

Bar Association (IABA), which was charged with overall responsibility for the IABA committee's activities in Chile and throughout the Americas.

And finally, in March of 1997, he both chaired and organized a major conference in Argentina on "Development, the Environment and Dispute Resolution in the Americas"—which incidentally was the first such American Bar Association program ever run in South America.

Mr. President, we in the Senate have the solemn responsibility of ensuring that those Americans we send abroad to represent our nation and her interests are individuals of the highest character and most outstanding qualifications. Today, we have before us a nominee who fulfills those criteria most ably. I met with Mr. O'Leary prior to his confirmation hearing and that meeting only confirmed what I have already stated—that I believe him to be an outstanding choice for Ambassador. He is a man of intellect and integrity, who knows how to work with people and knows how to get things done.

Mr. President, I am pleased that the Senate is about to act to confirm John O'Leary as our next Ambassador to Chile. It is a decision I believe all of my colleagues will be proud that we made.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1999

Mr. LOTT. I ask unanimous consent that the Armed Services Committee be discharged from further consideration of S. 2052 and the Senate proceed to its consideration. This is the intelligence authorization bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2052) to authorize appropriations for fiscal year 1999 for intelligence and intelligence related activities for the U.S. government and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. SHELBY. Mr. President, I rise in strong support of S. 2052, the Intelligence Authorization Act for Fiscal Year 1999, to authorize appropriations for intelligence-related activities and programs of the United States Government. This important legislation was reported favorably out of the Committee on May 7, 1998, by unanimous vote, consistent with the long-standing, bipartisan nature of the Select Committee on Intelligence.

Following receipt of the President's budget, the Select Committee undertook a thorough review of the budget request for intelligence for fiscal year 1999. That review was informed, in part, by several hearings and briefings as well as the findings and recommendations of a group of outside experts—known as the Technical Advi-

sory Group—that the distinguished Vice Chairman of the Committee, Senator KERREY, and I tasked last December to address key questions facing the Community.

In addition, the Committee staff recently completed indepth audits and reviews of the use of "cover" by the Central Intelligence Agency and the administration of the Foreign Intelligence Surveillance Act of 1978. These reviews and audits led to Committee action with respect to the authorities, applicable laws, and budget of the activity or program concerned.

As a product of these reviews, the Committee came to some rather startling and disconcerting conclusions about the overall health and direction of the Intelligence Community. For example:

First, the CIA's foremost mission of providing timely intelligence based on human sources ("HUMINT") is in grave jeopardy. CIA case officers today do not have the training or the equipment needed to keep their true identities hidden, to communicate covertly with agents, or to plant sophisticated listening devices and other collection tools that will provide timely intelligence on an adversary's intentions.

Second, what many see as the "crown jewel" of U.S. Intelligence—the National Security Agent's SIGINT capability—likewise is in dire need of modernization. The digital and fiber-optic revolutions are here-and-now, but NSA is still predominantly oriented toward Cold War-era threats. The Director of NSA, Lieutenant General Kenneth Minihan, has recommended major changes in how NSA performs its vital mission—changes our Committee endorses—but these changes were not reflected in the President's budget request.

Third, promising technologies and systems for detecting missiles and other threats have been short-changed in the budget request. Likewise, robust funding for new tools for conducting information warfare, new sensors to detect and counter proliferation, and moving to smaller and cheaper satellites to support the war-fighter are not included in the budget request.

And fourth, the quality of analysis within the Intelligence Community is poor and getting worse. Responding to the failure to predict the Indian nuclear tests, the Director of Central Intelligence commissioned retired Admiral David Jeremiah to review what went wrong and why. Among other findings, Admiral Jeremiah concluded that intelligence community analysts were complacent; they based their analyses on faulty assumptions; and engaged in wishful thinking. It is my belief that such is the state of analysis as it relates to many issues and problems, including political-military developments in China, the ballistic missile threat, and more. We can and should expect more from the Intelligence Community.

The Intelligence Community has been forced by budgetary pressures to

choose between funding current operations (such as Bosnia) and investing in the future. This is the case even after personnel reductions of over 20 percent in the Intelligence Community have been made over the past decade. In many ways, then, the problem confronting U.S. Intelligence is similar to that confronting the Department of Defense: How to pay for the necessary investments in future, "winning-edge" capabilities when the policymakers emphasize current operations? And, equally important, how to sustain the quality of life and skills-level of personnel who are already stretched thin by high operations tempo and lengthy overseas deployments?

To address these challenges, Senator KERREY and I tasked the staff to find and cut any and all poorly justified or redundant programs out of the budget. And, in fact, significant cuts were made to a wide range of lower-priority intelligence programs and activities. If it was poorly justified, redundant, or low-priority, then we cut it. These actions are entirely consistent with our oversight responsibilities, and the American people would expect no less.

The Select Committee then took those funds and applied them against the highest priority intelligence needs and targets. Earlier this year, Senator KERREY and I prepared intelligence budget guidance to direct the staff's budget work. That guidance emphasized the need for strengthened investment in areas such as advanced research and development, counter-proliferation, counter-terrorism, counter-narcotics, personnel training, information operations, effective covert action, and enhanced analysis. These are precisely the areas the Committee has historically supported and the keys to future intelligence successes—whether to support military commanders, policymakers in Washington, or American diplomats.

This approach of cutting low-priority projects and redirecting those funds into high-payoff, futuristic technologies and systems, is fiscally responsible and reflects the need for difficult choices in an era of scarce resources.

This budget is full of tough choices. For example, the Committee recommended cutting certain "legacy" programs and activities at NSA in order to pay for the collection systems and processes of the future, as recommended in General Minihan's study of the future SIGINT architecture needs (the "Unified Cryptologic Architecture"). Likewise, the Committee recommended cutting the number of CIA contractors, and reduced spending on costly infrastructure programs.

None of these actions were easy—and in fact I am concerned that the Select Committee may have cut the intelligence budget too deeply in order to reach agreement with the Senate Armed Services Committee. That being said, this legislation is sound, it is balanced, and it is worthy of strong bipartisan support.

My colleagues and the American people must come to understand that to save lives on the battlefield, to preclude terrorist attacks against Americans, to root out spies in our midst, and to give diplomats the information they need to forestall conflict in the first place, we need an effective, revitalized Intelligence Community. And that it is precisely what the Intelligence Authorization Act seeks to do.

In summary, the Select Committee made the tough choices. We cut programs in order to invest in the future. We concluded that the intelligence budget can be cut, but it must be done in a careful, precise way, and based on specific programmatic recommendations. And we did it in a fully bipartisan manner.

I applaud and appreciate the efforts of the Vice Chairman of the Committee, Senator KERREY from Nebraska, and all the Members of the Committee, who labored long and hard on this bill. It is one of the most important pieces of legislation this body will consider this year, and I urge its passage.

Pursuant to the unanimous consent agreement, the Armed Services Committee has been discharged from consideration of the Intelligence Authorization Bill. Although the Chairman of the Armed Services Committee and I had previously agreed that the Armed Services Committee would not report the Intelligence Authorization Bill until three days following completion of Senate Floor consideration of the

Defense Authorization Bill, the Chairman of the Armed Services Committee has informed me that his committee has completed its review of the Intelligence Authorization Bill and does not recommend any amendments. We agree that it is appropriate for the Senate to consider the intelligence Authorization Bill at this time. We also agree, however, that this unanimous consent agreement to discharge the Armed Services Committee from further review of the Intelligence Authorization Bill will not serve as a precedent for requiring the Armed Services Committee to report future Intelligence Authorization Bills until it has had an adequate amount of time to review such legislation.

