

Calendar No. 214

107TH CONGRESS
1ST SESSION

S. 1428

[Report No. 107–63]

[Report No. 107–92]

To authorize appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account of the Director of Central Intelligence, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 14, 2001

Mr. GRAHAM, from the Select Committee on Intelligence, reported the following original bill; which was read twice and referred to the Committee on Armed Services pursuant to section 3(b) of S. Res. 400, 94th Congress for a period of not to exceed 30 days of session

NOVEMBER 1, 2001

Reported by Mr. LEVIN, with amendments

[Insert the part printed in *italic*]

A BILL

To authorize appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account of the Director of Central Intelligence, and the

Central Intelligence Agency Retirement and Disability System, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Intelligence Authorization Act for Fiscal Year 2002”.

6 (b) TABLE OF CONTENTS.—The table of contents of
 7 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. Judicial review under Foreign Narcotics Kingpin Designation Act.

Sec. 304. Modification of positions requiring consultation with Director of Central Intelligence in appointments.

Sec. 305. Modification of reporting requirements for significant anticipated intelligence activities and significant intelligence failures.

Sec. 306. Modification of authorities for protection of intelligence community employees who report urgent concerns to Congress.

Sec. 307. Review of protections against the unauthorized disclosure of classified information.

Sec. 308. Modification of authorities relating to official immunity in interdiction of aircraft engaged in illicit drug trafficking.

Sec. 309. One-year suspension of reorganization of Diplomatic Telecommunications Service Program Office.

Sec. 310. Presidential approval and submission to Congress of National Counterintelligence Strategy and National Threat Identification and Prioritization Assessments.

Sec. 311. Preparation and submittal of reports, reviews, studies, and plans relating to Department of Defense intelligence activities.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

Sec. 401. One-year extension of Central Intelligence Agency Voluntary Separation Pay Act.

Sec. 402. Modifications of central services program.

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2002 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.

1 **SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.**

2 (a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL
3 CEILINGS.—The amounts authorized to be appropriated
4 under section 101, and the authorized personnel ceilings
5 as of September 30, 2002, for the conduct of the intel-
6 ligence and intelligence-related activities of the elements
7 listed in such section, are those specified in the classified
8 Schedule of Authorizations prepared to accompany the
9 conference report on the bill _____ of the One Hun-
10 dred Seventh Congress.

11 (b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AU-
12 THORIZATIONS.—The Schedule of Authorizations shall be
13 made available to the Committees on Appropriations of
14 the Senate and House of Representatives and to the Presi-
15 dent. The President shall provide for suitable distribution
16 of the Schedule, or of appropriate portions of the Sched-
17 ule, within the executive branch.

18 **SEC. 103. PERSONNEL CEILING ADJUSTMENTS.**

19 (a) AUTHORITY FOR ADJUSTMENTS.—With the ap-
20 proval of the Director of the Office of Management and
21 Budget, the Director of Central Intelligence may authorize
22 employment of civilian personnel in excess of the number
23 authorized for fiscal year 2002 under section 102 when
24 the Director of Central Intelligence determines that such
25 action is necessary to the performance of important intel-
26 ligence functions, except that the number of personnel em-

1 ployed in excess of the number authorized under such sec-
2 tion may not, for any element of the intelligence commu-
3 nity, exceed 2 percent of the number of civilian personnel
4 authorized under such section for such element.

5 (b) NOTICE TO INTELLIGENCE COMMITTEES.—The
6 Director of Central Intelligence shall notify promptly the
7 Permanent Select Committee on Intelligence of the House
8 of Representatives and the Select Committee on Intel-
9 ligence of the Senate whenever the Director exercises the
10 authority granted by this section.

11 **SEC. 104. COMMUNITY MANAGEMENT ACCOUNT.**

12 (a) AUTHORIZATION OF APPROPRIATIONS.—There is
13 authorized to be appropriated for the Community Manage-
14 ment Account of the Director of Central Intelligence for
15 fiscal year 2002 the sum of \$238,496,000. Within such
16 amount, funds identified in the classified Schedule of Au-
17 thorizations referred to in section 102(a) for the advanced
18 research and development committee shall remain avail-
19 able until September 30, 2003.

