

Union Calendar No. 354

107TH CONGRESS
2^D SESSION

H. R. 4628

[Report No. 107-592]

To authorize appropriations for fiscal year 2003 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.

IN THE HOUSE OF REPRESENTATIVES

MAY 1, 2002

Mr. GOSS introduced the following bill; which was referred to the Committee on Intelligence (Permanent Select)

JULY 18, 2002

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on May 1, 2002]

A BILL

To authorize appropriations for fiscal year 2003 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.

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

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

4 (a) *SHORT TITLE.*—*This Act may be cited as the “In-*
 5 *telligence Authorization Act for Fiscal Year 2003”.*

6 (b) *TABLE OF CONTENTS.*—*The table of contents of this*
 7 *Act is as follows:*

Sec. 1. Short title; table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.

Sec. 102. Classified schedule of authorizations.

Sec. 103. Personnel ceiling adjustments.

Sec. 104. Community Management Account.

Sec. 105. Authorization of emergency supplemental appropriations for fiscal year
2002.

**TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND
 DISABILITY SYSTEM**

Sec. 201. Authorization of appropriations.

TITLE III—GENERAL PROVISIONS

Sec. 301. Increase in employee compensation and benefits authorized by law.

Sec. 302. Restriction on conduct of intelligence activities.

Sec. 303. Sense of Congress on intelligence community contracting.

Sec. 304. Semiannual report on financial intelligence on terrorist assets (FITA).

Sec. 305. Modification of excepted agency voluntary leave transfer authority.

Sec. 306. Additional one-year suspension of reorganization of Diplomatic Tele-
communications Service Program Office.

Sec. 307. Prohibition on compliance with requests for information submitted by
foreign governments.

Sec. 308. Cooperative relationship between the National Security Education Pro-
gram and the Foreign Language Center of the Defense Language
Institute.

Sec. 309. Establishment of National Flagship Language Initiative within the Na-
tional Security Education Program.

Sec. 310. Deadline for submittal of various overdue reports.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

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

Sec. 402. Prohibition on implementation of compensation reform plan.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

Sec. 501. Use of funds for counter-drug and counterterrorism activities for Colombia.

Sec. 502. Protection of operational files of the National Reconnaissance Office.

Sec. 503. Eligibility of employees in intelligence senior level positions for Presidential Rank Awards.

1 **TITLE I—INTELLIGENCE**
2 **ACTIVITIES**

3 **SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

4 *Funds are hereby authorized to be appropriated for fis-*
5 *cal year 2003 for the conduct of the intelligence and intel-*
6 *ligence-related activities of the following elements of the*
7 *United States Government:*

8 (1) *The Central Intelligence Agency.*

9 (2) *The Department of Defense.*

10 (3) *The Defense Intelligence Agency.*

11 (4) *The National Security Agency.*

12 (5) *The Department of the Army, the Depart-*
13 *ment of the Navy, and the Department of the Air*
14 *Force.*

15 (6) *The Department of State.*

16 (7) *The Department of the Treasury.*

17 (8) *The Department of Energy.*

18 (9) *The Federal Bureau of Investigation.*

19 (10) *The National Reconnaissance Office.*

20 (11) *The National Imagery and Mapping Agen-*
21 *cy.*

22 (12) *The Coast Guard.*

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

2 (a) *SPECIFICATIONS OF AMOUNTS AND PERSONNEL*
3 *CEILINGS.*—*The amounts authorized to be appropriated*
4 *under section 101, and the authorized personnel ceilings as*
5 *of September 30, 2003, for the conduct of the intelligence*
6 *and intelligence-related activities of the elements listed in*
7 *such section, are those specified in the classified Schedule*
8 *of Authorizations prepared to accompany the bill H.R. 4628*
9 *of the One Hundred Seventh Congress.*

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

17 **SEC. 103. PERSONNEL CEILING ADJUSTMENTS.**

18 (a) *AUTHORITY FOR ADJUSTMENTS.*—*With the ap-*
19 *proval of the Director of the Office of Management and*
20 *Budget, the Director of Central Intelligence may authorize*
21 *employment of civilian personnel in excess of the number*
22 *authorized for fiscal year 2003 under section 102 when the*
23 *Director of Central Intelligence determines that such action*
24 *is necessary to the performance of important intelligence*
25 *functions, except that the number of personnel employed in*
26 *excess of the number authorized under such section may not,*

