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100TH CONGRESS
1ST SESSION

S. 1721

To improve the congressional oversight of certain intelligence activities, and to strengthen the process by which such activities are approved within the executive branch, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 1987

Mr. COHEN (for himself, Mr. BOREN, Mr. INOUE, Mr. MITCHELL, Mr. BENTSEN, Mr. DECONCINI, Mr. MURKOWSKI, and Mr. RUDMAN) introduced the following bill; which was read twice and referred to the Select Committee on Intelligence

A BILL

To improve the congressional oversight of certain intelligence activities, and to strengthen the process by which such activities are approved within the executive branch, 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 That this Act may be cited as the "Intelligence Oversight
4 Act of 1987".

5 SECTION 1. Section 662 of the Foreign Assistance Act
6 of 1961 (22 U.S.C. 2422) is hereby repealed.

★(Star Print)

1 SEC. 2. Section 501 of title V of the National Security
2 Act of 1947 (50 U.S.C. 413) is amended by striking the lan-
3 guage contained therein, and substituting the following new
4 sections:

5 "GENERAL PROVISIONS

6 "SEC. 501. (a) The President shall ensure that the
7 Select Committee on Intelligence of the Senate and the Per-
8 manent Select Committee of the House of Representatives
9 (hereinafter in this title referred to as the 'intelligence com-
10 mittees') are kept fully and currently informed of the intelli-
11 gence activities of the United States as required by this title.
12 Such activities shall ordinarily be conducted pursuant to con-
13 sultations between the President, or his representatives, and
14 the intelligence committees, prior to the implementation of
15 such activities: *Provided, however,* That nothing contained
16 herein shall be construed as requiring the approval of the
17 intelligence committees as a condition precedent to the initi-
18 ation of such activities: *And provided further, however,* That
19 nothing contained herein shall be construed as a limitation on
20 the power of the President to initiate such activities in a
21 manner consistent with his powers conferred by the Constitu-
22 tion.

23 "(b) The President shall ensure that any illegal intelli-
24 gence activity or significant intelligence failure is reported to
25 the intelligence committees, as well as any corrective action

1 that has been taken or is planned in connection with such
2 illegal activity or intelligence failure.

3 “(c) The President and the intelligence committees shall
4 each establish such procedures as may be necessary to carry
5 out the provisions of this title.

6 “(d) The House of Representatives and the Senate, in
7 consultation with the Director of Central Intelligence, shall
8 each establish, by rule or resolution of such House, proce-
9 dures to protect from unauthorized disclosure all classified
10 information and all information relating to intelligence
11 sources and methods furnished to the intelligence committees
12 or to Members of Congress under this section. In accordance
13 with such procedures, each of the intelligence committees
14 shall promptly call to the attention of its respective House, or
15 to any appropriate committee or committees of its respective
16 House, any matter relating to intelligence activities requiring
17 the attention of such House or such committee or com-
18 mittees.

19 “(e) Nothing in this Act shall be construed as authority
20 to withhold information from the intelligence committees on
21 the grounds that providing the information to the intelligence
22 committees would constitute the unauthorized disclosure of
23 classified information or information relating to intelligence
24 sources and methods.

1 **“APPROVING AND REPORTING SPECIAL ACTIVITIES**

2 **“SEC. 503. (a) The President may authorize the con-**
3 **duct of ‘special activities,’ as defined herein below, by depart-**
4 **ments, agencies, or entities of the United States Government**
5 **when he determines such activities are necessary to support**
6 **the foreign policy objectives of the United States and are**
7 **important to the national security of the United States, which**
8 **determination shall be set forth in a finding that shall meet**
9 **each of the following conditions:**

10 **“(1) Each finding shall be in writing, unless im-**
11 **mediate action by the United States is required and**
12 **time does not permit the preparation of a written find-**
13 **ing, in which case a written record of the President’s**
14 **decision shall be contemporaneously made and shall be**
15 **reduced to a written finding as soon as possible but in**
16 **no event more than forty-eight hours after the decision**
17 **is made;**

18 **“(2) A finding may not authorize or sanction spe-**
19 **cial activities, or any aspect of such activities, which**
20 **have already occurred;**

21 **“(3) Each finding shall specify each and every de-**
22 **partment, agency, or entity of the United States Gov-**
23 **ernment authorized to fund or otherwise participate in**
24 **any way in such activities: *Provided*, That any employ-**
25 **ee, contractor, or contract agent of a department,**

1 agency, or entity other than the Central Intelligence
2 Agency directed to participate in any way in a special
3 activity shall be subject either to the policies and regu-
4 lations of the Central Intelligence Agency, or to writ-
5 ten policies or regulations adopted by such department,
6 agency or entity, in consultation with the Director of
7 Central Intelligence, to govern such participation;

8 “(4) Each finding shall specify, in accordance with
9 procedures to be established pursuant to subsection
10 501(c), any third party, including any foreign country,
11 which is not an element of, contractor or contract
12 agent of, the United States Government, or is not oth-
13 erwise subject to United States Government policies
14 and regulations, who it is contemplated will be used to
15 fund or otherwise participate in any way in the special
16 activity concerned; and

17 “(5) A finding may not authorize any action that
18 would be inconsistent with or contrary to any statute
19 of the United States.

20 “(b) The President, the Director of Central Intelligence
21 and the heads of all departments, agencies, and entities of the
22 United States Government authorized to fund or otherwise
23 participate in any way in a special activity shall keep the
24 intelligence committees fully and currently informed of all
25 special activities which are the responsibility of, are engaged

1 in by, or are carried out for or on behalf of, any department,
2 agency, or entity of the United States Government. In satis-
3 fying this obligation, the intelligence committees shall be fur-
4 nished any information or material concerning special activi-
5 ties which is in the possession, custody or control of any de-
6 partment, agency, or entity of the United States Government
7 and which is requested by either of the intelligence commit-
8 tees in order to carry out its authorized responsibilities.

9 “(c) The President shall ensure that any finding issued
10 pursuant to subsection (a), above, shall be reported to the
11 intelligence committees as soon as possible, but in no event
12 later than forty-eight hours after it has been signed; provided,
13 however, that if the President determines it is essential to
14 limit access to the finding to meet extraordinary circum-
15 stances affecting vital interests of the United States, such
16 finding may be reported to the chairmen and ranking minori-
17 ty members of the intelligence committees, the Speaker and
18 minority leader of the House of Representatives, and the ma-
19 jority and minority leaders of the Senate. In either case, a
20 certified copy of the finding, signed by the President, shall be
21 provided to the chairman of each intelligence committee.
22 Where access to a finding is limited to the Members of Con-
23 gress identified herein above, a statement of the reasons for
24 limiting such access shall also be provided.

1 “(d) The President shall promptly notify the intelligence
2 committees, or, if applicable, the Members of Congress speci-
3 fied in subsection (c), above, of any significant change in any
4 previously-approved special activity.

5 “(e) As used in this section, the term ‘special activity’
6 means any activity conducted in support of national foreign
7 policy objectives abroad which is planned and executed so
8 that the role of the United States Government is not appar-
9 ent or acknowledged publicly, and functions in support of
10 such activity, but which is not intended to influence United
11 States political processes, public opinion, policies or media,
12 and does not include activities to collect necessary intelli-
13 gence, military operations conducted by the armed forces of
14 the United States and subject to the War Powers Resolution
15 (50 U.S.C. 1541-1548), diplomatic activities carried out by
16 the Department of State or persons otherwise acting pursu-
17 ant to the authority of the President, or activities of the De-
18 partment of Justice or Federal law enforcement agencies
19 solely to provide assistance to the law enforcement authori-
20 ties of foreign governments.”.

STAT

21 SEC. 3. Section 502 of title V of the National Security
22 Act of 1947 (50 U.S.C. 414) is redesignated as section 504
23 of such Act, and is amended by adding the following new
24 subsection (d):

1 “(d) No funds appropriated for, or otherwise available
2 to, any department, agency, or entity of the United States
3 Government, may be expended, or may be directed to be ex-
4 pended, for any special activity, as defined in subsection
5 503(e), above, unless and until a Presidential finding required
6 by subsection 503(a), above, has been signed or otherwise
7 issued in accordance with that subsection.”.

8 SEC. 4. Section 503 of title V of the National Security
9 Act of 1947 (50 U.S.C. 415) is redesignated as section 505
10 of such Act.

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(e) As used in this section, the term "special activity" means any activity conducted in support of national foreign policy objectives abroad which is planned and executed so that the role of the United States Government is not apparent or acknowledged publicly, and functions in support of such activity, but which is not intended to influence United States political processes, public opinion, policies or media, and does not include activities to collect necessary intelligence, military operations conducted by the armed forces of the United States and subject to the War Powers Resolution (50 U.S.C. 1541-1546), diplomatic activities carried out by the Department of State or persons otherwise acting pursuant to the authority of the President, or activities of the Department of Justice or federal law enforcement agencies solely to provide assistance to the law enforcement authorities of foreign governments."

Sec. 3. Section 502 of Title V of the National Security Act of 1947 (50 U.S.C. 414) is redesignated as section 504 of such Act, and is amended by adding the following new subsection (d):

"(d) No funds appropriated for, or otherwise available to, any department, agency, or entity of the United States Government, may be expended, or may be directed to be expended, for any special activity, as defined in subsection 503(e), above, unless and until a Presidential finding required by subsection 503(a), above, has been signed or otherwise issued in accordance with that subsection."

Sec. 4. Section 503 of Title V of the National Security Act of 1947 (50 U.S.C. 415) is redesignated as section 505 of such Act.