20 (b) AUTHORIZED PERSONNEL LEVELS.—The ele-
21 ments within the Community Management Account of the
22 Director of Central Intelligence are authorized 343 full-
23 time personnel as of September 30, 2002. Personnel serv-
24 ing in such elements may be permanent employees of the

1 Community Management Account or personnel detailed
2 from other elements of the United States Government.

3 (c) CLASSIFIED AUTHORIZATIONS.—

4 (1) AUTHORIZATION OF APPROPRIATIONS.—In
5 addition to amounts authorized to be appropriated
6 for the Community Management Account by sub-
7 section (a), there are also authorized to be appro-
8 priated for the Community Management Account for
9 fiscal year 2002 such additional amounts as are
10 specified in the classified Schedule of Authorizations
11 referred to in section 102(a). Such additional
12 amounts shall remain available until September 30,
13 2003.

14 (2) AUTHORIZATION OF PERSONNEL.—In addi-
15 tion to the personnel authorized by subsection (b)
16 for elements of the Community Management Ac-
17 count as of September 30, 2002, there are hereby
18 authorized such additional personnel for such ele-
19 ments as of that date as are specified in the classi-
20 fied Schedule of Authorizations.

21 (d) REIMBURSEMENT.—Except as provided in section
22 113 of the National Security Act of 1947 (50 U.S.C.
23 404h), during fiscal year 2002 any officer or employee of
24 the United States or a member of the Armed Forces who
25 is detailed to the staff of the Community Management Ac-

1 count from another element of the United States Govern-
2 ment shall be detailed on a reimbursable basis, except that
3 any such officer, employee, or member may be detailed on
4 a nonreimbursable basis for a period of less than one year
5 for the performance of temporary functions as required
6 by the Director of Central Intelligence.

7 (e) NATIONAL DRUG INTELLIGENCE CENTER.—

8 (1) IN GENERAL.—Of the amount authorized to
9 be appropriated in subsection (a), \$27,000,000 shall
10 be available for the National Drug Intelligence Cen-
11 ter. Within such amount, funds provided for re-
12 search, development, testing, and evaluation pur-
13 poses shall remain available until September 30,
14 2003, and funds provided for procurement purposes
15 shall remain available until September 30, 2004.

16 (2) TRANSFER OF FUNDS.—The Director of
17 Central Intelligence shall transfer to the Attorney
18 General funds available for the National Drug Intel-
19 ligence Center under paragraph (1). The Attorney
20 General shall utilize funds so transferred for the ac-
21 tivities of the National Drug Intelligence Center.

22 (3) LIMITATION.—Amounts available for the
23 National Drug Intelligence Center may not be used
24 in contravention of the provisions of section

1 103(d)(1) of the National Security Act of 1947 (50
2 U.S.C. 403–3(d)(1)).

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

7 **TITLE II—CENTRAL INTEL-**
8 **LIGENCE AGENCY RETIRE-**
9 **MENT AND DISABILITY SYS-**
10 **TEM**

11 **SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

12 There is authorized to be appropriated for the Cen-
13 tral Intelligence Agency Retirement and Disability Fund
14 for fiscal year 2002 the sum of \$212,000,000.

15 **TITLE III—GENERAL**
16 **PROVISIONS**

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

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

1 **SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE**
2 **ACTIVITIES.**

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

7 **SEC. 303. JUDICIAL REVIEW UNDER FOREIGN NARCOTICS**
8 **KINGPIN DESIGNATION ACT.**

9 Section 805 of the Foreign Narcotics Kingpin Des-
10 ignation Act (title VIII of Public Law 106–120; 113 Stat.
11 1629; 21 U.S.C. 1904) is amended by striking subsection
12 (f).

13 **SEC. 304. MODIFICATION OF POSITIONS REQUIRING CON-**
14 **SULTATION WITH DIRECTOR OF CENTRAL IN-**
15 **TELLIGENCE IN APPOINTMENTS.**

16 Section 106(b)(2) of the National Security Act of
17 1947 (50 U.S.C. 403–6(b)(2)) is amended by striking sub-
18 paragraph (C) and inserting the following new subpara-
19 graphs:

20 “(C) The Director of the Office of Intelligence
21 of the Department of Energy.