I ask unanimous consent to have printed in the RECORD the cost estimate for the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 14, 1998.

Hon. RICHARD C. SHELBY,
Chairman, Select Committee on Intelligence,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2052, the Intelligence Authorization Act for Fiscal Year 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Dawn Sauter, who can be reached at 226-2840.

Sincerely,
JUNE E. O'NEILL,
Director.

Enclosure.

S. 2052: INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1999, AS REPORTED BY THE SENATE SELECT COMMITTEE ON INTELLIGENCE ON MAY 7, 1998

SUMMARY

S. 2052 would authorize appropriations for fiscal year 1999 for intelligence activities of the United States government, the 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 enacting S. 2052 would result in additional spending of \$174 million over the 1999-2003 period, assuming appropriation of the authorized amounts. The unclassified portion of the bill would affect direct spending; thus, pay-as-you-go procedures would apply. However, CBO cannot give a precise estimate of the direct spending effects because data to support a cost estimate are classified.

The Unfunded Mandates Reform Act of 1995 (UMRA) excludes from application of the act legislative provisions that are necessary for the national security. CBO has determined that all of the provisions of this bill either fit within that exclusion or do not contain intergovernmental or private-sector mandates as defined by UMRA.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of the unclassified portions of S. 2052 is shown in the following table. CBO is unable to 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. The costs of this legislation fall within budget function 050 (national defense).

	By fiscal year, in millions of dollars—					
	1998	1999	2000	2001	2002	2003
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law for the Community Management Account:						
Budget Authority ¹	94	0	0	0	0	0
Estimated Outlays	104	36	7	2	0	0
Proposed Changes:						
Authorization Level	0	174	0	0	0	0
Estimated Outlays	0	108	52	10	3	0
Spending Under S. 2052 for the Community Management Account:						
Authorization Level ²	94	174	0	0	0	0
Estimated Outlays	104	144	59	12	3	0
CHANGES IN DIRECT SPENDING						
Estimated Budget Authority	0	0	(2)	(2)	(2)	(2)
Estimated Outlays	0	0	(2)	(2)	(2)	(2)

¹ The 1998 level is the amount appropriated for that year.

² CBO cannot give a precise estimate of direct spending effects because data to support a cost estimate are classified.

The bill would authorize appropriations of \$174 million for the Community Management Account. In addition, the bill would authorize \$202 million for CIARDS to cover retirement costs attributable to military service and various unfunded liabilities. The payment to CIARDS is considered mandatory, and the authorization under this bill would be the same as assumed in the CBO baseline.

Section 401 of the bill would extend the CIA's authority to offer incentive payments to employees who voluntarily retire or resign. This authority, which is currently scheduled to expire at the end of fiscal year 1999, would be extended through fiscal year 2001. Section 401 would also require the CIA to make a deposit to the Civil Service Trust Fund equal to 15 percent of final pay for each employee who accepts an incentive payment. CBO estimates that these payments would amount to less than \$5 million. We believe that these deposits would be sufficient to cover the cost of any long-term increase in benefits that would result from induced retirements, although the timing of the agency

payments and the additional benefit payments would not match on a yearly basis. CBO cannot provide a precise estimate of the direct spending effects because the data necessary for an estimate are classified.

Section 501 of the bill would require the President to inform certain federal employees and contract employees that they may disclose classified and unclassified information to Congressional oversight committees if they believe that information provides direct and specific evidence of wrongdoing. CBO estimates that the costs of implementing section 501 would not be significant because the number of employees covered by the bill would be small and the cost associated with each notice would be minimal.

For purposes of this estimate, CBO assumes that S. 2052 will be enacted by October 1, 1998, and that the full amounts authorized will be appropriated for fiscal year 1999. Outlays are estimated according to historical spending patterns for intelligence programs.

PAY-AS-YOU-GO CONSIDERATIONS

Section 401 of the bill would affect direct spending, and therefore the bill would be subject to pay-as-you-go procedures. CBO cannot estimate the precise direct spending effects because the necessary data are classified.

INTERGOVERNMENTAL AND PRIVATE SECTOR IMPACT

The Unfunded Mandates Reform Act of 1995 (UMRA) excludes from application of the act legislative provisions that are necessary for the national security. CBO has determined that all of the provisions of this bill either fit within that exclusion or do not contain intergovernmental or private-sector mandates as defined by UMRA.

PREVIOUS CBO ESTIMATE

On May 5, 1998, CBO issued an estimate for H.R. 3694, the Intelligence Authorization Act for Fiscal Year 1999, as ordered reported by the House Permanent Select Committee on Intelligence. CBO estimated that section 401 of that bill would increase direct spending by

\$1 million or more in at least one year during the 2000-2003 period. Like section 401 in S. 2052, the provisions in H.R. 3694 would extend the CIA's authority to offer incentive payments to employees who voluntarily retire or resign. However, H.R. 3694 would not require the CIA to make a deposit equal to 15 percent of final pay to the Civil Service Trust Fund for each employee who receives an incentive payment. The bills also authorize different amounts of appropriations for the Community Management Account.

CBO prepared a cost estimate on February 25, 1998, for S. 1668, as reported by the Senate Select Committee on Intelligence on February 23, 1998. Section 501 of S. 2052 duplicates the provisions of S. 1668, a bill to encourage the disclosure to Congress of certain classified and related information. CBO's estimates for these provisions are identical.

Estimate prepared by

Federal Costs: Estimate for Voluntary Separation Pay: Eric Rollins (226-2820), and Estimate for Remaining Provisions: Dawn Sauter (226-2840).

Impact on State, Local, and Tribal Governments: Teri Gullo (225-3220).

Impact on the Private Sector: Bill Thomas (226-2900).

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

Mr. KERREY. Mr. President, I rise to urge my colleagues to support the Intelligence Authorization Bill. This bill is the product of the Intelligence Committee's efforts to match national intelligence resources and activities with today's and tomorrow's threats. Under Chairman SHELBY's leadership, the Committee has tried to move the Intelligence Community toward new technologies which address emerging threats like weapons proliferation, terrorism, and information operations, while at the same time keeping intelligence strong against the mature threats, such as Russian nuclear forces, which still can kill scores of millions of Americans.

Most of this bill is secret, contained in a classified annex available to all Members for review in S-407. However, it has been reported that the bill authorizes less money for intelligence programs than the President requested. I am not pleased with this outcome. But as the national security budgets are currently organized, the Intelligence Authorization bill must respond to larger Defense requirements. The dependent relationship of intelligence to defense is anachronistic, in my view, but it exists and Chairman SHELBY and I have worked with our colleagues on the Armed Services Committee to make the best of a bad budgetary situation for both Committees. Let me add, I am equally concerned that the Defense budget is skirting the level of inadequacy, especially with regard to our conventional forces. National security is the principal function of government, and we should fund it better.

The Intelligence Committee looked at the way intelligence is collected—through imagery, signals, human, and measurements and signatures—and saw mature technologies which have served America well for many years pitted

against revolutionary change in the collection environments. The Committee studied solutions to this imbalance. In addition to its own evaluation, the Committee gathered a group of outside scientific experts, including some who have had no previous connection to intelligence, to recommend solutions to our shortfalls in signals and human intelligence. This panel's recommendations are also reflected in this bill. So Chairman SHELBY and I have a strong basis in evidence for the new technologies and initiatives which would be authorized by this bill.

