Public Law 104–93
104th Congress

An Act

To authorize appropriations for fiscal year 1996 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Jan. 6, 1996
[H.R. 1655]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Intelligence Authorization Act for Fiscal Year 1996.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1996".

(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. Application of sanctions laws to intelligence activities.
Sec. 304. Thrift savings plan forfeiture.
Sec. 305. Authority to restore spousal pension benefits to spouses who cooperate in criminal investigations and prosecutions for national security offenses.
Sec. 306. Secrecy agreements used in intelligence activities.
Sec. 307. Limitation on availability of funds for automatic declassification of records over 25 years old.
Sec. 308. Amendment to the Hatch Act Reform Amendments of 1993.
Sec. 309. Report on personnel policies.
Sec. 310. Assistance to foreign countries.
Sec. 311. Financial management of the National Reconnaissance Office.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

Sec. 401. Extension of the CIA Voluntary Separation Pay Act.
Sec. 402. Volunteer service program.
Sec. 403. Authorities of the Inspector General of the Central Intelligence Agency.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

Sec. 501. Defense intelligence senior level positions.
Sec. 502. Comparable benefits and allowances for civilian and military personnel assigned to defense intelligence functions overseas.
Sec. 503. Extension of authority to conduct intelligence commercial activities.
Sec. 504. Availability of funds for Tier II UAV.

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Sec. 505. Military Department Civilian Intelligence Personnel Management System.
Sec. 506. Enhancement of capabilities of certain Army facilities.

TITLE VI—FEDERAL BUREAU OF INVESTIGATION

Sec. 601. Disclosure of information and consumer reports to FBI for counterintelligence purposes.

TITLE VII—TECHNICAL AMENDMENTS

Sec. 701. Clarification with respect to pay for Director or Deputy Director of Central Intelligence appointed from commissioned officers of the Armed Forces.
Sec. 702. Change of designation of CIA Office of Security.

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

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

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

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

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

President.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.—With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 1996 under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel

employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed two percent of the number of civilian personnel authorized under such section for such element.

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

SEC. 104. COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Community Management Account of the Director of Central Intelligence for fiscal year 1996 the sum of $90,713,000. Within such amounts authorized, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for the Advanced Research and Development Committee and the Environmental Task Force shall remain available until September 30, 1997.

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

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

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

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

TITLE III—GENERAL PROVISIONS

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

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

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence

activity which is not otherwise authorized by the Constitution or the laws of the United States.

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

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

Reports.

"TITLE IX—APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES

"STAY OF SANCTIONS

50 USC 441.

"SEC. 901. Notwithstanding any provision of law identified in section 904, the President may stay the imposition of an economic, cultural, diplomatic, or other sanction or related action by the United States Government concerning a foreign country, organization, or person when the President determines and reports to Congress in accordance with section 903 that to proceed without delay would seriously risk the compromise of an ongoing criminal investigation directly related to the activities giving rise to the sanction or an intelligence source or method directly related to the activities giving rise to the sanction. Any such stay shall be effective for a period of time specified by the President, which period may not exceed 120 days, unless such period is extended in accordance with section 902.

"EXTENSION OF STAY

50 USC 441a.

"SEC. 902. Whenever the President determines and reports to Congress in accordance with section 903 that a stay of sanctions or related actions pursuant to section 901 has not afforded sufficient time to obviate the risk to an ongoing criminal investigation or to an intelligence source or method that gave rise to the stay, he may extend such stay for a period of time specified by the President, which period may not exceed 120 days. The authority of this section may be used to extend the period of a stay pursuant to section 901 for successive periods of not more than 120 days each.

"REPORTS

50 USC 441b.

"SEC. 903. Reports to Congress pursuant to sections 901 and 902 shall be submitted promptly upon determinations under this title. Such reports shall be submitted to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate. With respect to determinations relating to intelligence sources and methods, reports shall also be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate. With respect to determinations relating to ongoing criminal investigations, reports shall also be submitted to the Committees on the Judiciary of the House of Representatives and the Senate.

