

ADDITIONAL STATEMENTS

INTELLIGENCE AUTHORIZATION
ACT FOR FISCAL YEAR 1996

• Mr. SPECTER. Mr. President, on June 14, 1995, I filed, on behalf of myself and my distinguished colleague and vice chairman of the Select Committee on Intelligence, Senator KERREY, a bill which authorizes appropriations for fiscal year 1996 for the intelligence activities and programs of the U.S. Government. The Select Committee on Intelligence approved the bill by a unanimous vote on May 24, 1995, and ordered that it be favorably reported.

This bill would:

First, authorize appropriations for fiscal year 1996 for (a) the intelligence activities and programs of the U.S. Government; (b) the Central Intelligence Agency Retirement and Disability System; and (c) the Community Management Account of the Director of Central Intelligence;

Second, authorize the personnel ceilings as of September 30, 1996, for the intelligence activities of the United States and for the Community Management Account of the Director of Central Intelligence;

Third, authorize the Director of Central Intelligence, with Office of Management and Budget approval, to exceed the personnel ceilings by up to 2 percent;

Fourth, permit the President to delay the imposition of sanctions related to proliferation of weapons of mass destruction when necessary to protect an intelligence source or method or an ongoing criminal investigation;

Fifth, provide for forfeiture of the U.S. Government contribution to the Thrift Savings Plan under the Federal Employees Retirement System [FERS], along with interest, if an employee is convicted of national security offenses;

Sixth, restore spousal benefits to the spouse of an employee so convicted if the spouse cooperates in the investigation and prosecution;

Seventh, to allow employees of the excepted services to take an active part in certain local elections;

Eighth, amend the Fair Credit Reporting Act to permit the Federal Bureau of Investigation to obtain consumer credit reports necessary to foreign counterintelligence investigations under certain circumstances and subject to appropriate controls on the use of such reports; and

Ninth, make certain other changes of technical nature to existing law governing intelligence agencies.

The classified nature of U.S. intelligence activities prevents the committee from disclosing the details of its budgetary recommendations. However, the committee has prepared a classified supplement to the report, which contains: First, the classified annex to the report; second, and the classified schedule of authorizations which is in-

corporated by reference in the act and has the same legal status as a public law. The classified annex to the report explains the full scope and intent of the committee's actions as set forth in the classified schedule of authorizations.

This classified supplement to the committee report is available for review by any Member of the Senate, subject to the provisions of Senate Resolution 400 of the 94th Congress.

The classified supplement is also made available to affected departments and agencies within the intelligence community.

SCOPE OF COMMITTEE REVIEW

As it does annually, the committee conducted a detailed review of the administration's budget request for the National Foreign Intelligence Program [NFIP] for fiscal year 1996. The committee also reviewed the administration's fiscal year 1996 request for a new intelligence budget category, called the Joint Military Intelligence Program [JMIP]. The committee's review included a series of briefings and hearings with the Director of Central Intelligence [DCI], the Acting Deputy Assistant Secretary of Defense for Intelligence and Security, and other senior officials from the intelligence community, numerous staff briefings, review of budget justification materials, and numerous written responses provided by the intelligence community to specific questions posed by the committee.

In addition to its annual review of the administration's budget request, the committee performs continuing oversight of various intelligence activities and programs, to include the conduct of audits and reviews by the committee's audit staff. These inquiries frequently lead to actions initiated by the committee with respect to the budget of the activity or program concerned.

The committee also reviewed the administration's fiscal year 1996 budget requests for the Tactical Intelligence and Related Activities [TIARA] Program aggregation of the Department of Defense. The committee's recommendations regarding these programs are provided separately to the Committee on Armed Services for consideration within the context of that committee's annual review of the National Defense Authorization Act.

FOLLOWUP TO THE AMES ESPIONAGE CASE

In the wake of last year's controversy surrounding the Ames espionage case, the intelligence community leadership pledged renewed dedication to the counterintelligence mission. In the testimony he gave before the committee at his confirmation hearing in open session, DCI Deutch stated that counterintelligence was one of the four principal purposes toward which the intelligence community should direct its efforts.