1 *for any element of the intelligence community, exceed 2 per-*
2 *cent of the number of civilian personnel authorized under*
3 *such section for such element.*

4 (b) *NOTICE TO INTELLIGENCE COMMITTEES.*—*The Di-*
5 *rector of Central Intelligence shall notify promptly the Per-*
6 *manent Select Committee on Intelligence of the House of*
7 *Representatives and the Select Committee on Intelligence of*
8 *the Senate whenever the Director exercises the authority*
9 *granted by this section.*

10 **SEC. 104. COMMUNITY MANAGEMENT ACCOUNT.**

11 (a) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*
12 *authorized to be appropriated for the Community Manage-*
13 *ment Account of the Director of Central Intelligence for fis-*
14 *cal year 2003 the sum of \$176,179,000. Within such*
15 *amount, funds identified in the classified Schedule of Au-*
16 *thorizations referred to in section 102(a) for the Advanced*
17 *Research and Development Committee shall remain avail-*
18 *able until September 30, 2004.*

19 (b) *AUTHORIZED PERSONNEL LEVELS.*—*The elements*
20 *within the Community Management Account of the Direc-*
21 *tor of Central Intelligence are authorized 350 full-time per-*
22 *sonnel as of September 30, 2003. Personnel serving in such*
23 *elements may be permanent employees of the Community*
24 *Management Account or personnel detailed from other ele-*
25 *ments of the United States Government.*

1 (c) *CLASSIFIED AUTHORIZATIONS.*—

2 (1) *AUTHORIZATION OF APPROPRIATIONS.*—*In*
3 *addition to amounts authorized to be appropriated*
4 *for the Community Management Account by sub-*
5 *section (a), there are also authorized to be appro-*
6 *priated for the Community Management Account for*
7 *fiscal year 2003 such additional amounts as are spec-*
8 *ified in the classified Schedule of Authorizations re-*
9 *ferred to in section 102(a). Such additional amounts*
10 *shall remain available until September 30, 2004.*

11 (2) *AUTHORIZATION OF PERSONNEL.*—*In addi-*
12 *tion to the personnel authorized by subsection (b) for*
13 *elements of the Community Management Account as*
14 *of September 30, 2003, there are hereby authorized*
15 *such additional personnel for such elements as of that*
16 *date as are specified in the classified Schedule of Au-*
17 *thorizations.*

18 (d) *REIMBURSEMENT.*—*Except as provided in section*
19 *113 of the National Security Act of 1947 (50 U.S.C. 404h),*
20 *during fiscal year 2003 any officer or employee of the*
21 *United States or a member of the Armed Forces who is de-*
22 *tailed to the staff of the Community Management Account*
23 *from another element of the United States Government shall*
24 *be detailed on a reimbursable basis, except that any such*
25 *officer, employee, or member may be detailed on a non-*

1 *reimbursable basis for a period of less than one year for*
2 *the performance of temporary functions as required by the*
3 *Director of Central Intelligence.*

4 *(e) NATIONAL DRUG INTELLIGENCE CENTER.—*

5 *(1) IN GENERAL.—Of the amount authorized to*
6 *be appropriated in subsection (a), \$34,100,000 shall*
7 *be available for the National Drug Intelligence Cen-*
8 *ter. Within such amount, funds provided for research,*
9 *development, testing, and evaluation purposes shall*
10 *remain available until September 30, 2003, and funds*
11 *provided for procurement purposes shall remain*
12 *available until September 30, 2004.*

13 *(2) TRANSFER OF FUNDS.—The Director of Cen-*
14 *tral Intelligence shall transfer to the Attorney General*
15 *funds available for the National Drug Intelligence*
16 *Center under paragraph (1). The Attorney General*
17 *shall utilize funds so transferred for the activities of*
18 *the National Drug Intelligence Center.*

19 *(3) LIMITATION.—Amounts available for the Na-*
20 *tional Drug Intelligence Center may not be used in*
21 *contravention of the provisions of section 103(d)(1) of*
22 *the National Security Act of 1947 (50 U.S.C. 403-*
23 *3(d)(1)).*

24 *(4) AUTHORITY.—Notwithstanding any other*
25 *provision of law, the Attorney General shall retain*

1 *full authority over the operations of the National*
2 *Drug Intelligence Center.*