SECTION-BY-SECTION ANALYSIS

SECTION 1. REPEAL OF HUGHES-RYAN AMENDMENT

Current statutory provisions for intelligence oversight include the general requirements to inform the House and Senate Intelligence Committees in Title V of the National Security Act of 1947, as amended in 1980, and the requirement of Presidential approval for CIA covert action in Section 662 of the Foreign Assistance Act of 1961, as amended (22 USC 2422—the Hughes-Ryan Amendment). The differences in language and scope between these provisions have been a source of unnecessary confusion. Therefore, Section 1 of the bill would repeal the Hughes-Ryan Amendment in order to substitute a new Presidential approval requirement as an integral part of a more coherent and comprehensive statutory oversight framework for covert action (or "special activities") and other intelligence activities. The superceding Presidential approval requirement is contained in the proposed new sections 504 and 504(d) of the National Security Act of 1947, discussed below.

This change is intended to bring current law more closely into line with Executive branch policy which requires Presidential approval for covert action by any component of the U.S. Government, not just by the CIA. Section 3.1 of Executive Order 12733, December 4, 1981, states, "The requirements of section 662 of the Foreign Assistance Act of 1961, as amended (22 USC 2422), and section 591 of the National Security Act of 1947, as amended (50 USC 413), shall apply to all special activities as defined in this Order." Repealing Hughes-Ryan with a comprehensive Presidential approval requirement for covert action (or "special activities") by any U.S. Government entity gives statutory force to a policy that has not been consistently followed in recent years.

SECTION 2. OVERSIGHT OF INTELLIGENCE ACTIVITIES

Section 2 of the bill would replace the existing Section 501 of the National Security Act of 1947 with three new sections that prescribe, respectively, general provisions for oversight of all intelligence activities, reporting of intelligence activities other than special activities, and approval and reporting of special activities. This revision of current law has three principal objectives.

The first is to clarify and emphasize the general responsibilities of the President to work with the Congress, through the House and Senate Intelligence Committees, to ensure that US intelligence activities are conducted in the national interest. Current law does not fully address the obligations of the President. Nor does the existing statute reflect the commitment to consultation with the Congress made by the President as a result of the lessons learned from the Iran-Contra inquiries.

The second objective is to eliminate unnecessary ambiguities in the law. Experience under the current statute has indicated significant areas where Congressional intent may be subject to misinterpretation by Executive branch officials, as well as gaps in the law where Congress did not adequately anticipate the need for statutory guidance. Examples are the uncertain meaning of the requirement to report "in a timely fashion," the absence of an explicit provision for written Presidential Findings, and the need to specify those responsible for implementing covert actions. The aim is to clarify the intent of Congress with respect to oversight of intelligence activities so as to reduce the possibilities for misunderstanding or evasion. For purposes of clarity, a distinction is made between the detailed provisions for special activities, which are instruments of U.S. foreign policy, and the requirements for other intelligence activities (i.e., collection, analysis, counterintelligence) that are less controversial.

A third objective is to provide statutory authority for the President to employ special activities to implement U.S. foreign policy by covert means. Congress has not previously done so, except to the extent that the CIA was authorized by the National Security Act of 1947 "to perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct." Current law requires Presidential approval and the reporting to Congress of "intelligence operations in foreign countries, other than activities intended solely for obtaining necessary intelligence." This does not provide affirmative statutory authority to employ covert means as a supplement to overt instruments of U.S. foreign policy. Nor does it specify what types of activity are intended to be covered by the legal requirements for covert action. This has called into question the legality of covert actions, such as arms transfers, undertaken as alternatives to overt programs with express statutory authority. Congress should expressly authorize covert action as a legitimate foreign policy instrument, subject to clearly defined approval and reporting requirements.

The overall purpose of this bill is to use the lessons of recent experience to establish a more effective statutory framework for executive-legislative cooperation in the field of intelligence. Such legislation is not a guarantee against conflicts between the branches or abuses of power. It can, however, help minimize such conflicts and abuses by emphasizing the mutual obligations of the President and Congress, and by eliminating unnecessary legal ambiguities that invite misunderstanding on both sides.

SECTION 501. GENERAL PROVISIONS

The new Section 501 of Title V of the National Security Act of 1947 would specify the general responsibilities of the President and the Congress for oversight of intelligence activities.

(a) Presidential Duties and Prior Consultation

Subsection (a) would place a statutory obligation upon the President to ensure that the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence (referred to in the bill as the "intelligence committees") are kept fully and currently informed of the intelligence activities of the United States as required by this title. Current law imposes such duties on the DCI and agency heads, but not on the President himself. Overall responsibility should be vested in the President because of the importance and sensitivity of secret intelligence activities that may affect vital national interests and because the President may have unique knowledge of those activities that he is best suited to ensure is imparted to the intelligence committees. The terms and conditions for keeping the committees "fully and currently informed" are those set forth in Sections 502 and 503, discussed below.

In addition, subsection (a) would provide that U.S. intelligence activities shall ordinarily be conducted pursuant to consultations between the President, or his representatives, and the intelligence committees, prior to the implementation of such activities. This is consistent with the intentions of the President as stated in his letter of August 8, 1987, to the Chairman and Vice Chairman of the Senate Intelligence Committee. It applies to all U.S. intelligence activities, including collection, analysis, counterintelligence, and special activities. Additional Presidential reporting requirements for special activities are set forth in Section 503, discussed below. This new general provision for prior consultation with the intelligence committees would supplement current requirements for keeping the committees informed of "significant anticipated intelligence activities." The requirement for prior consultations is a more complete reflection of the need for executive-legislative cooperation in the formulation of intelligence policies. For example, the President or his representatives should ordinarily consult the intelligence committees on proposed Presidential Findings prior to their approval by the President.

Subsection (a) would also retain the qualification in current law that nothing contained in the prior consultation or prior notice requirements shall be construed as requiring the approval of the intelligence committees as a condition precedent to the initiation of such activities. The parallel provision of existing law is contained in paragraph 501(a)(1).

(b) Illegal Activities and Significant Failure

Subsection (b) would require the President to ensure that any illegal intelligence activity or significant intelligence failure is reported to the intelligence committees, as well as any corrective action that has been taken or is planned in connection with such illegal activity or failure. Under current law, paragraph 591(a)(3) imposes this duty on the DCI and agency heads, subject to certain conditions. The purpose is to place an unqualified statutory obligation on the President to ensure reporting of such matters to the committees. The President should establish procedures for review within the Executive branch of intelligence activities that may have been illegal and for

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reporting to the intelligence committees when a determination is made that there are reasonable grounds to believe that the activity was a violation of the Constitution, statutes, or Executive orders of the United States. The President should establish procedures for the reporting of activities determined to be significant intelligence failures. The current provision requires the reporting of an illegal activity or significant failure "in a timely fashion." This language is deleted because of its ambiguity. The intent is that the committees should be notified immediately whenever a determination is made under procedures established by the President in consultation with the intelligence committees.

Another difference from existing law is that the requirement to report illegal activities or significant failures would not be subject to the preambular clauses in the current subsection 501(a) which could be interpreted as qualifying the statutory obligation to inform the intelligence committees.

(c)-(f) Other General Provisions

Subsections (c) through (e) would retain provisions of existing law. Subsection (c) is identical to the current subsection 501(c) that authorizes the President and the intelligence committees to establish procedures to carry out their oversight obligations. Subsection (d) is the same as the current subsection 501(d) that requires the House and Senate to establish procedures to protect the secrecy of information furnished under this title and to ensure that each House and its appropriate committees are advised promptly of relevant information. Subsection (e) repeats the current subsection 501(e) which makes clear that information may not be withheld from the intelligence committees under this Act on the grounds that providing the information to the intelligence committees would be unauthorized disclosure of classified information or information relating to intelligence sources and methods.

Subsection (f) states that the term "intelligence activities," as used in this section, includes, but is not limited to, "special activities," as defined in subsection 503(e), discussed below.

SECTION 503. REPORTING INTELLIGENCE ACTIVITIES OTHER THAN SPECIAL ACTIVITIES

The new section 502 is intended to be substantially the same as the current requirements of subsections 502(a)(1) and (2) insofar as they apply to intelligence activities other than special activities. This distinction between special activities and other intelligence activities is discussed more fully with respect to section 503, below.

Fully and Currently Informed

Section 502 would require the Director of Central Intelligence (DCI) and the heads of all departments, agencies and other entities of the United States involved in intelligence activities to keep the intelligence committees fully and currently informed of all intelligence activities, other than special activities as defined in subsection 503(e), which are the responsibility of, are engaged in by, or are carried out for or on behalf of any department, agency, or entity of the United States, including any significant anticipated intelligence activity. The special procedure for prior notice to eight leaders in the current clause (B) of paragraph 501(a)(1) would be deleted, since it was intended to apply to special activities, to be governed by section 503, discussed below.

Section 502 also would provide that, in satisfying the obligation to keep the committees fully and currently informed, the DCI and the heads of all departments and agencies and other entities of the United

States involved in intelligence activities shall furnish the intelligence committees any information or material concerning intelligence activities (other than special activities) which is within their custody or control, and which is requested by either of the intelligence committees in order to carry out its authorized responsibilities. This requirement is subject to the provision for protection of sensitive intelligence source and methods, discussed below.

