

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR
 2003

JULY 18, 2002.—Committed to the Committee of the Whole House on the State of
 the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 4628]

[Including cost estimate of the Congressional Budget Office]

The Permanent Select Committee on Intelligence, to whom was referred the bill (H.R. 4628) to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Intelligence Authorization Act for Fiscal Year 2003”.

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

Sec. 1. Short title; table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

- Sec. 101. Authorization of appropriations.
- Sec. 102. Classified schedule of authorizations.
- Sec. 103. Personnel ceiling adjustments.
- Sec. 104. Community Management Account.
- Sec. 105. Authorization of emergency supplemental appropriations for fiscal year 2002.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

- Sec. 201. Authorization of appropriations.

TITLE III—GENERAL PROVISIONS

- Sec. 301. Increase in employee compensation and benefits authorized by law.
- Sec. 302. Restriction on conduct of intelligence activities.
- Sec. 303. Sense of Congress on intelligence community contracting.
- Sec. 304. Semiannual report on financial intelligence on terrorist assets (FITTA).
- Sec. 305. Modification of excepted agency voluntary leave transfer authority.
- Sec. 306. Additional one-year suspension of reorganization of Diplomatic Telecommunications Service Program Office.
- Sec. 307. Prohibition on compliance with requests for information submitted by foreign governments.
- Sec. 308. Cooperative relationship between the National Security Education Program and the Foreign Language Center of the Defense Language Institute.
- Sec. 309. Establishment of National Flagship Language Initiative within the National Security Education Program.
- Sec. 310. Deadline for submittal of various overdue reports.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

- Sec. 401. Two-year extension of Central Intelligence Agency Voluntary Separation Pay Act.
- Sec. 402. Prohibition on implementation of compensation reform plan.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

- Sec. 501. Use of funds for counter-drug and counterterrorism activities for Colombia.
 Sec. 502. Protection of operational files of the National Reconnaissance Office.
 Sec. 503. Eligibility of employees in intelligence senior level positions for Presidential Rank Awards.

TITLE I—INTELLIGENCE ACTIVITIES**SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

Funds are hereby authorized to be appropriated for fiscal year 2003 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

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

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 2003, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany the bill H.R. 4628 of the One Hundred Seventh Congress.

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

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.—With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 2003 under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed 2 percent of the number of civilian personnel authorized under such section for such element.

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

SEC. 104. COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Community Management Account of the Director of Central Intelligence for fiscal year 2003 the sum of \$176,179,000. Within such amount, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for the Advanced Research and Development Committee shall remain available until September 30, 2004.

(b) AUTHORIZED PERSONNEL LEVELS.—The elements within the Community Management Account of the Director of Central Intelligence are authorized 350 full-time personnel as of September 30, 2003. Personnel serving in such elements may be permanent employees of the Community Management Account or personnel detailed from other elements of the United States Government.

(c) CLASSIFIED AUTHORIZATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated for the Community Management Account by subsection (a), there are also authorized to be appropriated for the Community Management

Account for fiscal year 2003 such additional amounts as are specified in the classified Schedule of Authorizations referred to in section 102(a). Such additional amounts shall remain available until September 30, 2004.

(2) **AUTHORIZATION OF PERSONNEL.**—In addition to the personnel authorized by subsection (b) for elements of the Community Management Account as of September 30, 2003, there are hereby authorized such additional personnel for such elements as of that date as are specified in the classified Schedule of Authorizations.

(d) **REIMBURSEMENT.**—Except as provided in section 113 of the National Security Act of 1947 (50 U.S.C. 404h), during fiscal year 2003 any officer or employee of the United States or a member of the Armed Forces who is detailed to the staff of the Community Management Account from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

(e) **NATIONAL DRUG INTELLIGENCE CENTER.**—

(1) **IN GENERAL.**—Of the amount authorized to be appropriated in subsection (a), \$34,100,000 shall be available for the National Drug Intelligence Center. Within such amount, funds provided for research, development, testing, and evaluation purposes shall remain available until September 30, 2003, and funds provided for procurement purposes shall remain available until September 30, 2004.

(2) **TRANSFER OF FUNDS.**—The Director of Central Intelligence shall transfer to the Attorney General funds available for the National Drug Intelligence Center under paragraph (1). The Attorney General shall utilize funds so transferred for the activities of the National Drug Intelligence Center.

(3) **LIMITATION.**—Amounts available for the National Drug Intelligence Center may not be used in contravention of the provisions of section 103(d)(1) of the National Security Act of 1947 (50 U.S.C. 403–3(d)(1)).

(4) **AUTHORITY.**—Notwithstanding any other provision of law, the Attorney General shall retain full authority over the operations of the National Drug Intelligence Center.

SEC. 105. AUTHORIZATION OF EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2002.

(a) **AUTHORIZATION.**—Amounts authorized to be appropriated for fiscal year 2002 under section 101 of the Intelligence Authorization Act for Fiscal Year 2002 (Public Law 107–108) for the conduct of the intelligence activities of elements of the United States Government listed in such section are hereby increased, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization were increased by the following:

(1) The Emergency Supplemental Act, 2002 (contained in division B of Public Law 107–117), including section 304 of such Act (115 Stat. 2300).

(2) An emergency supplemental appropriation in a supplemental appropriations Act for fiscal year 2002 that is enacted after May 1, 2002, amounts as are designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

(b) **RATIFICATION.**—For purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414), any obligation or expenditure of those amounts deemed to have been specifically authorized by the Act referred to in subsection (a)(1) and by the supplemental appropriations Act referred to in subsection (a)(2) is hereby ratified and confirmed.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 2003 the sum of \$351,300,000.

TITLE III—GENERAL PROVISIONS

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

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

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

SEC. 303. SENSE OF CONGRESS ON INTELLIGENCE COMMUNITY CONTRACTING.

It is the sense of Congress that the Director of Central Intelligence should continue to direct that elements of the intelligence community, whenever compatible with the national security interests of the United States and consistent with operational and security concerns related to the conduct of intelligence activities, and where fiscally sound, should competitively award contracts in a manner that maximizes the procurement of products properly designated as having been made in the United States.

SEC. 304. SEMIANNUAL REPORT ON FINANCIAL INTELLIGENCE ON TERRORIST ASSETS (FITA).

(a) SEMIANNUAL REPORT.—

(1) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

“SEMIANNUAL REPORT ON FINANCIAL INTELLIGENCE ON TERRORIST ASSETS

“SEC. 118. (a) SEMIANNUAL REPORT.—On a semiannual basis, the Secretary of the Treasury (acting through the head of the Office of Intelligence Support) shall submit a report to the appropriate congressional committees (as defined in subsection (c)) that fully informs the committees concerning operations against terrorist financial networks. Each such report shall include with respect to the preceding six-month period—

“(1) the total number of asset seizures, designations, and other actions against individuals or entities found to have engaged in financial support of terrorism;

“(2) the total number of applications for asset seizure and designations of individuals or entities suspected of having engaged in financial support of terrorist activities, that were granted, modified, or denied;

“(3) the total number of physical searches of offices, residences, or financial records of individuals or entities suspected of having engaged in financial support for terrorist activity; and

“(4) whether the financial intelligence information seized in these cases has been shared on a full and timely basis with the all departments, agencies, and other entities of the United States Government involved in intelligence activities participating in the Foreign Terrorist Asset Tracking Unit (managed and coordinated by the Counterterrorism Center of the Central Intelligence Agency).

“(b) IMMEDIATE NOTIFICATION FOR EMERGENCY DESIGNATION.—In the case of a designation of an individual or entity, or the assets of an individual or entity, as having been found to have engaged in terrorist activities, the Secretary of the Treasury shall report such designation within 24 hours of such a designation to the appropriate congressional committees.

“(c) DEFINITION.—In this section, the term ‘appropriate congressional committees’ means the following:

“(1) The Permanent Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Financial Services of the House of Representatives.

“(2) The Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Banking, Housing, and Urban Affairs of the Senate.”

(2) CLERICAL AMENDMENT.—The table of contents contained in the first section of such Act is amended by inserting after the item relating to section 117 the following new item:

“Sec. 118. Semiannual report on financial intelligence on terrorist assets.”

(b) CONFORMING AMENDMENT.—Section 501(f) of the National Security Act of 1947 (50 U.S.C. 413(f)) is amended by inserting before the period the following: “, and includes financial intelligence activities”.

SEC. 305. MODIFICATION OF EXCEPTED AGENCY VOLUNTARY LEAVE TRANSFER AUTHORITY.

(a) IN GENERAL.—Section 6339 of title 5, United States Code, is amended—

- (1) by striking subsection (b);
- (2) by redesignating subsection (c) as subsection (b); and
- (3) by inserting after subsection (b) (as so redesignated by paragraph (2)) the following:

“(c)(1) Notwithstanding any provision of subsection (b), the head of an excepted agency may, at his sole discretion, by regulation establish a program under which an individual employed in or under such excepted agency may participate in a leave transfer program established under the provisions of this subchapter outside of this section, including provisions permitting the transfer of annual leave accrued or accumulated by such employee to, or permitting such employee to receive transferred leave from, an employee of any other agency (including another excepted agency having a program under this subsection).

“(2) To the extent practicable and consistent with the protection of intelligence sources and methods, any program established under paragraph (1) shall be consistent with the provisions of this subchapter outside of this section and with any regulations issued by the Office of Personnel Management implementing this subchapter.”.

(b) CONFORMING AMENDMENTS.—Section 6339 of such title is amended—

- (1) in paragraph (2) of subsection (b) (as so redesignated by subsection (a)(2)), by striking “under this section” and inserting “under this subsection”; and
- (2) in subsection (d), by striking “of Personnel Management”.

SEC. 306. ADDITIONAL ONE-YEAR SUSPENSION OF REORGANIZATION OF DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.

Section 311 of the Intelligence Authorization Act for Fiscal Year 2002 (Public Law 107–108; 22 U.S.C. 7301 note; 115 Stat. 1401) is amended—

- (1) in the heading, by striking “ONE-YEAR” and inserting “TWO-YEAR”; and
- (2) in the text, by striking “October 1, 2002” and inserting “October 1, 2003”.

SEC. 307. PROHIBITION ON COMPLIANCE WITH REQUESTS FOR INFORMATION SUBMITTED BY FOREIGN GOVERNMENTS.

Section 552(a)(3) of title 5, United States Code, is amended—

- (1) in subparagraph (A) by inserting “and except as provided in subparagraph (E),” after “of this subsection,”; and
- (2) by adding at the end the following:

“(E) An agency, or part of an agency, that is an element of the intelligence community (as that term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))) shall not make any record available under this paragraph to—

- “(i) any government entity, other than a State, territory, commonwealth, or district of the United States, or any subdivision thereof; or
- “(ii) a representative of a government entity described in clause (i).”.

SEC. 308. COOPERATIVE RELATIONSHIP BETWEEN THE NATIONAL SECURITY EDUCATION PROGRAM AND THE FOREIGN LANGUAGE CENTER OF THE DEFENSE LANGUAGE INSTITUTE.

Section 802 of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended by adding at the end the following new subsection:

“(h) USE OF AWARDS TO ATTEND THE FOREIGN LANGUAGE CENTER OF THE DEFENSE LANGUAGE INSTITUTE.—(1) The Secretary shall provide for the admission of award recipients to the Foreign Language Center of the Defense Language Institute (hereinafter in this subsection referred to as the ‘Center’). An award recipient may apply a portion of the applicable scholarship or fellowship award for instruction at the Center on a space-available basis as a Department of Defense sponsored program to defray the additive instructional costs.

“(2) Except as the Secretary determines necessary, an award recipient who receives instruction at the Center shall be subject to the same regulations with respect to attendance, discipline, discharge, and dismissal as apply to other persons attending the Center.

“(3) In this subsection, the term ‘award recipient’ means an undergraduate student who has been awarded a scholarship under subsection (a)(1)(A) or a graduate student who has been a fellowship under subsection (a)(1)(B) who—

- “(A) is in good standing;
- “(B) has completed all academic study in a foreign country, as provided for under the scholarship or fellowship; and
- “(C) would benefit from instruction provided at the Center.”.

SEC. 309. ESTABLISHMENT OF NATIONAL FLAGSHIP LANGUAGE INITIATIVE WITHIN THE NATIONAL SECURITY EDUCATION PROGRAM.

(a) NATIONAL FLAGSHIP LANGUAGE INITIATIVE.—

(1) EXPANSION OF GRANT PROGRAM AUTHORITY.—Subsection (a)(1) of section 802 of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended—

(A) by striking “and” at the end of subparagraph (B)(ii);
 (B) by striking the period at the end of subparagraph (C) and inserting
 “, and”; and

(C) by adding at the end the following new subparagraph:
 “(D) awarding grants to institutions of higher education to carry out a
 National Flagship Language Initiative (described in subsection (i)).”.