3 **SEC. 105. AUTHORIZATION OF EMERGENCY SUPPLEMENTAL**
4 **APPROPRIATIONS FOR FISCAL YEAR 2002.**

5 (a) *AUTHORIZATION.*—Amounts authorized to be ap-
6 propriated for fiscal year 2002 under section 101 of the In-
7 telligence Authorization Act for Fiscal Year 2002 (Public
8 Law 107–108) for the conduct of the intelligence activities
9 of elements of the United States Government listed in such
10 section are hereby increased, with respect to any such au-
11 thorized amount, by the amount by which appropriations
12 pursuant to such authorization were increased by the fol-
13 lowing:

14 (1) *The Emergency Supplemental Act, 2002*
15 *(contained in division B of Public Law 107–117), in-*
16 *cluding section 304 of such Act (115 Stat. 2300).*

17 (2) *An emergency supplemental appropriation*
18 *in a supplemental appropriations Act for fiscal year*
19 *2002 that is enacted after May 1, 2002, amounts as*
20 *are designated by Congress as an emergency require-*
21 *ment pursuant to section 251(b)(2)(A) of the Bal-*
22 *anced Budget and Emergency Deficit Control Act of*
23 *1985 (2 U.S.C. 901(b)(2)(A)).*

24 (b) *RATIFICATION.*—For purposes of section 504 of the
25 *National Security Act of 1947 (50 U.S.C. 414), any obliga-*

1 *tion or expenditure of those amounts deemed to have been*
2 *specifically authorized by the Act referred to in subsection*
3 *(a)(1) and by the supplemental appropriations Act referred*
4 *to in subsection (a)(2) is hereby ratified and confirmed.*

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

9 **SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

10 *There is authorized to be appropriated for the Central*
11 *Intelligence Agency Retirement and Disability Fund for fis-*
12 *cal year 2003 the sum of \$351,300,000.*

13 **TITLE III—GENERAL**
14 **PROVISIONS**

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

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

22 **SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE**
23 **ACTIVITIES.**

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

1 *intelligence activity which is not otherwise authorized by*
2 *the Constitution or the laws of the United States.*

3 **SEC. 303. SENSE OF CONGRESS ON INTELLIGENCE COMMU-**
4 **NITY CONTRACTING.**

5 *It is the sense of Congress that the Director of Central*
6 *Intelligence should continue to direct that elements of the*
7 *intelligence community, whenever compatible with the na-*
8 *tional security interests of the United States and consistent*
9 *with operational and security concerns related to the con-*
10 *duct of intelligence activities, and where fiscally sound,*
11 *should competitively award contracts in a manner that*
12 *maximizes the procurement of products properly designated*
13 *as having been made in the United States.*

14 **SEC. 304. SEMIANNUAL REPORT ON FINANCIAL INTEL-**
15 **LIGENCE ON TERRORIST ASSETS (FITA).**

16 *(a) SEMIANNUAL REPORT.—*

17 *(1) IN GENERAL.—Title I of the National Secu-*
18 *rity Act of 1947 (50 U.S.C. 401 et seq.) is amended*
19 *by adding at the end the following new section:*

20 *“SEMIANNUAL REPORT ON FINANCIAL INTELLIGENCE ON*
21 *TERRORIST ASSETS*

22 *“SEC. 118. (a) SEMIANNUAL REPORT.—On a semi-*
23 *annual basis, the Secretary of the Treasury (acting through*
24 *the head of the Office of Intelligence Support) shall submit*
25 *a report to the appropriate congressional committees (as de-*
26 *finied in subsection (c)) that fully informs the committees*

1 *concerning operations against terrorist financial networks.*
2 *Each such report shall include with respect to the preceding*
3 *six-month period—*

4 “(1) *the total number of asset seizures, designa-*
5 *tions, and other actions against individuals or enti-*
6 *ties found to have engaged in financial support of ter-*
7 *rorism;*

8 “(2) *the total number of applications for asset*
9 *seizure and designations of individuals or entities*
10 *suspected of having engaged in financial support of*
11 *terrorist activities, that were granted, modified, or de-*
12 *nied;*

13 “(3) *the total number of physical searches of of-*
14 *fices, residences, or financial records of individuals or*
15 *entities suspected of having engaged in financial sup-*
16 *port for terrorist activity; and*

17 “(4) *whether the financial intelligence informa-*
18 *tion seized in these cases has been shared on a full*
19 *and timely basis with the all departments, agencies,*
20 *and other entities of the United States Government*
21 *involved in intelligence activities participating in the*
22 *Foreign Terrorist Asset Tracking Unit (managed and*
23 *coordinated by the Counterterrorism Center of the*
24 *Central Intelligence Agency).*

