

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR
1996

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JULY 19, 1995.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed
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Mr. CLINGER, from the Committee on Government Reform and
Oversight, submitted the following

R E P O R T

[To accompany H.R. 1655]

[Including cost estimate of the Congressional Budget Office]

The Committee on Government Reform and Oversight, to whom was referred the bill (H.R. 1655) to authorize appropriations for fiscal year 1996 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment to the bill, as reported by the Committee on Government Reform and Oversight, is as follows:
Strike out section 505.

SHORT SUMMARY OF LEGISLATION

The legislation amending H.R. 1655, the Intelligence Authorization Act For Fiscal Year 1996, strikes Section 505 of Title V of the Act.

I. BACKGROUND AND NEED FOR THE LEGISLATION

A. Legislative history

H.R. 1655, the Intelligence Authorization Act for Fiscal Year 1996, was ordered to be reported by the House Permanent Select Committee on Intelligence on June 14, 1995. Section 505 in Title V of H.R. 1655 was sequentially referred to the Government Reform and Oversight Committee and then to the Subcommittee on Civil Service.

On July 12, 1995, the Subcommittee on the Civil Service amended section 505 by striking the provision from the bill. No other amendments were offered and the bill was amended and ordered reported to the full Committee. On July 18, 1995, the committee favorably reported H.R. 1655, as amended by the Civil Service Subcommittee, to the full House.

B. Background

Section 505 of Title V of H.R. 1655 would waive the provision of the Civil Service Retirement System that imposes a 2% per year reduction in accrued benefits for early retirement before age 55 specifically for National Security Agency (NSA) employees. The waiver would be in effect for 90 days during fiscal year 1996 and could apply to as many as 3,700 NSA employees—ages 42 to 54—now eligible for early retirement.

The Office of Personnel Management (OPM) has estimated that approximately 26% of the 3,700 employees could be induced to retire with the waiver of the 2% reduction of the accrued benefit. NSA has already used the \$25,000 voluntary separation incentive payment (buyout) three times. In addition, as a component of the Department of Defense, NSA will continue to have buyout authority through fiscal year 1999. No provision of the bill approved by the House Select Committee on Intelligence would bar employees from collecting both buyouts and unreduced pensions. Report language recommends that this should happen “only if required to achieve the desired workforce reduction and with prior consultation with both the House and Senate Intelligence Committees.” The bill contains no other restrictions on overlapping incentive payments.

C. Need for legislation

The Committee believes that, the provision (section 505) to waive the 2% reduction penalty would, among other problems, set a costly and adverse precedent by placing in motion similar requests for such waiver authority by other agencies.

The NSA has indicated that they need the early retirement option to reduce the size of their workforce and their payroll by en-

couraging the retirement of higher-paid employees with obsolete skills. The NSA penalty waiver proposal is thus focused directly at the largest subgroup of retirement eligible employees—those eligible for early retirement—approximately 19% of their civilian population. However, this group has not taken advantage of the \$25,000 separation incentive. The age distribution at NSA has two peaks, one centered at age 31 and the other at age 50. The older group constitutes a population that could largely move into retirement in the next ten years. NSA states “Their skills, while still applicable, will—without substantial retraining—become less valuable over time.” This group is the target for increased attrition.

Given this experience, there is no guarantee that Section 505 would achieve the desired results. Unfortunately the provision takes a blunt approach to one age group with no guarantee that these incentives will effectively address the alleged skills mismatch. This “skills mismatch” could be claimed by numerous other agencies affected by restructuring measures, and this would have disastrous budget consequences.

During the Subcommittee’s May 17, 1995 hearing on Federal buyouts, both public sector expert and private consultant witnesses recommended that approval of any additional incentive program should be linked closely to approval of an organizational restructuring plan. The Committee found, however, that there is no such plan at the National Security Agency.

The Permanent Select Committee on Intelligence report on H.R. 1655 reflects an extensive effort to review the human, technical, and financial resource requirements of several intelligence programs, but contains no strategic organizational plan. In the report NSA representatives indicated the skill categories that they would like to shift, but provided no organizational restructuring, no outline of a training or retraining program, nor an alternative mechanism to achieve the restructuring suited to future operations.

There is also concern that the provision would have disastrous budget consequences. In testimony submitted for planned hearings before the Select Committee on Intelligence, O.M. projected, “If a waiver of the two percent per year reduction for early retirement was applied on a government-wide basis, even if only 27 percent of those eligible elected to take it, retirement outlays would increase by more than \$6 billion over a five-year period. These pay-as-you-go costs would have to be offset by savings in other direct spending programs or by new revenues under the terms of the Budget Enforcement Act.” The Select Committee planned hearings on these provisions, but they never occurred.

There is also concern about the adverse precedent the provision would create if granted to NSA. Testimony at the Subcommittee’s March 17 hearing on buyouts forecast that such a precedent would result in an immediate reduction in current retirement rates as employees would anticipate the potential for additional incentives. Additionally, such incentives inevitably would divert resources from current operations, minimizing any investment that agencies might be able to make into the technologies and training essential for the restructured organization.