(2) PROVISIONS OF NATIONAL FLAGSHIP LANGUAGE INITIATIVE.—Such section, as amended by section 308, is further amended by adding at the end the following new subsection:

“(i) NATIONAL FLAGSHIP LANGUAGE INITIATIVE.—(1) Under the National Flagship Language Initiative, institutions of higher learning shall establish, operate, or improve activities designed to train students in programs in a range of disciplines to achieve advanced levels of proficiency in those foreign languages that the Secretary identifies as being the most critical in the interests of the national security of the United States.

“(2) An undergraduate student who has been awarded a scholarship under subsection (a)(1)(A) or a graduate student who has been awarded a fellowship under subsection (a)(1)(B) may participate in the activities carried out under the National Flagship Language Initiative.

“(3) An institution of higher education that receives a grant pursuant to subsection (a)(1)(D) shall give special consideration to applicants who are employees of the Federal Government.

“(4) For purposes of this subsection, the Foreign Language Center of the Defense Language Institute and any other educational institution that provides training in foreign languages operated by the Department of Defense or an agency in the intelligence community is deemed to be an institution of higher education, and may carry out the types of activities permitted under the National Flagship Language Initiative.”.

(3) WAIVER OF FUNDING ALLOCATION RULES.—Subsection (a)(2) of such section is amended by adding at the end the following flush sentences:

“The funding allocation under this paragraph shall not apply to grants under paragraph (1)(D) for the National Flagship Language Initiative described in subsection (i). For the authorization of appropriations for the National Flagship Language Initiative, see section 811.”.

(4) BOARD REQUIREMENT.—Section 803(d)(4) of such Act (50 U.S.C. 1904(d)(4)) is amended—

(A) by striking “and” at the end of subparagraph (C);
 (B) by striking the period at the end of subparagraph (D) and inserting
 “, and”; and

(C) by adding at the end the following new subparagraph:
 “(E) which foreign languages are critical to the national security interests of the United States for purposes of section 802(a)(1)(D) (relating to grants for the National Flagship Language Initiative).”.

(b) FUNDING.—The David L. Boren National Security Education Act of 1991 (50 U.S.C. 1901 et seq.) is amended by adding at the end the following new section:

“SEC. 811. ADDITIONAL ANNUAL AUTHORIZATION OF APPROPRIATIONS.

“(a) IN GENERAL.—In addition to amounts that may be made available to the Secretary under the National Security Education Trust Fund (under section 804 of this Act) for a fiscal year, there is authorized to be appropriated to the Secretary for each fiscal year, beginning with fiscal year 2003, \$10,000,000, to carry out the grant program for the National Flagship Language Initiative under section 802(a)(1)(D).

“(b) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated pursuant to the authorization under subsection (a) shall remain available until expended.”.

SEC. 310. DEADLINE FOR SUBMITTAL OF VARIOUS OVERDUE REPORTS.

(a) DEADLINE.—The reports described in subsection (c) shall be submitted to Congress not later than 180 days after the date of the enactment of this Act.

(b) NONCOMPLIANCE.—(1) If all the reports described in subsection (c) are not submitted to Congress by the date specified in subsection (a), amounts available to be obligated or expended after that date to carry out the functions or duties of the following offices shall be reduced by $\frac{1}{3}$:

(A) The Office of the Director of Central Intelligence.
 (B) The Office of Community Management Staff.

(2) The reduction applicable under paragraph (1) shall not apply if the Director of Central Intelligence certifies to Congress by the date referred to in subsection (a) that all reports referred to in subsection (c) have been submitted to Congress.

(c) **REPORTS DESCRIBED.**—The reports referred to in subsection (a) are reports mandated by law for which the Director of Central Intelligence has sole or primary responsibility to prepare, or coordinate, and submit to Congress which, as of the date of the enactment of this Act, have not been submitted to Congress by the date mandated by law.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. TWO-YEAR EXTENSION OF CENTRAL INTELLIGENCE AGENCY VOLUNTARY SEPARATION PAY ACT.

Section 2 of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403–4 note) is amended—

- (1) in subsection (f), by striking “September 30, 2003” and inserting “September 30, 2005”; and
- (2) in subsection (i), by striking “or 2003” and inserting “2003, 2004, or 2005”.

SEC. 402. PROHIBITION ON IMPLEMENTATION OF COMPENSATION REFORM PLAN.

No plan by the Director of Central Intelligence that would revise the manner in which employees of the Central Intelligence Agency, or employees of other elements of the United States Government that conduct intelligence and intelligence-related activities, are compensated may be implemented until the plan has been specifically authorized by statute.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

SEC. 501. USE OF FUNDS FOR COUNTER-DRUG AND COUNTERTERRORISM ACTIVITIES FOR COLOMBIA.

Notwithstanding any other provision of law, funds designated for intelligence or intelligence-related purposes for assistance to the Government of Colombia for counter-drug activities for fiscal years 2002 and 2003, and any unobligated funds available to any element of the intelligence community for such activities for a prior fiscal year, shall be available to support a unified campaign against narcotics trafficking and against activities by organizations designated as terrorist organizations (such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC)), and to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations.

SEC. 502. PROTECTION OF OPERATIONAL FILES OF THE NATIONAL RECONNAISSANCE OFFICE.

(a) **IN GENERAL.**—Title I of the National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by inserting after section 105C (50 U.S.C. 403–5c) the following new section:

“PROTECTION OF OPERATIONAL FILES OF THE NATIONAL RECONNAISSANCE OFFICE

“SEC. 105D. (a) EXEMPTION OF CERTAIN OPERATIONAL FILES FROM SEARCH, REVIEW, PUBLICATION, OR DISCLOSURE.—(1) The Director of the National Reconnaissance Office, with the coordination of the Director of Central Intelligence, may exempt operational files of the National Reconnaissance Office from the provisions of section 552 of title 5, United States Code, which require publication, disclosure, search, or review in connection therewith.

“(2)(A) Subject to subparagraph (B), for the purposes of this section, the term ‘operational files’ means files of the National Reconnaissance Office (hereafter in this section referred to as ‘NRO’) that document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems.

“(B) Files which are the sole repository of disseminated intelligence are not operational files.

“(3) Notwithstanding paragraph (1), exempted operational files shall continue to be subject to search and review for information concerning—

“(A) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5, United States Code;

“(B) any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code; or

“(C) the specific subject matter of an investigation by any of the following for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity:

“(i) The Permanent Select Committee on Intelligence of the House of Representatives.

“(ii) The Select Committee on Intelligence of the Senate.

“(iii) The Intelligence Oversight Board.

“(iv) The Department of Justice.

“(v) The Office of General Counsel of NRO.

“(vi) The Office of the Director of NRO.

“(4)(A) Files that are not exempted under paragraph (1) which contain information derived or disseminated from exempted operational files shall be subject to search and review.

“(B) The inclusion of information from exempted operational files in files that are not exempted under paragraph (1) shall not affect the exemption under paragraph (1) of the originating operational files from search, review, publication, or disclosure.

“(C) The declassification of some of the information contained in exempted operational files shall not affect the status of the operational file as being exempt from search, review, publication, or disclosure.

“(D) Records from exempted operational files which have been disseminated to and referenced in files that are not exempted under paragraph (1) and which have been returned to exempted operational files for sole retention shall be subject to search and review.

“(5) The provisions of paragraph (1) may not be superseded except by a provision of law which is enacted after the date of the enactment of this section, and which specifically cites and repeals or modifies its provisions.

“(6)(A) Except as provided in subparagraph (B), whenever any person who has requested agency records under section 552 of title 5, United States Code, alleges that NRO has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code.

“(B) Judicial review shall not be available in the manner provided for under subparagraph (A) as follows:

“(i) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by NRO, such information shall be examined *ex parte*, *in camera* by the court.

“(ii) The court shall, to the fullest extent practicable, determine the issues of fact based on sworn written submissions of the parties.

“(iii) When a complainant alleges that requested records are improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission based upon personal knowledge or otherwise admissible evidence.

“(iv)(I) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, NRO shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsible records currently perform the functions set forth in paragraph (2).

“(II) The court may not order NRO to review the content of any exempted operational file or files in order to make the demonstration required under subclause (I), unless the complainant disputes NRO’s showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

“(v) In proceedings under clauses (iii) and (iv), the parties may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36.

“(vi) If the court finds under this paragraph that NRO has improperly withheld requested records because of failure to comply with any provision of this subsection, the court shall order NRO to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code, and such order shall be the exclusive remedy for failure to comply with this subsection.

“(vii) If at any time following the filing of a complaint pursuant to this paragraph NRO agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

“(viii) Any information filed with, or produced for the court pursuant to clauses (i) and (iv) shall be coordinated with the Director of Central Intelligence prior to submission to the court.

“(b) DECENNIAL REVIEW OF EXEMPTED OPERATIONAL FILES.—(1) Not less than once every 10 years, the Director of the National Reconnaissance Office and the Director of Central Intelligence shall review the exemptions in force under subsection (a)(1) to determine whether such exemptions may be removed from the category of exempted files or any portion thereof. The Director of Central Intelligence must approve any determination to remove such exemptions.

“(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

“(3) A complainant that alleges that NRO has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court’s review shall be limited to determining the following:

“(A) Whether NRO has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on the date of the enactment of this section or before the expiration of the 10-year period beginning on the date of the most recent review.

“(B) Whether NRO, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.”.

(b) CLERICAL AMENDMENT.—The table of contents contained in the first section of such Act is amended by inserting after the item relating to section 105C the following new item:

“Sec. 105D. Protection of operational files of the National Reconnaissance Office.”.

SEC. 503. ELIGIBILITY OF EMPLOYEES IN INTELLIGENCE SENIOR LEVEL POSITIONS FOR PRESIDENTIAL RANK AWARDS.

Section 1607 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(c) AWARD OF RANK TO EMPLOYEES IN INTELLIGENCE SENIOR LEVEL POSITIONS.—The President, based on the recommendations of the Secretary of Defense, may award a rank referred to in section 4507a of title 5 to employees in Intelligence Senior Level positions designated under subsection (a). The award of such rank shall be made in a manner consistent with the provisions of that section.”.

PURPOSE

The bill would:

(1) Authorize appropriations for fiscal year 2003 for (a) the intelligence and intelligence-related activities of the U.S. Government, (b) the Community Management Account, and (c) the Central Intelligence Agency Retirement and Disability System;

(2) Authorize the personnel ceilings on September 30, 2003 for the intelligence and intelligence-related activities of the U.S. Government and permit the Director of Central Intelligence to authorize personnel ceilings in Fiscal year 2003 for any intelligence element up to two percent above the authorized levels, with the approval of the Director of the Office of Management and Budget;

(3) Authorize intelligence and intelligence-related activities funded within the FY 2002 Emergency Supplemental Act and the FY 2002 Defense Department Appropriations supplemental bill now under Congressional consideration;

(4) Authorize \$351.3 million for the Central Intelligence Agency Retirement and Disability Fund (CIARDS) in order to fully fund the accruing cost of retirement benefits for individuals in the Civil Service Retirement System, CIARDS, and other federal retirement systems;

(5) Establish an ongoing notification procedure with respect to Financial Intelligence on Terrorist Assets (FITA), so as to assure timely Congressional oversight of national-security-related financial enforcement actions by the executive branch;

(6) Amend U.S.C. 552(a)(3)(A), with respect to elements of the Intelligence Community, by limiting the application of this paragraph of the Freedom of Information Act such that agencies would be prohibited from complying with the requests of foreign governments to make records available;

(7) Authorize \$10 million for the National Security Education Program to establish a National Flagship Language Initiative whereby institutions of higher learning would be awarded grants to establish, operate or improve foreign language training programs that are identified by the Secretary of Defense as most critical to U.S. national security interests;

(8) Prohibit the implementation of any compensation reform plan within the Intelligence Community until such plans have been specifically authorized by statute; and

(9) Authorize the use of funds designated for intelligence and intelligence-related purposes for assistance to the Government of Colombia for counter-drug activities for fiscal year 2002 and 2003 to also be used to fund counterterrorism activities in Colombia.

OVERALL PERSPECTIVE ON THE INTELLIGENCE BUDGET AND COMMITTEE INTENT

The classified annex to this public report includes the classified Schedule of Authorizations and its associated language. The committee views the classified Annex as an integral part of this legislation. The classified Annex contains a thorough discussion of all budget issues considered by the committee, which underlies the funding authorization found in the Schedule of Authorizations. The committee intends that all intelligence programs discussed in the classified Annex to this report be conducted in accord with the guidance and limitations set forth as associated language therein. The classified Schedule is incorporated directly into this legislation by virtue of section 102 of the bill. The classified Annex is available for review by all Members of the House of Representatives, subject to the requirements of clause 13 of rule XXII of the House.