22 “(D) The Director of the Office of Counter-
23 intelligence of the Department of Energy”.

1 **SEC. 305. MODIFICATION OF REPORTING REQUIREMENTS**
2 **FOR SIGNIFICANT ANTICIPATED INTEL-**
3 **LIGENCE ACTIVITIES AND SIGNIFICANT IN-**
4 **TELLIGENCE FAILURES.**

5 Section 502 of the National Security Act of 1947 (50
6 U.S.C. 413a) is amended—

7 (1) by inserting “(a) IN GENERAL.—” before
8 “To the extent”; and

9 (2) by adding at the end the following new sub-
10 sections:

11 “(b) FORM AND CONTENTS OF CERTAIN REPORTS.—

12 Any report relating to a significant anticipated intelligence
13 activity or a significant intelligence failure that is sub-
14 mitted to the intelligence committees for purposes of sub-
15 section (a)(1) shall be in writing, and shall contain the
16 following:

17 “(1) A concise statement of any facts pertinent
18 to such report.

19 “(2) An explanation of the significance of the
20 intelligence activity or intelligence failure covered by
21 such report.

22 “(c) STANDARDS AND PROCEDURES FOR CERTAIN
23 REPORTS.—The Director of Central Intelligence, in con-
24 sultation with the heads of the departments, agencies, and
25 entities referred to in subsection (a), shall establish stand-

ards and procedures applicable to reports covered by sub-
section (b).”.

SEC. 306. MODIFICATION OF AUTHORITIES FOR PROTECTION OF INTELLIGENCE COMMUNITY EMPLOYEES WHO REPORT URGENT CONCERNS TO CONGRESS.

(a) AUTHORITY OF INSPECTOR GENERAL OF CENTRAL INTELLIGENCE AGENCY.—Section 17(d)(5) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(d)(5)) is amended—

(1) in subparagraph (B), by striking the second sentence and inserting the following new sentence: “Upon making the determination, the Inspector General shall transmit to the Director notice of the determination, together with the complaint or information.”; and

(2) in subparagraph (D)(i), by striking “does not transmit,” and all that follows through “subparagraph (B),” and inserting “does not find credible under subparagraph (B) a complaint or information submitted under subparagraph (A), or does not transmit the complaint or information to the Director in accurate form under subparagraph (B),”.

1 (b) AUTHORITIES OF INSPECTORS GENERAL OF THE
2 INTELLIGENCE COMMUNITY.—Section 8H of the Inspec-
3 tor General Act of 1978 (5 U.S.C. App.) is amended—

4 (1) in subsection (b), by striking the second
5 sentence and inserting the following new sentence:
6 “Upon making the determination, the Inspector
7 General shall transmit to the head of the establish-
8 ment notice of the determination, together with the
9 complaint or information.”; and

10 (2) in subsection (d)(1), by striking “does not
11 transmit,” and all that follows through “subsection
12 (b),” and inserting “does not find credible under
13 subsection (b) a complaint or information submitted
14 to the Inspector General under subsection (a), or
15 does not transmit the complaint or information to
16 the head of the establishment in accurate form
17 under subsection (b),”.

18 **SEC. 307. REVIEW OF PROTECTIONS AGAINST THE UNAU-**
19 **THORIZED DISCLOSURE OF CLASSIFIED IN-**
20 **FORMATION.**

21 (a) REQUIREMENT.—The Attorney General shall, in
22 consultation with the Secretary of Defense, Secretary of
23 State, Secretary of Energy, Director of Central Intel-
24 ligence, and heads of such other departments, agencies,
25 and entities of the United States Government as the At-

1 torney General considers appropriate, carry out a com-
2 prehensive review of current protections against the unau-
3 thorized disclosure of classified information, including—

4 (1) any mechanisms available under civil or
5 criminal law, or under regulation, to detect the un-
6 authorized disclosure of such information; and

7 (2) any sanctions available under civil or crimi-
8 nal law, or under regulation, to deter and punish the
9 unauthorized disclosure of such information.