NSA desires to avoid a program of involuntary separations (Reductions-in-Force), but it has not yet exercised all management op-

tions currently available. The Administration does not support NSA's position. Although this legislation is targeted to one agency for a limited period, the Office of Personnel Management expressed concern about the consequences of such a program for other agencies.

In short, this measure would establish adverse precedent, provide undesirable incentives to current employees, and inhibit progress toward organizational restructuring, all while imposing substantial financial burdens on both the retirement system and the costs of future government operations.

II. LEGISLATIVE HEARINGS AND COMMITTEE ACTIONS

H.R. 1655 was introduced on May 17, 1995 by the Honorable Larry Combest (R-TX), Chairman of the House Permanent Select Committee on Intelligence. The bill was referred to the Committee on Government Reform and Oversight on June 23, 1995 to consider for a period until July 19, 1995, sections of the bill within its jurisdiction. The Subcommittee on the Civil Service held a mark up on section 505 of the bill on July 12, 1995. One amendment was offered and adopted by the subcommittee, and the measure as amended was ordered favorably reported to the full Committee by a voice vote. On July 18, 1995, the Committee on Government Reform and Oversight met to consider H.R. 1655, as amended by the Civil Service Subcommittee, and favorably reported the bill to the full House by voice vote and without further amendment.

III. COMMITTEE HEARINGS AND WRITTEN TESTIMONY

The Subcommittee on the Civil Service held no formal hearings on H.R. 1655. However, the Subcommittee has held, and will continue to hold, general oversight hearings on Federal workforce restructuring and retirement practices, such as buyouts, currently in use by Federal agencies.

IV. EXPLANATION OF THE LEGISLATION AMENDING THE BILL

A. Overview

The amendment simply strikes section 505 of H.R. 1655, thereby leaving in place existing law which provides for a 2% per year reduction in benefits for retirement before age 55 for National Security Agency employees.

V. COMPLIANCE WITH RULE XI

Pursuant to rule XI, clause 2(l)(3) of the Rules of the House of Representatives, under the authority of rule X, clause 2(b)(1) and clause 3(f), the results and findings from committee oversight activities are incorporated in the bill and this report.

VI. BUDGET ANALYSIS AND PROJECTIONS

H.R. 1655 as amended provides for no new authorization, budget authority or tax expenditures. Consequently, the provisions of section 308(a) of the Congressional Budget Act are not applicable.

VII. COST ESTIMATE OF THE CONGRESSIONAL BUDGET OFFICE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 18, 1995.

Hon. WILLIAM F. CLINGER, Jr.,
*Chairman, Committee on Government Reform and Oversight, House
of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1655, the Intelligence Authorization Act for Fiscal Year 1996, as ordered reported by the House Committee on Government Reform and Oversight on July 18, 1995.

The bill would affect direct spending and thus would be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL, *Director.*

Congressional Budget Office cost estimate

1. Bill number: H.R. 1655.
2. Bill title: Intelligence Authorization Act for Fiscal Year 1996.
3. Bill status: As ordered reported by the House Committee on Government Reform and Oversight on July 18, 1995.
4. Bill purpose: H.R. 1655 would authorize appropriations for fiscal year 1996 for intelligence activities of the United States government, the Community Management Staff of the Director of Central Intelligence, and the Central Intelligence Agency Retirement and Disability System (CIARDS).
5. Estimated cost to the Federal Government of titles I (except sections 101–103), II, III (except section 301), IV, V, and VI:

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000
DIRECT SPENDING						
Direct spending:						
Estimated budget authority	0	0	0	2	3	1
Estimated outlays	0	0	0	2	3	1
SPENDING SUBJECT TO APPROPRIATIONS ACTION						
Spending under current law:						
Budgeted authority ¹	291	0	0	0	0	0
Estimated outlays	291	38	22	9	0	0
Proposed changes:						
Estimated authorization level ²	0	295	(³)	4	5	(³)
Estimated outlays	0	264	23	11	7	(³)
SPENDING SUBJECT TO APPROPRIATIONS ACTION						
Spending under H.R. 1655:						
Estimated authorization ^{1 2}	291	295	(³)	4	5	(³)
Estimated outlays	291	302	45	20	7	(³)

¹The 1995 figure is the amount already appropriated.

²Because parts of this bill are highly classified, CBO is unable to provide a full accounting of the bill's costs over the 1996–2000 period and a comparison with the 1995 level.

³Less than \$500,000.

CBO was unable to obtain the necessary information to estimate the costs for Title I (except section 104) and section 301 of Title III of this bill because they are classified at a level above clearances now held by CBO employees. The estimated costs in the above table, therefore, reflect only the costs of section 104 and Titles II, III (except section 301), IV, V, and VI.

