrorism, narcotics trafficking, the proliferation of weapons of mass destruction and the delivery systems for such weapons, and organized crime) that threatens the national security of the United States.

(2) Any individual or group that engages in an activity referred to in paragraph (1).

SEC. 104. BOARD FOR LOW INTENSITY CONFLICT.

(a) *ESTABLISHMENT OF BOARD.*—The President shall establish within the National Security Council a board to be known as the “Board for Low Intensity Conflict”.

(b) *FUNCTION.*—The principal function of the board shall be to coordinate the policies of the United States for low intensity conflict.

SEC. 105. NATIONAL COUNTERINTELLIGENCE POLICY BOARD.

(a) *ESTABLISHMENT OF BOARD.*—There is within the executive branch of the Government a National Counterintelligence Policy Board. The Board shall report to the President through the National Security Council.

(b) *FUNCTION OF THE BOARD.*—The Board shall serve as the principal mechanism for—

(1) developing policies and procedures for the approval of the President to govern the conduct of counterintelligence activities; and

(2) resolving conflicts, as directed by the President, which may arise between elements of the Government which carry out such activities.

* * * * *

[ANNUAL REPORT ON INTELLIGENCE COMMUNITY ACTIVITIES

[SEC. 109. (a) IN GENERAL.—The Director of Central Intelligence shall submit to Congress an annual report on the activities of the intelligence community. The annual report under this section shall be unclassified.

[(b) MATTERS TO BE COVERED IN ANNUAL REPORT.—Each report under this section shall describe—

[(1) the activities of the intelligence community during the preceding fiscal year, including significant successes and failures that can be described in an unclassified manner; and

[(2) the areas of the world and the issues that the Director expects will require increased or unusual attention from the intelligence community during the next fiscal year.

[(c) TIME FOR SUBMISSION.—The report under this section for any year shall be submitted at the same time that the President submits the budget for the next fiscal year pursuant to section 1105 of title 31, United States Code.]

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TITLE IX—APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES

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LAWS SUBJECT TO STAY

SEC. 904. The President may use the authority of sections 901 and 902 to stay the imposition of an economic, cultural, diplomatic, or other sanction or related action by the United States Government related to the proliferation of weapons of mass destruction,

their delivery systems, or advanced conventional weapons otherwise [required to be imposed by the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title III of Public Law 102-182); the Nuclear Proliferation Prevention Act of 1994 (title VIII of Public Law 103-236); title XVII of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510) (relating to the nonproliferation of missile technology); the Iran-Iraq Arms Nonproliferation Act of 1992 (title XVI of Public Law 102-484); section 573 of the Foreign Operations, Export Financing Related Programs Appropriations Act, 1994 (Public Law 103-87); section 563 of the Foreign Operations, Export Financing Related Programs Appropriations Act, 1995 (Public Law 103-306); and comparable provisions.] *required to be imposed by any of the following provisions of law:*

- (1) *The Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title III of Public Law 102-182).*
- (2) *The Nuclear Proliferation Prevention Act of 1994 (title VIII of Public Law 103-236).*
- (3) *Section 11B of the Export Administration Act of 1979 (50 U.S.C. App. 2410b).*
- (4) *Chapter 7 of the Arms Export Control Act (22 U.S.C. 2797 et seq.).*
- (5) *The Iran-Iraq Arms Non-Proliferation Act of 1992 (title XVI of Public Law 102-484).*
- (6) *The following provisions of annual appropriations Acts:*
 - (A) *Section 573 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994 (Public Law 103-87; 107 Stat. 972).*
 - (B) *Section 563 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Public Law 103-306; 108 Stat. 1649).*
 - (C) *Section 552 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104-107; 110 Stat. 741).*
- (7) *Comparable provisions.*

APPLICATION

SEC. 905. This title shall cease to be effective [on the date which is one year after the date of the enactment of this title] *on January 6, 1997.*