The committee and CIA Inspector General reports on the Ames espionage case published last year identified several serious shortcomings on the part

of the Central Intelligence Agency. The committee held a closed hearing with intelligence community officials on January 25, 1995, to review progress made to date in implementing counterintelligence reforms recommended by the aforementioned reports by DCI Woolsey. The committee also focused on the adequacy of counterintelligence programs and activities in the context of its review and markup of the administration's fiscal year 1996 budget request and provides several recommendations to enhance U.S. capabilities in this critical area in the classified annex accompanying the report.

Another issue raised by the Ames case is the apparent failure of the intelligence community to weed out poor performers. That Aldrich Ames was not only retained but promoted despite clear problems with alcohol and marginal performance is testament to a personnel process in need of reform. The committee has included in this bill a provision requiring the DCI to develop for all civilian employees in the intelligence community personnel procedures to provide for mandatory retirement for expiration of time in class and termination based on relative performance, comparable to sections 607 and 608, respectively, of the Foreign Service Act of 1980.

FOCUS ON HIGH-PRIORITY AREAS

Notwithstanding the rhetorical priority placed on critical intelligence topics such as proliferation, terrorism, and counternarcotics, the committee has identified areas where insufficient funds have been programmed for new capabilities, or where activities are funded in the name of high-priority targets which make little or no contribution to the issue. Therefore, in the classified annex accompanying the report, the committee recommends a number of initiatives to enhance U.S. capabilities in the areas of proliferation, terrorism, and counternarcotics.

CREATION OF A JOINT MILITARY INTELLIGENCE PROGRAM

As noted above, this year the administration submitted a modification of the existing budgeting structure for intelligence activities and programs, by adding a third budget category—the Joint Military Intelligence Program—to supplement the existing NFIP and TIARA. The administration acted to resubordinate formerly national and tactical programs under JMIP and created a new management structure to oversee JMIP that includes senior officials of the intelligence community and Defense. The JMIP Program executive is the Deputy Secretary of Defense, who also chairs the new Defense Intelligence Executive Board [DIEB]—a senior management body providing planning, programming, and budget oversight of defense intelligence. JMIP was initially established by Secretary of Defense memorandum dated May 14, 1994, which was superseded by Department of Defense directive 5205.0, dated

April 7, 1995. The administration is submitting the first JMIP budget request to the Congress in fiscal year 1996.

The committee does not yet endorse the decision by the Deputy Secretary of Defense and the Director of Central Intelligence [DCI] to develop a new set of funding criteria for intelligence activities. The committee understands the Defense Department's requirement to exercise more top-down oversight and control of defense intelligence programs and to create a management forum for evaluating these activities. Additionally, advances in technology have made the former definitions of national and tactical less meaningful to the budget process. However, the committee has reservations about whether the administration proposal for three intelligence programs is the optimal solution. Further, the committee is not convinced that the presence of the Director of Central Intelligence on the DIEB, or the joint review process undertaken by the DCI and Deputy Secretary of Defense, will ensure that both intelligence community and Defense Department equities are served in the planning, programming, and management of all intelligence activities and programs. The committee plans to review the appropriate budgeting structure for intelligence as part of its review of the roles and missions of the intelligence community later this year.

In addition, the committee is concerned that the fiscal year 1996 budget request includes many programs that are budgeted in one intelligence program but more appropriately belong in another intelligence program according to the definitions set forth by the Deputy Secretary of Defense and the DCI. A partial listing of such programs is provided by the committee for illustrative purposes:

Programs belonging in NFIP because they serve multiple departments:

Cobra Dane, which this fiscal year is programmed in the administration's budget request for the Arms Control and Disarmament Agency. The committee recommends returning funding responsibility for this important arms control monitoring capability to the NFIP;

Air Force's Cobra Judy, a specialized shipborne reconnaissance program, funded in TIARA;

Navy's P-3C Reef Point, a specialized airborne reconnaissance program, funded in TIARA.