The recent nuclear tests in India brought accusations of "intelligence failure" in our media. In fact, I think the episode might be more accurately called a policy failure, but intelligence could certainly have done a better job. Director of Central Intelligence Tenet quickly tasked Admiral David Jeremiah to review the Intelligence Community's performance, and a summary of his recommendations have been declassified at the Committee's request.

The India nuclear case offers many lessons, but two are especially important to intelligence. The first is that the Director of Central Intelligence needs to run the national Intelligence Community to ensure agency efforts are focused and priorities across the individual agencies are clear. I am holding off on legislation to increase the DCI's management powers because new officials are in place in positions already created by Congress to help manage the Community better. I want to see what progress Deputy Director Joan Dempsey and her new Assistant Directors make in harnessing the DCI's existing powers, before Congress creates new ones. Congress and the American people hold the DCI accountable for these problems. We need the DCI to be in charge.

The second India lesson is the tendency to "mirror image", to assume Indians, in this case, would behave as we do. This tendency increases when there is unanimity among analysts and no one is asking contrarian questions. To insure such questions are always asked during the analysis of significant intelligence, Chairman SHELBY and I are offering an amendment today which, among other things, will require competitive analysis as an integral, routine part of the analytic process. The fundamental purpose of intelligence is to keep our policymakers and military commanders from being surprised. Competitive analysis should at least reduce the chance of surprise.

Finally, Mr. President, I understand Chairman SHELBY will introduce an amendment to name the CIA headquarters building after the only U.S. President who has also served as DCI, former President George Bush. While I am not enthusiastic about the current fad of naming things after living politicians, I make an exception in this case. In political terms, service as DCI carries considerable risk. Your apparent failures are big news, while your suc-

cesses are secret and the fruits of your leadership are harvested by your successor. But in peace or war, George Bush never calculated risks when there was an opportunity to serve his country, and I think he particularly relished the hardest tasks. Naming his old headquarters in his honor is a fitting tribute which I am proud to support.

Mr. President, I urge my colleagues to support this important bill, and I yield the floor.

AMENDMENTS NOS. 3051 THROUGH 3053, EN BLOC

Mr. LOTT. There are several manager amendments at the desk, and I ask they be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes amendments No. 3051 through 3053, en bloc.

The amendments agreed to en bloc are as follows:

AMENDMENT NO. 3051

(Purpose: To authorize the Assistant Director of Central Intelligence for Analysis and Production to direct competitive analysis of analytical products having National importance)

On page 11, between lines 18 and 19, insert the following:

SEC. 307. AUTHORITY TO DIRECT COMPETITIVE ANALYSIS OF ANALYTICAL PRODUCTS HAVING NATIONAL IMPORTANCE.

Section 102(g)(2) of the National Security Act of 1947 (50 U.S.C. 403(g)(2)) is amended—

(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(2) by inserting after subparagraph (C) the following new subparagraph (D):

“(D) direct competitive analysis of analytical products having National importance;”.

AMENDMENT NO. 3052

(Purpose: To require annual studies and reports on the safety and security of Russian nuclear facilities and nuclear military forces)

On page 11, between lines 18 and 19, insert the following:

SEC. 307. ANNUAL STUDY AND REPORT ON THE SAFETY AND SECURITY OF RUSSIAN NUCLEAR FACILITIES AND NUCLEAR MILITARY FORCES.

(a) ANNUAL STUDY.—The Director of Central Intelligence shall, on an annual basis, conduct a study of the safety and security of the nuclear facilities and nuclear military forces in Russia.

(b) ANNUAL REPORTS.—(1) The Director shall, on an annual basis, submit to the committees referred to in paragraph (4) an intelligence report assessing the safety and security of the nuclear facilities and nuclear military forces in Russia.

(2) Each report shall include a discussion of the following:

(A) The ability of the Russia Government to maintain its nuclear military forces.

(B) Security arrangements at civilian and military nuclear facilities in Russia.

(C) The reliability of controls and safety systems at civilian nuclear facilities in Russia.

(D) The reliability of command and control systems and procedures of the nuclear military forces in Russia.

(3) Each report shall be submitted in unclassified form, but may contain a classified annex.

(4) The committees referred to in paragraph (1) are the following:

(A) The Select Committee on Intelligence, Committee on Armed Services, and Committee on Foreign Relations of the Senate.

(B) The Permanent Select Committee on Intelligence, Committee on National Security, and Committee on International Relations of the House of Representatives.

AMENDMENT NO. 3053

(Purpose: Relating to a quadrennial intelligence review)

On page 11, between lines 18 and 19, insert the following:

SEC. 307. QUADRENNIAL INTELLIGENCE REVIEW.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Director of Central Intelligence and the Secretary of Defense should jointly complete, in 1999 and every 4 years thereafter, a comprehensive review of United States intelligence programs and activities;

(2) each review under paragraph (1) should—

(A) include assessments of intelligence policy, resources, manpower, organization, and related matters; and

(B) encompass the programs and activities funded under the National Foreign Intelligence Program (NFIP), the Joint Military Intelligence Program (JMIP), and the Tactical Intelligence and Related Activities (TIARA) accounts;

(3) the results of each review should be shared with the appropriate committees of Congress; and

(4) the Director, in conjunction with the Secretary, should establish a nonpartisan, independent panel (with members chosen in consultation with the committees referred to in subsection (b)(2) from individuals in the private sector) in order to—

(A) assess each review under paragraph (1);

(B) conduct an assessment of alternative intelligence structures to meet the anticipated intelligence requirements for the national security and foreign policy of the United States through the year 2010; and

(C) make recommendations to the Director and the Secretary regarding the optimal intelligence structure for the United States in light of the assessment under subparagraph (B).

(b) REPORT.—(1) Not later than August 15, 1998, the Director and the Secretary shall jointly submit to the committees referred to in paragraph (2) the views of the Director and the Secretary regarding—

(A) the potential value of conducting reviews as described in subsection (a)(1); and

(B) the potential value of assessments of such reviews as described in subsection (a)(4)(A).

(2) The committees referred to in paragraph (1) are the following:

(A) The Select Committee on Intelligence, Committee on Armed Services, and Committee on Appropriations of the Senate.

(B) The Permanent Select Committee on Intelligence, Committee on National Security, and Committee on Appropriations of the House of Representatives.

THE QUADRENNIAL INTELLIGENCE REVIEW

Mr. COATS. Mr. President, I strongly support an initiative to establish a Quadrennial Intelligence Review and an independent, nonpartisan National Intelligence Panel. This process can be modeled after the Military Force Structure Review Act of 1986 which passed the Senate by a unanimous vote of 100-0. This Act directed the Quadrennial Defense Review (QDR) and the Na-

tional Defense Panel (NDP) which conducted comprehensive reviews of all aspects of defense. These reviews have produced a much needed update of our defense strategy, a revised defense program, and a vibrant debate on the course of our defense capabilities.

I believe that a process of internal and external comprehensive review fashioned on this QDR and NDP model can be equally effective in the area of intelligence. I intend to work with the Committee to develop a provision establishing a Quadrennial Intelligence Review and an independent National Intelligence Panel for inclusion in the Intelligence Authorization Act for Fiscal Year 1999.

AMENDMENT NO. 3050

(Purpose: To provide for the designation of the Headquarters Building of the Central Intelligence Agency as the George Herbert Walker Bush Center for Central Intelligence)

Mr. LOTT. Mr. President, Senator SHELBY has an additional amendment at the desk and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for Mr. SHELBY, proposes an amendment numbered 3050.