TITLE 5, UNITED STATES CODE

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PART III—EMPLOYEES

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CHAPTER 23—MERIT SYSTEM PRINCIPLES

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§ 2305. Coordination with certain other provisions of law

No provision of this chapter, or action taken under this chapter, shall be construed to impair the authorities and responsibilities set forth in [section 102 of the National Security Act of 1947 (61 Stat. 495; 50 U.S.C. 403),] *subtitle A of title I of the Intelligence Community Act*, the Central Intelligence Agency Act of 1949 (63 Stat. 208; 50 U.S.C. 403a and following), the Act entitled “An Act to provide certain administrative authorities for the National Security Agency, and for other purposes”, approved May 29, 1959 (73 Stat. 63; 50 U.S.C. 402 note), and the Act entitled “An Act to amend the Internal Security Act of 1950”, approved March 26, 1964 (78 Stat. 168; 50 U.S.C. 831–835).

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Subpart D—Pay and Allowances

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CHAPTER 53—PAY RATES AND SYSTEMS

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SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES

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§ 5314. Positions at level III

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Solicitor General of the United States.

Under Secretary of Commerce, Under Secretary of Commerce for Economic Affairs, Under Secretary of Commerce for Export Administration and Under Secretary of Commerce for Travel and Tourism.

* * * * *

[Deputy Director of Central Intelligence] *Deputy Directors of Central Intelligence (2)*.

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SECTION 306 OF THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1996

[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—

[(1) 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; and

[(2) provide that the form or agreement does not bar—
 [(A) disclosures to Congress; or
 [(B) disclosures to an authorized official of an executive agency that are deemed essential to reporting a violation of United States law.]

**INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR
 1995**

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TITLE VI—CONSTRUCTION OF FACILITIES FOR THE INTELLIGENCE COMMUNITY

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[SEC. 603. IDENTIFICATION OF CONSTITUENT COMPONENTS OF BASE INTELLIGENCE BUDGET.

[(The Director of Central Intelligence shall include the same level of budgetary detail for the Base Budget that is provided for Ongoing Initiatives and New Initiatives to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate in the congressional justification materials for the annual submission of the National Foreign Intelligence Program of each fiscal year.)]

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TITLE VIII—COUNTERINTELLIGENCE AND SECURITY

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[SEC. 811. COORDINATION OF COUNTERINTELLIGENCE ACTIVITIES.

[(a) ESTABLISHMENT OF COUNTERINTELLIGENCE POLICY BOARD.—There is established within the executive branch of Government a National Counterintelligence Policy Board (in this section referred to as the “Board”). The Board shall report to the President through the National Security Council.

[(b) FUNCTION OF THE BOARD.—The Board shall serve as the principal mechanism for—

[(1) developing policies and procedures for the approval of the President to govern the conduct of counterintelligence activities; and

[(2) resolving conflicts, as directed by the President, which may arise between elements of the Government which carry out such activities.

[(c) COORDINATION OF COUNTERINTELLIGENCE MATTERS WITH THE FEDERAL BUREAU OF INVESTIGATION.—(1) Except as provided in paragraph (3), the head of each department or agency within the executive branch shall ensure that—

[(A) the Federal Bureau of Investigation is advised immediately of any information, regardless of its origin, which indicates that classified information is being, or may have been, disclosed in an unauthorized manner to a foreign power or an agent of a foreign power;

[(B) following a report made pursuant to subparagraph (A), the Federal Bureau of Investigation is consulted with respect to all subsequent actions which may be undertaken by the department or agency concerned to determine the source of such loss or compromise; and

[(C) where, after appropriate consultation with the department or agency concerned, the Federal Bureau of Investigation undertakes investigative activities to determine the source of the loss or compromise, the Federal Bureau of Investigation is given complete and timely access to the employees and records of the department or agency concerned for purposes of such investigative activities.