"LAWS SUBJECT TO STAY

"SEC. 904. The President may use the authority of sections 901 and 902 to stay the imposition of an economic, cultural, diplomatic, or other sanction or related action by the United States Government related to the proliferation of weapons of mass destruction, their delivery systems, or advanced conventional weapons otherwise required to be imposed by the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title III of Public Law 102–182); the Nuclear Proliferation Prevention Act of 1994 (title VIII of Public Law 103–236); title XVII of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510) (relating to the nonproliferation of missile technology); the Iran-Iraq Arms Nonproliferation Act of 1992 (title XVI of Public Law 102–484); section 573 of the Foreign Operations, Export Financing Related Programs Appropriations Act, 1994 (Public Law 103–87); section 563 of the Foreign Operations, Export Financing Related Programs Appropriations Act, 1995 (Public Law 103–306); and comparable provisions. 50 USC 441c.

"APPLICATION

"SEC. 905. This title shall cease to be effective on the date which is one year after the date of the enactment of this title.". Termination date. 50 USC 441d.

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

"TITLE IX—APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES

"Sec. 901. Stay of sanctions.
"Sec. 902. Extension of stay.
"Sec. 903. Reports.
"Sec. 904. Laws subject to stay.
"Sec. 905. Application.".

SEC. 304. THRIFT SAVINGS PLAN FORFEITURE.

(a) IN GENERAL.—Section 8432(g) of title 5, United States Code, is amended by adding at the end the following new paragraph:

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

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to offenses upon which the requisite annuity forfeitures are based occurring on or after the date of the enactment of this Act. 5 USC 8432 note.

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

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

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

of a criminal investigation and subsequent prosecution of the individual which resulted in such forfeiture.".

Classified information. 50 USC 435 note.

SEC. 306. SECRECY AGREEMENTS USED IN INTELLIGENCE ACTIVITIES.

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

(1) require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government; and

(2) provide that the form or agreement does not bar—

(A) disclosures to Congress; or

(B) disclosures to an authorized official of an executive agency that are deemed essential to reporting a violation of United States law.

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

(a) IN GENERAL.—The Director of Central Intelligence shall use no more than $25,000,000 of the amounts authorized to be appropriated for fiscal year 1996 by this Act for the National Foreign Intelligence Program to carry out the provisions of section 3.4 of Executive Order 12958. The Director may, in the Director's discretion, draw on this amount for allocation to the agencies within the National Foreign Intelligence Program for the purpose of automatic declassification of records over 25 years old.

President.

(b) REQUIRED BUDGET SUBMISSION.—The President shall submit for fiscal year 1997 and each of the following fiscal years through fiscal year 2000 a budget request which specifically sets forth the funds requested for implementation of section 3.4 of Executive Order 12958.

SEC. 308. AMENDMENT TO THE HATCH ACT REFORM AMENDMENTS OF 1993.

Section 7325 of title 5, United States Code, is amended by adding after "section 7323(a)" the following: "and paragraph (2) of section 7323(b)".

SEC. 309. REPORT ON PERSONNEL POLICIES.

(a) REPORT REQUIRED.—Not later than three months after the date of enactment of this Act, the Director of Central Intelligence shall submit to the intelligence committees of Congress a report describing personnel procedures, and recommending necessary legislation, to provide for mandatory retirement for expiration of time in class, comparable to the applicable provisions of section 607 of the Foreign Service Act of 1980 (22 U.S.C. 4007), and termination based on relative performance, comparable to section 608 of the Foreign Service Act of 1980 (22 U.S.C. 4008), and to provide for other personnel review systems for all civilian employees of the Central Intelligence Agency, the National Security Agency, the Defense Intelligence Agency, and the intelligence elements of the Army, Navy, Air Force, and Marine Corps. Such report shall contain

a description and analysis of voluntary separation incentive options, including a waiver of the 2 percent penalty reduction for early retirement under certain Federal retirement systems.

(b) COORDINATION.—The preparation of the report required by subsection (a) shall be coordinated as appropriate with elements of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401(4)).