Mr. LOTT. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, between lines 18 and 19, insert the following:

SEC. 307. DESIGNATION OF HEADQUARTERS BUILDING OF CENTRAL INTELLIGENCE AGENCY AS THE GEORGE HERBERT WALKER BUSH CENTER FOR CENTRAL INTELLIGENCE.

(a) DESIGNATION.—The Headquarters Building of the Central Intelligence Agency located in Langley, Virginia, shall be known and designated as the “George Herbert Walker Bush Center for Central Intelligence”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Headquarters Building referred to in subsection (a) shall be deemed to be a reference to the George Herbert Walker Bush Center for Central Intelligence.

“GEORGE HERBERT WALKER BUSH CENTER FOR CENTRAL INTELLIGENCE”

Mr. SHELBY. Mr. President, this Amendment will add a section to the Intelligence Authorization Act for Fiscal Year 1999 that will designate the headquarters building of the Central Intelligence Agency as the “George Herbert Walker Bush Center for Central Intelligence.”

I believe that this is a fitting tribute to a man that has had a remarkable and distinguished career in public service not only as President, but also as Vice President, Member of Congress, U.N. Ambassador, the Chief of the U.S. Liaison Office to the Peoples’ Republic of China, and Director of Central Intelligence.

President Bush, of course, is the only Director of Central Intelligence to become President of the United States.

I know that he has always been particularly proud of his tenure as the Director of Central Intelligence. I also know that he guided the Agency through a difficult time and continues to be held in high regard by not only CIA employees, but also the Intelligence Community at large.

Currently, the headquarters building at Langley does not have a formal name and this would be the only facility in the Washington, D.C. area named after President Bush. This amendment has been cleared on both sides and I urge its immediate adoption.

Mr. LOTT. Mr. President, I ask unanimous consent the amendment be agreed to and, further, a classified change be incorporated in the classified schedule of authorizations which has been available for all Members’ review.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3050) was agreed to.

Mr. LOTT. I ask unanimous consent that the bill be considered read the third time and the Intelligence Committee then be discharged from further consideration of H.R. 3694.

I further ask unanimous consent that the Senate proceed to its immediate consideration, all after the enacting clause be stricken, and the text of S. 2052, as amended, be inserted in lieu thereof. I ask consent that the bill be read the third time, and passed, the Senate insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees, and I ask unanimous consent that the statements related to the bill appear in the RECORD and S. 2052 be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3694), as amended, was considered read the third time, and passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 3694) entitled “An Act to authorize appropriations for fiscal year 1999 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.”, do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE*.—This Act may be cited as the “Intelligence Authorization Act for Fiscal Year 1999”.

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

Sec. 1. Short title; table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.

Sec. 102. Classified schedule of authorizations.

Sec. 103. Personnel ceiling adjustments.

Sec. 104. Community Management Account.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 201. Authorization of appropriations.

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. Extension of application of sanctions laws to intelligence activities.
- Sec. 304. Extension of authority to engage in commercial activities as security for intelligence collection activities.
- Sec. 305. Modification of National Security Education Program.
- Sec. 306. Technical amendments.
- Sec. 307. Authority to direct competitive analysis of analytical products having national importance.
- Sec. 308. Annual study and report on the safety and security of Russian nuclear facilities and nuclear military forces.
- Sec. 309. quadrennial intelligence review.
- Sec. 310. Designation of Headquarters Building of Central Intelligence Agency as the George Herbert Walker Bush Center for Central Intelligence.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

- Sec. 401. Extension of separation pay program for voluntary separation of CIA employees.
- Sec. 402. Additional duties for Inspector General of Central Intelligence Agency.

TITLE V—DISCLOSURE OF INFORMATION TO CONGRESS

- Sec. 501. Encouragement of disclosure of certain information to Congress.

TITLE VI—FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS

- Sec. 601. Pen registers and trap and trace devices in foreign intelligence and international terrorism investigations.
- Sec. 602. Access to certain business records for foreign intelligence and international terrorism investigations.
- Sec. 603. Conforming and clerical amendments.

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1999 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.

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, 1999, 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 conference report on the bill H.R. 3694 of the One Hundred Fifth 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 1999 under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed two percent of the number of civilian personnel authorized under such section for such element.

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

SEC. 104. COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) AUTHORIZATION.—There is authorized to be appropriated for the Community Management Account of the Director of Central Intelligence for fiscal year 1999 the sum of \$173,633,000.

(2) AVAILABILITY OF CERTAIN FUNDS.—Within such amount, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for the Advanced Research and Development Committee, the Advanced Technology Group, and the Environmental Intelligence and Applications Program shall remain available until September 30, 2000.

(b) AUTHORIZED PERSONNEL LEVELS.—The elements within the Community Management Account of the Director of Central Intelligence are authorized a total of 283 full-time personnel as of September 30, 1999. Personnel serving in such elements may be permanent employees of the Community Management Account element 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 is also authorized to be appropriated for the Community Management Account for fiscal year 1999 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, 2000.

(2) AUTHORIZATION OF PERSONNEL.—In addition to the personnel authorized by subsection (b) for elements of the Community Management Account as of September 30, 1999, there is hereby authorized such additional personnel for such elements as of that date as is 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 1999, any officer or employee of the United States or member of the Armed Forces who is detailed to the staff of an element within 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 non-reimbursable 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), the amount of \$27,000,000 shall be available for the National Drug Intelligence Center. Within such amount, funds provided for research, development, test, and evaluation purposes shall remain available

until September 30, 2000, and funds provided for procurement purposes shall remain available until September 30, 2001.

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

(3) LIMITATION.—Amounts available for the 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 OVER CENTER.—Notwithstanding any other provision of law, the Attorney General shall retain full authority over the operations of the Center.

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 1999 the sum of \$201,500,000.

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. EXTENSION OF APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES.

Section 905 of the National Security Act of 1947 (50 U.S.C. 441d) is amended by striking out “January 6, 1999” and inserting in lieu thereof “January 6, 2000”.

SEC. 304. EXTENSION OF AUTHORITY TO ENGAGE IN COMMERCIAL ACTIVITIES AS SECURITY FOR INTELLIGENCE COLLECTION ACTIVITIES.

Section 431(a) of title 10, United States Code, is amended in the second sentence by striking out “December 31, 1998” and inserting in lieu thereof “December 31, 2000”.

SEC. 305. MODIFICATION OF NATIONAL SECURITY EDUCATION PROGRAM.

(a) ASSISTANCE FOR COUNTERPROLIFERATION STUDIES.—The David L. Boren National Security Education Act of 1991 (50 U.S.C. 1901 et seq.) is amended as follows:

(1) In section 801 (50 U.S.C. 1901), by inserting “counterproliferation studies,” after “area studies,” each place it appears in subsections (b)(7) and (c)(2).

(2) In section 802 (50 U.S.C. 1902)—

(A) by inserting “counterproliferation studies,” after “area studies,” each place it appears in paragraphs (1)(B)(i), (1)(C), and (4) of subsection (a); and

(B) by inserting “counterproliferation study,” after “area study,” each place it appears in subparagraphs (A)(ii) and (B)(ii) of subsection (b)(2).

(3) In section 803(b)(8) (50 U.S.C. 1903(b)(8)), by striking out “and area” and inserting in lieu thereof “area, and counterproliferation”.

(4) In section 806(b)(1) (50 U.S.C. 1906(b)(1)), by striking out “and area” and inserting in lieu thereof “area, and counterproliferation”.