Protection of Sensitive Sources and Methods

The obligation to keep the intelligence committees fully and currently informed under this section is to be carried out with due regard for the protection of classified information relating to sensitive intelligence sources and methods. This provision is similar to the second preambular clause in the current subsection 501(a) which imposes duties "to the extent consistent with due regard for the protection from unauthorized disclosure of classified information and information relating to intelligence sources and methods." The proposed new language more accurately reflects and is intended to have the same meaning as the legislative history of the similar preambular clause in existing law.

The first preambular clause in the current subsection 501(a) would be deleted. It imposes obligations "[t]o the extent consistent with all applicable authorities and duties, including those conferred upon the executive and legislative branches of the Government." This clause creates unnecessary ambiguity in the law, because it has been interpreted by some as Congressional acknowledgement of an undefined constitutional authority of the Executive branch to disregard the statutory obligations. Recent experience indicates that legislation qualifying its terms by reference to the President's constitutional authorities may leave doubt as to the will of Congress and thus invite evasion. Legitimate Executive branch concerns are adequately met by the provision for due regard for protection of sensitive intelligence sources and methods, discussed above.

SECTION 503. APPROVING AND REPORTING SPECIAL ACTIVITIES

Special activities (or covert actions) raise fundamentally different policy issues from other U.S. intelligence activities because they are an instrument of foreign policy. Indeed, constitutional authorities draw a distinction between Congressional power to restrict the gathering of information, which may impair the President's ability to use diplomatic, military, and intelligence organizations as his "eyes and ears," and Congressional power to regulate covert action that goes beyond information gathering. There is little support for the view that such special activities are an exclusive Presidential function. Congress has the constitutional power to refuse to appropriate funds to carry out special activities and may impose conditions on the use of any funds appropriated for such purposes.

Under current law, however, the Congressional mandate is ambiguous, confusing and incomplete. There is no express statutory authorization for special activities; the requirement for Presidential approval of special activities applies only to the CIA; and Presidential approval procedures are not specified. There is a question whether Congress has intended that the President have authority to conduct special activities which are inconsistent with or contrary to other statutes. The statutory requirements for informing the intelligence committees of special activities are subject to misinterpretation, and the scope of activities covered by the law is undefined. This bill seeks to remedy these deficiencies so that covert ac-

tions are conducted with proper authorization in the national interest as determined by the elected representatives of the American people—the President and the Congress—through a process that protects necessary secrecy.

(a) Presidential Findings

Subsection (a) would provide statutory authority for the President to authorize the conduct of special activities by departments, agencies or entities of the United States when he determines such activities are necessary to support the foreign policy objectives of the United States and are important to the national security of the United States. This determination must be set forth in a "Finding" that meets certain conditions. The importance of this requirement is underscored by Section 3 of the bill, discussed later, which prohibits expenditure of funds for any special activity unless and until such a presidential Finding has been issued.

The current Presidential approval provision in the Hughes-Ryan Amendment (22 USC 2422) requires a finding by the President "that each such operation is important to the national security of the United States." The proposed new subsection 503(a) would require the President to make an additional determination that the activities "are necessary to support the foreign policy objectives of the United States." This conforms the statute to the Executive branch definition of "special activities" in section 3.4(h) of Executive Order 12333 which refers to "activities conducted in support of national foreign policy objectives abroad." The President should determine not only that the operation is important to national security, but also that it is consistent with and in furtherance of established U.S. foreign policy objectives.

In addition to reflecting these presidential determinations, Findings must meet five conditions. First, paragraph 503(a)(1) would require that each Finding be in writing, unless immediate action is required of the United States and time does not permit the preparation of a written Finding, in which case a written record of the President's decision would have to be contemporaneously made and reduced to a written Finding as soon as possible but in no event more than 48 hours after the decision is made. This requirement should prevent a President's subordinate from later claiming to have received oral authorization without further substantiation than the subordinate's undocumented assertion. It is also consistent with the President's current policy of requiring written Findings.

Second, paragraph 503(a)(2) would restate emphatically the current legal ban on retroactive Findings. It would provide that a Finding may not authorize or sanction special activities, or any aspects of such activities, which have already occurred. This is also consistent with the President's current policy.

Third, paragraph 503(a)(3) would require that each Finding specify each and every department, agency, or entity of the United States Government authorized to fund or otherwise participate in any way in the special activities authorized in the Finding. This requirement is consistent with section 1.8(e) of Executive Order 12333 which states that no agency except the CIA in peacetime may conduct any special activity "unless the President determines that another agency is more likely to achieve a particular objective."

Fourth, paragraph 503(a)(4) would require that each Finding specify, in accordance with procedures to be established, any third

party, including any third country, which is not an element of, contractor of, or contract agent of the U.S. Government, or is not otherwise subject to U.S. Government policies and regulations, whom it is contemplated will be used to fund or otherwise participate in any way in the special activity concerned. The purpose is to require the President's approval and notice to the intelligence committees when third countries, or private parties outside normal U.S. government controls, are used to help implement a covert action operation. The intent is that procedures be established in consultation with the intelligence committees to determine when the involvement of a third party constitutes use "to fund or otherwise participate" in a special activity and to determine when a private party is not "subject to U.S. Government policies and regulations."

Fifth, paragraph 503(a)(5) would establish that a Finding may not authorize any action that would be inconsistent with or contrary to any statute of the United States. This is similar to section 2.8 of Executive Order 12333, which states that nothing in that Order "shall be construed to authorize any activity in violation of the Constitution or statutes of the United States." Current CIA policy is to conform its operations to any federal statutes which apply to special activities, either directly or as laws of general application. This provision is not intended to require that special activities authorized in Presidential Findings comply with statutory limitations which, by their terms, apply only to another U.S. Government program or activity. For example, a statutory restriction on the overt Defense Department arms transfer program would not apply to covert CIA arms transfers authorized in a Finding, even if the CIA obtained the arms from the Defense Department under the Economy Act. When the Congressional concerns that led to the restriction on the Defense Department program are relevant to the similar covert CIA activity, those factors should be taken into account by the intelligence committees.

fb) Fully and Currently Informed

Subsection 503(b) would place a statutory obligation on Executive branch officials to keep the intelligence committees fully and currently informed of special activities and furnish the intelligence committees any information or material concerning special activities which they possess and which is requested by either of the intelligence committees in order to carry out its authorized responsibilities. This subsection differs in four respects from the parallel provisions of Section 502 that apply to other intelligence activities.

The first difference is that the obligation would be placed on the President, as well as on the DCI and the heads of departments, agencies, and entities of the U.S. Government. The President may have unique information concerning a special activity that should be imparted to the committees.

The second difference is that the obligation would be placed on the heads of departments, agencies, and entities of the U.S. Government "authorized to fund or otherwise participate in a special activity"—rather than just those directly involved in the activity. This conforms to the terms of the presidential Finding requirement in subsection 503(a)(3).

The third difference is that the requirement to inform the committees of "any significant anticipated intelligence activity" would be deleted. In the case of special activities, that requirement would be superceded by the requirements in subsections 503(c) and (d), discussed below, for reporting presidential Findings and significant

changes in special activities, as well as by the general provision in subsection 501(a) for prior consultations with the intelligence committees.

The fourth difference is that the obligation to inform the committees would not be subject to a general proviso that such obligation shall be carried out with due regard for the protection of classified information relating to sensitive intelligence sources and methods. Instead, a specific statutory procedure would be established in subsection 503(c) for limiting the number of Members of Congress to whom information would be imparted in exceptionally sensitive cases. Moreover, sensitive sources and methods would also be protected under the procedures established by the President and the intelligence committees pursuant to subsection 501(c) and by the House of Representatives and the Senate pursuant to subsection 501(d).

(c) Notice of Findings

Subsection 503(c) would require the President to ensure that any Findings issued pursuant to subsection (a), above, shall be reported to the intelligence committees as soon as possible, but in no event later than 48 hours after it has been signed. If, however, the President determines it is essential to limit access to the Finding to meet extraordinary circumstances affecting vital interests of the United States, such Finding may be reported to 8 Members of Congress—the chairman and ranking minority members of the intelligence committees, the Speaker and minority leader of the House of Representatives, and the majority and minority leaders of the Senate. This procedure is similar to the existing provision in clause (B) of the current paragraph 501(a)(3) for limiting prior notice of "significant anticipated intelligence activities" to the same 8 congressional leaders.

The principal differences from existing law are the elimination of the preambular clauses in the current subsection 501(a) that qualify clause (1)(b) and the deletion of the separate provision in the current subsection 501(b) for "timely" notice when prior notice is not given. These current provisions have created confusion because they appear, on the one hand, to require notice of Findings to at least the 8 leaders while, on the other hand, leaving open the possibility of postponement of notice until some time after a Finding is implemented. The proposed new subsection 503(c) changes the point of reference in the law from notice prior to the initiation of an activity to the more logical point of notice immediately upon the issuance of a Finding.

Subsection 503(b) would also require that in all cases a certified copy of the Finding signed by the President shall be provided to the chairman of each intelligence committee and that, if access is limited, a statement of the reasons for limiting access to the Finding concerned shall accompany the copy of the Finding.

fd) Notice of Significant Changes

Subsection 503(d) would require the President to ensure that the intelligence committees, or, if applicable, the 8 leaders specified in subsection (c), are promptly notified of any significant change in any previously-approved special activity. The intent is that such changes should be reported insofar as practicable prior to their implementation, in accordance with procedures agreed upon by the intelligence committees and the President. Such procedures currently exist in the form of agreements entered into between the DCI and the Chairman and Vice Chairman of the Senate Intelligence Committee in 1984 and 1986. Any change in the actual terms and conditions of a Finding would

have to be reported in accordance with subsection 503(e).

le) Definition of "Special Activities"

Section 503(e) sets forth a definition of the term "special activities". Not heretofore used or defined in statute, the term has nevertheless been used since 1978 in two Executive orders as a euphemism for the more colloquial term "covert actions". The term is adopted here not only because of its previous use within the Executive branch but as a more appropriate designation of such activity by the United States.