6. Basis of estimate: For purposes of this estimate, CBO assumed that H.R. 1655 will be enacted by October 1, 1995, and that the full amounts authorized will be appropriated for fiscal year 1996. Outlays are estimated according to historical spending patterns for intelligence programs.

Direct spending

CIA Separation Incentives.—Section 401 would allow the Central Intelligence Agency (CIA) to offer separation incentive payments to employees from the end of fiscal year 1997 to the end of fiscal year 1999. Additional retirement costs would occur in the near term because employees who retire under this program would receive their annuities earlier than they would otherwise. The cost of these annuities would constitute direct spending. CBO estimates no costs to occur in 1996 and 1997 as a result of section 401. However, direct spending costs are estimated to be \$2 million in 1998, \$3 million in 1999, and \$1 million in 2000.

Based on projections from the CIA, CBO estimates that 550 employees would be offered an incentive payment in 1998 and 700 in 1999. The CIA expects that one quarter of those offered an incentive payment would take the incentive and retire. The estimate assumes that about 60 percent of the retirees would have retired anyway, without the incentive. The estimate assumes that the remaining 40 percent who accept the incentive would retire one or two years earlier than they would have otherwise.

Thrift Savings Plan (TSP) forfeiture.—Section 304 would allow forfeiture of the U.S. government contribution to the TSP under the Federal Employees Retirement System, along with interest, if an employee is convicted of national security offenses. According to the CIA, savings from this provision would not exceed \$35,000 annually.

Spousal Pension Benefits.—Section 305 would allow restoration of spousal pension benefits to those spouses who cooperate in criminal investigations and prosecutions for national security offenses. According to the CIA, costs from this provision would not exceed \$35,000 annually.

Authorizations of appropriations

Section 104 would authorize appropriations of \$80.7 million for 1996 for the Intelligence Community Management Account of the Director of Central Intelligence (DCI). Similarly, section 201 specifies an authorization of appropriations for a contribution to the Central Intelligence Agency Retirement and Disability Fund of \$213.9 million.

In addition to the added retirement costs, section 401 (discussed above under direct spending) would increase discretionary spending for incentive costs. The cash incentives would cost \$4 million in 1998 and \$5 million in 1999. CBO assumes that the savings in sal-

ary and benefits from these reductions would be incurred under current law as part of the anticipated reduction in the CIA workforce. Thus, these savings would not be a result of this bill and would not offset the cost of incentive payments in this estimate.

Section 502 would extend comparable benefits and allowances to civilian and military personnel assigned to defense intelligence functions overseas. According to the Defense Intelligence Agency, this provision would increase personnel costs by approximately \$200,000 annually.

7. Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. CBO estimates that H.R. 1655 as ordered reported by the House Committee on Government Reform and Oversight would have the following pay-as-you-go impact:

[By fiscal years, millions of dollars]

	1995	1996	1997	1998
Change in outlays	0	0	0	2
Change in receipts	(¹)	(¹)	(¹)	(¹)

¹ Not applicable.

8. Estimated cost to State and local governments: None.

9. Estimate comparison: None.

10. Previous CBO estimate: CBO prepared an estimate for H.R. 1655 as ordered reported by the House Permanent Select Committee on Intelligence on May 18, 1995. That version included a provision (section 505) that would allow employees at the National Security Agency (NSA) enrolled in the Civil Service Retirement System (CSRS) who retire before reaching age 55 to receive unreduced annuities. This provision would reduce direct spending in 1996 by \$2 million and increase direct spending by a total of \$111 million over the 1997-2000 period. NSA would also be required to make an agency contribution to the CSRS trust fund of \$15 million in 1996 to cover the long-run actuarial cost to the retirement system of this incentive program. The version of the bill ordered reported by the House Committee on Government Reform and Oversight does not include this provision dealing with NSA retirees, and the two estimates differ for that reason.

11. Estimate prepared by: Wayne Boyington and Elizabeth Chambers.

12. Estimated approved by: Robert A. Sunshine, for Paul N. Van de Water, Assistant Director for Budget Analysis.

VIII. INFLATIONARY IMPACT STATEMENT

In accordance with rule XI, clause 2(l)(4) of the Rules of the House of Representatives, this legislation is assessed to have no inflationary effect on prices and costs in the operation of the national economy.

IX. CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as re-

ported, are shown in part 1 of the report, filed by the Permanent Select Committee on Intelligence.

X. COMMITTEE RECOMMENDATION

On July 18, 1995, a quorum being present, the Committee ordered the bill favorably reported.

*Committee on Government Reform and Oversight—104th Congress
Rollcall*

Date: July 18, 1995.

Final Passage of H.R. 1655, as amended.

Offered by: Hon. John L. Mica (R-FL).

Voice Vote: yea.

XI. CONGRESSIONAL ACCOUNTABILITY ACT; PUBLIC LAW 104-1;
SECTION 102(B)(3)

H.R. 1655 as amended by the committee is inapplicable to the legislative branch because it does not relate to any terms or conditions of employment or access to public services or accommodations.