10 (b) PARTICULAR CONSIDERATIONS.—In carrying out
11 the review required by subsection (a), the Attorney Gen-
12 eral shall consider, in particular—

13 (1) whether the administrative regulations and
14 practices of the intelligence community are adequate,
15 in light of the particular requirements of the intel-
16 ligence community, to protect against the unauthor-
17 ized disclosure of classified information; and

18 (2) whether recent developments in technology,
19 and anticipated developments in technology, neces-
20 sitate particular modifications of current protections
21 against the unauthorized disclosure of classified in-
22 formation in order to further protect against the un-
23 authorized disclosure of such information.

24 (c) REPORT.—(1) Not later than May 1, 2002, the
25 Attorney General shall submit to Congress a report on the

1 review carried out under subsection (a). The report shall
2 include the following:

3 (A) A comprehensive description of the review,
4 including the findings of the Attorney General as a
5 result of the review.

6 (B) An assessment of the efficacy and adequacy
7 of current laws and regulations against the unau-
8 thorized disclosure of classified information, includ-
9 ing whether or not modifications of such laws or reg-
10 ulations, or additional laws or regulations, are advis-
11 able in order to further protect against the unau-
12 thorized disclosure of such information.

13 (C) Any recommendations for legislative or ad-
14 ministrative action that the Attorney General con-
15 siders appropriate, including a proposed draft for
16 any such action, and a comprehensive analysis of the
17 Constitutional and legal ramifications of any such
18 action.

19 (2) The report shall be submitted in unclassified
20 form, but may include a classified annex.

1 **SEC. 308. MODIFICATION OF AUTHORITIES RELATING TO**
2 **OFFICIAL IMMUNITY IN INTERDICTION OF**
3 **AIRCRAFT ENGAGED IN ILLICIT DRUG TRAF-**
4 **FICKING.**

5 (a) CERTIFICATION REQUIRED FOR IMMUNITY.—
6 Subsection (a)(2) of section 1012 of the National Defense
7 Authorization Act for Fiscal Year 1995 (Public Law 103–
8 337; 108 Stat. 2837; 22 U.S.C. 2291–4) is amended by
9 striking “, before the interdiction occurs, has determined”
10 and inserting “has, during the 12-month period ending on
11 the date of the interdiction, certified to Congress”.

12 (b) ANNUAL REPORTS.—That section is further
13 amended—

14 (1) by redesignating subsection (c) as sub-
15 section (d); and

16 (2) by inserting after subsection (b) the fol-
17 lowing new subsection (c):

18 “(c) ANNUAL REPORTS.—(1) Not later than Feb-
19 ruary 1 each year, the President shall submit to Congress
20 a report on the assistance provided under subsection (b)
21 during the preceding calendar year. Each report shall in-
22 clude for the calendar year covered by such report the fol-
23 lowing:

24 “(A) A list specifying each country for which a
25 certification referred to in subsection (a)(2) was in
26 effect for purposes of that subsection during any

1 portion of such calendar year, including the nature
 2 of the illicit drug trafficking threat to each such
 3 country.

4 “(B) A detailed explanation of the procedures
 5 referred to in subsection (a)(2)(B) in effect for each
 6 country listed under subparagraph (A), including
 7 any training and other mechanisms in place to en-
 8 sure adherence to such procedures.

9 “(C) A complete description of any assistance
 10 provided under subsection (b).

11 “(D) A summary description of the aircraft
 12 interception activity for which the United States
 13 Government provided any form of assistance under
 14 subsection (b).

15 “(2) Each report under paragraph (1) shall be sub-
 16 mitted in unclassified form, but may include a classified
 17 annex.”.

18 **SEC. 309. ONE-YEAR SUSPENSION OF REORGANIZATION OF**
 19 **DIPLOMATIC TELECOMMUNICATIONS SERV-**
 20 **ICE PROGRAM OFFICE.**

21 Notwithstanding any provision of subtitle B of title
 22 III of the Intelligence Authorization Act for Fiscal Year
 23 2001 (Public Law 106–567; 114 Stat. 2843; 22 U.S.C.
 24 7301 et seq.), relating to the reorganization of the Diplo-
 25 matic Telecommunications Service Program Office, no

1 provision of that subtitle shall be effective during the pe-
 2 riod beginning on the date of the enactment of this Act
 3 and ending on October 1, 2002.