(c) DEFINITION.—As used in this section, the term "intelligence committees of Congress" means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 310. ASSISTANCE TO FOREIGN COUNTRIES.

Notwithstanding any other provision of law, funds authorized to be appropriated by this Act may be used to provide assistance to a foreign country for counterterrorism efforts if—

(1) such assistance is provided for the purpose of protecting the property of the United States Government or the life and property of any United States citizen, or furthering the apprehension of any individual involved in any act of terrorism against such property or persons; and

(2) the Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives are notified not later than 15 days prior to the provision of such assistance.

SEC. 311. FINANCIAL MANAGEMENT OF THE NATIONAL RECONNAISSANCE OFFICE.

(a) MANAGEMENT REVIEW.—(1) The Inspector General for the Central Intelligence Agency, assisted by the Inspector General of the Department of Defense, shall undertake a comprehensive review of the financial management of the National Reconnaissance Office to evaluate the effectiveness of policies and internal controls over the budget of the National Reconnaissance Office, including the use of carry-forward funding, to ensure that National Reconnaissance Office funds are used in accordance with applicable Federal acquisition regulations and the policies of the Director of Central Intelligence and consistent with those of the Department of Defense, the guidelines of the National Reconnaissance Office, and congressional direction.

(2) The review required by paragraph (1) shall—

(A) determine the quality of the development and implementation of the budget process within the National Reconnaissance Office at both the comptroller and directorate level;

(B) assess the advantages and disadvantages of the use of incremental versus full funding for contracts entered into by the National Reconnaissance Office;

(C) assess the advantages and disadvantages of the National Reconnaissance Office's use of carry-forward funding;

(D) determine how the National Reconnaissance Office defines, identifies, and justifies carry-forward funding requirements;

(E) determine how the National Reconnaissance Office tracks and manages carry-forward funding;

(F) determine how the National Reconnaissance Office plans to comply with congressional direction regarding carry-forward funding;

(G) determine whether or not a contract entered into by the National Reconnaissance Office has ever encountered a contingency which required the utilization of more than 30 days of carry-forward funding;

(H) consider the proposal by the Director of Central Intelligence for the establishment of a position of a Chief Financial Officer, and assess how the functions to be performed by that officer would enhance the financial management of the National Reconnaissance Office; and

(I) make recommendations, as appropriate, to improve control and management of the budget process of the National Reconnaissance Office.

Reports.

(3) The Director of Central Intelligence shall submit a report to the Congress setting forth the findings of the review required by paragraph (1) not later than March 1, 1996, with an interim report provided to the Congress not later than 2 weeks after the enactment of this Act.

President.

(b) REPORT.—(1) Not later than January 30, 1996, the President shall submit a report to the appropriate committees of the Congress on a proposal to subject the budget of the intelligence community to greater oversight by the executive branch of Government.

(2) Such report shall include (among other things)—

(A) consideration of establishing by statute a financial control officer for the National Reconnaissance Office, other elements of the intelligence community, and for the intelligence community as a whole;

(B) recommendations for procedures to be used by the Office of Management and Budget for review of the budget of the National Reconnaissance Office;

(C) a proposed statutory provision that would require the Director of Central Intelligence to establish a policy to restrict the National Reconnaissance Office authority on carry-forward funding in a manner consistent with the restriction on such authority within the Department of Defense; and

(D) an evaluation of how changes proposed as a result of the review required by subsection (a) will affect, directly or indirectly, the National Reconnaissance Office's streamlined acquisition process and, ultimately, program costs.

(c) DEFINITION.—As used in this section, the term "intelligence community" has the meaning given to the term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

TITLE IV—CENTRAL INTELLIGENCE AGENCY

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

50 USC 403–4 note.

(a) EXTENSION OF AUTHORITY.—Section 2(f) of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403–4(f)) is amended by striking "September 30, 1997" and inserting "September 30, 1999".

50 USC 403–4 note.

(b) REMITTANCE OF FUNDS.—Section 2 of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403–4) is amended by inserting at the end the following new subsection:

"(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 or fiscal year 1999, 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.".

SEC. 402. VOLUNTEER SERVICE PROGRAM. 50 USC 435 note.