(b) REVISION OF MEMBERSHIP OF NATIONAL SECURITY EDUCATION BOARD.—Section 803(b) of that Act (50 U.S.C. 1903(b)) is further amended—

(1) by striking out paragraph (6); and
(2) by inserting in lieu thereof the following new paragraph (6):

“(6) The Secretary of Energy.”.

SEC. 306. TECHNICAL AMENDMENTS.

(a) CENTRAL INTELLIGENCE AGENCY ACT OF 1949.—(1) Section 5(a)(1) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f(a)(1)) is amended—

(A) by striking out “subparagraphs (B) and (C) of section 102(a)(2), subsections (c)(5)” and inserting in lieu thereof “paragraphs (2) and (3) of section 102(a), subsections (c)(6)”;

(B) by striking out “(50 U.S.C. 403(a)(2))” and inserting in lieu thereof “(50 U.S.C. 403(a))”.

(2) Section 6 of that Act (50 U.S.C. 403g) is amended by striking out “section 103(c)(5) of the National Security Act of 1947 (50 U.S.C. 403-3(c)(5))” and inserting in lieu thereof “section 103(c)(6) of the National Security Act of 1947 (50 U.S.C. 403-3(c)(6))”.

(b) CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT.—Section 201(c) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011(c)) is amended by striking out “section 103(c)(5) of the National Security Act of 1947 (50 U.S.C. 403-3(c)(5))” and inserting in lieu thereof “section 103(c)(6) of the National Security Act of 1947 (50 U.S.C. 403-3(c)(6))”.

SEC. 307. AUTHORITY TO DIRECT COMPETITIVE ANALYSIS OF ANALYTICAL PRODUCTS HAVING NATIONAL IMPORTANCE.

Section 102(g)(2) of the National Security Act of 1947 (50 U.S.C. 403(g)(2)) is amended—

(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(2) by inserting after subparagraph (C) the following new subparagraph (D):

“(D) direct competitive analysis of analytical products having National importance.”.

SEC. 308. ANNUAL STUDY AND REPORT ON THE SAFETY AND SECURITY OF RUSSIAN NUCLEAR FACILITIES AND NUCLEAR MILITARY FORCES.

(a) ANNUAL STUDY.—The Director of Central Intelligence shall, on an annual basis, conduct a study of the safety and security of the nuclear facilities and nuclear military forces in Russia.

(b) ANNUAL REPORTS.—(1) The Director shall, on an annual basis, submit to the committees referred to in paragraph (4) an intelligence report assessing the safety and security of the nuclear facilities and nuclear military forces in Russia.

(2) Each report shall include a discussion of the following:

(A) The ability of the Russia Government to maintain its nuclear military forces.

(B) Security arrangements at civilian and military nuclear facilities in Russia.

(C) The reliability of controls and safety systems at civilian nuclear facilities in Russia.

(D) The reliability of command and control systems and procedures of the nuclear military forces in Russia.

(3) Each report shall be submitted in unclassified form, but may contain a classified annex.

(4) The committees referred to in paragraph (1) are the following:

(A) The Select Committee on Intelligence, Committee on Armed Services, and Committee on Foreign Relations of the Senate.

(B) The Permanent Select Committee on Intelligence, Committee on National Security, and Committee on International Relations of the House of Representatives.

SEC. 309. QUADRENNIAL INTELLIGENCE REVIEW.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Director of Central Intelligence and the Secretary of Defense should jointly complete, in 1999 and every 4 years thereafter, a comprehensive review of United States intelligence programs and activities;

(2) each review under paragraph (1) should—
(A) include assessments of intelligence policy, resources, manpower, organization, and related matters; and

(B) encompass the programs and activities funded under the National Foreign Intelligence Program (NFIP), the Joint Military Intelligence Program (JMIP), and the Tactical Intelligence and Related Activities (TIARA) accounts;

(3) the results of each review should be shared with the appropriate committees of Congress; and

(4) the Director, in conjunction with the Secretary, should establish a nonpartisan, independent panel (with members chosen in consultation with the committees referred to in subsection (b)(2) from individuals in the private sector) in order to—

(A) assess each review under paragraph (1);

(B) conduct an assessment of alternative intelligence requirements for the national security and foreign policy of the United States through the year 2010; and

(C) make recommendations to the Director and the Secretary regarding the optimal intelligence structure for the United States in light of the assessment under subparagraph (B).

(b) REPORT.—(1) Not later than August 15, 1998, the Director and the Secretary shall jointly submit to the committees referred to in paragraph (2) the views of the Director and the Secretary regarding—

(A) the potential value of conducting reviews as described in subsection (a)(1); and

(B) the potential value of assessments of such reviews as described in subsection (a)(4)(A).

(2) The committees referred to in paragraph (1) are the following:

(A) The Select Committee on Intelligence, Committee on Armed Services, and Committee on Appropriations of the Senate.

(B) The Permanent Select Committee on Intelligence, Committee on National Security, and Committee on Appropriations of the House of Representatives.

SEC. 310. DESIGNATION OF HEADQUARTERS BUILDING OF CENTRAL INTELLIGENCE AGENCY AS THE GEORGE HERBERT WALKER BUSH CENTER FOR CENTRAL INTELLIGENCE.

(a) DESIGNATION.—The Headquarters Building of the Central Intelligence Agency located in Langley, Virginia, shall be known and designated as the “George Herbert Walker Bush Center for Central Intelligence”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Headquarters Building referred to in subsection (a) shall be deemed to be a reference to the George Herbert Walker Bush Center for Central Intelligence.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. EXTENSION OF SEPARATION PAY PROGRAM FOR VOLUNTARY SEPARATION OF CIA EMPLOYEES.

(a) EXTENSION.—Subsection (f) of section 2 of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403-4 note) is amended by striking out “September 30, 1999” and inserting in lieu thereof “September 30, 2001”.

(b) CONFORMING AMENDMENT.—Subsection (i) of that section is amended by striking out “fiscal year 1998 or fiscal year 1999” and inserting in lieu thereof “fiscal year 1998, 1999, 2000, or 2001”.

SEC. 402. ADDITIONAL DUTIES FOR INSPECTOR GENERAL OF CENTRAL INTELLIGENCE AGENCY.

Section 17(c) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(c)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following new paragraph (3):

“(3) to review existing and proposed legislation relating to the programs and operations of the Agency and to make recommendations in the semiannual reports required by subsection (d) concerning the impact of such legislation on economy and efficiency in the administration of,

or prevention and detection of fraud and abuse in, the programs and operations administered or financed by the Agency.”.

TITLE V—DISCLOSURE OF INFORMATION TO CONGRESS

SEC. 501. ENCOURAGEMENT OF DISCLOSURE OF CERTAIN INFORMATION TO CONGRESS.

(a) ENCOURAGEMENT.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the President shall take appropriate actions to inform the employees of the covered agencies, and employees of contractors carrying out activities under classified contracts with covered agencies, that—

(A) except as provided in paragraph (4), the disclosure of information described in paragraph (2) to the individuals referred to in paragraph (3) is not prohibited by law, executive order, or regulation or otherwise contrary to public policy;

(B) the individuals referred to in paragraph (3) are presumed to have a need to know and to be authorized to receive such information; and

(C) the individuals referred to in paragraph (3) may receive information so disclosed only in their capacity as members of the committees concerned.

(2) COVERED INFORMATION.—Paragraph (1) applies to information, including classified information, that an employee reasonably believes to provide direct and specific evidence of—

(A) a violation of any law, rule, or regulation;

(B) a false statement to Congress on an issue of material fact; or

(C) gross mismanagement, a gross waste of funds, a flagrant abuse of authority, or a substantial and specific danger to public health or safety.