As stated, the definition of "special activities" set forth in section 503(e) is based upon the definition of the term now set forth in section 3.4(h) of Executive order 12333, issued by President Reagan on December 4, 1981. Indeed, the first and principal clause of the definition is taken verbatim from the definition in the Executive order. The exclusionary clauses, exempting certain activities from the scope of the definition, are for the most part modifications of, or additions to, the exclusions contained in the Executive order definition.

As defined in section 503(e), a "special activity" is any activity conducted in support of national foreign policy objectives abroad which is planned and executed so that the role of the United States Government is not apparent or acknowledged publicly, and functions in support of such activity. The definition covers all covert activities undertaken by the United States to support its foreign policy objectives towards other countries regardless of the department, agency, or element of the United States Government used to carry out such activities. While it applies to those activities conducted in support of national foreign policy objectives abroad, the term encompasses those activities conducted by the United States Government within the territory of the United States, so long as they are intended to support U.S. objectives abroad. The definition applies only to activities in which the role of the U.S. Government is not apparent or acknowledged to the public. Thus activities of the United States Government conducted in support of national foreign policy objectives which are made known to the public, or which would be made known to the public or press if the Government were asked, are not covered by the definition.

The definition also makes clear that special activities shall not be intended to influence U.S. political processes, public opinion, policies or media. The purpose of this language is to preclude the use of the authority contained in this bill to plan or execute special activities for the purpose of influencing U.S. public opinion. While it is recognized that some special activities may occasionally have an indirect effect on U.S. public opinion, no such activity may be instituted for this purpose, and to the extent such indirect effect can be minimized in the planning and execution of special activities, it should be done. This portion of the definition reiterates what has been longstanding policy and practice within the Executive branch.

The definition further specifies four broad areas of activity undertaken by the United States Government in support of foreign policy objectives which are not included within the definition of special activities even if planned and conducted so that the role of the United States Government is not apparent or acknowledged publicly. These include activities to collect necessary intelligence, military operations conducted by the armed forces of the United States and subject to the War Powers Resolution (50 U.S.C. 1541-1548), diplomatic ac-

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tivities carried out by the Department of State or persons otherwise acting pursuant to the authority of the President, or activities of the Department of Justice or federal law enforcement agencies solely to provide assistance to the law enforcement authorities of foreign governments. An explanation of each of these exclusions follows.

The exclusion of U.S. activities to collect necessary intelligence is intended to cover all activities of the United States Government undertaken for the purpose of obtaining intelligence necessary for the national security of the United States. While such activities clearly require oversight by the Congress, they are excluded from the definition of "special activities", inasmuch as they are subject to separate authorization and oversight, and often do not require specific approval by the President. This exclusion reiterates the longstanding policy contained in the Hughes-Ryan amendment (24 U.S.C. 2422) (1974) and in subsequent Executive orders.

The exclusion of military operations conducted by the armed forces of the United States and subject to the War Powers Resolution (50 U.S.C. 1541-1548) is new, appearing in neither statute or Executive order heretofore. The purpose of this exclusion is to clarify a problem of interpretation namely, when is a military operation undertaken by the United States reportable as a "special activity" or covert action? The definition sets forth a clear dividing line: if the military operation concerned is carried out covertly by U.S. military forces and it is not required to be reported to the Congress under the War Powers Resolution, then it is a "special activity" which is reportable to the intelligence committees under this statute. The exclusion would not apply to covert assistance given by the United States to the military forces, or to support the military operations, of a third party, either governmental or to private entities.

The third area excluded from the definition of special activities is diplomatic activities carried out by the Department of State or persons otherwise acting pursuant to the authority of the President. This represents a modification of the comparable exclusion in Executive order 12333. Although most diplomatic activities of the United States are publicly acknowledged, it is recognized that there are many diplomatic contacts and deliberations which are necessarily secret. The definition of special activities excludes these activities so long as they are undertaken by the Department of State, or by persons—either government officials or private citizens—who are acting pursuant to the authority of the President. It would not exclude diplomatic activities which are carried out by persons who are not employees of the Department of State—either governmental or private—whose authority to carry out such activities on behalf of the United States is not already established by law or Executive branch policy.

The fourth and final area excluded from the definition of special activities are activities of the Department of Justice or federal law enforcement agencies solely to provide assistance to law enforcement authorities of foreign governments. This exclusion is also new, reflected neither in law nor Executive order heretofore. Its incorporation here is intended to clarify a problem of interpretation which has existed under the current framework, namely, do law enforcement activities undertaken covertly by U.S. Government agencies outside the United States qualify as special activities? The formulation contained in the proposed definition would exclude assistance provided covertly to third countries by U.S. law enforcement agencies. It would not exclude law enforce-

ment activities actually carried out covertly and unilaterally by such agencies outside the United States. It would also not exclude either assistance to law enforcement agencies of third countries, or carrying out law enforcement activities outside the United States, by elements of the U.S. Government which do not have law-enforcement functions.

SECTION 3. LIMITATION ON USE OF FUNDS FOR SPECIAL ACTIVITIES

Section 3 of the bill redesignates section 502 of the National Security Act of 1947, which concerns the funding of intelligence activities, as section 504 of the Act and adds a new subsection (d) which deals with the use of funds for special activities.

This provision is intended to carry forward and expand the limitation currently contained in 22 U.S.C. 2423 (the Hughes-Ryan Amendment), which would be repealed by Section 1 of the bill. The Hughes-Ryan amendment restricts the use of funds appropriated to CIA to carry out actions outside the United States "other than the collection of necessary intelligence", unless and until the President had determined that such actions were important to the national security.

Section 504(d) would similarly provide that appropriated funds could not be expended for special activities until the President had signed, or otherwise approved, a Finding authorizing such activities, but it would expand this limitation to cover the funds appropriated for any department, agency, or entity of the Government, not solely CIA. It would also cover non-appropriated funds which are available to such elements from any source, over which the agency involved exercises control. These might include funds offered or provided by third parties, funds produced as a result of intelligence activities (i.e. proprietaries), or funds originally appropriated for an agency other than the agency who wishes to expend the funds. The limitation contained in section 504(d) would also apply whether or not the agency concerned actually came into possession of the funds at issue. So long as the agency concerned had the ability to direct such funds be expended by third parties—governmental or private—it could not do so until a presidential Finding had been signed, or otherwise approved, in accordance with the requirements of section 503(a).

SECTION 4. REDESIGNATION OF SECTION 503 OF NATIONAL SECURITY ACT OF 1947

Section 4 redesignates section 503 of the National Security Act of 1947 as section 505, to conform to the changes made by the bill.

TEXT OF THE PRESIDENT'S LETTER ON NEW GUIDELINES FOR COVERT OPERATIONS

Hon. DAVID L. BOREN,
Chairman, Senate Select Committee on Intelligence, U.S. Senate, Washington, DC.
cc: The Honorable Louis Stokes and the Honorable Henry J. Hyde.

DEAR CHAIRMAN BOREN: In my March 31, 1987, message to Congress, I reported on those steps I had taken and intended to take to implement the recommendations of the President's Special Review Board. These included a comprehensive review of executive branch procedures concerning Presidential approval and notification to Congress of covert-action programs—or so-called special activities.

In my message, I noted that the reforms and changes I had made and would make "are evidence of my determination to return to proper procedures including consultation with the Congress."

In this regard, Frank Carlucci has presented to me the suggestions developed by

the Senate Select Committee on Intelligence for improving these procedures. I welcome these constructive suggestions for the development of a more positive partnership between the intelligence committees and the executive branch.

Greater cooperation in this critical area will be of substantial benefit to our country, and I pledge to work with you and the members of the two committees to achieve it. We all benefit when we have an opportunity to confer in advance about important decisions affecting our national security.

Specifically, I want to express my support for the following key concepts recommended by the committee:

1. Except in cases of extreme emergency, all national security "findings" should be in writing. If an oral directive is necessary, a record should be made contemporaneously and the finding reduced to writing and signed by the President as soon as possible, but in no event more than two working days thereafter. All findings will be made available to members of the National Security Council (N.S.C.).

2. No Finding should retroactively authorize or sanction a special activity.

3. If the President directs any agency or persons outside of the C.I.A. or traditional intelligence agencies to conduct a special activity, all applicable procedures for approval of a finding and notification to Congress shall apply to such agency or persons.

4. The intelligence committees should be appropriately informed of participation of any Government agencies, private parties, or other countries involved in assisting with special activities.

5. There should be a regular and periodic review of all ongoing special activities both by the intelligence committees and by the N.S.C. This review should be made to determine whether each such activity is continuing to serve the purpose for which it was instituted. Findings should terminate or "sunset" at periodic intervals unless the President, by appropriate action, continues them in force.

6. I believe we cannot conduct an effective program of special activities without the cooperation and support of Congress. Effective consultation with the intelligence committees is essential, and I am determined to ensure that these committees can discharge their statutory responsibilities in this area. In all but the most exceptional circumstances, timely notification to Congress under Section 501(b) of the National Security Act of 1947, as amended, will not be delayed beyond two working days of the initial, of a special activity. While I believe that the current statutory framework is adequate, new executive branch procedures nevertheless are desirable to ensure that the spirit of the law is fully implemented. Accordingly, I have directed my staff to draft for my signature executive documents to implement appropriately the principles set forth in this letter.