SCOPE OF COMMITTEE REVIEW

U.S. intelligence and intelligence-related activities under the jurisdiction of the committee include the National Foreign Intelligence Program (NFIP), and the Tactical Intelligence and Related Activities (TIARA) and the Joint Military Intelligence Program (JMIP) of the Department of Defense.

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

(9) the National Reconnaissance Office; and (10) the National Imagery and Mapping Agency.

The Department of Defense TIARA are a diverse array of reconnaissance and target acquisition programs that are a functional part of the basic military force structure and provide direct information support to military operations. TIARA, as defined by the Joint Chiefs of Staff and the Secretary of Defense, include those military intelligence activities outside the General Defense Intelligence Program that respond to the needs of military commanders for operational support information, as well as to national command, control, and intelligence requirements. The Armed Services Committee in the House of Representatives has joint oversight and authorizing jurisdiction of the programs comprising TIARA.

The JMIP was established in 1995 to provide integrated program management of defense intelligence elements that support defense-wide or theater-level consumers. Included within JMIP are aggregations created for management efficiency and characterized by similarity either in intelligence discipline (e.g., Signals Intelligence (SIGINT), Imagery Intelligence (IMINT)), or function (e.g., satellite support, aerial reconnaissance). The following aggregations are included in the JMIP: (1) the Defense Cryptologic Program (DCP); (2) the Defense Imagery and Mapping Program (DIMAP); (3) the Defense General Intelligence Applications Program (DGIAP), which itself includes (a) the Defense Airborne Reconnaissance Program (DARP), (b) the Defense Intelligence Tactical Program (DITP), (c) the Defense Intelligence Special Technologies Program (DISTP), (d) the Defense Intelligence Counterdrug Program (DICP), and (e) the Defense Space Reconnaissance Program (DSRP). As with TIARA programs, the Armed Services Committee in the House of Representatives has joint oversight and authorizing jurisdiction of the programs comprising the JMIP.

COMMITTEE FINDINGS AND RECOMMENDATIONS

In the following several pages, the Committee highlights areas of concern that it believes must be addressed with a high priority by the Director of Central Intelligence (DCI), as the leader of the Intelligence Community, and by administration if intelligence sufficient to protect our national security is to be provided. The Committee places particular emphasis on issues that impact the Intelligence Community as a whole or that involve several various programs.

The Committee notes that this is the first budget to be compiled after the horrific events of September 11th. The Committee wishes to acknowledge and thank all of the men and women working in the Intelligence Community. Members have been uniformly impressed during their travels, at home and abroad, by the work being done by these individuals to further U.S. goals, protect U.S. interests, enable policymakers, and reduce the risk of future terrorist attacks. As is often noted, the successes of the Intelligence Community normally go unnoticed, for obvious and correct reasons, while "failures" seem to be immediately brought into the public eye. Given its unique position, the Committee wants to make sure that those associated with the Intelligence Community know that the successes that are happening every day at varying levels are recognized and appreciated.

That said, the Committee is also uniquely positioned to understand the “failures.” In any enterprise that involves operations in a hostile environment, the risk of failure is always present and must be accepted. In some cases, a failure may be the result of a lack of risk taking or a lack of adequate planning. In both cases, the question the Committee must assess is whether the failures were avoidable. In the context of the September 11th terrorist attacks, the Committee, through the Joint Inquiry it is conducting, seeks to determine whether there were avoidable failures and, if so, how they may be prevented in the future.

The effects on our nation’s intelligence resources by the terrorist attacks are many and varied. On the one hand, the terrorist attacks and the responses to them in the Global War on Terrorism (GWOT) have justified the Committee’s stated belief that the need for intelligence during times of relative “peace” is as, if not more, important than in times of war, and that strategic and tactical intelligence must have similar emphasis. On the other hand, the attacks have also highlighted the fact that our intelligence resources have been stretched too thin, that the Community has analytical weaknesses, and that the management decisions about those resources did not take into account sufficiently the complexity and importance of the growing threat from terrorism associated with Islamic fundamentalism. Moreover, the lessons learned post-September 11th have, once again, emphasized the need for the Intelligence Community to work as a whole, not as individual “stove-piped” agencies.

These observations are made as the basis for justification for actions taken within this bill. These actions are taken not only based on the events of September 11th, but also from the extensive work that the Committee has done previously. The Committee intends to focus on the future, but to do so the Committee believes that the DCI and the Administration must understand that the issues highlighted here must be addressed quickly and thoroughly.

INVESTMENT—BUT IN AN OLD STRUCTURE

The Committee has repeatedly endorsed the need to invest significantly in intelligence, lest the nation be confronted with unexpected events. Such concerns, were reinforced on several occasions prior to September 11th, including the bombing of the U.S. embassy and Marine barracks in Beirut, the destruction of Pan Am 103, the “surprise” testing of nuclear weapons by India and Pakistan that went undetected by U.S. intelligence. In the past, the Committee has at least attempted to sustain funding for intelligence, if not enhance funding where and when possible in an attempt to preclude such future surprise. This year, the administration has proposed substantial increases for intelligence. This is most appropriate given the situation. Moreover, the indications are that the administration understands that single-year investments are not as effective as sustained significant funding over at least the next five-to-ten years. The Committee is greatly encouraged by this apparent commitment.

Unfortunately, however, these investments are being made into an organizational framework that gives little indication of being prepared to produce intelligence capabilities that can address the national security demands of the future. Except for significant ef-

forts on the GWOT, most of the other investments emphasize collection systems that are of questionable flexibility compared to the needs, that underemphasize analysis, language capabilities and other shortfalls, and that continue a stove-pipe mentality of decision-making and planning. Put simply, integrated intelligence operations and community-wide information sharing are the exception rather than the norm. Even the significant and inventive efforts on the GWOT are being accomplished in somewhat of a vacuum, with enormous amounts of resources being shifted to terrorism that create gaps in coverage and understanding in other areas of national security interest.

The Committee does not criticize the administration for the size of the proposed investment. The Committee must emphasize, however, that investment alone, without reorganization and/or reform of some of the basic components and practices of the Intelligence Community, will not provide effective national intelligence capabilities. Therefore, although the Committee endorses the President's request for a significant investment in intelligence, it does so with reservation and notes that the administration must, especially during this time of war, evaluate and make necessary changes, including organizational, to the Intelligence Community, lest we find ourselves surprised in additional areas.

Moreover, as the Committee has consistently noted, some of the needed changes to the Intelligence Community are likely to be structural, in order for the DCI to better plan and manage Community resources to ensure a balance of capabilities and requirements. Although at the beginning of the 107th Congress, the Committee intended to address significant structural issues, the events of September 11th resulted in a decision to postpone consideration of many potential changes. Reviews of the terrorist attacks must come first, and are underway. Notably, the interim report to the Speaker of the House from the Committee's Subcommittee on Terrorism and Homeland Security, is in preparation, and the review from the bicameral, bi-partisan Joint Inquiry into September 11th is being conducted by the House and Senate Intelligence Committees and a report will follow later. It is the Committee's belief that these reports will provide additional substantive basis and rationale for changes that may be warranted. Moreover the President's own review resulting from NSPD-5 will also aid in assessing the nation's intelligence effectiveness and what barriers impinge on that effectiveness. The Committee implores the President, in particular, to receive the findings from the NSPD-5 review and act upon them with expediency.

BUDGETING BY SUPPLEMENTAL

Having stated the need for investment, and the support for the amounts in this year's request, the Committee must also highlight a growing concern related to how the investment is being requested.

Perhaps the most disturbing budgetary trend in the United States Intelligence Community is its increasing reliance on supplemental appropriations. In fairness, Congress began the current round of supplemental largess with a \$1.5 billion intelligence supplemental funding bill in fiscal year 1999 in order to try cover intelligence needs not being met through the regular budget re-

quests. The practice was continued in the wake of the millennium terrorist threats, and sustained to address the initial phases in the war on terrorism. However, in any sustained “crisis” action, there comes a point where short-term stopgap practices must be phased out and long-term strategic plans put into place. This year’s fiscal year 2002 budget supplemental is \$1.694 billion.

The “advantage” of the supplemental appropriations process to the Intelligence Community is that pressing budgetary demands can be met in a shorter time (and with fewer bureaucratic hurdles) than the regular yearly process. However, by continuing to rely on supplemental appropriations year after year, the Intelligence Community risks fostering a budget process that is ripe for abuse and long-term funding gaps.

One potential complicating factor is the creation of the Defense Emergency Response Fund (or DERF). The DERF was originally created to pay for emergency items that arose due to the war on terrorism. However, it has been increasingly obvious that the DERF has turned into just another vehicle to fund items that the Intelligence Community did not get through the regular budget and planning process. In fact, the Committee notes that, in the fiscal year 2003 request for the JMIP and TIARA programs, some funding lines were duplicative of entries in the fiscal year 2002 supplemental, and the DERF request for fiscal year 2001 and 2003. The Committee does not believe the DERF is an appropriate vehicle for Intelligence Community funding, except perhaps for truly unforeseen emergency items.

A subtler, yet no less problematic set of issues arises when programs are forced to rely on supplemental funding for core mission support.

The Committee acknowledges that in the war on terrorism plans will continue to be in a constant state of flux and dollar amounts in spend plans are really just guesses that can (and probably will) change day-to-day. But the apparent lack of a long-term, strategic planning effort is troubling. This presents a number of problems:

It is bad budget practice and bad government. By failing to build the “tail” for these programs into the Future Year Defense Program (to the extent possible), the executive branch is perpetuating the need for large, mid-stream supplemental infusions of cash. The need for flexibility in the execution of funds can and should be addressed rationally, and with an eye towards better long-term planning.

Congressional oversight is minimized—creating the potential for serious problems down the road. Given the history of intelligence in the United States, an erosion of robust, effective oversight could lead to erosion in the integrity and credibility of the Intelligence Community.

Finally, the committee believes that the supplemental gravy train won’t last—and without long term planning and investment, the United States may be left with too little to show for all of its spending on intelligence.

BACK TO BASICS—GLOBAL COVERAGE AND HUMINT

Of all of the lessons that should be learned in the wake of September 11th, the importance of having reliable and timely human intelligence is among the most important. The information most

important to the nation's national security is identifying and understanding the plans and intentions of those who would harm our interests. Some of this information may be obtainable only through HUMINT. In today's environment, however, HUMINT must not only be able to provide information on governments, states, and entities, but also be able to acquire information on small, independent groups of individuals or single persons, as we have seen with the terrorist target.

The breadth of HUMINT resource needs and capabilities is far-reaching and complex. HUMINT must provide "boots on the ground" assessments and evaluations of foreign environments and targets to support not only ongoing, but future national and military operations—operations that now range from full-scale combat to peacekeeping. HUMINT must be positioned to collect against terrorist threats and the more traditional information on government, political and the regional stability of countries that influence our policies and security. Equally important are the types of HUMINT accesses and skills that are required, particularly language capabilities and regional expertise. Coupled with the abilities to recruit assets and, when necessary to intensively interrogate detained persons.

The Committee emphasizes these points for some very basic reasons. In reviewing the budget request and various witness testimonies, the Committee is not confident that the rebuilding effort that the Committee has been calling for an now sees beginning is headed in the right direction. The Committee is concerned, for example, that there is an over-reliance on assistance from allies to collect information. Clearly, the post-September 11th environment has proven the necessity and value of having close and continuing allies supporting the Global War on Terrorism. However, the U.S. Intelligence Community must have a robust unilateral collection capability to ensure it has the necessary efforts to best preclude any future attacks on America.

Finally, the Committee to be concerned about the current HUMINT career structure both within the CIA and within the Department of Defense's HUMINT service. At a time when regional expertise, including language capabilities, have again proven critical, the current civilian and military personnel and career structures do not emphasize or incentivize these factors. Currently, individuals get promoted based on their broad, and often general knowledge in wide-ranging areas, while those who would appear to stay focused on one area or even one country are not, in the Committee's view, being given the credit or rewards deserved. This includes the age-old issue of having senior promotion opportunities weighted toward those with experience in management positions. The Committee acknowledges that this issue is not unique to the HUMINT area—in fact it is also most acute in the area of analysis—but, given that HUMINT requires direct operational experience in the countries or regions containing intelligence targets and equities, it seems to the Committee that the ability to reward and incentivize those working in this field is critical.

GLOBAL COVERAGE AND ANALYSIS

As important as having a robust and global HUMINT service, the need to have analytical capabilities that are dynamic, wide-

-ranging and, collectively, cover the globe, is critical to national security. Too often, investments in analytical capabilities are secondary to collection assets and systems, when, at the end of the day the policy maker takes an analytical assessment as a key part of decisionmaking. Additionally, collected intelligence in the technical fields of SIGINT, IMINT, and MASINT, are, by and large, useless (except in certain and selective tactical situations) unless the data collected is processed and analyzed in a timely fashion, then placed into context in consideration of other all-source information. Although these issues are not new to the Committee, as it has written about such needs for several years now, it is important to raise them again in light of September 11th and the current national security environment.