Programs belonging in JMIP because they serve multiple DOD components:

Army's Guardrail and airborne reconnaissance low programs, funded in TIARA;

Air Force's E-8C joint surveillance tracking and reconnaissance system, funded in TIARA;

Air Force's space-based infrared system, funded in TIARA.

Programs belonging in TIARA because they serve single military departments:

Army's European command combat intelligence readiness facility, funded in the NFIP;

Navy's fleet ocean surveillance information facility in the European theater, funded in the NFIP.

With the exception of Cobra Dane, the committee makes no recommendations this fiscal year to transfer any of these programs, primarily to avoid confusion and the potential for an unintended appropriated-not authorized situation. Further, the committee does not necessarily agree that last year's decision by the administration to consolidate funding for spaceborne and airborne reconnaissance acquisition in the NFIP and JMIP respectively—regardless of the intended customer base—makes sense in light of the new definitions for programming and budgeting intelligence activities and programs.

The committee believes that the DCI and Deputy Secretary of Defense should review jointly the budget categories of these and other programs prior to the submission of the fiscal year 1997 budget request and make the appropriate adjustments. Further, the DCI and Deputy Secretary of Defense should consider whether split funding arrangements; that is, funding provided by more than one intelligence budget category, are required for those organizations charged with acquisition of intelligence platforms; that is, the Defense Airborne Reconnaissance Office and the National Reconnaissance Office, on the grounds of improved management efficiency without regard to the consumer base as defined by Executive Order 12333 and Department of Defense Directive 5205.0. The committee requests that a report assessing these issues and outlining any specific programmatic adjustments made in the President's fiscal year 1997 budget request to more accurately reflect the intent of the new budgeting system be provided to the Intelligence and Defense Committees by March 1, 1996.

COMMITTEE RECOMMENDATIONS ON JMIP

Unlike the activities of the National Foreign Intelligence Program which the committee also authorizes, many activities funded by the new Joint Military Intelligence Program are unclassified. However, the amount of the total fiscal year 1996 budget request for JMIP, like that for the NEIP, is classified, as is any comprehensive treatment of JMIP elements. Given these facts, and in order to provide for the greatest degree of openness possible, the committee provides in the following sections its unclassified recommendations on JMIP elements. Further recommendations, as well as classified details on these unclassified recommendations, are provided in the classified annex accompanying this bill.

AIRBORNE RECONNAISSANCE PRIORITIES

The committee believes that it is vital to maintain a robust airborne reconnaissance force that is capable of collection satisfying priority intelligence requirements in peacetime, cri-

sis, and war. The committee also understands that, in a zero sum gain budget environment, choices need to be made between upgrades to current manned system and the development of new unmanned platforms. Due to the increasing demands and requirements placed on our Nation's current generation of manned reconnaissance systems, the committee makes the following recommendations to redirect resources requested for unmanned aerial vehicle development activities to several manned reconnaissance upgrades which the committee views as essential in order to provide mission-capable forces to the warfighting commanders-in-chief [CINC's].

Accordingly, the committee recommends changes to the administration's fiscal year 1996 budget request to terminate one of five unmanned aerial vehicle [UAV] programs currently under development by the Defense Airborne Reconnaissance Program [DARP] and, instead, to reallocate these resources to provide for the upgrade of existing manned reconnaissance platforms.

CONVENTIONAL HIGH ALTITUDE ENDURANCE UAV

The committee recommends termination of the conventional high altitude endurance unmanned aerial vehicle [CONV HAE UAV] development effort, a reduction to the DARP in fiscal year 1996 of \$117 million. The committee believes that the CONV HAE UAV will not provide an increased capability over the current U-2 airborne reconnaissance fleet and is therefore not required. The U-2 is an operational system currently supporting warfighting and national intelligence requirements. The CONV HAE UAV is an advanced concept technology demonstration [ACTD] project and has not achieved first flight.

In fact, the U-2 is a much more capable multisensor reconnaissance aircraft today than the CONV HAE UAV is designed to be. The U-2 fleet provides radar, electro-optical, and film imagery as well as electronic intelligence collection support to national, theater, and tactical commanders. The CONV HAE UAV will have only imagery sensors, and these will be less capable than those on-board the U-2. The U-2 has a much greater payload capacity than the CONV HAE UAV design. The U-2 affords a deeper look capability than planned for the CONV HAE UAV. Further, the committee understands that the CONV HAE UAV operational concept, now under development, is virtually identical to that of the U-2.