While the President must retain the flexibility as Commander in Chief and chief executive to exercise those constitutional authorities necessary to safeguard the nation and its citizens, maximum consultation and notification is and will be the firm policy of this Administration.

Sincerely,

RONALD REAGAN.●

● Mr. BENTSEN, Mr. President, I am pleased today to join my colleagues in introducing the "Intelligence Oversight Act of 1987." This legislation continues the pattern of statutory strengthening of the intelligence oversight process that was established 40

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years ago by the National Security Act of 1947. In the ensuing years, Congress has enacted other legislation in this area, including most recently the Foreign Intelligence Surveillance Act of 1978, the Intelligence Oversight Act of 1980, and the Intelligence Identities Protection Act of 1982. Each of these pieces of legislation responded to a requirement that was identified at the time, ranging from the need to strengthen our counterintelligence capabilities in the first instance to a life-and-death situation where CIA agents' identities were being publicly revealed in the past. The legislation we are introducing today, too, grows out of our own recent experience.

One of the lessons that we learned during the investigation of the Iranian arms sales and diversion of profits to the Contras is that current oversight statutes, particularly in the area of covert action reporting, are simply not specific enough. Indeed, it had become obvious during the preliminary investigation conducted by the Select Committee on Intelligence late last year that there were gaps and loopholes in our oversight laws and that there were some individuals within the executive branch who exploited these loopholes as a means of avoiding congressional notification of a covert operation.

To be specific, there is currently a statutory requirement that the oversight committees of Congress be notified in advance of covert actions, or must be notified "in a timely fashion" after the fact. This loophole of "timely fashion" was broad enough to allow the administration not to report the Iranian arms sales for some 18 months. I doubt they would have reported them even then, except that a small newspaper in the Middle East broke the story in November of last year.

The legislation that we are introducing today closes that loophole by requiring that the President provide written notification to the Oversight Committees of the Congress within 48 hours after he has authorized a covert action. If he believes that the action is too sensitive to reveal to the entire membership of the Intelligence Committees, he would be authorized to limit notification to the chairmen and ranking members of those committees, the majority and minority leaders of the Senate and the Speaker and minority leader of the House. Notification of these eight individuals would insure that we do not have another situation where our country is embarked on a course of action with potentially grave foreign policy implications without notifying the Congress that such was about to be done.

Unlike present law, which does not require Presidential approval for covert activities conducted by agencies other than the CIA, this legislation spells out for the first time that the President must personally approve each covert action or "special activity," as they are sometimes called. So

that there will be no doubt as to what the President has authorized and when he authorized it, our legislation requires that a Presidential finding be in writing and that a copy of each finding must be transmitted to the Intelligence Committees within 48 hours after it is signed. Retroactive findings such as were used in the Iran arms sales would be prohibited.

In other sections, this legislation would spell out for the first time the statutory power of the President to authorize covert actions. It also provides that no finding which authorizes a covert action can operate contrary to statute and that no funds can be used for a covert action unless there is a finding. Taken together, it seems to me that these requirements represent a reasonable approach to the problem of regaining control over covert actions, while at the same time not in any way harming or endangering our Nation's ability to conduct such operations.

Mr. President, I would like to close this statement on a more personal note. I have been a member of the Select Committee on Intelligence for almost 7 years now. In time of service on the committee I am the senior member on the Democratic side. During these years it has been my privilege to have had weekly, and sometimes almost daily, contact with the men and women of our Nation's intelligence services. The work that they do for our country is absolutely invaluable, and many of them routinely put their lives on the line with little or no public recognition.

Indeed, when public recognition does occur, it can sometimes mean death, as in the case of William Buckley who was CIA station chief in Beirut. Buckley was taken hostage, tortured, and killed because of what he was doing for his country—our country. There are similar men and women all over the world doing their jobs in silence and without public praise. In the lobby of the CIA headquarters building in Langley, VA, there are rows of gold stars carved into the wall. Each of those stars represents a CIA employee who was killed serving his country. Beneath the stars is a display case in which has been placed an open book. There are names in the book representing most of the stars on the wall, but there are blank lines as well, for some of these CIA employees still cannot be publicly identified, even 35 years later.

Mr. President, I end with these sentiments because I want to make it clear that in sponsoring this legislation today, I am not aiming it at the men and women of the intelligence community. I am not criticizing them for the job they do for us each and every day. No, I am not introducing this legislation as a way of strengthening the oversight process, continuing the pattern of the past 40 years, and making our Nation's partnership between the legislative and executive

branches in this area a stronger and even more productive one.●

Mr. MURKOWSKI. Mr. President, events of recent months have highlighted the importance of congressional oversight of intelligence activities. The oversight function, performed by the two Select Intelligence Committees—one in the House and one in the Senate—is the means by which this democracy reconciles the people's right to know with the intelligence agencies need for secrecy.

Under existing law the intelligence agencies are obliged to keep the two communities currently informed of significant intelligence activities, including covert action. However, ambiguities inherent in existing statutes were dramatically highlighted during the recently concluded congressional investigation of the Iran-Contra affair. It is important that these ambiguities are eliminated so that the ground rules are clearly understood in both the Executive and the Congress and the temptation to look for loopholes is reduced.

As an outgrowth of painstaking negotiations on these issues between the staffs of the Senate Intelligence Community and the National Security Council, the committee sent a letter to the President's National Security Adviser. The legislation closely follows the provisions contained in that letter.

This bill does not impose new and more onerous burdens upon the intelligence agencies. Rather, it clarifies and rationalizes existing law. For example, this bill will, for the first time, explicitly empower the President to authorize covert actions and establish a Presidential "finding" as the authorizing document.

I am pleased to join with my distinguished colleague from Maine, the vice chairman of the Senate Select Committee on Intelligence, in cosponsoring this legislation.

By Mr. INOUE (for himself, Mr. EVANS, Mr. BYRD, Mr. CRANSTON, Mr. SIMPSON, Mr. DECONCINI, Mr. BURDICK, Mr. DASCHLE, Mr. MURKOWSKI, Mr. MCCAIN, Mr. BINGAMAN, Mr. BOSCHWITZ, Mr. COCHRAN, Mr. CONRAD, Mr. DOMENICI, Mr. GORE, Mr. GRAMM, Mr. LEVIN, Mr. MATSUNAGA, Mr. PELL, Mr. REID, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. RUDMAN, Mr. STAFFORD, Mr. SANFORD, Mr. SIMON, Mr. WIRTH, Mr. BOREN, and Mr. MELCHER):

S. 1722. A bill to authorize the establishment of the National Museum of the American Indian, Heye Foundation within the Smithsonian Institution, and to establish a memorial to the American Indians, and for other purposes; by unanimous consent, referred jointly to the Committee on Rules and Administration and the Select Committee on Indian Affairs.

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II

100TH CONGRESS
1ST SESSION

S. 1818

To make requirements for the preparation, and transmittal to the Congress, of Presidential findings for certain intelligence operations; to provide mandatory penalties for deceiving Congress; and to establish an independent inspector general for the Central Intelligence Agency.

IN THE SENATE OF THE UNITED STATES

OCTOBER 27 (legislative day, OCTOBER 16), 1987

Mr. SPECTER introduced the following bill; which was read twice and referred to the Select Committee on Intelligence

A BILL

To make requirements for the preparation, and transmittal to the Congress, of Presidential findings for certain intelligence operations; to provide mandatory penalties for deceiving Congress; and to establish an independent inspector general for the Central Intelligence Agency.

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

3

4 SECTION 1. SHORT TITLE.

5 This Act may be cited as the "National Security Reform
6 Act of 1987".

1 **SEC. 2. PRESIDENTIAL FINDINGS ON CERTAIN INTELLIGENCE**
2 **OPERATIONS.**

3 Subsection (b) of section 501 of the National Security
4 Act of 1947 is amended to read as follows:

5 “(b)(1) No covert operations in foreign countries, other
6 than operations intended solely for obtaining necessary intel-
7 ligence, may be approved, conducted, or funds appropriated
8 or expended for, by or on behalf of the executive branch,
9 unless and until the President makes a finding that each such
10 covert operation is important to the national security of the
11 United States. Operations by or on behalf of the executive
12 branch include action by any officer or employee of the
13 United States Government or any foreign government or in-
14 dividual acting at the request of or with the concurrence of
15 any officer or employee of the United States Government.
16 Each such covert operation shall be considered a significant
17 anticipated intelligence activity for the purposes of this
18 section.

19 “(2) Each finding of the President under paragraph
20 (1)—

21 “(A) shall immediately be reduced to writing and
22 signed by the President, except that the President may
23 make such finding orally if the President determines
24 that immediate action by the United States is required
25 to deal with an emergency situation affecting vital

1 United States interests and that time does not permit
2 the drafting of a written finding;

3 “(B) any oral finding as provided for under (A)
4 shall be reduced to writing immediately after the action
5 is orally approved with the written finding to be com-
6 pleted no later than twenty-four hours after the making
7 of the oral finding;

8 “(C) the written version of the oral finding shall
9 include a statement of the reasons of the President for
10 having first proceeded with an oral finding;

11 “(D) shall be effective only with respect to oper-
12 ations beginning after the finding was made by the
13 President.