(3) COVERED INDIVIDUALS.—The individuals to whom information described in paragraph (2) may be disclosed are the members of a committee of Congress having as its primary responsibility the oversight of a department, agency, or element of the Federal Government to which such information relates.

(4) SCOPE.—Paragraph (1)(A) does not apply to information otherwise described in paragraph (2) if the disclosure of the information is prohibited by Rule 6(e) of the Federal Rules of Criminal Procedure.

(b) REPORT.—Not later than 60 days after the date of enactment of this Act, the President shall submit to Congress a report on the actions taken under subsection (a).

(c) CONSTRUCTION WITH OTHER REPORTING REQUIREMENTS.—Nothing in this section may be construed to modify, alter, or otherwise affect any reporting requirement relating to intelligence activities that arises under the National Security Act of 1947 (50 U.S.C. 401 et seq.) or any other provision of law.

(d) COVERED AGENCIES DEFINED.—In this section, the term “covered agencies” means the following:

(1) The Central Intelligence Agency.

(2) The Defense Intelligence Agency.

(3) The National Imagery and Mapping Agency.

(4) The National Security Agency.

(5) The Federal Bureau of Investigation.

(6) The National Reconnaissance Office.

(7) Any other Executive agency, or element or unit thereof, determined by the President under section 2302(a)(2)(C)(ii) of title 5, United States Code, to have as its principal function the conduct of foreign intelligence or counterintelligence activities.

TITLE VI—FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS

SEC. 601. PEN REGISTERS AND TRAP AND TRACE DEVICES IN FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) by redesignating title IV as title VI and section 401 as section 601, respectively; and

(2) by inserting after title III the following new title:

"TITLE IV—PEN REGISTERS AND TRAP AND TRACE DEVICES FOR FOREIGN INTELLIGENCE PURPOSES

"DEFINITIONS

"SEC. 401. As used in this title:

"(1) The terms 'foreign power', 'agent of a foreign power', 'international terrorism', 'foreign intelligence information', 'Attorney General', 'United States person', 'United States', 'person', and 'State' shall have the same meanings as in section 101 of this Act.

"(2) The terms 'pen register' and 'trap and trace device' have the meanings given such terms in section 3127 of title 18, United States Code.

"(3) The term 'aggrieved person' means any person—

"(A) whose telephone line was subject to the installation or use of a pen register or trap and trace device authorized by this title; or

"(B) whose communication instrument or device was subject to the use of a pen register or trap and trace device authorized by this title to capture incoming electronic or other communications impulses.

"PEN REGISTERS AND TRAP AND TRACE DEVICES FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS

"SEC. 402. (a) Notwithstanding any provision of title I of this Act with respect to electronic surveillance under that title as defined in section 101(f)(4) of this Act, the Attorney General or a designated attorney for the Government may make an application for an order or an extension of an order authorizing or approving the installation and use of a pen register or trap and trace device for any investigation to gather foreign intelligence information or information concerning international terrorism which is being conducted by the Federal Bureau of Investigation under such guidelines as the Attorney General approves pursuant to Executive Order No. 12333, or a successor order.

"(b) Each application under this section shall be in writing under oath or affirmation to—

"(1) a judge of the court established by section 103(a) of this Act; or

"(2) a United States Magistrate Judge under chapter 43 of title 28, United States Code, who is publicly designated by the Chief Justice of the United States to have the power to hear applications for and grant orders approving the installation and use of a pen register or trap or trace device on behalf of a judge of that court.

"(c) Each application under this section shall require the approval of the Attorney General, or a designated attorney for the Government, and shall include—

"(1) the identity of the Federal officer seeking to use the pen register or trap and trace device covered by the application;

"(2) a certification by the applicant that the information likely to be obtained is relevant to an ongoing foreign intelligence or international terrorism investigation being conducted by the Federal Bureau of Investigation under guidelines approved by the Attorney General; and

"(3) information which demonstrates that there is reason to believe that the telephone line to which the pen register or trap and trace device is to be attached, or the communication instrument or device to be covered by the pen register or trap and trace device, has been or is about to be used in communication with—

"(A) an individual who is engaging or has engaged in international terrorism or clandestine intelligence activities that involve or may involve a violation of the criminal laws of the United States; or

"(B) a foreign power or agent of a foreign power under circumstances giving reason to believe that the communication concerns or concerned international terrorism or clandestine in-

telligence activities that involve or may involve a violation of the criminal laws of the United States.

"(d)(1) Upon an application made pursuant to this section, the judge shall enter an ex parte order as requested, or as modified, approving the installation and use of a pen register or trap and trace device if the judge finds that the application satisfies the requirements of this section.

"(2) An order issued under this section—

"(A) shall specify—

"(i) the identity, if known, of the person who is the subject of the foreign intelligence or international terrorism investigation;

"(ii) in the case of an application for the installation and use of a pen register or trap and trace device with respect to a telephone line—

"(I) the identity, if known, of the person to whom is leased or in whose name the telephone line is listed; and

"(II) the number and, if known, physical location of the telephone line; and

"(iii) in the case of an application for the use of a pen register or trap and trace device with respect to a communication instrument or device not covered by clause (ii)—

"(I) the identity, if known, of the person who owns or leases the instrument or device or in whose name the instrument or device is listed; and

"(II) the number of the instrument or device; and

"(B) shall direct that—

"(i) upon request of the applicant, the provider of a wire or electronic communication service, landlord, custodian, or other person shall furnish any information, facilities, or technical assistance necessary to accomplish the installation and operation of the pen register or trap and trace device in such a manner as will protect its secrecy and produce a minimum amount of interference with the services that such provider, landlord, custodian, or other person is providing the person concerned;

"(ii) such provider, landlord, custodian, or other person—

"(I) shall not disclose the existence of the investigation or of the pen register or trap and trace device to any person unless or until ordered by the court; and

"(II) shall maintain, under security procedures approved by the Attorney General and the Director of Central Intelligence pursuant to section 105(b)(2)(C) of this Act, any records concerning the pen register or trap and trace device or the aid furnished; and

"(iii) the applicant shall compensate such provider, landlord, custodian, or other person for reasonable expenses incurred by such provider, landlord, custodian, or other person in providing such information, facilities, or technical assistance.

"(e) An order issued under this section shall authorize the installation and use of a pen register or trap and trace device for a period not to exceed 90 days. Extensions of such an order may be granted, but only upon an application for an order under this section and upon the judicial finding required by subsection (d). The period of extension shall be for a period not to exceed 90 days.

"(f) No cause of action shall lie in any court against any provider of a wire or electronic communication service, landlord, custodian, or other person (including any officer, employee, agent, or other specified person thereof) that furnishes any information, facilities, or technical assistance under subsection (d) in accordance with the terms of a court under this section.

"(g) Unless otherwise ordered by the judge, the results of a pen register or trap and trace device shall be furnished at reasonable intervals during regular business hours for the duration of the order to the authorized Government official or officials.

"AUTHORIZATION DURING EMERGENCIES

"SEC. 403. (a) Notwithstanding any other provision of this title, when the Attorney General makes a determination described in subsection (b), the Attorney General may authorize the installation and use of a pen register or trap and trace device on an emergency basis to gather foreign intelligence information or information concerning international terrorism if—

"(1) a judge referred to in section 402(b) of this Act is informed by the Attorney General or his designee at the time of such authorization that the decision has been made to install and use the pen register or trap and trace device, as the case may be, on an emergency basis; and

"(2) an application in accordance with section 402 of this Act is made to such judge as soon as practicable, but not more than 48 hours, after the Attorney General authorizes the installation and use of the pen register or trap and trace device, as the case may be, under this section.