Cost comparisons are difficult to make because the U-2 is an existing asset flying missions on a daily basis and the CONV HAE UAV is an ACTD and has no flight experience. However, information provided to the committee by the DARP indicates that the flying hour costs of the UAV are comparable to the U-2.

The committee believes that development by the DARP of the low observable high altitude endurance unmanned

aerial vehicle [LO HAE UAV] as a complementary system to the U-2 will provide the most capability to national policymakers and the warfighter. The committee strongly suggests that the Department investigate increases in capability that can be achieved in the LO HAE UAV if the goal for unit fly-away cost is increased from \$10 to \$20 million. The committee requests that the DARO prepare an analysis on this alternative and provide it to the intelligence and defense committees by March 1, 1996.

RC-135V/W RIVET JOINT ENGINE UPGRADES

Rivet Joint is an Air Force reconnaissance program which provides all weather, worldwide signals intelligence collection support to theater commanders. The committee has become concerned with the high OPTEMPO of the RC-135V/W Rivet Joint reconnaissance fleet. The RC-135 airframes currently are logging an extraordinary number of annual flight hours. Additionally, the schedule frequency and the extended mission times of the Rivet Joint program contribute significantly to the fuel and operating costs of the aircraft. Further, the current engines do not meet State III noise levels or EPA emission standards.

The committee is aware that the Air Force is considering the establishment of a reengining program for the RC-135 aircraft. Reengining with the CFM-56 engines common to the tanker fleet and commercial airlines would increase RC-135 nominal operating altitudes considerably, thereby greatly enhancing sensor field-of-view and area coverage, decreasing fuel consumption, increasing on-station time, and improving short-field capability for contingency operations. Current tanker support requirements and tanker flying could also be reduced significantly.

Therefore, the committee recommends an authorization of \$79.5 million in fiscal year 1996 to begin reengining the RC-135 fleet. The committee expects the DARP to budget the additional funds required to continue reengining in fiscal year 1997 and beyond.

U-2 UPGRADES

While the committee is supportive of the DARP initiative to define a joint airborne SIGINT architecture [JASA], there is concern about the affordability of this approach for the military departments. The committee is also concerned with the Defense Department's apparent decision not to continue upgrading current platforms while focusing funding exclusively on a new development program. Therefore, the committee recommends an authorization of \$20 million in fiscal year 1996 for the DARP to initiate a sensor upgrade program for the U-2 fleet. Further details about the proposed upgrade are contained in the classified annex accompanying this bill. The committee expects the DARP to budget for the remaining funds required to complete this upgrade in fiscal year 1997 and beyond. The committee also believes that

this upgrade should be fully compliant with JASA standards.

The committee also makes a recommendation to improve the defensive capabilities of the U-2 fleet and provides \$13 million in fiscal year 1996 for this purpose. Details of this initiative are included in the classified annex accompanying this bill. As with the proposed sensor upgrade, the committee expects the DARP to budget for the remaining funds required to complete this upgrade in fiscal year 1997 and beyond.

DEFENSE INTELLIGENCE COUNTER DRUG ANALYSIS INITIATIVES

In line with the committee's efforts to enhance intelligence capabilities in the area of counternarcotics and other high-priority issues, the committee recommends an authorization of an additional \$7 million in fiscal year 1996 to the Defense Intelligence Counterdrug Program [DICP]. These funds should be applied against a variety of high-priority, counterdrug analysis, and connectivity programs identified by the DICP program manager. Details of this initiative are included in the classified annex accompanying this bill.

INFORMATION SYSTEMS SECURITY

While the administration's fiscal year 1996 budget request for DOD's Information Systems Security Program provides for a significant increase over the amounts requested in fiscal year 1995, the committee notes that information security [INFOSEC] personnel and resources will still have declined by roughly 40 percent since 1987. Meanwhile, in planning for future conflicts, the Department of Defense is deliberately placing increased reliance on information systems to compensate for a reduced force structure.