[(2) Except as provided in paragraph (3), the Director of the Federal Bureau of Investigation shall ensure that espionage information obtained by the Federal Bureau of Investigation pertaining to the personnel, operations, or information of departments or agencies of the executive branch, is provided through appropriate channels to the department or agency concerned, and that such departments or agencies are consulted with respect to espionage investigations undertaken by the Federal Bureau of Investigation which involve the personnel, operations, or information of such department or agency after a report has been provided pursuant to paragraph (1)(A).

[(3) Where essential to meet extraordinary circumstances affecting vital national security interests of the United States, the President may on a case-by-case basis waive the requirements of paragraph (1) or (2), as they apply to the head of a particular department or agency, or the Director of the Federal Bureau of Investigation. Such waiver shall be in writing and shall fully state the justification for such waiver. Within thirty days, the President shall notify the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives that such waiver has been issued, and at that time or as soon as national security considerations permit, provide these committees with a complete explanation of the circumstances which necessitated such waiver.

[(4) The Director of the Federal Bureau of Investigation shall, in consultation with the Director of Central Intelligence and the Secretary of Defense, report annually, beginning on February 1, 1995, and continuing each year thereafter, to the Select Committee on Intelligence of the Senate and to the Permanent Select Committee on Intelligence of the House of Representatives and, in accordance with applicable security procedures, the Committees on the Judiciary of the House of Representatives and the Senate with respect

to compliance with paragraphs (1) and (2) during the previous calendar year.

[(5) Nothing in this section may be construed to alter the existing jurisdictional arrangements between the Federal Bureau of Investigation and the Department of Defense with respect to investigations of persons subject to the Uniform Code of Military Justice, nor to impose additional reporting requirements upon the Department of Defense with respect to such investigations beyond those required by existing law and executive branch policy.

[(6) As used in this section, the terms "foreign power" and "agent of a foreign power" have the same meanings as set forth in sections 101 (a) and (b), respectively, of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).]

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**SECTION 403 OF THE INTELLIGENCE AUTHORIZATION
ACT FOR FISCAL YEAR 1992**

[SEC. 403. INTELLIGENCE COMMUNITY CONTRACTING.

[(The Director of Central Intelligence shall direct that elements of the Intelligence Community, whenever compatible with the national security interests of the United States and consistent with the operational and security concerns related to the conduct of intelligence activities, and where fiscally sound, shall award contracts in a manner that would maximize the procurement of products in the United States. For purposes of this provision, the term "Intelligence Community" has the same meaning as set forth in paragraph 3.4(f) of Executive Order 12333, dated December 4, 1981, or successor orders.)]

**SECTION 8154 OF THE DEPARTMENT OF DEFENSE
APPROPRIATIONS ACT, 1995**

[(SEC. 8154. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

[(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.)]

**SECTION 8107 OF THE DEPARTMENT OF DEFENSE
APPROPRIATIONS ACT, 1994**

[(TRANSFER OF FUNDS)

[(SEC. 8107. During the current fiscal year and thereafter, no funds may be made available through transfer, reprogramming, or other means between the Central Intelligence Agency and the Department of Defense for any intelligence or special activity different

from that previously justified to the Congress unless the Director of Central Intelligence or the Secretary of Defense has notified the House and Senate Appropriations Committees of the intent to make such funds available for such activity.】

MINORITY VIEWS

Although it does not contain many of the more controversial provisions of its predecessor, H.R. 3237 as ordered reported by the majority would alter the existing relationship between the Director of Central Intelligence (DCI) and the heads of other agencies or departments, elements of which comprise the intelligence community. These changes were proposed, and adopted, without providing an opportunity for senior officials of the organizations most affected by them to appear before the Committee. Without an opportunity to fully assess these proposals, it is not possible to make an informed decision about their usefulness or necessity and, therefore the wisdom of approving them. While we were encouraged by Chairman Combest's pledge at the markup of this bill to hold hearings prior to conference at which Committee members could obtain additional information with which to judge the merits of this legislation, we can not endorse it at this time.