"(b) A determination under this subsection is a reasonable determination by the Attorney General that—

"(1) an emergency requires the installation and use of a pen register or trap and trace device to obtain foreign intelligence information or information concerning international terrorism before an order authorizing the installation and use of the pen register or trap and trace device, as the case may be, can with due diligence be obtained under section 402 of this Act; and

"(2) the factual basis for issuance of an order under such section 402 to approve the installation and use of the pen register or trap and trace device, as the case may be, exists.

"(c)(1) In the absence of an order applied for under subsection (a)(2) approving the installation and use of a pen register or trap and trace device authorized under this section, the installation and use of the pen register or trap and trace device, as the case may be, shall terminate at the earlier of—

"(A) when the information sought is obtained;

"(B) when the application for the order is denied under section 402 of this Act; or

"(C) 48 hours after the time of the authorization by the Attorney General.

"(2) In the event that an application for an order applied for under subsection (a)(2) is denied, or in any other case where the installation and use of a pen register or trap and trace device under this section is terminated and no order under section 402 of this Act is issued approving the installation and use of the pen register or trap and trace device, as the case may be, no information obtained or evidence derived from the use of the pen register or trap and trace device, as the case may be, shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from the use of the pen register or trap and trace device, as the case may be, shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

"AUTHORIZATION DURING TIME OF WAR

"SEC. 404. Notwithstanding any other provision of law, the President, through the Attorney General, may authorize the use of a pen register or trap and trace device without a court order under this title to acquire foreign intelligence information for a period not to exceed 15 calendar days following a declaration of war by Congress.

"USE OF INFORMATION

"SEC. 405. (a)(1) Information acquired from the use of a pen register or trap and trace device installed pursuant to this title concerning any

United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the provisions of this section.

“(2) No information acquired from a pen register or trap and trace device installed and used pursuant to this title may be used or disclosed by Federal officers or employees except for lawful purposes.

“(b) No information acquired pursuant to this title shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General.

“(c) Whenever the United States intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States against an aggrieved person any information obtained or derived from the use of a pen register or trap and trace device pursuant to this title, the United States shall, before the trial, hearing, or the other proceeding or at a reasonable time before an effort to so disclose or so use that information or submit it in evidence, notify the aggrieved person and the court or other authority in which the information is to be disclosed or used that the United States intends to so disclose or so use such information.

“(d) Whenever any State or political subdivision thereof intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the State or political subdivision thereof against an aggrieved person any information obtained or derived from the use of a pen register or trap and trace device pursuant to this title, the State or political subdivision thereof shall notify the aggrieved person, the court or other authority in which the information is to be disclosed or used, and the Attorney General that the State or political subdivision thereof intends to so disclose or so use such information.

“(e)(1) Any aggrieved person against whom evidence obtained or derived from the use of a pen register or trap and trace device is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, or a State or political subdivision thereof, may move to suppress the evidence obtained or derived from the use of the pen register or trap and trace device, as the case may be, on the grounds that—

“(A) the information was unlawfully acquired; or

“(B) the use of the pen register or trap and trace device, as the case may be, was not made in conformity with an order of authorization or approval under this title.

“(2) A motion under paragraph (1) shall be made before the trial, hearing, or other proceeding unless there was no opportunity to make such a motion or the aggrieved person concerned was not aware of the grounds of the motion.

“(f)(1) Whenever a court or other authority is notified pursuant to subsection (c) or (d), whenever a motion is made pursuant to subsection (e), or whenever any motion or request is made by an aggrieved person pursuant to any other statute or rule of the United States or any State before any court or other authority of the United States or any State to discover or obtain applications or orders or other materials relating to the use of a pen register or trap and trace device authorized by this title or to discover, obtain, or suppress evidence or information obtained or derived from the use of a pen register or trap and trace device authorized by this title, the United States district court or, where the motion is made before another authority, the United States district court in the same district

as the authority shall, notwithstanding any other provision of law and if the Attorney General files an affidavit under oath that disclosure or any adversary hearing would harm the national security of the United States, review in camera and ex parte the application, order, and such other materials relating to the use of the pen register or trap and trace device, as the case may be, as may be necessary to determine whether the use of the pen register or trap and trace device, as the case may be, was lawfully authorized and conducted.

“(2) In making a determination under paragraph (1), the court may disclose to the aggrieved person, under appropriate security procedures and protective orders, portions of the application, order, or other materials relating to the use of the pen register or trap and trace device, as the case may be, or may require the Attorney General to provide to the aggrieved person a summary of such materials, only where such disclosure is necessary to make an accurate determination of the legality of the use of the pen register or trap and trace device, as the case may be.

“(g)(1) If the United States district court determines pursuant to subsection (f) that the use of a pen register or trap and trace device was not lawfully authorized or conducted, the court may, in accordance with the requirements of law, suppress the evidence which was unlawfully obtained or derived from the use of the pen register or trap and trace device, as the case may be, or otherwise grant the motion of the aggrieved person.

“(2) If the court determines that the use of the pen register or trap and trace device, as the case may be, was lawfully authorized or conducted, it may deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

“(h) Orders granting motions or requests under subsection (g), decisions under this section that the use of a pen register or trap and trace device was not lawfully authorized or conducted, and orders of the United States district court requiring review or granting disclosure of applications, orders, or other materials relating to the installation and use of a pen register or trap and trace device shall be final orders and binding upon all courts of the United States and the several States except a United States Court of Appeals or the Supreme Court.

“CONGRESSIONAL OVERSIGHT

“SEC. 406. (a) On a semiannual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all uses of pen registers and trap and trace devices pursuant to this title.

“(b) On a semiannual basis, the Attorney General shall also provide to the committees referred to in subsection (a) and to the Committees on the Judiciary of the House of Representatives and the Senate a report setting forth with respect to the preceding six-month period—

“(1) the total number of applications made for orders approving the use of pen registers or trap and trace devices under this title; and

“(2) the total number of such orders either granted, modified, or denied.”.

SEC. 602. ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), as amended by section 601 of this Act, is further amended by inserting after title IV, as added by such section 601, the following new title:

“TITLE V—ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE PURPOSES

“DEFINITIONS

“SEC. 501. As used in this title:

“(1) The terms ‘foreign power’, ‘agent of a foreign power’, ‘foreign intelligence information’,

‘international terrorism’, and ‘Attorney General’ shall have the same meanings as in section 101 of this Act.

“(2) The term ‘common carrier’ means any person or entity transporting people or property by land, rail, water, or air for compensation.

“(3) The term ‘physical storage facility’ means any business or entity that provides space for the storage of goods or materials, or services related to the storage of goods or materials, to the public or any segment thereof.

“(4) The term ‘public accommodation facility’ means any inn, hotel, motel, or other establishment that provides lodging to transient guests.

“(5) The term ‘vehicle rental facility’ means any person or entity that provides vehicles for rent, lease, loan, or other similar use to the public or any segment thereof.

“ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS

“SEC. 502. (a) The Director of the Federal Bureau of Investigation or a designee of the Director (whose rank shall be no lower than Assistant Special Agent in Charge) may make an application for an order authorizing a common carrier, public accommodation facility, physical storage facility, or vehicle rental facility to release records in its possession for an investigation to gather foreign intelligence information or an investigation concerning international terrorism which investigation is being conducted by the Federal Bureau of Investigation under such guidelines as the Attorney General approves pursuant to Executive Order No. 12333, or a successor order.