Prior to the terrorist attacks in September, the Committee was concerned that there were significant gaps in the Community's analytical capabilities, especially in areas that were not perceived as having immediate national security concerns. Although our analytic depth in some areas was strong, in other areas it was virtually non-existent.

After September 11th, Herculean efforts have been made to enhance our analytical wherewithal on the various aspects of the terrorist target. For example, a number of analysts were shifted to focus on this threat. Additionally, there are plans to shift additional resources to the FBI, in order to assist in building up the Bureau's capabilities to understand information being collected domestically on the terrorist target. There has also been an exponential growth of staff required to support production of the President's Daily Brief and the Senior Executive Intelligence Brief. The effects of these shifts are somewhat alarming. Some analytic cadres were moved in their entirety to Counterterrorism Center. Similar, though not as dramatic, analytic impacts have been experienced as a result of the movement of analysts to support the establishment of the DCI's Office of Weapons Intelligence, Nonproliferation, and Arms Control (WINPAC). This is not to say that areas of counterterrorism and counterproliferation are not critically important; they clearly are. The Committee must point out, however, that significant gaps in the Community's analytical capabilities are widening, and present opportunity for further surprise in national security areas.

Along with all-source analysis capabilities, technical analysis capabilities are also wanting. Still today, after repeated warnings and encouragement to invest now in appropriate tasking, processing, exploiting and dissemination capabilities for future imagery collection capabilities, the amount of investment and planning appeals, to the Committee, to be minimal in relation to the attention paid to the ability to collect large volumes of data. In the SIGINT area, the events of September 11th highlight the critical nature of SIGINT analysis to understand the terrorist target, and moreover the need to be able to quickly exploit intercepted communications.

The Committee questions whether the senior management of the Community is fully understanding of the critical need to rebuild analytical resources. At a time when new investments in intelligence collection are significant, the apparent lack of priority or interest in strategic, global analysis to ensure that the nation is not

caught off-guard, while it is focused on conducting the GWOT is both puzzling and disturbing.

As with HUMINT, career progression for all-source analysts must be reviewed and changed. The Committee is concerned that the current pathways to promotion favor generalists, and force career tracks into management, rather than providing incentives for country, regional and language expertise, with a clear senior promotion track within the analytic workforce.

THE MISSING INTELLIGENCE LINK—LANGUAGE SKILLS

One of the most disappointing elements of this budget request is the inattention paid to investment in language capabilities. Of all the shortfalls identified thus far in the GWOT, the lack of skilled linguists has been universal. This, again, is not a new issue, and is one that the Committee has significantly highlighted for many years. Yet, even in this budget request, only minimal efforts within individual agencies are presented. Language capabilities and skills are Community-wide concerns and must be addressed accordingly. Trying to address language deficiencies within the current structures and with the current priority system is simply unworkable. Therefore, the Committee has taken steps to begin to significantly address these issues. In some of the programs, the Committee has added money into existing language accounts, and in at least one case has added positions. A hallmark of this effort, the Committee intends that an Intelligence Community Language University be created. It is the intent of the Committee that this University would be committed to providing basic and advanced language training and regional studies to any analyst, operations officer, or collector within the Intelligence Community. Such training would include all languages necessary for global coverage capabilities, not just those of the highest priority of the moment. Attendees could include both civilian and military personnel. The intent is not to replace current language schools within the Intelligence Community or Department of Defense, but to augment those capabilities, perhaps at the current locations of those schools.

GUANTANAMO BAY INTERROGATION EFFORT

The Committee is very concerned that the intelligence collection effort at Guantanamo Bay (GITMO) is exhibiting, in a microcosm, a number of problems that have plagued the Intelligence Community writ large over a number of years. Specifically, the problems highlighted include shortages of analytic resources, linguists, interrogators and human intelligence officers. Interagency cooperation has also, at times, been an issue. Finally, and perhaps most troublesome, is the low priority and low regard that the intelligence mission is afforded.

The Committee has closely followed the Department of Defense (DoD) and Intelligence Community's (IC) planning, establishment and conduct of the intelligence interrogation efforts at the GITMO detention facilities. The Committee's concerns are focused specifically on the need to collect actionable intelligence for national security. The IC and DoD must ensure that any and all actionable intelligence that may aid in averting potential terrorist attacks is gained. If problems in doing so exist, they must be corrected quickly. Once before the start of the detainee interrogations and twice

since the interrogations have been underway the Committee sent delegations to visit the GTMO operations. The Committee observed that the interrogation efforts have been hampered by a lack of appropriate training, a dearth of language-skilled personnel, and a lack of depth and breadth of analytic expertise. Further, the Committee notes that the organizational construct of the GITMO detention facilities/operations may also be impeding collection efforts. A full discussion of these issues is included in the classified annex to this report.

NSA'S "BUY VERSUS MAKE" POLICY

Some time ago, the Director of NSA directed that NSA emphasize buying SIGINT capabilities versus developing them internally. This directive specified that, within 60 days, a detailed policy would be issued outlining related procedures. Nearly two years later the "buy versus make" policy was issued, stating that "NSA will give first consideration to buying products, services and capabilities," and that NSA will maintain "strategic stronghold" expertise necessary to understand target use of technologies." This "strategic stronghold" includes 32 separate activities that encompass virtually all SIGINT mission functions, including broad categories like basic and applied research and advanced technology development. The current policy allows NSA to develop capabilities in-house whenever "strategic stronghold" categories have no commercial industry skills base or whenever "the NSA/CSS Strategic Stronghold must be maintained." The Committee believes that, unfortunately, the Agency has repeatedly used a liberal interpretation to find that no skills reside in industry, when, in fact, expertise does reside in industry. This allows for a continued emphasis on in-house developments. The Committee firmly believes there are niche areas that indeed need to be maintained as strategic strongholds. However, most other categories include technologies and functions that are routinely developed or done in industry and often for other intelligence agencies.

The DIRNSA has repeatedly assured the Committee that NSA would be emphasizing buying capabilities versus making them in-house. However, the implementation of the current "buy versus make" policy appears to justify far too many in-house acquisition activities. The perception is that the current policy was written by NSA management to actually perpetuate in-house development. In fact, there is little evidence that would suggest otherwise. For example, the hiring statistics presented by the DIRNSA at the first year 2003 budget hearing showed that NSA continues to hire more computer scientists and engineers than any other skill category. The Committee continues to believe that the institution of an aggressive "buy versus make" policy would result in the availability of billets in critical mission areas.

The Committee therefore requests that the Intelligence Community's System Acquisition Executive (SAE) and the Assistant Secretary of Defense (Command, Control, Communications and Intelligence) review NSA's Buy versus Make Policy and provide a report to the intelligence and defense authorization committees by 30 December 2002. This review should include a comparison of NSA's policy with similar policies at other intelligence and defense agencies, and should provide recommendations for change.

DOD'S SIGINT ARCHITECTURE

The Committee maintains that it is the responsibility of the Assistant Secretary of Defense for Command Control Communication and Intelligence (ASD(C3I)) to provide guidance, management and technical oversight, and to establish policy and practices for the Department of Defense (DoD) and its components on all aspects of information exchange networks, surveillance, warning and reconnaissance architectures, and data information systems standardization programs, particularly with respect to their readiness to support military operations.

The Committee notes that the National Security Agency is charged with the operational control and the authority for the development of prescriptive uniform techniques and standards by which Signals Intelligence (SIGINT) information is collected, processed, and reported.

The Committee is concerned that the ASD(C3I) and the NSA have been deficient in their duties to the DoD, and its components, in the execution of their roles to create a cohesive SIGINT architecture. There appears to be insufficient support by both principals for establishing collective practices and for promoting coordinated efforts and cross-service oversight of joint intelligence surveillance and reconnaissance SIGINT activities.

This concern was noted in the report accompanying the National Defense Authorization Act for Fiscal Year 2002. This report identified specific instances, including the impact of the termination of the Joint SIGINT Avionics Family's (JSAF) Low-band Sub System (LBSS) on relying on this program to fulfill the Services' low frequency SIGINT needs. The Act has also identified significant problems in systems that are incompatible and not interoperable within the DoD's current architectures, and directed the Secretary of the Air Force (SECAF), in his capacity an acquisition executive, to prepare a report on non-space SIGINT system architecture planning by May 31, 2002. The Congress still awaits this report.

The Committee instructs ASD(C3I) and the NSA to consider the findings of the SECAF's report, along with any other credible service inputs observed, as an expert assessment of current process and available technologies, and their abilities to fulfill the urgent need for non-proprietary, software definable, open and commercially based standards in which to establish an overall DoD SIGINT architecture.

The Committee acknowledges that the Services have acquisition authority under Title X, U.S.C. subject to the guidance and direction of ASD(C3I), and under the expertise of the NSA of the SIGINT functional manager. ASD(C3I) has an oversight function; and the Committee believes the service systems are to be built by the services based on specific mission/platform needs, but in strict compliance with standards and technical architectures designed and promulgated by NSA.

Therefore, the Committee directs the ASD(C3I) and the NSA establish a SIGINT architecture that is evolutionary in nature. This architectural strategy shall be well conceived, efficient and economical and based on practical, generally accepted standards used throughout industry and the military. The architecture shall be

flexible enough to accommodate changes as technology improves and as mission-specific requirements evolve.

The Committee directs that this initiative be delivered to the congressional defense and intelligence committees by 31 May 2003. The Committee expects interim briefings so the status of this high interest project can be monitored.

GLOBAL HAWK

The Committee is very concerned about the management and cost growth of the Global Hawk endurance UAV program. This program was originally justified to the Congress as a \$10 million per copy collection platform that could be put in harm's way and potentially lost to hostile fire without endangering pilots. Over the last several years, however, the program has undergone a metamorphosis. Instead of an "attritable" platform with austere avionics, this has become an expensive system. The Air Force has proposed integrating costly sensor suites that are robust and highly reliable, and has proposed that the aircraft operate according to the air-space navigation and management standards applicable to manned aircraft. These changes have made the platform, quite simply, too expensive to risk losing, and it must therefore be considered, like the U-2, a standoff collection system that needs to be protected. Once this threshold was crossed, the requirements and acquisition process began to feed on itself: an expensive standoff collector requires higher fidelity, longer-range and wide-area sensors. As a result, new missions are proposed, which in turn require higher-capacity communications for data relay. The more costly platform should be protected and therefore equipped with a defensive electronics suite, and so on—all of which drive up the cost of the system even further. Today, a \$10 million per copy Global Hawk platform has become at least a \$30–40 million aircraft, and the cost will increase substantially further as additional and improved sensors, and corresponding power/payload upgrades, are added. In fact, the Air Force projects that the average total unit cost (including all program costs) will exceed \$75 million per copy.

During the initial Global Hawk development, the program was conducted as an Advanced Concept Technology Demonstration. At that time, the platform clearly had limited capabilities (power levels, payload, sensor performance, communications relay capacity, long mission planning times, reliability, and so forth). Despite this limited capability, there were repeated, irresponsible assertions that the Global Hawk would "soon" replace the U-2. In fact, elements within the Defense Department, without careful analysis, proposed direct funding trades between the development Global Hawk and the operational U-2 that provides critical support to warfighters. In some sense, the Committee sees some of this same inadequate planning, but from the opposite perspective: there is now an effort to flood the Global Hawk program with money, there are ad hoc plans for rapid, major upgrades before requirements have been established, and no sign of serious examination of where and how Global Hawk fits into an overall collection architecture. As noted elsewhere in this report, to cite but one example, DoD has taken no serious steps to be able to relay and process the huge amounts of data from Global Hawk, or to process, exploit, and dis-

seminate all the data that a fleet of 51 Global Hawks with highly capable sensors will generate.

The Committee has complained for years that the Defense Department has suffered from an acute shortage of airborne collection systems. The Committee understands the Department's eagerness to address the shortage by investing heavily in the Global Hawk program and transforming it into a highly capable collection system. But the Committee is concerned that the Department is engaged in this process on an ad hoc basis, without a clear idea of what is to be produced and at what cost. The Committee is not persuaded that the Department, in its rush to identify transformational possibilities, has made the case for a complete makeover of the Global Hawk system in the space of a few years. Moreover, the Committee notes that the historical genesis of the Global Hawk program was intertwined in an agreement by the Congress to a DoD request to terminate the SR-71 reconnaissance aircraft. The Congress agreed to the SR-71 termination based on the DoD's promise of a replacement aircraft that would provide, as did the SR-71, a long-range aircraft that could penetrate hostile airspace with impunity. This was the 'survivable, penetrating aircraft' concept. The Global Hawk program was to provide the long-range portion of that replacement. However, the DoD terminated the Dark Star UAV that would have provided the survivable, penetrating reconnaissance role. Therefore, even with a successful Global Hawk air vehicle, the survivable, penetrating reconnaissance mission remains unfilled.