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

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

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

SEC. 403. AUTHORITIES OF THE INSPECTOR GENERAL OF THE CENTRAL INTELLIGENCE AGENCY.

(a) REPORTS BY THE INSPECTOR GENERAL.—Section 17(b)(5) of the Central Intelligence Act of 1949 (50 U.S.C. 403q(b)(5)) is amended to read as follows:

"(5) In accordance with section 535 of title 28, United States Code, the Inspector General shall report to the Attorney General any information, allegation, or complaint received by the Inspector General relating to violations of Federal criminal law that involve a program or operation of the Agency, consistent with such guidelines as may be issued by the Attorney General pursuant to subsection (b)(2) of such section. A copy of all such reports shall be furnished to the Director.".

(b) EXCEPTION TO NONDISCLOSURE REQUIREMENT.—Section 17(e)(3)(A) of such Act is amended by inserting after "investigation" the following: "or the disclosure is made to an official of the Depart-

ment of Justice responsible for determining whether a prosecution should be undertaken".

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

SEC. 501. DEFENSE INTELLIGENCE SENIOR LEVEL POSITIONS.

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

"§ 1604. Civilian personnel management

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

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

"(2) appoint individuals to those positions; and

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

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

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

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

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

"(2) Such allowance shall be based on—

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

"(B) conditions of environment which—

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

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

"(C) both of those factors.

"(3) This subsection applies to employees who—

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

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

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

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

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

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

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

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

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

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

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

"(3) Positions that may be designated as Defense Intelligence Senior Level positions are positions in the Defense Intelligence Agency and Central Imagery Office that (A) are classified above

the GS–15 level, (B) emphasize functional expertise and advisory activity, but (C) do not have the organizational or program management functions necessary for inclusion in the Defense Intelligence Senior Executive Service.

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

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

"(i) Research and development.

"(ii) Test and evaluation.

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

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

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

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

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

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

(1) in subsection (a)—

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

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

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

(2) by striking subsection (c) and inserting the following:

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

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

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

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

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

"(1) are United States nationals;

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

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

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

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

(2) by striking subsection (d) and inserting the following:

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

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

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

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

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

"(1) are assigned—

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

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

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

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

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

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

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

SEC. 505. MILITARY DEPARTMENT CIVILIAN INTELLIGENCE PERSONNEL MANAGEMENT SYSTEM.

(a) ESTABLISHMENT OF TRAINING PROGRAM.—Chapter 81 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1599a. Financial assistance to certain employees in acquisition of critical skills

"(a) TRAINING PROGRAM.—The Secretary of Defense shall establish an undergraduate training program with respect to civilian employees in the Military Department Civilian Intelligence Personnel Management System that is similar in purpose, conditions, content, and administration to the program established by the Secretary of Defense under section 16 of the National Security

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Act of 1959 (50 U.S.C. 402 note) for civilian employees of the National Security Agency.

"(b) USE OF FUNDS FOR TRAINING PROGRAM.—Any payment made by the Secretary to carry out the program required to be established by subsection (a) may be made in any fiscal year only to the extent that appropriated funds are available for that purpose.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of that chapter is amended by adding at the end thereof the following new item:

"Sec. 1599a. Financial assistance to certain employees in acquisition of critical skills.".

SEC. 506. ENHANCEMENT OF CAPABILITIES OF CERTAIN ARMY FACILITIES.

(a) AUTHORITY.—(1) In addition to funds otherwise available for such purpose, the Secretary of the Army may transfer or reprogram funds for the enhancement of the capabilities of the Bad Aibling Station and the Menwith Hill Station, including improvements of facility infrastructure and quality of life programs at those installations.

(2) The authority of paragraph (1) may be exercised notwithstanding any other provision of law.

(b) SOURCE OF FUNDS.—Funds available for the Army for operations and maintenance for fiscal years 1996 and 1997 shall be available to carry out subsection (a).