The committee does not believe that the Department of Defense has adequately assessed U.S. information security requirements. Further, it does not believe that there is a coherent plan or program to rectify the vulnerabilities identified by the Joint Security Commission, the Commission on Roles and Missions, and independent organizations such as the Rand Corp. An effective and comprehensive U.S. policy needs to be developed in order to prepare an integrated response that recognizes not only the vulnerabilities of U.S. Government communications, but the vulnerabilities of the underlying public switch network [PSN]. In that regard, it is not clear what benefits can be achieved through increased DOD spending on information security when over 95 percent of DOD communications travel over PSN and the PSN is not protected against attacks that sophisticated adversaries may employ in future conflicts. In sum, a comprehensive U.S. INFOSEC plan urgently needs to be developed.

The committee therefore, in its report, requests the DCI and the Secretary of Defense to prepare a comprehensive report which: (a) identifies the key threats to U.S. computers and communications systems, including

those of both the Government and the private sector; that is, the public switch network upon which the Government heavily depends; and, (b) provides a comprehensive plan for addressing the threats described in section (a), to include any necessary legislative or programmatic recommendations required to protect Government or private U.S. information systems. The report is to be provided to the Intelligence and Defense Committees not later than March 1, 1996. In the absence of such a plan, the committee remains skeptical regarding the benefits that can be achieved through increased funding for the Department of Defense Information Systems Security Program.

COMMERCIAL OFF-THE-SHELF TECHNOLOGY

It is the sense of the committee that, to the extent practicable, all high performance computing and communications [HPCC] equipment and products purchased with funds authorized in this act should be commercial-off-the-shelf [COTS] or modified COTS.

The Department of Defense has already adopted a COTS policy in its purchase of high performance computing and communications systems, with significant cost savings to the taxpayers and with excellent performance results. Moreover, the Department's September 1994 defense technology plan, prepared by the Director of Defense Research and Engineering, recommends the utilization of more commercially viable technologies in the purchase of high performance computer systems. (Computing and Software, Defense Technology Plan.)

The committee also believes that the application of a COTS technology policy among the intelligence agencies should be adopted and implemented beginning in fiscal year 1996. The committee is hopeful that a COTS policy for the procurement of high performance computing and communications equipment could save millions of dollars and maintain the quality and performance standards required by the intelligence agencies both now and in the future.

Therefore, the committee included in the report a request that the agencies receiving funding authorized in this bill begin the process of adopting COTS technology procurement procedures in their high performance computing and communications programs and report, through the DCI, to the Intelligence and Defense Committees not later than May 1, 1996, regarding compliance with this request.

TECHNOLOGIES TO IMPROVE SOUND PROCESSING DEVICES USED BY THE PROFOUNDLY DEAF

Recent technological advances have made it possible for the medical community to provide substantial hearing to profoundly deaf individuals who cannot benefit from conventional hearing aids. Surgically implanted electrodes, combined with external speech processing devices, have the demonstrated ability to provide sound information across the frequency range even at low

volume; that is, 30 decibels. Some children and adults, who would have had no option other than to use sign language, now have access to spoken language and can function in school and the workplace without any use of sign language. While the benefits can be enormous, it is also true that the quality of sound provided by cochlear implants is still crude compared to normal hearing. Remarkable progress has been made, but many technical issues remain, including the reliability, size, and the effectiveness of the hardware and software used by manufacturers of sound processing devices.

The intelligence community, and the National Security Agency in particular, is a world leader in speech and signal processing. It is quite possible that some of the sophisticated technologies employed by the intelligence community could increase the signal-to-noise ratio in the sound processing devices used by the profoundly deaf. The committee has recently seen how imaging technology developed by the intelligence community can be adapted to cancer screening by the medical community, and it is the committee's hope that similar success can be achieved in this area. In the report accompanying this bill, therefore, the committee requests the intelligence community to contact U.S. manufacturers of cochlear implant devices, review their technical needs, and identify any technologies that might be shared with such manufacturers in order to improve the quality of hearing for the hearing impaired. The committee also requests a report outlining the results of the intelligence community's review, to include identification of any capabilities that should be shared with U.S. manufacturers of cochlear implants, not later than May 1, 1996.