Finally, the Committee is concerned that some cost growth in the program is not attributable solely to increases in capability and production volume. The Committee notes, with approval, efforts by the Assistant Secretary of the Air Force for Acquisition to methodically investigate ways to reduce the costs of the Global Hawk air vehicle. The Committee notes that these efforts can only be successful if the constantly evolving mission issues addressed above are dealt with effectively. If the Under Secretary's efforts result in a re-baselining of the Global Hawk program, the Committee suggests that the process must be thorough and include a comprehensive, but achievable set of requirements, that can result in well-structured production of a militarily useful aircraft. The Committee must note that if the cost of the air vehicle continues to escalate, making mission accomplishment tenuous, the Secretary of Defense will have to be accountable to making the necessary decisions as to continuing the program or replacing it with other existing alternatives.

SECTION-BY-SECTION ANALYSIS AND EXPLANATION

TITLE I—INTELLIGENCE ACTIVITIES

Section 101—Authorization of appropriations

Section 101 lists the departments, agencies, and other elements of the United States Government for whose intelligence and intelligence-related activities the Act authorizes appropriations for fiscal year 2003.

Section 102—Classified schedule of authorizations

Section 102 makes clear that the details of the amounts authorized to be appropriated for intelligence and intelligence-related activities and applicable personnel ceilings covered under this title for fiscal year 2003 are contained in a classified Schedule of Authorizations. The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President.

Section 103—Personnel ceiling adjustments

Section 103 authorizes the Director of Central Intelligence (DCI), with the approval of the Director of the Office of Management and Budget (OMB), in fiscal year 2003 to authorize employment of civilian personnel in excess of the personnel ceilings applicable to the components of the Intelligence Community under section 102 by an amount not to exceed two percent of the total of the ceilings applicable under section 102. The DCI may exercise this authority only if necessary to the performance of important intelligence functions. Any exercise of this authority must be reported to the intelligence committees of the Congress.

Section 104—Community Management Account

Section 104 authorizes appropriations for the Community Management Account (CMA) of the DCI and sets the personnel end-strength for the Community Management staff for fiscal year 2003.

Subsection (a) authorizes appropriations in the amount of \$176,179,000 for fiscal year 2003 for the activities of the CMA of the DCI. Subsection (a) also authorizes funds identified for the Advanced Research and Development Committee to remain available for two years.

Subsection (b) authorizes 350 full-time personnel for elements within the CMA for fiscal year 2003 and provides that such personnel may be permanent employees of the CMA element or detailed from other elements of the United States Government.

Subsection (c) authorizes additional appropriations and personnel for the CMA as specified in the classified Schedule of Authorizations.

Subsection (d) requires that, except as provided in Section 113 of the National Security Act of 1947, personnel from another element of the United States Government be detailed to an element of the CMA on a reimbursable basis, or for temporary situations of less than one year on a non-reimbursable basis.

Subsection (e) authorizes \$34,100,000 of the amount authorized in subsection (a) to be made available for the National Drug Intelligence Center (NDIC). Subsection (e) requires the DCI to transfer these funds to the Department of Justice to be used for NDIC activities under the authority of the Attorney General, and subject to section 103(d)(1) of the National Security Act.

Section 105—Authorization of emergency supplemental appropriations for fiscal year 2002

Section 105 authorizes intelligence and intelligence-related activities funded within the FY2002 Emergency Supplemental Act and the FY2002 Defense Department Appropriations bill that is now under congressional consideration.

Perhaps the most disturbing budgetary trend in the United States intelligence community is its increasing reliance on supplemental appropriations. In fairness, Congress began the current round of supplemental largess with a sizeable intelligence supplemental in fiscal year 1998. The practice has been continued in the succeeding years, primarily to address additional intelligence spending to address terrorist threats. However, in any sustained crisis action, there comes a point where short-term practices must be phased out and long-term strategic plans put into place.

The “advantage” of the supplemental appropriations process to the intelligence community is that the process can address pressing budgetary demands in a shorter time (and with fewer Administration and Congressional bureaucratic hurdles) than the regular process. However, by continuing to rely on supplemental appropriations year after year, the intelligence community risks fostering a budget process that is ripe for abuse and long-term funding gaps.

Abuse of the process comes mainly in the form of redundant budget requests. The committee has noted many places in the fiscal year 2003 budget requests where specific items have been “funded” two or even three times, especially in the Department of Defense activities under the Joint Military Intelligence and the tactical Intelligence and Related Activities programs. These two programs had funding lines that appeared as duplicative entries in the FY02 supplemental, the President’s request for FY03 and the Defense Emergency Response Fund FY01, FY02, and FY03. While the Committee recognizes the Administration was under significant time pressure to compile these budget requests, there should have been special effort to methodically review them before they were submitted to Congress.

One potential complicating factor for the Administration and the Department of Defense is the creation of the Defense Emergency Response Fund (or DERF). The DERF was originally created to pay for emergency items that arise during the war on terrorism. However, it has been increasingly obvious that the DERF has turned into just another vehicle to fund items that the intelligence community did not get through the regular budget and planning process. The Committee does not believe the DERF is an appropriate source for intelligence community funding.

A subtler, yet no less problematic set of issues arises when programs are forced to rely on supplemental funding for core mission support. This is increasingly the case for those intelligence community operations supporting the war on terrorism. The Committee acknowledges the war’s dynamic environment, and the day-to-day adjustments to intelligence operations that this war requires. But the intelligence community’s apparent lack of a long-term, strategic planning effort is troubling.

The committee directs that the Secretary of Defense and the Director of Central Intelligence fully fund all anticipated intelligence activities in their fiscal year 2004 budget requests.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND
DISABILITY SYSTEM

Section 201—Authorization of appropriations

Section 201 authorizes appropriations in the amount of \$351,300,000 for fiscal year 2003 for the Central Intelligence Agency Retirement and Disability Fund. The Administration has proposed legislation requiring agencies, beginning in FY 2003, to fully fund the accruing cost of retirement benefits for individuals in the Civil Service Retirement System, CIARDS, and other federal retirement systems. The legislation also would require agencies to pay the full accruing cost of post-retirement health benefits for current civilian employees and the post retirement health costs of all retirees (and their dependents/survivors) of the Uniformed Service. \$129 million of the \$139.3 million increase from the FY 2002 authorization level represents the additional funds CIA will require to meet these requirements within the CIARDS program.

TITLE III—GENERAL PROVISIONS

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

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

Section 302—Restriction on conduct of intelligence activities

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

Section 303—Sense of the Congress regarding Intelligence Community contracting

Section 303 is a Sense of the Congress provision to encourage the Intelligence Community to maximize the procurement of US-made products.

Section 304—Semiannual reports on financial intelligence on terrorist assets (FITA)

Section 304 of the bill, establishing an ongoing notification procedure with respect to Financial Intelligence on Terrorist Assets (FITA), is intended to assure timely Congressional oversight of national security-related financial enforcement actions by the executive branch, and is meant to mirror the reporting practices followed under the Foreign Intelligence Surveillance Act (FISA).

On a semiannual basis, the Secretary of Treasury shall provide the intelligence committees, together with the Committee on Financial Services of the House of Representatives and the Senate Banking Committee and the Senate and House Appropriations Committees, a report setting forth with respect to the preceding six-month period: (1) the total number of asset seizures, designations, and other actions against individuals or entities found to

have engaged in financial support for terrorism; (2) the total number of applications for asset seizure and designation of individuals or entities suspected of having engaged in financial support of terrorist activities, that were granted, modified, or denied; (3) the total number of physical searches of offices, residences, or financial records of individuals or entities suspected of financial support for terrorist activity; and, (4) whether the financial intelligence information seized in these cases has been shared on a full and timely basis with all departments, agencies, and other entities of the United States Government involved in intelligence activities in the Foreign Terrorist Asset Tracking Unit (FTAT).

Although the Committee anticipates that the semiannual FITA reports will better inform its understanding of the actions of the Foreign Terrorist Asset Tracking Unit and of the FTAT's participating agencies in the US intelligence and law enforcement communities, the Committee is also requiring enhanced notification procedures concerning urgent financial intelligence actions of the executive branch, including covert actions and intelligence activities other than covert actions, which are derived from financial intelligence on terrorist assets and fundraising activities.

Section 305—Modification of excepted agency voluntary leave transfer authority

Section 305 amends section 6339 of title 5, United States Code, to permit the head of an “excepted agency” to establish a voluntary leave transfer program for employees of such agency. This program would permit employees of the excepted agency to transfer accrued or accumulated annual leave to, or receive transferred leave from, employees of different agencies. Currently, employees of certain “excepted agencies”—i.e., the Central Intelligence Agency (CIA), Defense Intelligence Agency (DIA), National Security Agency (NSA), FBI, National Imagery and Mapping Agency (NIMA), and, when designated by the President, any other agency whose primary mission is the conduct of foreign intelligence or counterintelligence—are not permitted to participate in interagency leave sharing programs. This restriction often places unnecessary restrictions on employees who may wish to transfer leave to a qualified employee at another agency, or vice versa. This provision permits the head of an excepted agency to establish an interagency leave-sharing program. Any such program must be consistent, to the extent practicable and with due regard for the protection of intelligence sources and methods, with applicable laws and regulation governing similar programs. Regardless of the discretionary decision to establish an interagency leave-sharing program, an excepted agency must still maintain an intra-agency program for an employee to transfer leave to or receive leave from an employee in the same agency.

Section 306—Additional one-year suspension of reorganization of Diplomatic Telecommunications Service Program Office

Section 306 extends the effective date of the suspension authorized in Section 311 of the Intelligence Authorization Act for Fiscal Year 2002 (Pub. L. No. 107–108 (Dec. 28, 2001)). Section 311 of the Intelligence Authorization Act for Fiscal Year 2002 suspended the provision of the Intelligence Authorization Act for Fiscal Year 2001

(22 U.S.C. 7301 et seq.) that required reorganization of the Diplomatic Telecommunications Service Program Office (DTS-PO). This provision extends the suspension until October 1, 2003.

Section 307—Prohibition on compliance with requests for information submitted by foreign governments

Section 307 amends 5 U.S.C. 552(a)(3)(A), with respect to elements of the Intelligence Community, by limiting the application of this paragraph of the Freedom of Information Act (FOIA) such that agencies would be prohibited from complying with the requests of foreign governments or their representatives to make records available. Section 307 prohibits making records available “under this paragraph” (i.e. under 5 U.S.C. 552(a)(3), rather than “under this section” (i.e. 5 U.S.C. 552). It is the Committee’s intent to not restrict making records available under 552(a)(1) or (2), since first, those matters are in the nature of general public records that are widely available, and second, it might be difficult or impractical to restrict their availability to the public.

As currently structured, FOIA provides to any person a broad right of access to declassified Intelligence Community records, whatever the purpose of his or her request. As a result, foreign persons and governments (including those that may support or participate in terrorist activities) have generated requests that require a significant commitment of Intelligence Community resources to process. CIA estimates that requests from foreign governments and foreign nationals comprise approximately 10 percent of the FOIA requests received annually based on the last three years. From FY 1999 through FY 2001, these foreign government FOIA requests increased at the rate of one percent per annum. Elements of the Intelligence Community are required by law to process these requests without regard to the nationality of the individual making the request. Because elements of the Intelligence Community routinely handle classified national security information, the resources required to perform the painstaking, line-by-line reviews necessary to ensure the proper protection of such classified information are substantial. This section will prevent the diversion of the Intelligence Community’s limited declassification resources for this purpose.

Section 308—Cooperative relationship between the National Security Education Program and the Foreign Language Center of the Defense Language Institute

Section 308 encourages an enhanced cooperative relationship between the National Security Education Program and the Defense Language Institute Foreign Language Center.

Section 308 authorizes the Foreign Language Center of the Defense Language Institute to provide instruction on a space-available basis to recipients of scholarships and fellowships of the National Security Education Program (NSEP) as a Department of Defense sponsored program. Award recipients may apply a portion of their applicable scholarship or fellowship award at the Center to defray the additive instructional costs of their attendance. Award recipients must be in good standing; have completed all academic study in a foreign country, as provided for under their NSEP scholarship or fellowship; and be able to benefit from the instruction provided at the Center.

Section 308 is intended to improve national foreign language capabilities and enhance cooperative efforts among federal programs. The Foreign Language Center of DLI provides intensive language instruction in a large number of foreign languages, primarily to members of the United States armed forces. The NSEP is focused on promoting the study of foreign cultures and foreign languages critical to the national security interests of the United States. The authority provided in this section should provide flexibility of benefit to each program, and enhance the development of national security professionals and foreign area experts with high levels of foreign language proficiency.

The Committee anticipates that only a very small number of NSEP recipients would attend the FLCDLI over the course of a year. NSEP recipients are only to be admitted to a position in a language course at the FLC when there is no Department of Defense civilian or military personnel available to take that position in that course at the Center. NSEP recipients are to receive no preference for space in FLC instructional programs over Department of Defense civilian and military personnel.