(c) CONGRESSIONAL NOTIFICATION.—Whenever the Secretary of the Army determines that an amount to be transferred or reprogrammed under this section would cause the total amount transferred or reprogrammed in that fiscal year under this section to exceed $1,000,000, the Secretary shall notify in advance the Select Committee on Intelligence, the Committee on Armed Services, and the Committee on Appropriations of the Senate and the Permanent Select Committee on Intelligence, the Committee on National Security, and the Committee on Appropriations of the House of Representatives and provide a justification for the increased expenditure.

(d) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to modify or obviate existing law or practice with regard to the transfer or reprogramming of funds in excess of $2,000,000 from the Department of the Army to the Bad Aibling Station and the Menwith Hill Station.

TITLE VI—FEDERAL BUREAU OF INVESTIGATION

SEC. 601. DISCLOSURE OF INFORMATION AND CONSUMER REPORTS TO FBI FOR COUNTERINTELLIGENCE PURPOSES.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by adding after section 623 the following new section:

15 USC 1681u.

"§ 624. Disclosures to FBI for counterintelligence purposes

"(a) IDENTITY OF FINANCIAL INSTITUTIONS.—Notwithstanding section 604 or any other provision of this title, a consumer reporting agency shall furnish to the Federal Bureau of Investigation the

names and addresses of all financial institutions (as that term is defined in section 1101 of the Right to Financial Privacy Act of 1978) at which a consumer maintains or has maintained an account, to the extent that information is in the files of the agency, when presented with a written request for that information, signed by the Director of the Federal Bureau of Investigation, or the Director's designee, which certifies compliance with this section. The Director or the Director's designee may make such a certification only if the Director or the Director's designee has determined in writing that—

"(1) such information is necessary for the conduct of an authorized foreign counterintelligence investigation; and

"(2) there are specific and articulable facts giving reason to believe that the consumer—

"(A) is a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978) or a person who is not a United States person (as defined in such section 101) and is an official of a foreign power; or

"(B) is an agent of a foreign power and is engaging or has engaged in an act of international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

"(b) IDENTIFYING INFORMATION.—Notwithstanding the provisions of section 604 or any other provision of this title, a consumer reporting agency shall furnish identifying information respecting a consumer, limited to name, address, former addresses, places of employment, or former places of employment, to the Federal Bureau of Investigation when presented with a written request, signed by the Director or the Director's designee, which certifies compliance with this subsection. The Director or the Director's designee may make such a certification only if the Director or the Director's designee has determined in writing that—

"(1) such information is necessary to the conduct of an authorized counterintelligence investigation; and

"(2) there is information giving reason to believe that the consumer has been, or is about to be, in contact with a foreign power or an agent of a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978).

"(c) COURT ORDER FOR DISCLOSURE OF CONSUMER REPORTS.—Notwithstanding section 604 or any other provision of this title, if requested in writing by the Director of the Federal Bureau of Investigation, or a designee of the Director, a court may issue an order ex parte directing a consumer reporting agency to furnish a consumer report to the Federal Bureau of Investigation, upon a showing in camera that—

"(1) the consumer report is necessary for the conduct of an authorized foreign counterintelligence investigation; and

"(2) there are specific and articulable facts giving reason to believe that the consumer whose consumer report is sought—

"(A) is an agent of a foreign power, and

"(B) is engaging or has engaged in an act of international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or

clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

The terms of an order issued under this subsection shall not disclose that the order is issued for purposes of a counterintelligence investigation.

"(d) CONFIDENTIALITY.—No consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall disclose to any person, other than those officers, employees, or agents of a consumer reporting agency 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 the identity of financial institutions or a consumer report respecting any consumer under subsection (a), (b), or (c), and no consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall include in any consumer report any information that would indicate that the Federal Bureau of Investigation has sought or obtained such information or a consumer report.

"(e) PAYMENT OF FEES.—The Federal Bureau of Investigation shall, subject to the availability of appropriations, pay to the consumer reporting agency assembling or providing report or information in accordance with procedures established under this section a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching, reproducing, or transporting books, papers, records, or other data required or requested to be produced under this section.