14 “(3) The President shall contemporaneously, but in no
15 event later than twenty-four hours after the making of a writ-
16 ten finding, inform the intelligence Committees of, and pro-
17 vide a copy of, any such finding which authorizes covert
18 action unless the President determines it is essential to limit
19 such notification to meet extraordinary circumstances affect-
20 ing vital interests of the United States in which event oral
21 notice shall contemporaneously, but in no event later than
22 twenty-four hours after the making of an oral or written find-
23 ing, be given to the chairman and ranking minority members
24 of the Intelligence Committees, the Speaker and minority

5

1 Agency, there is hereby established in the Central Intelli-
2 gence Agency or Office of Inspector General.

3 (2) APPOINTMENT AND REMOVAL.—There shall be at
4 the head of the Office an Inspector General who shall be
5 appointed by the President, by and with the advice and con-
6 sent of the Senate. The inspector general shall report to and
7 be under the general supervision of the Director of Central
8 Intelligence or the officer next below in rank but not any
9 other officer of the Central Intelligence Agency.

10 (3) The Director may prohibit the inspector general
11 from initiating, carrying out, or completing any audit or in-
12 vestigation, or from issuing any subpoena, only concerning
13 ongoing operations, and only if he determines that such pro-
14 hibition is necessary to protect vital national security inter-
15 ests of the United States.

16 (4) If the Director exercises any power under subsection
17 (a)(3) of this section, he shall submit a classified statement of
18 the reasons for the exercise of the power within seven days to
19 the Select Committee on Intelligence of the Senate and Per-
20 manent Select Committee on Intelligence of the House of
21 Representatives.

22 (5) The inspector general may be removed from office
23 only by the President. The President shall immediately com-
24 municate in writing to both Houses of Congress the reasons
25 for any such removal.

1 (6) DUTIES AND POWERS.—It shall be the duty and
2 responsibility of the inspector general appointed under this
3 Act—

4 (A) to provide policy direction for and to conduct,
5 supervise, and coordinate investigations and audits re-
6 lating to the programs and operations of the Central
7 Intelligence Agency to assure they are conducted effi-
8 ciently and in accordance with applicable law and
9 regulations;

10 (B) to keep the Director and the Congress fully
11 and currently informed, by means of reports required
12 by subsection (8) and otherwise, concerning violations
13 of laws and regulations, fraud, and other serious prob-
14 lems, abuses, and deficiencies and to report the
15 progress made in implementing corrective action.

16 (7) The inspector general shall have the power to issue
17 subpoenas to carry out his work.

18 (8) REPORTS.—The inspector general shall not later
19 than April 30 and October 30 of each year, prepare a classi-
20 fied semiannual report summarizing the activities of the
21 Office during the immediately preceding six-month periods
22 ending March 31 and September 30.

23 (9) Classified semiannual reports of the inspector
24 general shall be furnished to the Director not later than April
25 30 and October 30 of each year and shall be transmitted by

1 him to the Select Committee on Intelligence of the Senate
2 and the Permanent Select Committee on Intelligence of the
3 House of Representatives within thirty days after receipt, to-
4 gether with any comments he deems appropriate.

5 (10) The inspector general shall report immediately, se-
6 rious problems, violations of law or regulations or serious de-
7 ficiencies relating to the administration of programs and oper-
8 ations of the Agency. The Director shall transmit any such
9 report to the Select Committee on Intelligence of the Senate
10 and the Permanent Select Committee on Intelligence of the
11 House of Representatives within seven calendar days, to-
12 gether with any comments he deems appropriate.

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100TH CONGRESS
1ST SESSION

S. 1820

To improve the objectivity, reliability, coordination and timeliness of national foreign intelligence through a reorganization of positions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 27 (legislative day, OCTOBER 16), 1987

Mr. SPECTER introduced the following bill; which was read twice and referred to the Select Committee on Intelligence

A BILL

To improve the objectivity, reliability, coordination and timeliness of national foreign intelligence through a reorganization of positions, 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 SHORT TITLE

4 SECTION 1. This Act may be cited as the "National
5 Intelligence Reorganization Act of 1987".

6 SEC. 2. Section 101(a) of the National Security Act of
7 1947 is amended in the fourth undesignated paragraph—

8 (1) by striking out "and" at the end of clause (6);

9 (2) by striking out the period at the end of clause

10 (7) and inserting in lieu thereof "; and"; and

1 (3) by adding at the end thereof the following:

2 “(8) The Director of National Intelligence in his
3 role as primary adviser on intelligence.”.

4 SEC. 3. Title I of the National Security Act of 1947 is
5 amended by inserting new section 102.

6 “DIRECTOR OF NATIONAL INTELLIGENCE

7 “SEC. 102. (a)(1) There are hereby established the posi-
8 tions of Director of National Intelligence (hereafter in this
9 Act referred to as the “DNI”) and the Deputy Director of
10 National Intelligence who shall each be appointed by, serve
11 at the pleasure of, the President, by and with the advice and
12 consent of the Senate.

13 “(2) The principal role of foreign intelligence and of the
14 agencies which provide such intelligence is to ensure the pro-
15 vision of objective, reliable, coordinated, and timely informa-
16 tion upon which the President and other senior foreign policy
17 makers may base sound foreign policy decisions. To ensure
18 such provision, the DNI shall serve as the nation’s senior
19 intelligence officer and primary adviser to the President on
20 foreign intelligence matters. Accordingly, the DNI shall be
21 freed from any duties involving the formulation of foreign
22 policy and the implementation of special activities except as
23 may be specifically authorized by this Act. The Deputy Di-
24 rector of National Intelligence shall act for, and exercise the
25 powers of, the Director during his absence or disability.

1 “(3) The DNI shall be responsible directly to the Presi-
2 dent and the National Security Council.

3 “(4) Upon request, any department, agency, or other
4 component of the United States Government involved in in-
5 telligence or intelligence-related activities shall detail for the
6 use of the DNI such staff as may be necessary to carry out
7 the duties of the DNI under this section.

8 “(b) To carry out his responsibilities under this section,
9 the DNI shall—

10 “(1) ensure that such objective, reliable and co-
11 ordinated national foreign intelligence is provided to
12 the President and officials in the executive and legisla-
13 tive branches in a timely manner;

14 “(2) oversee and provide direction to the national
15 foreign intelligence activities of all agencies, depart-
16 ments, offices, and other entities of the intelligence
17 community.

18 “(3) develop such strategy, objectives and guid-
19 ance for the intelligence community as will enhance ca-
20 pabilities for responding to expected future needs for
21 national foreign intelligence;

22 “(4) provide guidance for national foreign intelli-
23 gence program and budget development to program
24 managers, heads of agencies, departments, offices, and
25 other entities of the intelligence program and budget;

1 “(5) review, evaluate, approve, and submit, to the
2 Congress through the President, a national foreign in-
3 telligence program and budget;

4 “(6) review and approve all requests for repro-
5 gramming national foreign intelligence funds;

6 “(7) develop collection strategies, objectives, and
7 targets in the intelligence community for national for-
8 eign intelligence requirements and priorities established
9 by the National Security Council;

10 “(8) direct, control, and manage the tasking of na-
11 tional foreign intelligence collection activities;

12 “(9) coordinate, produce, and disseminate all na-
13 tional foreign intelligence and, levy analytic tasks on
14 all intelligence community production organizations and
15 entities in consultation with those organizations and
16 entities. Intelligence of the departments and agencies
17 of the Government relating to the national security
18 shall be open to the audit of the DNI, and such intelli-
19 gence as relates to the national security and is pos-
20 sessed by such departments and other agencies of the
21 Government, shall be made available to the DNI for
22 correlation, evaluation, and dissemination;

23 “(10) ensure that appropriate mechanisms for
24 competitive analysis are developed so that diverse

1 views and judgments within the intelligence community
2 are brought to the attention of national policymakers;

3 “(11) conduct jointly with the Secretary of De-
4 fense and the Chairman of the Joint Chiefs of Staff,
5 military net assessments which allow for independent
6 judgments by the DNI on areas critical to United
7 States national security, strategy, tactics, or specific
8 weapon systems;

9 “(12) oversee special activities on a periodic basis
10 for compliance with established laws and regulations.

11 “(13) promote the development and maintenance
12 of services of common concern by designated intelli-
13 gence organizations on behalf of the intelligence com-
14 munity;

15 “(14) formulate policies concerning foreign intelli-
16 gence and counterintelligence arrangements with for-
17 eign governments, coordinate foreign intelligence and
18 counterintelligence relationships between agencies of
19 the intelligence community and the intelligence or in-
20 ternal security services of foreign governments, and es-
21 tablish procedures governing the conduct of liaison by
22 any agency, department, office or other entity of the
23 United States Government with such services;

1 “(15) establish security countermeasure standards
2 for the safeguard of foreign intelligence systems and
3 information;

4 “(16) protect intelligence sources and methods
5 from unauthorized disclosure;

6 “(17) establish appropriate staffs, committees, or
7 other advisory groups to assist in the execution of the
8 Director’s responsibilities; and

9 “(18) monitor national foreign intelligence pro-
10 gram implementation and conduct program and per-
11 formance audits and evaluations.”.

12 SEC. 4. (a) Title I of the National Security Act of 1947
13 is amended by changing old section 102 to be new section
14 102A with the following changes:

15 (1) by inserting the words “DIRECTOR OF THE”
16 before the caption “CENTRAL INTELLIGENCE
17 AGENCY”.

18 (b) Section 102A, subsection (a) of the National Security
19 Act of 1947 is amended—

20 (1) by inserting after the words” . . . National
21 Security Council”, the words “and Director of
22 National Intelligence”;

23 (2) by striking out “Director of Central Intelli-
24 gence” and inserting in lieu thereof “Director of the
25 Central Intelligence Agency”; and

1 (3) by striking out "Deputy Director of Central
2 Intelligence" and inserting in lieu thereof "Deputy
3 Director of the Central Intelligence Agency".