With the exception of the Central Intelligence Agency, the components of the intelligence community are also parts of cabinet departments, primarily the Departments of Defense, State and Justice. A balance exists between the way these agencies, bureaus, divisions, and offices function as parts of the community and as parts of their parent organizations. At the heart of this balance lies a recognition that intelligence is a support function, rather than an independent function, of government. The intelligence community has grown in an ad hoc manner over the last fifty years, in large part because the United States has purposely chosen not to create a Department of Intelligence and concentrate within it the power exercised in other nations by ministers of state security. Managing the loose confederation that is the United States intelligence community is a challenging and, because it sometimes requires obtaining the concurrence of officials with responsibilities in areas other than intelligence, often a frustrating job. It has not been shown, however, that whatever managerial difficulties the current structure presents have made it impossible for the community to discharge effectively its responsibilities or that significant additions to the already impressive list of authorities held by the DCI, which would inevitably disrupt the balance between the DCI and other officers of the government, primarily the Secretary of Defense, are advisable.

We view with concern, therefore, provisions in this bill which would allow the DCI, with only the consent of the Director of the Office of Management and Budget, to transfer funds within the National Foreign Intelligence Program and to transfer personnel among various intelligence agencies. There may be compelling reasons why, as an example, the Secretary of Defense might object to the movement of military personnel or funds appropriated to the department. Similar objections might be held in other cases by the

Director of the Federal Bureau of Investigation. Under the terms of the bill, however, the DCI could effect the transfer regardless of these objections. Had a case been made that the existing transfer authority in the National Security Act, which requires the concurrence of the head of the department or agency from which funds would be taken was not adequate, we might feel differently. No such case, however, has been made.

We have similar concerns about proposals to establish statutorily committees of the National Security Council, create a Director of Military Intelligence, and move a part of the human intelligence collection activity of the Department of Defense to the CIA. To the extent that any of these actions make sense, they can be accomplished by executive action. In fact, at least with respect to the structure of the National Security Council and the relationship between Defense Department human intelligence and the CIA, such action is either contemplated or underway. Legislating these changes, however, reduces the flexibility of senior officials in the executive branch, including the President, to make modifications as needs or experience dictates. We consider such restrictions to be unwise.

We do not believe that any of the recent studies of the intelligence community support a conclusion that a major structural overhaul is needed. In making the changes on which there is consensus, we should legislate only when other means of effecting those changes are demonstrated to be inadequate. The bill would legislate as a matter of first rather than last choice, without a solid evidentiary basis to support such action. We do not believe that is a wise course.

Director of Central Intelligence Deutch, in consultation with others in the executive branch, has proposed a number of reform measures which are intended to achieve many of the goals of H.R. 3237. These measures build on the DCI's advocacy of a system of joint management, with the Secretary of Defense, of the activities of the intelligence community. We believe that this joint management concept has great promise for enabling the community to function more smoothly, without upsetting the balance between the interests of its components. We endorse the DCI's proposal, the major components of which include: improving policy guidance for the intelligence community through the creation by executive action of a Committee on Foreign Intelligence, a Consumers Committee, and a Global Crime Committee; strengthening the ability of the DCI to discharge his community responsibilities by creating two new deputy DCI's, one for community management and one for the CIA; and strengthening the DCI's authorities by moving over time toward the implementation by executive action of a procedure through which the DCI would concur in the appointments of the heads of all of the major elements of the intelligence community. Other recommendations for change, such as the consolidation of imagery and mapping activities in a new agency, that were the product of careful study by the DCI and the civilian and military leadership of the Defense Department deserve to be acted upon by Congress. Finally, we believe that initiatives such as the DCI's personnel proposals for CIA that will facilitate the recruitment and retention of a highly skilled workforce through improvements in assign-

ment and selection, continuous professional development, and a performance appraisal system based on competency and results merit strong support.

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