"(f) LIMIT ON DISSEMINATION.—The Federal Bureau of Investigation may not disseminate information obtained pursuant to this section outside of the Federal Bureau of Investigation, except to other Federal agencies as may be necessary for the approval or conduct of a foreign counterintelligence investigation, or, where the information concerns a person subject to the Uniform Code of Military Justice, to appropriate investigative authorities within the military department concerned as may be necessary for the conduct of a joint foreign counterintelligence investigation.

"(g) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit information from being furnished by the Federal Bureau of Investigation pursuant to a subpoena or court order, in connection with a judicial or administrative proceeding to enforce the provisions of this Act. Nothing in this section shall be construed to authorize or permit the withholding of information from the Congress.

"(h) REPORTS TO CONGRESS.—On a semiannual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Select Committee on Intelligence and the Committee on Banking, Housing, and Urban Affairs of the Senate concerning all requests made pursuant to subsections (a), (b), and (c).

"(i) DAMAGES.—Any agency or department of the United States obtaining or disclosing any consumer reports, records, or information contained therein in violation of this section is liable to the consumer to whom such consumer reports, records, or information relate in an amount equal to the sum of—

"(1) $100, without regard to the volume of consumer reports, records, or information involved;

"(2) any actual damages sustained by the consumer as a result of the disclosure;

"(3) if the violation is found to have been willful or intentional, such punitive damages as a court may allow; and

"(4) in the case of any successful action to enforce liability under this subsection, the costs of the action, together with reasonable attorney fees, as determined by the court.

"(j) DISCIPLINARY ACTIONS FOR VIOLATIONS.—If a court determines that any agency or department of the United States has violated any provision of this section and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee of the agency or department acted willfully or intentionally with respect to the violation, the agency or department shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation.

"(k) GOOD-FAITH EXCEPTION.—Notwithstanding any other provision of this title, any consumer reporting agency or agent or employee thereof making disclosure of consumer reports or identifying information pursuant to this subsection in good-faith reliance upon a certification of the Federal Bureau of Investigation pursuant to provisions of this section shall not be liable to any person for such disclosure under this title, the constitution of any State, or any law or regulation of any State or any political subdivision of any State.

"(l) LIMITATION OF REMEDIES.—Notwithstanding any other provision of this title, the remedies and sanctions set forth in this section shall be the only judicial remedies and sanctions for violation of this section.

"(m) INJUNCTIVE RELIEF.—In addition to any other remedy contained in this section, injunctive relief shall be available to require compliance with the procedures of this section. In the event of any successful action under this subsection, costs together with reasonable attorney fees, as determined by the court, may be recovered.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by adding after the item relating to section 623 the following new item:

"624. Disclosures to FBI for counterintelligence purposes.".

TITLE VII—TECHNICAL AMENDMENTS

SEC. 701. CLARIFICATION WITH RESPECT TO PAY FOR DIRECTOR OR DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE APPOINTED FROM COMMISSIONED OFFICERS OF THE ARMED FORCES.

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

"(C) A commissioned officer of the Armed Forces on active duty who is appointed to the position of Director or Deputy Director, while serving in such position and while remaining on active duty, shall continue to receive military pay and allowances and shall not receive the pay prescribed for the Director or Deputy Director.

Funds from which such pay and allowances are paid shall be reimbursed from funds available to the Director.".

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

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

SEC. 702. CHANGE OF DESIGNATION OF CIA OFFICE OF SECURITY.

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

Approved January 6, 1996.

LEGISLATIVE HISTORY—H.R. 1655 (S. 922):

HOUSE REPORTS: Nos. 104–138, Pt. 1 (Permanent Select Comm. on Intelligence) and Pt. 2 (Comm. on Government Reform and Oversight), and 104–427 (Comm. of Conference).

SENATE REPORTS: Nos. 104–97 (Select Comm. on Intelligence) and 104–127 (Comm. on Armed Services), both accompanying S. 922.

CONGRESSIONAL RECORD, Vol. 141 (1995):

Sept. 13, considered and passed House.

Sept. 29, considered and passed Senate, amended, in lieu of S. 922.

Dec. 21, House and Senate agreed to conference report.