4 (c) Section 102A subsection (a) of such Act is further
5 amended—

6 (1) by inserting "(1)" immediately after "(a)";

7 (2) by striking out the proviso and the colon im-
8 mediately preceding such proviso at the end of the
9 second sentence and inserting in lieu thereof a comma
10 and the following:

11 "except that at no time shall the two positions of the Direc-
12 tor and Deputy Director be occupied simultaneously by—

13 “(a) commissioned officers of the armed services,
14 whether in an active or retired status; or

15 “(b) individuals not having previously served in
16 career positions in the Intelligence Community;

17 “(c) the term of service of the Director shall be
18 seven years. The Director may not be reappointed and
19 may be removed by the President only for cause; and

20 “(d) the provisions of 102A subsections (a)(1) shall
21 apply to the service of the first Director and the first
22 Deputy Director of the Central Intelligence Agency
23 appointed after the date of enactment.”.

24 (d) Section 102A, subsections (b) and (c). References in
25 these sections to the Director or Deputy Director of Central

1 Intelligence shall be deemed to be references to the Director
2 or Deputy Director of the Central Intelligence Agency.

3 (e) Section 102A subsection (d) of such Act is amended
4 to read as follows:

5 “(d) For the purpose of carrying out of the Agency’s
6 intelligence activities in the interests of national security, it
7 shall be the duty and responsibility of the Agency, under the
8 management direction of the Director of the Central Intelli-
9 gence Agency:

10 “(1) to collect, produce, and disseminate foreign
11 intelligence and counterintelligence, including informa-
12 tion not otherwise obtainable, and to coordinate the
13 collection of foreign intelligence or counterintelligence
14 within the United States with the Federal Bureau of
15 Investigation as authorized by law or procedures estab-
16 lished by the Attorney General: *Provided*, That the
17 Central Intelligence Agency shall have no police, sub-
18 poena, law enforcement powers, or internal security
19 functions;

20 “(2) to conduct counterintelligence activities out-
21 side the United States and, without assuming or per-
22 forming any internal security functions, conduct coun-
23 terintelligence activities within the United States in co-
24 ordination with the Federal Bureau of Investigation, as

1 authorized by law and procedures established by the
2 Attorney General;

3 "(3) to coordinate counterintelligence activities
4 and the collection of information not otherwise obtain-
5 able when conducted outside the United States by
6 other departments and agencies;

7 "(4) to conduct special activities approved by the
8 President;

9 "(5) to conduct services of common concern for
10 the Intelligence Community as directed by the Nation-
11 al Security Council and the DNI;

12 "(6) to carry out or contract for research, devel-
13 opment, and procurement of technical systems and de-
14 vices relating to authorized functions;

15 "(7) to protect the security of its installations, ac-
16 tivities, information, property, and employees by appro-
17 priate means, including such investigations of appli-
18 cants, employees, contractors, and other persons with
19 similar associations with the Central Intelligence
20 Agency as are necessary; and

21 "(8) to conduct such administrative and technical
22 support activities within and outside the United States
23 as are necessary to perform the functions described in
24 paragraphs (1) through (7), including procurement and
25 essential cover and proprietary arrangements."

1 SEC. 5. (a) Section 5313 of title 5, United States Code,
2 is amended by—

3 (1) changing Director of Central Intelligence to
4 read Director of National Intelligence;

5 (2) adding at the end thereof the following:

6 “Director of the Central Intelligence Agency.”.

7 (b) Section 5314 of title 5, United States Code, is
8 amended by adding at the end thereof the following:

9 “Deputy Director of the Central Intelligence
10 Agency.”.

11 SEC. 6. The provision of section 102a of the Act relat-
12 ing to the Director of the Intelligence Community staff is
13 repealed.

14 SEC. 7. The Central Intelligence Act of 1949 is amend-
15 ed by changing references to the Director or Deputy Director
16 of Central Intelligence to mean the Director or Deputy
17 Director of the Central Intelligence Agency.

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100TH CONGRESS
1ST SESSION

S. 1852

IN THE SENATE OF THE UNITED STATES

Mr. FOWLER introduced the following bill; which was referred to the SELECT COMMITTEE ON INTELLIGENCE

A BILL

To amend the National Security Act of 1947, 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 assem-*
3 *bled, That this Act may be cited as the "Intelligence Ac-*
4 *tivities Oversight Improvement Act".*

5 SEC. 2. Section 662 of the Foreign Assistance Act of
6 1961 (22 U.S.C. 2422) is repealed.

7 SEC. 3. (a) Section 501(a)(1) of the National Security
8 Act of 1947 (50 U.S.C. 413(a)(1)) is amended to read as
9 follows:

10 "(1) keep the Select Committee on Intelligence
11 of the Senate and the Permanent Select Committee

1 on Intelligence of the House of Representatives
2 (hereinafter in this section referred to as the 'intelli-
3 gence committees') fully and currently informed of
4 all intelligence activities which are the responsibility
5 of, are engaged in by, or are carried out for or on
6 behalf of, any department, agency, or entity of the
7 United States, including any significant anticipated
8 intelligence activity; except that the foregoing provi-
9 sion shall not require approval of the intelligence
10 committees as a condition precedent to the initiation
11 of any such anticipated intelligence activity;".

12 (b) Section 501(b) of the National Security Act of
13 1947 (50 U.S.C. 413(b)) is amended to read as follows:

14 "(b)(1) No special activity may be initiated by any
15 department, agency, or entity of the United States, or by
16 any private entity acting on behalf of the United States,
17 unless and until the activity has been approved by the
18 President and the President has made a written finding
19 that, in the President's opinion—

20 "(A) such activity is essential to the national
21 defense or the conduct of the foreign policy of the
22 United States;

23 "(B) such activity is consistent with, and in
24 support of, the publicly avowed foreign policy of the
25 United States;

1 “(C) the anticipated benefits of such activity
2 justify the foreseeable risks and likely consequences
3 of its disclosure to a foreign power;

4 “(D) overt or less sensitive alternatives would
5 not be likely to achieve the intended objectives; and

6 “(E) the circumstances require the use of ex-
7 traordinary means.

8 Such written finding shall also designate the department,
9 agency, or entity of the United States, or the private entity
10 acting on behalf of the United States, which is to carry out
11 the special activity, and shall specify the authorized dura-
12 tion (not to exceed 1 year) of the special activity.

13 “(2) No department, agency, or entity of the United
14 States, or private entity acting on behalf of the United
15 States, may conduct any special activity which is not
16 within a category of special activities authorized by the
17 President under paragraph (5) unless and until the Presi-
18 dent submits a report to the intelligence committees con-
19 taining the written finding required by paragraph (1), a de-
20 scription of the nature, scope, and specific objectives of
21 the activity, and a statement of the facts and reasoning sup-
22 porting each element of the finding.

23 “(3) If the President determines that limiting the prior
24 notice required by paragraph (2) is essential in order to
25 meet extraordinary circumstances affecting vital interests

1 of the United States, and that time is of the essence in
2 initiating the special activity, such notice may be limited to
3 the chairmen and ranking minority members of the intelli-
4 gence committees, the Speaker and the minority leader of
5 the House of Representatives, and the majority and minori-
6 ty leaders of the Senate, but in no case shall such limited
7 notice take place later than 48 hours after the written find-
8 ing required by paragraph (1). In all such cases the Presi-
9 dent shall provide a statement of the reasons for not giving
10 prior notice to the intelligence committees.

11 “(4) After the submission of a report referred to in
12 paragraphs (2) and (3), the President shall provide either
13 intelligence committee such additional information as such
14 committee may request concerning the activity which is
15 the subject of such report, and the National Security Coun-
16 cil (or a committee thereof designated by the President)
17 shall be responsible for the supervision of the activity, and
18 shall ensure that such activity remains consistent with the
19 nature, scope, and objectives of the activity as authorized
20 by the President.

21 “(5) Special activities other than those which involve
22 or may involve elements of high risk, major resources, or
23 serious political consequences may be authorized by the
24 President by category, but such a category of activities
25 may not be authorized unless the President—

1 “(A) personally finds that activities falling
2 within the category are important to the national se-
3 curity of the United States; and

4 “(B) reports, before any activity within the cat-
5 egory is commenced, a description of the nature and
6 scope of the category and a justification for conduct-
7 ing activities within the category to the intelligence
8 committees.

9 No funds may be expended for any activity falling within a
10 category authorized under this paragraph until the Presi-
11 dent has made the finding required under subparagraph (A)
12 and submitted the report required under subparagraph (B).

13 “(6) After a category of special activities has been
14 authorized by the President and such category has been
15 reported to the intelligence committees pursuant to para-
16 graph (5), the National Security Council (or a committee
17 thereof designated by the President) shall be responsible
18 for the supervision of each activity falling within such cat-
19 egory and shall ensure that each such activity remains con-
20 sistent with the nature and scope of the category as author-
21 ized by the President.

22 “(7) The President shall provide to either intelligence
23 committee such additional information pertaining to spe-
24 cific special activities undertaken within a category of ac-

1 activities authorized by the President under paragraph (5) as
2 such committee may request.

3 “(8) For the purposes of this subsection, the term
4 ‘special activity’ means any activity conducted in support
5 of national foreign policy objectives abroad which are
6 planned and executed so that the role of the United States
7 Government is not apparent or acknowledged publicly, and
8 functions in support of such activities, but which are not
9 intended to influence United States political processes,
10 public opinion, policies, or media, and do not include dip-
11 lomatic activities or the collection and production of intel-
12 ligence or related support functions.