4 **SEC. 310. PRESIDENTIAL APPROVAL AND SUBMISSION TO**
 5 **CONGRESS OF NATIONAL COUNTERINTEL-**
 6 **LIGENCE STRATEGY AND NATIONAL THREAT**
 7 **IDENTIFICATION AND PRIORITIZATION AS-**
 8 **SESSMENTS.**

9 The National Counterintelligence Strategy, and each
 10 National Threat Identification and Prioritization Assess-
 11 ment, produced under Presidential Decision Directive 75,
 12 dated December 28, 2000, entitled “U.S. Counterintel-
 13 ligence Effectiveness—Counterintelligence for the 21st
 14 Century”, including any modification of the Strategy or
 15 any such Assessment, shall be approved by the President,
 16 and shall be submitted to the appropriate committees of
 17 Congress.

18 **SEC. 311. PREPARATION AND SUBMITTAL OF REPORTS, RE-**
 19 **VIEWS, STUDIES, AND PLANS RELATING TO**
 20 **DEPARTMENT OF DEFENSE INTELLIGENCE**
 21 **ACTIVITIES.**

22 *(a) CONSULTATION IN PREPARATION.—The Director of*
 23 *Central Intelligence shall ensure that any report, review,*
 24 *study, or plan required to be prepared or conducted by a*
 25 *provision of this Act, including a provision of the classified*

1 *Schedule of Authorizations or a classified annex to this Act,*
 2 *that involves the intelligence or intelligence-related activi-*
 3 *ties of the Department of Defense shall be prepared or con-*
 4 *ducted in consultation with the Secretary of Defense or an*
 5 *appropriate official of the Department designated by the*
 6 *Secretary for that purpose.*

7 (b) *SUBMITTAL.*—Any report, review, study, or plan
 8 referred to in subsection (a) shall be submitted, in addition
 9 to any other committee of Congress specified for submittal
 10 in the provision concerned, to the following committees of
 11 Congress:

12 (1) *The Committees on Armed Services and Ap-*
 13 *propriations and the Select Committee on Intelligence*
 14 *of the Senate.*

15 (2) *The Committees on Armed Services and Ap-*
 16 *propriations and the Permanent Select Committee on*
 17 *Intelligence of the House of Representatives.*

18 **TITLE IV—CENTRAL** 19 **INTELLIGENCE AGENCY**

20 **SEC. 401. ONE-YEAR EXTENSION OF CENTRAL INTEL-**
 21 **LIGENCE AGENCY VOLUNTARY SEPARATION**
 22 **PAY ACT.**

23 Section 2 of the Central Intelligence Agency Vol-
 24 untary Separation Pay Act (50 U.S.C. 403–4 note) is
 25 amended—

1 (1) in subsection (f), by striking “September
2 30, 2002” and inserting “September 30, 2003”; and
3 (2) in subsection (i), by striking “or 2002” and
4 inserting “2002, or 2003”.

5 **SEC. 402. MODIFICATIONS OF CENTRAL SERVICES PRO-**
6 **GRAM.**

7 (a) ANNUAL AUDITS.—Subsection (g)(1) of section
8 21 of the Central Intelligence Agency Act of 1949 (50
9 U.S.C. 403u) is amended—

10 (1) by striking “December 31” and inserting
11 “January 31”; and

12 (2) by striking “conduct” and inserting “com-
13 plete”.

14 (b) PERMANENT AUTHORITY.—Subsection (h) of
15 that section is amended—

16 (1) by striking paragraph (1);

17 (2) by redesignating paragraphs (2) and (3) as
18 paragraphs (1) and (2), respectively;

19 (3) in paragraph (1), as so redesignated, by
20 striking “paragraph (3)” and inserting “paragraph
21 (2)”; and

22 (4) in paragraph (2), as so redesignated, by
23 striking “paragraph (2)” and inserting “paragraph
24 (1)”.

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Reported with amendments