Mr. President, I ask that the full text of the bill be printed in the RECORD.

The text of the bill follows:

S. 922

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1996".

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are 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 elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the Committee of Conference to accompany () of the One Hundred and Fourth Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations shall be made available to the Committee 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 1996 under section 102 of this Act when the Director 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 (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401(4)), exceed 2 percent of the number of civilian personnel authorized under such section for such element.

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

SEC. 104. INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated for the Intelligence Community Management Account of the Director of Central Intelligence for fiscal year 1996 the sum of \$98,283,000.

(2) Funds made available under paragraph (1) 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 the fiscal year 1996, any officer or employee of the United States or any 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 TO INTELLIGENCE ACTIVITIES.

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:

"TITLE VIII—APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES"

"SEC. 801. DELAY OF SANCTIONS.

"Notwithstanding any other provision of law, the President may delay the imposition of a sanction related to the proliferation of weapons of mass destruction, their delivery systems, or advanced conventional weapons when he determines that to proceed without delay would seriously risk the compromise of a sensitive intelligence source or method or an ongoing criminal investigation. The President shall terminate any such delay as soon as it is no longer necessary to that purpose.

"SEC. 802. REPORTS.

"Whenever the President makes the determination required pursuant to section 801, the President shall promptly report to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives the rationale and circumstances that led the President to exercise the authority under section 801 with respect to an intelligence source or method, and to the Judiciary Committees of the Senate and the House of Representatives the rationale and circumstances that led the President to exercise the authority under section 801 with respect to an ongoing criminal investigation. Such report shall include a description of the efforts being made to implement the sanctions as soon as possible and an estimate of the date on which the sanctions will become effective."

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 under subsection (c), and all earnings attributable to such contributions, shall be forfeited if the employee's annuity, or that of a survivor or beneficiary, is forfeited pursuant to subchapter II of chapter 83 of this title."

(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 enactment of this Act.

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

Section 8312 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other provision of law, the spouse of an employee whose annuity or retired pay is forfeited under this

section or section 8313 after the enactment of this subsection shall be eligible for spousal pension benefits if the Attorney General determines that the spouse fully cooperated with Federal authorities in the conduct of a criminal investigation and subsequent prosecution of the employee."

SEC. 306. 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. 307. 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), 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.

(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. 308. ASSISTANCE TO FOREIGN COUNTRIES.

(a) **IN GENERAL.**—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 appropriate committees of Congress are notified not later than 15 days prior to the provision of such assistance.

(b) **DEFINITION.**—As used in this section, the term "appropriate congressional committees" means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

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

Section 2(f) of the CIA Voluntary Separation Pay Act is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1999".

SEC. 402. VOLUNTEER SERVICE PROGRAM.

The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding at the end of the following new section:

"SEC. 20. VOLUNTEER SERVICE PROGRAM.

"(a) Notwithstanding any other provision of law, the Director of Central Intelligence is authorized to establish and maintain a program during fiscal years 1996 through 2001 to utilize the services contributed by not more than 50 retired annuitants who serve without

compensation as volunteers in aid of the review by the Central Intelligence Agency for declassification or downgrading of classified information under applicable Executive Orders covering the classification and declassification of national security information and Public Law 102-526.

"(b) The Agency is authorized to use sums made available to the Agency by appropriations or otherwise for paying the costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of the review by the Agency of classified information, including, but not limited to, the costs of training, transportation, lodging, subsistence, equipment, and supplies. Agency officials may authorize either direct procurement of, or reimbursement for, expenses incidental to the effective use of volunteers, except that provision for such expenses or services shall be in accordance with volunteer agreements made with such individuals and that such sums may not exceed \$100,000.

"(c) Notwithstanding the provision of any other law, individuals who volunteer to provide services to the Agency under this section shall be covered by and subject to the provisions of—

"(1) the Federal Employees Compensation Act; and

"(2) chapter 11 of title 18, United States Code, as if they were employees or special Government employees depending upon the days of expected service at the time they begin their volunteer service."