Section 309—Establishment of National Flagship Language Initiative within the National Security Education Program

Section 309 authorizes \$10 million for the National Security Education Program, established pursuant to the David L. Boren National Security Education Act of 1991, to establish a National Flagship Language Initiative whereby institutions of higher learning would be awarded grants to establish, operate or improve activities designed to train students in programs in a range of disciplines to achieve advanced levels of proficiency in those foreign languages that the Secretary identifies as being the most critical in the interests of the national security of the United States.

The Committee is strongly interested in improving the quality and availability of advanced language education and training to support U.S. national security requirements. The Committee urges that the National Security Education Program apply rigorous standards and metrics to ensure that the NSEP's participating academic institutions are regularly evaluated by language training experts in the Defense Department and the Intelligence Community to ensure that the training provided by these institutions meets the U.S. Government's language standards. Students who have been awarded scholarships or fellowships under the NSEP would be eligible to participate in the activities carried out under the National Flagship Language Initiative. The Committee intends that Flagship Initiative grants be awarded competitively according to rigorous standards. The Defense Language Institute and other institutions of higher education that are operated by the Department of Defense and by agencies of the Intelligence Community are specifically authorized to participate in the Flagship program. The Committee intends that these institutions be treated equally in the grant competition process.

Under current law, in selecting recipients of awards of scholarships, fellowships or grants, the Secretary or contracting organizations that administer aspects of the program are to take into consideration the extent to which program participants reflect the cultural, racial and ethnic diversity of the population of the United

States, as well as an equitable geographic distribution. This requirement is especially important as the National Security Education Program evolves to face the new national security challenges of the 21st century.

The intelligence community shares in a government-wide problem of insufficient language and area expertise among officials working on national security and foreign policy issues. Government is not alone: American multinational corporations and non-governmental organizations also do not have the people with the language abilities and cultural exposure that are needed.

The problem stems from at least three larger societal challenges: general international isolation of the majority of the American population, limited study abroad beyond Western Europe, and limited foreign language study.

First, according to 2000 Census data, 82% of the US population of 255 million people speaks only English. There are very few US households where languages critical for supporting US national security are spoken. For example, only 0.23%, or 596,000 of the US population, speaks Arabic at home, 0.13% for Hindi, 0.11% for Urdu, 0.09% for Serbo-Croatian, 0.27% for Russian, 0.18% for Japanese, and 0.78% for Chinese.

Second, less than 1% (about 144,000 in calendar year 2000) of all US students in higher education study abroad. Study abroad program data also show that US students historically have not studied in areas that are emerging as critical to national security. In 2000, 60% of US study abroad students studied in Western Europe. Less than 2.9% studied in the Middle East (a mere 4,100 students, with 3,900 of these studying in Israel). 2.7% studied in Africa (3,900 students), and 6% in Asia (8,800, with 5,600 of these in China and Japan).

Third, modern foreign language class registrations in US higher education are down from a high in 1965 of 16.5 foreign language class registrations per 100 overall class registrations to 7.9 registrations per 100 in 1998. Spanish accounts for 55% of foreign language registrations, while Arabic accounts for 0.5% (5,500 registrations), Chinese for 2.4% (28,000), and Russian for 2% (24,000).

Some promising trends nevertheless are apparent. The number of US students studying abroad doubled from 1994 to 2000, and a higher percentage are studying in non-European countries than in the past. Foreign language enrollments in universities grew by 5% in the late 1990s, and critical languages are seeing increases in enrollments. For example, Arabic language enrollments increased by 24% and Chinese by 8% in the late 1990s. Preliminary statistics from the National Security Education Program (NSEP) indicate that post-September 11th undergraduate applications to the program are up more than 50% and graduate applications up by 33%. Moreover, among NSEP applicants, Arabic and Chinese show the largest rise in proposed languages for study among undergraduates, and almost one of four graduate applicants proposes to study in the Middle East.

The US government needs to do all it can both to encourage foreign language and area expertise and to utilize this expertise in the service of national security and foreign policy. The NSEP uniquely facilitates these goals. The bill also supports developing additional foreign language and area expertise across the intel-

ligence community. It adds funds within the intelligence community to improve language training, provide additional linguists, enhance incentive pay for language training, and support language-related advanced research and development. The bill also adds funds for curriculum development and infrastructure at the Defense Language Institute.

Section 310—Deadline for submittal of various overdue reports

The Committee is increasingly concerned about the DCI's ability to properly facilitate congressional oversight activities. This community-wide reporting and coordination problem has been repeatedly identified to the Intelligence Community's leadership, yet little has been done to correct the IC's poor performance in fulfilling its responsibility to fully and currently inform the Congressional oversight committees.

During the past year, various components of the Intelligence Community have not provided Congress with coordinated responses for numerous Congressionally Directed Actions (CDAs). Although the Committee understands the Intelligence Community's argument that wartime requirements have hampered its ability to respond to CDAs, such responses have not been limited to the period following the 11 September terrorist attacks. The Office of the DCI, the Community Management Staff (CMS), the CIA's Office of General Counsel (OGC), and the CIA's Office of Congressional Affairs (OCA) have been unable to fulfill the Intelligence Community's legally mandated CDA reporting requirements during the past year.

The Committee recognizes there has been an increase in reporting requirements since 1990, and is willing to engage with the IC's leadership on the number and scope of CDAs once the Intelligence Committees have received the CDA reports that are required by law and overdue. Among the issues that should be discussed are: (1) consolidation of CDAs addressing related subject matter (for example, numerous CDAs cover China, proliferation, and terrorism); (2) repeal of outdated CDAs; (3) more realistic CDA deadlines; (4) replacing semiannual reporting deadlines with annual due dates; (5) annual sunseting of CDAs in the intelligence authorization bill to ensure continuing Member interest in the subject matter; (6) greater programmatic and financial details in the annual Congressional Budget Justification Books (CBB); and (7) submission of the Intelligence Community's annual legislative proposal in conjunction with the CBBs in February of each year.

To address these Intelligence Community-wide reporting and coordination deficiencies, the Committee recommends a fence of 33% of available funds against each of the following offices six months after enactment of this legislation: (1) Office of the DCI; and (2) the Office of the Community Management Staff. The reports referred to in this section are reports mandated by law for which the DCI has sole or primary responsibility to prepare or coordinate and submit to Congress, which, as of the date of enactment, have not been submitted to Congress by the date mandated by law. The fences will be lifted when the DCI certifies in writing to the committees that all overdue reports specified in Section 310 are completed. The SSCI has also addressed this issue in substantial detail in its bill and has also made recommendations to force compliance with the CDA reporting requirements.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

Section 401—Two-year extension of Central Intelligence Agency Voluntary Separation Pay Act

Section 401 extends the CIA Voluntary Separations Pay Act (VSPA) for two years, to September 30, 2005.

CIA has used CIA VSPA authority over the past several years to restructure and “re-skill” its workforce to support the Strategic Direction that the DCI has outlined. The use of incentives, and early-outs, has contributed greatly to CIA efforts to re-tool the workforce for the challenges of the 21st century and is a critical tool in providing the DCI the flexibility to adapt the workforce as priorities change. The changes in the workforce required to support the DCI’s direction have an impact on a number of areas within the CIA. Authority to offer separation incentives to targeted groups of employees, therefore, remains important to the success of CIA restructuring. Data from the CIA’s exit survey indicate that the separation incentive pay has accelerated the departure of employees in targeted groups.

Of continuing importance is the ability to redirect middle and senior level management positions in the Directorate of Intelligence and the Directorate of Science and Technology. Reductions in managerial ranks will make available positions for senior substantive experts in the analysis and technology fields. Separation incentive authority will substantially assist in achieving this transition without serious adverse impact on the managerial workforce.

Section 402—Prohibition on implementation of Intelligence Community compensation reform plans

CIA’s proposed compensation reform proposal appears to be causing more anxiety in CIA’s workforce than any other recent Agency administrative issue. Although the reform plans’ authors have performed a useful service in identifying deficiencies of the GS system and proposing some much-needed solutions, there has been insufficient discussion and input on the compensation reform plan outside senior management circles. Rank and file employees are by no means convinced that a “market-based” compensation system is a perfect fit in an organization whose be-all and end-all is service to the American people, not profits for “the firm” or its individual employees.

Reform is nevertheless overdue. The current pay system inadequately rewards its most skilled and productive members, inadequately motivates its least productive members, and encourages individuals with sorely needed special skills to take management positions, in order to advance in the ranks and increase their income. Skilled professionals are hard to find and make in any profession—especially in the arcane disciplines of the intelligence profession. Retention of skills, and skilled employees, can be improved by compensation reform. The Committee commends the compensation plan’s authors for recognizing the skill retention problem and proposing a remedy. Like CIA, NSA’s leadership has developed a somewhat similar compensation reform proposal and is moving toward full implementation of this approach.

To give the CIA and NSA compensation reform projects more transparency and to ensure that there is full and informed partici-

pation by their respective workforces, the Committee prohibits the implementation of any compensation reform plan within the Intelligence Community until such plans have been specifically authorized by statute.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

Section 501—Use of funds for counter-drug and counter-terrorism activities for Colombia

Section 501 authorizes the use of funds designated for intelligence and intelligence-related purposes for assistance to the Government of Colombia for counter-drug activities for fiscal years 2002 and 2003 (and any unobligated funds designated for such purposes from prior years) to be utilized to support a unified campaign against narcotics trafficking and against activities by organizations designated as terrorist organizations (such as the Revolutionary Armed Forces of Colombia (FARC, the National Liberation Army (ELN), and the United Self Defense Forces of Colombia (AUC)), and to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue actions.

During the past year, Members of the Committee who have visited Colombia have become increasingly troubled that the effectiveness of U.S. policy in Colombia has been undermined by restrictions on what activities in the field are allowed under current law and policy. The Committee is concerned that the Intelligence Community lacks the necessary legal authority to prosecute the Global War On Terrorism against the FARC, the AUC, and the ELN in Colombia effectively and expeditiously. Just as the FARC, the AUC, and the ELN have improved their capabilities to conduct terrorist operations in Colombia and elsewhere in the Andean Region, the Intelligence Community needs to have additional tools and strategies to deal with this growing threat to our hemisphere's security. The Administration should give serious consideration to developing new policy guidance to reflect current conditions in Colombia, and should provide appropriate support to U.S. intelligence efforts in Colombia.

Section 501 is intended to be consistent with similar language included in the FY 2002 Defense Department supplemental appropriations bill under consideration by the Congress to enhance the legal authorities of the Departments of State and Defense with respect to their activities in Colombia. This language is intended to similarly enhance the legal authorities needed by the Intelligence Community to appropriately support U.S. policy objectives in Colombia.

Section 502—Protection of operational files of the National Reconnaissance Office

Section 502 allows the Secretary of Defense, in coordination with the DCI, to exempt certain operational files of the National Reconnaissance Office (NRO) from search and review under the FOIA. The bill would allow exemptions for files concerning the activities of the NRO that document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems. This exemption would also require a decennial review

under rules and procedures similar to those governing operational files of the CIA.

Section 503—Eligibility of employees in intelligence senior level positions for Presidential Rank Awards

Section 503 would make Intelligence Senior Level employees eligible for Presidential Rank Awards, as are senior career employees under section 4507a of title 5, United States Code.

Section 4507 of title 5, United States Code, authorizes the President to award the rank of either Meritorious Executive or Distinguished Executive career appointee. Similarly, section 1606 of title 10, United States Code, which provides for the establishment of a Defense Intelligence Senior Executive Service, authorizes the President to award these ranks to members of the Defense Intelligence Senior Executive Service. Such awards are an important means of recognizing sustained extraordinary accomplishment, and they represent a valuable management tool for motivating and recognizing truly exceptional performers among senior career employees.

Public Law 107-67 makes senior career employees, including Senior Level employees, eligible for these rank awards. Given that Congress has extended eligibility to senior career employees, the same should be extended to Intelligence senior-level employees and managers. This section makes Intelligence Senior Level employees and managers eligible for the Presidential Rank Awards, similar to that which was recently done for senior career employees.

COMMITTEE POSITION AND RECORDED VOTES TAKEN

On May 15, 2002, in open session, a quorum being present, the Permanent Select Committee on Intelligence, by a recorded vote of 16 ayes to 0 noes, approved the bill, H.R. 4628, as amended. By that vote, the committee ordered the bill reported favorably to the House. On that vote, the Members present recorded their votes as follows: Mr. Goss (Chairman)—aye; Mr. Bereuter—aye; Mr. Castle—aye; Mr. Boehlert—aye; Mr. Gibbons—aye; Mr. LaHood—aye; Mr. Hoekstra—aye; Mr. Burr—aye; Mr. Chambliss—aye; Ms. Pelosi—aye; Mr. Bishop—aye; Ms. Harman—aye; Mr. Condit—aye; Mr. Roemer—aye; Mr. Reyes—aye; Mr. Boswell—aye.

FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT REFORM

With respect to clause 3(c)(4) of rule XIII of the House of Representatives, the committee is not subject to this requirement; therefore, the committee has not received a report from the Committee on Government Reform pertaining to the subject of this bill.

OVERSIGHT FINDINGS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the committee held various hearings and numerous briefings on the classified budgetary issues raised by H.R. 4628. Testimony was taken from senior officials of the Central Intelligence Agency, the National Security Agency, the Defense Intelligence Agency, the Federal Bureau of Investigation, the National Reconnaissance Office, the National Imagery and Mapping Agency, the Department of Defense, the Department of State, the

Department of Treasury, the Department of Justice, and the Department of Transportation regarding the activities and plans of the Intelligence Community covered by the provisions and authorizations, both classified and unclassified, of the Intelligence Authorization Act for Fiscal Year 2003. The bill, as reported by the committee, reflects conclusions reached by the committee in light of this oversight activity.

FISCAL YEAR COST PROJECTIONS

The committee has attempted, pursuant to clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, to ascertain the outlays that will occur in fiscal year 2003 and the five years following, if the amounts authorized are appropriated. These estimates are contained in the classified annex and are in accordance with those of the Executive Branch.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

HOUSE OF REPRESENTATIVES,
PERMANENT SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, May 16, 2002.

Mr. DAN L. CRIPPEN,
Director, Congressional Budget Office,
Washington, DC.

DEAR MR. CRIPPEN: In compliance with the Rules of the House of Representatives, I am writing to request a cost estimate of H.R. 4628, the "Intelligence Authorization Act for Fiscal Year 2003," pursuant to sections 308 and 403 of the Congressional Budget Act of 1974. I have attached a copy of the bill as approved by the House Permanent Select Committee on Intelligence on April 15, 2002.

As I hope to bring this legislation to the House floor in the very near term, I would very much appreciate an expedited response to this request by the CBO's staff. Should you have any questions related to this request, please contact Christopher Barton, the Committee's Chief Counsel. Thank you in advance for your assistance with this request.

Sincerely,

PORTER J. GOSS,
Chairman.

Attachment.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 20, 2002.

Hon. PORTER J. GOSS,
Chairman, Permanent Select Committee on Intelligence,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As you requested, the Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4628, the Intelligence Authorization Act for Fiscal Year 2003.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Schmit.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 4628—Intelligence Authorization Act for Fiscal Year 2003

Summary: H.R. 4628 would authorize appropriations for fiscal year 2003 for intelligence activities of the United States government, the Intelligence Community Management Account, and the Central Intelligence Agency Retirement and Disability System (CIARDS).

This estimate addresses only the unclassified portion of the bill. On that limited basis, CBO estimates that implementing certain provisions of the bill would cost \$221 million over the 2003–2007 period, assuming appropriation of the necessary funds. CBO cannot estimate the direct spending effects of H.R. 4628 because the data necessary for an estimate are classified.

H.R. 4628 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 4628 is shown in the following table. CBO cannot obtain the necessary information to estimate the costs for the entire bill because parts are classified at a level above clearances held by CBO employees. For purposes of this estimate, CBO assumes that the bill will be enacted by October 1, 2002, and that the necessary amounts will be appropriated for fiscal year 2003. Estimated outlays are based on historical spending patterns. The costs of this legislation fall within budget function 050 (national defense).

ESTIMATED SPENDING SUBJECT TO APPROPRIATION FOR H.R. 4628

	By fiscal year, in millions of dollars—					
	2002	2003	2004	2005	2006	2007
INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT						
Spending Under Current Law for the Intelligence:						
Community Management Account:						
Budget Authority ¹	161	0	0	0	0	0
Estimated Outlays	166	63	14	2	0	0
Proposed Changes:						
Authorization Level	0	176	0	0	0	0
Estimated Outlays	0	110	53	9	3	0
Spending Under H.R. 4628 for the Intelligence:						
Community Management Account:						
Authorization Level ¹	161	176	0	0	0	0
Estimated Outlays	166	173	67	11	3	0
NATIONAL SECURITY EDUCATION TRUST FUND						
Spending Under Current Law for the National:						
Security Education Trust Fund:						
Budget Authority ²	8	8	8	8	9	9
Estimated Outlays	8	8	8	8	9	9
Proposed Changes:						
Authorization Level	0	10	10	10	10	10
Estimated Outlays	0	6	10	10	10	10

ESTIMATED SPENDING SUBJECT TO APPROPRIATION FOR H.R. 4628—Continued

	By fiscal year, in millions of dollars—					
	2002	2003	2004	2005	2006	2007
Spending Under H.R. 4628 for the National:						
Security Education Trust Fund:						
Estimated Authorization Level ²	8	18	18	18	19	19
Estimated Outlays	8	14	18	18	19	19
SUMMARY OF CHANGES IN SPENDING SUBJECT TO APPROPRIATION ³						
Authorization Level ¹	0	186	10	10	10	10
Estimated Outlays	0	116	63	19	13	10

¹The 2002 level is the amount appropriated for that year.

²The 2002 level is the amount appropriated for that year. The current law amounts for the 2003–2007 period assume appropriations remain at the 2002 level with adjustments for inflation.

³In addition to effects on spending subject to appropriation, H.R. 4628 would affect direct spending. However, CBO cannot estimate the total direct spending effects because the necessary data are classified.

Spending subject to appropriation: H.R. 4628 would authorize appropriations of \$176 million for the Intelligence Community Management Account, which funds the coordination of programs, budget oversight, and management of the intelligence agencies. The bill also would earmark \$34 million for the National Drug Intelligence Center from the funds authorized for the Intelligence Community Management Account. Finally, H.R. 4628 would authorize an additional \$10 million a year beginning in 2003 for the National Security Education Trust Fund. These funds would be used to carry out the National Flagship Language Initiative, which would be established under section 309 of the bill to improve higher education in foreign languages that the Secretary of Defense identifies as most critical to the interests of the national security of the United States.

Direct spending and revenues: The bill would authorize \$351 million for CIARDS to cover retirement costs attributable to military service and various unfunded liabilities. The payment to CIARDS is considered mandatory. The CBO budget baseline currently includes only \$223 million for these payments. The additional \$128 million authorized in this bill would be used to implement an Administration proposal that federal agencies pay the full cost of benefits for their employees as such benefits accrue. That change would depend on the enactment of other legislation. The additional \$128 million would be an intergovernmental transfer and would have no effect on the budget.

Section 401 would extend the authority of the CIA to offer incentive payments to employees who voluntarily retire or resign. The authority, which will expire on September 30, 2003, would be extended through fiscal year 2005. Section 401 also would require the CIA to make a deposit to the Civil Service Retirement and Disability Fund equal to 15 percent of final pay for each employee who accepts an incentive payment. Although the timing of agency payments and the additional benefit payments would not match on a yearly basis, CBO believes that these deposits would be sufficient to cover the cost of any long-term increase in benefits that would result from induced retirements. CBO cannot provide a precise estimate of the direct spending effects because the data necessary for an estimate are classified.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act set up pay-as-you-go procedures for legislation affecting direct spending or receipts. CBO cannot estimate

the precise direct spending effects of section 401 because the necessary data are classified.

Intergovernmental and private-sector impact: H.R. 4628 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Previous CBO estimates: On May 16, 2002, CBO transmitted a cost estimate for the unclassified portion of S. 2506, the Intelligence Authorization Act for Fiscal Year 2003, as reported by the Senate Select Committee on Intelligence on May 13, 2002. The differences in the estimated costs reflect differences in the bills. In particular, H.R. 4628 would authorize \$176 million for the Intelligence Community Management Account, while S. 2506 would authorize \$158 million for that account. H.R. 4628 would also authorize \$10 million a year for the National Flagship Language Initiative. In addition, H.R. 4628 would authorize \$351 million for CIARDS, while S. 2506 would authorize only \$223 million for the account. The additional \$128 million authorized for CIARDS by H.R. 4628 would be used to implement an administration proposal that federal agencies pay the full cost of benefits for their employees as such benefits accrue.

Estimate prepared by: Federal costs: Matthew Schmit; impact on state, local, and tribal governments: Elyse Goldman; impact on the private sector: Zachary Seldon.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis.

COMMITTEE ON ARMED SERVICES,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 18, 2002.

Hon. PORTER J. GOSS,
*Chairman, Permanent Select Committee on Intelligence,
House of Representatives.*

DEAR MR. CHAIRMAN: I understand the Permanent Select Committee on Intelligence has recently ordered reported H.R. 4628, the Intelligence Authorization Act for Fiscal Year 2003. The bill addresses subject matter that falls within the legislative jurisdiction of the Committee on Armed Services pursuant to House Rule X.

In recognition of your committee's desire to bring this legislation expeditiously before the House of Representatives, the Committee on Armed Services will forego a request for sequential referral of the bill. This action in no way alters the Committee on Armed Services' jurisdiction over the provisions in question, and the committee will seek the appointment of conferees during any conference on the bill.

Thank you for your continued assistance in working through the many issues of shared jurisdiction and interest, and I look forward to supporting H.R. 4628 on the House floor.

Sincerely,

BOB STUMP,
Chairman.

COMMITTEE COST ESTIMATES

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

SPECIFIC CONSTITUTIONAL AUTHORITY FOR CONGRESSIONAL ENACTMENT OF THIS LEGISLATION

The intelligence and intelligence-related activities of the United States government are carried out to support the national security interests of the United States, to support and assist the armed forces of the United States, and to support and assist the armed forces of the United States, and to support the President in execution of the foreign policy of the United States. Article 1, section 8 of the Constitution of the United States provides, in pertinent part, that

“Congress shall have power * * * to pay the debts and provide for the common defense and general welfare of the United States; * * *”; “to raise and support Armies, * * *” “to provide and maintain a Navy; * * *” and “to make all laws which shall be necessary and proper for carrying into execution * * * all other powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.” Therefore, pursuant to such authority, Congress is empowered to enact this legislation.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) 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):

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

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* * * * *

Sec. 118. Semiannual report on financial intelligence on terrorist assets.
* * * * *

TITLE I—COORDINATION FOR NATIONAL SECURITY

* * * * *

PROTECTION OF OPERATIONAL FILES OF THE NATIONAL
RECONNAISSANCE OFFICE

SEC. 105D. (a) EXEMPTION OF CERTAIN OPERATIONAL FILES FROM SEARCH, REVIEW, PUBLICATION, OR DISCLOSURE.—(1) The Director of the National Reconnaissance Office, with the coordination of the Director of Central Intelligence, may exempt operational files of the National Reconnaissance Office from the provisions of section 552 of title 5, United States Code, which require publication, disclosure, search, or review in connection therewith.

(2)(A) Subject to subparagraph (B), for the purposes of this section, the term “operational files” means files of the National Reconnaissance Office (hereafter in this section referred to as “NRO”) that document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems.

(B) Files which are the sole repository of disseminated intelligence are not operational files.

(3) Notwithstanding paragraph (1), exempted operational files shall continue to be subject to search and review for information concerning—

(A) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5, United States Code;

(B) any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code; or

(C) the specific subject matter of an investigation by any of the following for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity:

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

(ii) The Select Committee on Intelligence of the Senate.

(iii) The Intelligence Oversight Board.

(iv) The Department of Justice.

(v) The Office of General Counsel of NRO.

(vi) The Office of the Director of NRO.

(4)(A) Files that are not exempted under paragraph (1) which contain information derived or disseminated from exempted operational files shall be subject to search and review.

(B) The inclusion of information from exempted operational files in files that are not exempted under paragraph (1) shall not affect the exemption under paragraph (1) of the originating operational files from search, review, publication, or disclosure.

(C) The declassification of some of the information contained in exempted operational files shall not affect the status of the operational file as being exempt from search, review, publication, or disclosure.

(D) Records from exempted operational files which have been disseminated to and referenced in files that are not exempted under paragraph (1) and which have been returned to exempted operational files for sole retention shall be subject to search and review.

(5) The provisions of paragraph (1) may not be superseded except by a provision of law which is enacted after the date of the enact-

ment of this section, and which specifically cites and repeals or modifies its provisions.

(6)(A) Except as provided in subparagraph (B), whenever any person who has requested agency records under section 552 of title 5, United States Code, alleges that NRO has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code.

(B) Judicial review shall not be available in the manner provided for under subparagraph (A) as follows:

(i) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by NRO, such information shall be examined *ex parte*, *in camera* by the court.

(ii) The court shall, to the fullest extent practicable, determine the issues of fact based on sworn written submissions of the parties.

(iii) When a complainant alleges that requested records are improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission based upon personal knowledge or otherwise admissible evidence.