13 “(9) No intelligence activity abroad, other than spe-
14 cial activities as defined by paragraph (8) or activities in-
15 tended solely for obtaining necessary intelligence, may be
16 initiated by any department, agency, or entity of the United
17 States, or by a private entity acting on behalf of the United
18 States, unless and until the President finds that each such
19 operation is important to the national security of the
20 United States and reports, in a timely fashion, a description
21 of the nature and scope of the activity to the intelligence
22 committees.

23 “(10) This subsection shall not apply to activities ini-
24 tiated by the United States pursuant to a declaration of war
25 approved by the Congress.

1 “(11) The National Security Council shall not engage
2 in or carry out special activities, except for the supervisory
3 role provided for in paragraphs (4) and (6).”

4 SEC. 4. No funds appropriated for any department,
5 agency, or entity of the United States, may be expended
6 for the purpose, or which will have the effect of support-
7 ing, directly or indirectly, any special activity as defined
8 by section 501(b)(8) of the National Security Act of 1947,
9 unless such activity is carried out in accordance with the
10 provisions of section 501 of such Act.

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100TH CONGRESS
1ST SESSION

S. 1458

To clarify and restate the Comptroller General's authority to audit the financial transactions and evaluate the programs and activities of the Central Intelligence Agency, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 1 (legislative day, JUNE 23), 1987

Mr. GLENN introduced the following bill; which was read twice and referred to the Select Committee on Intelligence

A BILL

To clarify and restate the Comptroller General's authority to audit the financial transactions and evaluate the programs and activities of the Central Intelligence Agency, 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 That this Act may be cited as the "General Accounting
4 Office-Central Intelligence Agency Audit Act of 1987".

5 SEC. 2. Title 31, United States Code, is amended by
6 inserting after section 3523 the following new section:

1 **§ 3523a. Audit of Central Intelligence Agency activities**

2 “(a) Notwithstanding any other provision of law, the
3 Comptroller General shall audit the financial transactions and
4 shall evaluate the programs and activities of the Central In-
5 telligence Agency—

6 “(1) on the initiative of the Comptroller General;
7 or

8 “(2) when requested by the Chairman or the
9 ranking minority member of the Select Committee on
10 Intelligence of the Senate or the Permanent Select
11 Committee on Intelligence of the House of Representa-
12 tives.

13 “(b) Whenever the Comptroller General conducts an
14 audit or evaluation pursuant to subsection (a), the Comptrol-
15 ler General shall provide the results of such audit or evalua-
16 tion only to the Select Committee on Intelligence of the
17 Senate, the Permanent Select Committee on Intelligence of
18 the House of Representatives, and the Director of Central
19 Intelligence.

20 “(c) Notwithstanding any other provision of law, the
21 Comptroller General may inspect and copy any relevant
22 books, documents, papers, records, other information, includ-
23 ing written or recorded information of all kinds, and property
24 which belongs to, or is in the possession or control of, the
25 Central Intelligence Agency in order to perform audits and
26 evaluations pursuant to subsection (a). The Comptroller Gen-

1 eral shall also be provided access to the officers and employ-
2 ees of the Central Intelligence Agency at such reasonable
3 times as the Comptroller General considers necessary to
4 carry out such audits and evaluations. Notwithstanding the
5 preceding sentence, the Comptroller General shall not be
6 provided access to any officer or employee of the Central
7 Intelligence Agency if the President determines that access
8 to any such officer or employee is not in the national interest.
9 The President shall prepare and transmit a report to the
10 Comptroller General and the chairman and ranking minority
11 member of each committee referred to in subsection (a)(2) of
12 this section setting forth his determination. The President
13 may not delegate the making of a determination under this
14 subsection to any officer or employee of the Executive
15 Branch.

16 “(d)(1) After consultation with the Select Committee on
17 Intelligence of the Senate and with the Permanent Select
18 Committee on Intelligence of the House of Representatives,
19 the Comptroller General shall establish procedures to protect
20 from unauthorized disclosure all classified and other sensitive
21 information furnished to the Comptroller General or his rep-
22 resentatives under this section.

23 “(2) All workpapers of the Comptroller General and all
24 records and property of the Central Intelligence Agency that
25 the Comptroller General uses during an audit or evaluation

1 under this section shall remain in facilities provided by the
2 Central Intelligence Agency. Procedures established by the
3 Comptroller General pursuant to paragraph (1) of this sub-
4 section shall include provisions specifying the method and du-
5 ration of any temporary removal of workpapers from facilities
6 provided by the Central Intelligence Agency.

7 “(3) Before initiating an audit or evaluation under this
8 section, the Comptroller General shall provide the Director
9 of Central Intelligence with the names and other relevant
10 information concerning each officer and employee of the Gen-
11 eral Accounting Office who may have access to, or otherwise
12 be provided with, classified or other sensitive information in
13 connection with an audit or evaluation for purposes of securi-
14 ty clearance reviews. The Director of Central Intelligence
15 shall complete the necessary security clearance reviews on
16 an expedited basis.

17 “(4) The Comptroller General shall provide the Director
18 of Central Intelligence with the name of each officer and em-
19 ployee of the General Accounting Office who has obtained a
20 security clearance from the Central Intelligence Agency and
21 to whom, upon proper identification, the officers, employees,
22 records, and property of the Central Intelligence Agency
23 shall be made available in carrying out this section.

1 “(e) This section may be superseded only by a law en-
2 acted after the date of enactment of this section specifically
3 repealing or amending this section.

4 “(f) The authority provided in this section is in addition
5 to the authority that the Comptroller General has to investi-
6 gate, audit, and evaluate the financial transactions, pro-
7 grams, and activities of any other establishment or agency of
8 the Government of the United States.”.

9 SEC. 3. (a) Section 3524 of title 31, United States
10 Code, is amended—

11 (1) in the first sentence of subsection (a)(1), by
12 striking out “The” and inserting in lieu thereof the fol-
13 lowing: “Except with respect to audits or evaluations
14 of the Central Intelligence Agency as provided in sec-
15 tion 3523a of this title, the”;

16 (2) in subsection (c), by inserting “(other than ac-
17 tivities conducted by the Central Intelligence Agency)”
18 after “activities”;

19 (3) by amending subsection (d) to read as follows:

20 “(d) This section does not apply to expenditures under
21 section 102, 103, 105(d)(1), (3), or (5), or 106(b)(2) or (3) of
22 title 3.”; and

23 (4) in subsection (e), by striking out “or a finan-
24 cial transaction under section 8(b) of the Central Intel-
25 ligence Act of 1949 (50 U.S.C. 403j(b))”.

1 (b) Section 8(b) of the Central Intelligence Act of 1949
2 is amended—

3 (1) by inserting “(other than section 3523a. of
4 title 31, United States Code)” after “Government
5 funds”; and

6 (2) by adding at the end thereof the following new
7 sentence: “The Comptroller General shall audit ex-
8 penditures made for objects of a confidential, extraordi-
9 nary, or emergency nature to be accounted for solely
10 on the certificate of the Director.”.

11 (c) Section 716(d)(1)(A), title 31, United States Code, is
12 amended by inserting “(other than activities conducted by the
13 Central Intelligence Agency)” after “activities” the first
14 place it appears.

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100TH CONGRESS
1ST SESSION

S. 1235

To amend the National Security Act of 1947 to provide that the term of service of the Director of Central Intelligence shall be seven years, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 19 (legislative day, MAY 13), 1987

Mr. BYRD introduced the following bill; which was read twice and referred to the Select Committee on Intelligence

A BILL

To amend the National Security Act of 1947 to provide that the term of service of the Director of Central Intelligence shall be seven years, 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 That (a), section 102(a) of the National Security Act of 1947
4 (50 U.S.C. 403(a)) is amended—

5 (1) by inserting “(1)” immediately after “(a)”;

6 (2) by striking out the proviso and the colon im-
7 mediately preceding such proviso at the end of the
8 second sentence and inserting in lieu thereof a comma
9 and the following: “except that at no time shall the

1 two positions of the Director and Deputy Director be
2 occupied simultaneously by—

3 “(A) commissioned officers of the armed services,
4 whether in an active or retired status, or

5 “(B) individuals who were in the employ of the
6 Agency for any period of time during the seven-year
7 period immediately preceding the date on which they
8 are nominated by the President for such positions.”;
9 and

10 (3) by adding at the end thereof the following new
11 paragraph:

12 “(2)(A) The term of service of the Director of Central
13 Intelligence shall be 7 years. The Director may not serve
14 more than one seven-year term.

15 “(B) The term of service of the Deputy Director of Cen-
16 tral Intelligence shall be 7 years, except that, in the absence
17 or disability of the Director of Central Intelligence, the
18 Deputy Director shall continue to serve until an individual
19 has been appointed Director.”.

20 (b)(1) The amendment made by subsection (a)(3), insofar
21 as it relates to the Director of Central Intelligence, shall
22 apply to the service of the first Director appointed after the
23 date of enactment of this Act.

24 (2) The amendment made by subsection (a)(3), insofar as
25 it relates to the Deputy Director of Central Intelligence,

3

1 shall apply to the service of the first Deputy Director ap-
2 pointed after the date of enactment of this Act.

3 (3) The amendment made by subsection (a)(2) shall
4 apply with the first appointment of a Director or Deputy Di-
5 rector of Central Intelligence after the date of enactment of
6 this Act.

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