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) 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 paragraph (2). 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 Department of Justice responsible for determining whether a prosecution should be undertaken".

SEC. 404. REPORT ON LIAISON RELATIONSHIPS.

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

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by adding at the end the following:

"(3) annually submit to the intelligence committees a report describing all liaison relationships for the preceding year, including—

"(A) the names of the governments and entities;

"(B) the purpose of each relationship;

"(C) the resources dedicated (including personnel, funds, and materiel);

"(D) a description of the intelligence provided and received, including any reports on human rights violations; and

"(E) any significant changes anticipated."

(b) **DEFINITION.**—Section 606 of such Act is amended by adding at the end the following:

"(11) The term 'liaison' means any governmental entity or individual with whom an

intelligence agency has established a relationship for the purpose of obtaining information."

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

SEC. 501. COMPARABLE OVERSEAS BENEFITS AND ALLOWANCES FOR CIVILIAN AND MILITARY PERSONNEL ASSIGNED TO THE DEFENSE INTELLIGENCE AGENCY.

(a) **TITLE 10.**—Title 10, United States Code, is amended—

(1) in section 1605(a), by striking "and" after "Defense Attache Offices" and inserting "or"; and

(2) in section 1605(a), by inserting ", and Defense Intelligence Agency employees assigned to duty outside the United States," after "outside the United States,".

(b) **TITLE 37.**—Title 37, United States Code, is amended—

(1) in section 431(a), by striking "and" after "Defense Attache Offices" and inserting "or"; and

(2) in section 431(a), by inserting ", and members of the armed forces assigned to the Defense Intelligence Agency and engaged in intelligence related duties outside the United States," after "outside the United States".

SEC. 502. AUTHORITY TO CONDUCT COMMERCIAL ACTIVITIES NECESSARY TO PROVIDE SECURITY FOR AUTHORIZED INTELLIGENCE COLLECTION ACTIVITIES ABROAD.

Section 431(a) of title 10, United States Code, is amended by striking "1995" and inserting "2001".

SEC. 503. MILITARY DEPARTMENTS' CIVILIAN INTELLIGENCE PERSONNEL MANAGEMENT SYSTEM: ACQUISITION OF CRITICAL SKILLS.

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

"§1599. 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 Departments' Civilian Intelligence Personnel Management System that is similar in purpose, conditions, content, and administration to the program which the Secretary of Defense established under section 16 of the National Security Act of 1959 (50 U.S.C. 402 note) for civilian employees of the National Security Agency.

"(b) **FUNDING OF TRAINING PROGRAM.**—Any payments 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:

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

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:

"§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—

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

"(B) 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 semi-annual 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 624 the following:

"624. Disclosures to FBI for counterintelligence purposes."

TITLE VII—TECHNICAL CORRECTIONS

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

Section 102(c)(3)(C) of the National Security Act of 1947 (50 U.S.C. 403(c)(3)(C)) is amended—

(1) by striking "A" before "commissioned" and inserting "An active duty";

(2) by striking out "(including retired pay)";

(3) by inserting "an active duty" after "payable to"; and

(4) by striking "a" before "commissioned".

SEC. 702. CHANGE OF OFFICE DESIGNATION IN CIA INFORMATION ACT.

Section 701(b)(3) of the CIA Information Act of 1984 (50 U.S.C. 431(b)(3)) is amended by striking "Office of Security" and inserting "Office of Personnel Security".

CONGRATULATIONS ON THE 100TH BIRTHDAY OF THE BERGEN RECORD

● Mr. LAUTENBERG. Mr. President, on June 5, 1995, the Bergen Record, the flagship of one of New Jersey's most successful family-owned businesses, turned 100 years old.

Since John Borg bought the paper in 1930, it has flourished to become New Jersey's third largest daily newspaper with a daily circulation of 172,000 and a Sunday circulation of 246,000. New Jersey's readers have been well served by an editorial policy that encourages thoughtful, objective reporting on issues of importance to our State's most populous county.