(iv)(I) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, NRO shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsible records currently perform the functions set forth in paragraph (2).

(II) The court may not order NRO to review the content of any exempted operational file or files in order to make the demonstration required under subclause (I), unless the complainant disputes NRO's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

(v) In proceedings under clauses (iii) and (iv), the parties may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36.

(vi) If the court finds under this paragraph that NRO has improperly withheld requested records because of failure to comply with any provision of this subsection, the court shall order NRO to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code, and such order shall be the exclusive remedy for failure to comply with this subsection.

(vii) If at any time following the filing of a complaint pursuant to this paragraph NRO agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

(viii) Any information filed with, or produced for the court pursuant to clauses (i) and (iv) shall be coordinated with the Director of Central Intelligence prior to submission to the court.

(b) *DECENNIAL REVIEW OF EXEMPTED OPERATIONAL FILES.*—(1) Not less than once every 10 years, the Director of the National Reconnaissance Office and the Director of Central Intelligence shall review the exemptions in force under subsection (a)(1) to determine whether such exemptions may be removed from the category of exempted files or any portion thereof. The Director of Central Intelligence must approve any determination to remove such exemptions.

(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

(3) A complainant that alleges that NRO has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

(A) Whether NRO has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on the date of the enactment of this section or before the expiration of the 10-year period beginning on the date of the most recent review.

(B) Whether NRO, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.

* * * * *

SEMIANNUAL REPORT ON FINANCIAL INTELLIGENCE ON TERRORIST
ASSETS

SEC. 118. (a) *SEMIANNUAL REPORT.*—On a semiannual basis, the Secretary of the Treasury (acting through the head of the Office of Intelligence Support) shall submit a report to the appropriate congressional committees (as defined in subsection (c)) that fully informs the committees concerning operations against terrorist financial networks. Each such report shall include with respect to the preceding six-month period—

(1) the total number of asset seizures, designations, and other actions against individuals or entities found to have engaged in financial support of terrorism;

(2) the total number of applications for asset seizure and designations of individuals or entities suspected of having engaged in financial support of terrorist activities, that were granted, modified, or denied;

(3) the total number of physical searches of offices, residences, or financial records of individuals or entities suspected of having engaged in financial support for terrorist activity; and

(4) whether the financial intelligence information seized in these cases has been shared on a full and timely basis with the all departments, agencies, and other entities of the United States Government involved in intelligence activities participating in the Foreign Terrorist Asset Tracking Unit (managed and coordinated by the Counterterrorism Center of the Central Intelligence Agency).

(b) *IMMEDIATE NOTIFICATION FOR EMERGENCY DESIGNATION.*—In the case of a designation of an individual or entity, or the assets of an individual or entity, as having been found to have engaged in terrorist activities, the Secretary of the Treasury shall report such designation within 24 hours of such a designation to the appropriate congressional committees.

(c) *DEFINITION.*—In this section, the term “appropriate congressional committees” means the following:

(1) *The Permanent Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Financial Services of the House of Representatives.*

(2) *The Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Banking, Housing, and Urban Affairs of the Senate.*

* * * * *

TITLE V—ACCOUNTABILITY FOR INTELLIGENCE ACTIVITIES

GENERAL CONGRESSIONAL OVERSIGHT PROVISIONS

SEC. 501. (a) * * *

* * * * *

(f) As used in this section, the term “intelligence activities” includes covert actions as defined in section 503(e), and includes financial intelligence activities.

* * * * *

TITLE 5, UNITED STATES CODE

* * * * *

PART I—THE AGENCIES GENERALLY

* * * * *

CHAPTER 5—ADMINISTRATIVE PROCEDURE

* * * * *

SUBCHAPTER II—ADMINISTRATIVE PROCEDURE

* * * * *

§ 552. Public information; agency rules, opinions, orders, records, and proceedings

(a) Each agency shall make available to the public information as follows:

(1) * * *

* * * * *

(3)(A) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, and except as provided in subparagraph (E), each agency, upon any request for records which (i) reasonably describes such records and (ii) is made in accordance with published rules stating the time, place, fees (if any), and pro-

cedures to be followed, shall make the records promptly available to any person.

* * * * *

(E) An agency, or part of an agency, that is an element of the intelligence community (as that term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))) shall not make any record available under this paragraph to—

(i) any government entity, other than a State, territory, commonwealth, or district of the United States, or any subdivision thereof; or

(ii) a representative of a government entity described in clause (i).

* * * * *

PART III—EMPLOYEES

* * * * *

Subpart E—Attendance and Leave

* * * * *

CHAPTER 63—LEAVE

* * * * *

SUBCHAPTER III—VOLUNTARY TRANSFERS OF LEAVE

* * * * *

§ 6339. Additional leave transfer programs

(a) * * *

* * * * *

[(b) Notwithstanding any other provision of this subchapter, neither an excepted agency nor any individual employed in or under an excepted agency may be included in a leave transfer program established under any of the preceding provisions of this subchapter.]

[(c)] (b)(1) * * *

(2) To the extent practicable, and consistent with the protection of intelligence sources and methods (if applicable), each program [under this section] under this subsection shall be established—

(A) * * *

* * * * *

(c)(1) Notwithstanding any provision of subsection (b), the head of an excepted agency may, at his sole discretion, by regulation establish a program under which an individual employed in or under such excepted agency may participate in a leave transfer program established under the provisions of this subchapter outside of this section, including provisions permitting the transfer of annual leave accrued or accumulated by such employee to, or permitting such employee to receive transferred leave from, an employee of any other agency (including another excepted agency having a program under this subsection).

(2) To the extent practicable and consistent with the protection of intelligence sources and methods, any program established under paragraph (1) shall be consistent with the provisions of this subchapter outside of this section and with any regulations issued by the Office of Personnel Management implementing this subchapter.

(d) The Office **[of Personnel Management]** shall provide the head of an excepted agency with such advice and assistance as the head of such agency may request in order to carry out the purposes of this section.

* * * * *

SECTION 311 OF THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2002

SEC. 311. [ONE-YEAR] TWO-YEAR SUSPENSION OF REORGANIZATION OF DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.

Notwithstanding any provision of subtitle B of title III of the Intelligence Authorization Act for Fiscal Year 2001 (Public Law 106-567; 114 Stat. 2843; 22 U.S.C. 7301 et seq.), relating to the reorganization of the Diplomatic Telecommunications Service Program Office, no provision of that subtitle shall be effective during the period beginning on the date of the enactment of this Act and ending on October 1, **[2002] 2003**.

* * * * *

DAVID L. BOREN NATIONAL SECURITY EDUCATION ACT OF 1991

* * * * *

SEC. 802. SCHOLARSHIP, FELLOWSHIP, AND GRANT PROGRAM.

(a) PROGRAM REQUIRED.—

(1) IN GENERAL.—The Secretary of Defense shall carry out a program for—

(A) * * *

(B) awarding fellowships to graduate students who—

(i) * * *

(ii) pursuant to subsection (b)(2)(B), enter into an agreement to work in a national security position or work in the field of education in the area of study for which the fellowship was awarded; **[and]**

(C) awarding grants to institutions of higher education to enable such institutions to establish, operate, or improve programs in foreign languages, area studies, counterproliferation studies, and other international fields that are critical areas of those disciplines (as determined under section 803(d)(4)(C))**[.]**; and

(D) awarding grants to institutions of higher education to carry out a *National Flagship Language Initiative* (described in subsection (i)).

(2) FUNDING ALLOCATIONS.—Of the amount available for obligation out of the National Security Education Trust Fund for

any fiscal year for the purposes stated in paragraph (1), the Secretary shall have a goal of allocating—

(A) * * *

* * * * *

The funding allocation under this paragraph shall not apply to grants under paragraph (1)(D) for the National Flagship Language Initiative described in subsection (i). For the authorization of appropriations for the National Flagship Language Initiative, see section 811.

* * * * *

(h) USE OF AWARDS TO ATTEND THE FOREIGN LANGUAGE CENTER OF THE DEFENSE LANGUAGE INSTITUTE.—(1) The Secretary shall provide for the admission of award recipients to the Foreign Language Center of the Defense Language Institute (hereinafter in this subsection referred to as the “Center”). An award recipient may apply a portion of the applicable scholarship or fellowship award for instruction at the Center on a space-available basis as a Department of Defense sponsored program to defray the additive instructional costs.

(2) Except as the Secretary determines necessary, an award recipient who receives instruction at the Center shall be subject to the same regulations with respect to attendance, discipline, discharge, and dismissal as apply to other persons attending the Center.

(3) In this subsection, the term “award recipient” means an undergraduate student who has been awarded a scholarship under subsection (a)(1)(A) or a graduate student who has been a fellowship under subsection (a)(1)(B) who—

(A) is in good standing;

(B) has completed all academic study in a foreign country, as provided for under the scholarship or fellowship; and

(C) would benefit from instruction provided at the Center.

(i) NATIONAL FLAGSHIP LANGUAGE INITIATIVE.—(1) Under the National Flagship Language Initiative, institutions of higher learning shall establish, operate, or improve activities designed to train students in programs in a range of disciplines to achieve advanced levels of proficiency in those foreign languages that the Secretary identifies as being the most critical in the interests of the national security of the United States.

(2) An undergraduate student who has been awarded a scholarship under subsection (a)(1)(A) or a graduate student who has been awarded a fellowship under subsection (a)(1)(B) may participate in the activities carried out under the National Flagship Language Initiative.

(3) An institution of higher education that receives a grant pursuant to subsection (a)(1)(D) shall give special consideration to applicants who are employees of the Federal Government.

(4) For purposes of this subsection, the Foreign Language Center of the Defense Language Institute and any other educational institution that provides training in foreign languages operated by the Department of Defense or an agency in the intelligence community is deemed to be an institution of higher education, and may carry out the types of activities permitted under the National Flagship Language Initiative.

SEC. 803. NATIONAL SECURITY EDUCATION BOARD.

(a) * * *

* * * * *

(d) FUNCTIONS.—The Board shall perform the following functions:

(1) * * *

* * * * *

(4) After taking into account the annual analyses of trends in language, international, area, and counterproliferation studies under section 806(b)(1), make recommendations to the Secretary regarding—

(A) * * *

* * * * *

(C) which areas within the disciplines described in section 802(a)(1)(C) are areas in which United States students, educators, and Government employees are deficient in learning and in which insubstantial numbers of United States institutions of higher education provide training and are, therefore, critical areas within those disciplines for the purposes of that section; **[and]**

(D) how students desiring scholarships or fellowships can be encouraged to work for an agency or office of the Federal Government involved in national security affairs or national security policy upon completion of their education~~].~~; *and*

(E) *which foreign languages are critical to the national security interests of the United States for purposes of section 802(a)(1)(D) (relating to grants for the National Flagship Language Initiative).*

* * * * *

SEC. 811. ADDITIONAL ANNUAL AUTHORIZATION OF APPROPRIATIONS.

(a) *IN GENERAL.*—*In addition to amounts that may be made available to the Secretary under the National Security Education Trust Fund (under section 804 of this Act) for a fiscal year, there is authorized to be appropriated to the Secretary for each fiscal year, beginning with fiscal year 2003, \$10,000,000, to carry out the grant program for the National Flagship Language Initiative under section 802(a)(1)(D).*

(b) *AVAILABILITY OF APPROPRIATED FUNDS.*—*Amounts appropriated pursuant to the authorization under subsection (a) shall remain available until expended.*

**SECTION 2 OF THE CENTRAL INTELLIGENCE AGENCY
VOLUNTARY SEPARATION PAY ACT**

SEC. 2. SEPARATION PAY.

(a) * * *

* * * * *

(f) TERMINATION.—No amount shall be payable under this section based on any separation occurring after September 30, ~~2003~~ 2005.

* * * * *

(i) REMITTANCE OF FUNDS.—The Director shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund (in addition to any other payments which the Director is required to make under subchapter III of chapter 83 and subchapter II of chapter 84 of title 5, United States Code), an amount equal to 15 percent of the final basic pay of each employee who, in fiscal year 1998, 1999, 2000, 2001, 2002, ~~or 2003~~ 2003, 2004, or 2005, retires voluntarily under section 8336, 8412, or 8414 of such title or resigns and to whom a voluntary separation incentive payment has been or is to be paid under this section. The remittance required by this subsection shall be in lieu of any remittance required by section 4(a) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 8331 note).

* * * * *

SECTION 1607 OF TITLE 10, UNITED STATES CODE

§ 1607. Intelligence Senior Level positions

(a) * * *

* * * * *

(c) AWARD OF RANK TO EMPLOYEES IN INTELLIGENCE SENIOR LEVEL POSITIONS.—*The President, based on the recommendations of the Secretary of Defense, may award a rank referred to in section 4507a of title 5 to employees in Intelligence Senior Level positions designated under subsection (a). The award of such rank shall be made in a manner consistent with the provisions of that section.*