“(b) Each application under this section—

“(1) shall be made to—

“(A) a judge of the court established by section 103(a) of this Act; or

“(B) a United States Magistrate Judge under chapter 43 of title 28, United States Code, who is publicly designated by the Chief Justice of the United States to have the power to hear applications and grant orders for the release of records under this section on behalf of a judge of that court; and

“(2) shall specify that—

“(A) the records concerned are sought for an investigation described in subsection (a); and

“(B) there are specific and articulable facts giving reason to believe that the person to whom the records pertain is a foreign power or an agent of a foreign power.

“(c)(1) Upon application made pursuant to this section, the judge shall enter an ex parte order as requested, or as modified, approving the release of records if the judge finds that the application satisfies the requirements of this section.

“(2) An order under this subsection shall not disclose that it is issued for purposes of an investigation described in subsection (a).

“(d)(1) Any common carrier, public accommodation facility, physical storage facility, or vehicle rental facility shall comply with an order under subsection (c).

“(2) No common carrier, public accommodation facility, physical storage facility, or vehicle rental facility, or officer, employee, or agent thereof, shall disclose to any person (other than those officers, agents, or employees of such common carrier, public accommodation facility, physical storage facility, or vehicle rental facility necessary to fulfill the requirement to disclose information to the Federal Bureau of Investigation under this section) that the Federal Bureau of Investigation has sought or obtained records pursuant to an order under this section.

“CONGRESSIONAL OVERSIGHT

“SEC. 503. (a) On a semiannual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all requests for records under this title.

“(b) On a semiannual basis, the Attorney General shall provide to the Committees on the

Judiciary of the House of Representatives and the Senate a report setting forth with respect to the preceding six-month period—

“(1) the total number of applications made for orders approving requests for records under this title; and

“(2) the total number of such orders either granted, modified, or denied.”.

SEC. 603. CONFORMING AND CLERICAL AMENDMENTS.

(a) **CONFORMING AMENDMENT.**—Section 601 of the Foreign Intelligence Surveillance Act of 1978, as redesignated by section 601(1) of this Act, is amended by striking out “other than title III” and inserting in lieu thereof “other than titles III, IV, and V”.

(b) **CLERICAL AMENDMENT.**—The table of contents at the beginning of the Foreign Intelligence Surveillance Act of 1978 is amended by striking out the items relating to title IV and section 401 and inserting in lieu thereof the following:

“TITLE IV—PEN REGISTERS AND TRAP AND TRACE DEVICES FOR FOREIGN INTELLIGENCE PURPOSES

“401. Definitions.

“402. Pen registers and trap and trace devices for foreign intelligence and international terrorism investigations.

“403. Authorization during emergencies.

“404. Authorization during time of war.

“405. Use of information.

“406. Congressional oversight.

“TITLE V—ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE PURPOSES

“501. Definitions.

“502. Access to certain business records for foreign intelligence and international terrorism investigations.

“503. Congressional oversight.

“TITLE VI—EFFECTIVE DATE

“601. Effective date.”.

The Presiding Officer (Mr. ENZI) appointed:

Mr. SHELBY, Mr. CHAFEE, Mr. LUGAR, Mr. DEWINE, Mr. KYL, Mr. INHOFE, Mr. HATCH, Mr. ROBERTS, Mr. ALLARD, Mr. COATS, Mr. KERREY, Mr. GLENN, Mr. BRYAN, Mr. GRAHAM, Mr. KERRY, Mr. BAUCUS, Mr. ROBB, Mr. LAUTENBERG, Mr. LEVIN, and from the Committee on Armed Services, Mr. THURMOND.

EXECUTIVE SESSION

CONVENTION FOR THE PROTECTION OF PLANTS INTERNATIONAL GRAINS AGREEMENT, 1995

TRADEMARK LAW TREATY WITH REGULATIONS

AMENDMENTS TO THE CONVENTION ON THE INTERNATIONAL MARITIME ORGANIZATION

Mr. LOTT. Mr. President, I ask unanimous consent the Senate proceed to executive session to consider the following treaties on today’s Executive Calendar: Nos. 17, 18, 19, 20.

I further ask unanimous consent the treaties be considered as having passed through their various parliamentary stages up to and including the presentation of the resolutions of ratification; all committee provisos, reservations, understandings, declarations be

considered agreed to; that any statements be inserted in the CONGRESSIONAL RECORD as if read; and that the Senate take one vote on the resolutions of ratification to be considered as separate votes; further, when the resolutions of ratification are voted upon, the motion to reconsider be laid upon the table, the President be notified of the Senate’s action, and that following the disposition of these treaties the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I ask for a division vote on the resolutions of ratification.

The PRESIDING OFFICER. A division has been requested.

Senators in favor of the resolution will rise and stand until counted.

(After a pause.)

Those opposed will rise and stand until counted.

On a division, two-thirds of the Senators present having voted in the affirmative, the resolutions of ratification are agreed to.

(The texts of the resolutions of ratification will be printed in a future edition of the RECORD.)

Mr. LOTT. Mr. President, these treaties are the Convention for the Protection of Plants, International Grains Agreement, Trademark Law Treaty with Regulations and Amendments to the Convention of the International Maritime Organization.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

AUTHORITY FOR COMMITTEES TO REPORT

Mr. LOTT. I ask unanimous consent that on Thursday, July 2, committees have from the hours of 11 to 1 p.m. in order to file legislative or executive reported items.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY

Mr. LOTT. As in executive session, I ask unanimous consent the injunction of secrecy be removed from the following treaties transmitted to the Senate on June 26, 1998, by the President: Tax Convention with Estonia, Tax Convention with Lithuania, Tax Convention with Latvia.

I further ask that the treaties, having been considered read the first time, be referred with accompanying papers to the Committee on Foreign Affairs be reported and the President’s message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The messages of the President are as follows:

To the Senate of the United States:

I transmit herewith for Senate advice and consent to ratification the Convention Between the United States of America and the Republic of Estonia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Washington on January 15, 1998. Also transmitted is the report of the Department of State concerning the Convention.

This Convention, which is similar to tax treaties between the United States and OECD nations, provides maximum rates of tax to be applied to various types of income and protection from double taxation of income. The Convention also provides for resolution of disputes and sets forth rules making its benefits unavailable to residents that are engaged in treaty shopping.

I recommend that the Senate give early and favorable consideration to this Convention and that the Senate give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, June 26, 1998.

To the Senate of the United States:

I transmit herewith for Senate advice and consent to ratification the Convention Between the United States of America and the Government of the Republic of Lithuania for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Washington on January 15, 1998. Also transmitted is the report of the Department of State concerning the Convention.

This Convention, which is similar to tax treaties between the United States and OECD nations, provides maximum rates of tax to be applied to various types of income and protection from double taxation of income. The Convention also provides for resolution of disputes and sets forth rules making its benefits unavailable to residents that are engaged in treaty shopping.

I recommend that the Senate give early and favorable consideration to this Convention and that the Senate give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, June 26, 1998.

To the Senate of the United States:

I transmit herewith for Senate advice and consent to ratification the Convention Between the United States of America and the Republic of Latvia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Washington on January 15, 1998. Also transmitted is the report of the Department of State concerning the Convention.

This Convention, which is similar to tax treaties between the United States and OECD nations, provides maximum rates of tax to be applied to various types of income and protection from double taxation of income. The Convention also provides for resolution of