1 “(b) *IMMEDIATE NOTIFICATION FOR EMERGENCY DES-*
2 *IGNATION.*—*In the case of a designation of an individual*
3 *or entity, or the assets of an individual or entity, as having*
4 *been found to have engaged in terrorist activities, the Sec-*
5 *retary of the Treasury shall report such designation within*
6 *24 hours of such a designation to the appropriate congres-*
7 *sional committees.*

8 “(c) *DEFINITION.*—*In this section, the term ‘appro-*
9 *priate congressional committees’ means the following:*

10 “(1) *The Permanent Select Committee on Intel-*
11 *ligence, the Committee on Appropriations, and the*
12 *Committee on Financial Services of the House of Rep-*
13 *resentatives.*

14 “(2) *The Select Committee on Intelligence, the*
15 *Committee on Appropriations, and the Committee on*
16 *Banking, Housing, and Urban Affairs of the Senate.”.*

17 “(2) *CLERICAL AMENDMENT.*—*The table of con-*
18 *tents contained in the first section of such Act is*
19 *amended by inserting after the item relating to sec-*
20 *tion 117 the following new item:*

“*Sec. 118. Semiannual report on financial intelligence on terrorist assets.*”.

21 “(b) *CONFORMING AMENDMENT.*—*Section 501(f) of the*
22 *National Security Act of 1947 (50 U.S.C. 413(f)) is amend-*
23 *ed by inserting before the period the following: “, and in-*
24 *cludes financial intelligence activities”.*

1 **SEC. 305. MODIFICATION OF EXCEPTED AGENCY VOL-**
2 **UNTARY LEAVE TRANSFER AUTHORITY.**

3 (a) *IN GENERAL.*—Section 6339 of title 5, United
4 States Code, is amended—

5 (1) *by striking subsection (b);*

6 (2) *by redesignating subsection (c) as subsection*
7 *(b); and*

8 (3) *by inserting after subsection (b) (as so reded-*
9 *ignated by paragraph (2)) the following:*

10 “(c)(1) *Notwithstanding any provision of subsection*
11 *(b), the head of an excepted agency may, at his sole discre-*
12 *tion, by regulation establish a program under which an in-*
13 *dividual employed in or under such excepted agency may*
14 *participate in a leave transfer program established under*
15 *the provisions of this subchapter outside of this section, in-*
16 *cluding provisions permitting the transfer of annual leave*
17 *accrued or accumulated by such employee to, or permitting*
18 *such employee to receive transferred leave from, an employee*
19 *of any other agency (including another excepted agency*
20 *having a program under this subsection).*

21 “(2) *To the extent practicable and consistent with the*
22 *protection of intelligence sources and methods, any program*
23 *established under paragraph (1) shall be consistent with the*
24 *provisions of this subchapter outside of this section and*
25 *with any regulations issued by the Office of Personnel Man-*
26 *agement implementing this subchapter.”.*

1 (b) *CONFORMING AMENDMENTS.*—Section 6339 of such
2 *title is amended—*

3 (1) *in paragraph (2) of subsection (b) (as so re-*
4 *designated by subsection (a)(2)), by striking “under*
5 *this section” and inserting “under this subsection”;*
6 *and*

7 (2) *in subsection (d), by striking “of Personnel*
8 *Management”.*

9 **SEC. 306. ADDITIONAL ONE-YEAR SUSPENSION OF REORGA-**
10 **NIZATION OF DIPLOMATIC TELECOMMUNI-**
11 **CATIONS SERVICE PROGRAM OFFICE.**

12 Section 311 of the *Intelligence Authorization Act for*
13 *Fiscal Year 2002 (Public Law 107–108; 22 U.S.C. 7301*
14 *note; 115 Stat. 1401) is amended—*

15 (1) *in the heading, by striking “ONE-YEAR”*
16 *and inserting “TWO-YEAR”;* and

17 (2) *in the text, by striking “October 1, 2002”*
18 *and inserting “October 1, 2003”.*

19 **SEC. 307. PROHIBITION ON COMPLIANCE WITH REQUESTS**
20 **FOR INFORMATION SUBMITTED BY FOREIGN**
21 **GOVERNMENTS.**

22 Section 552(a)(3) of title 5, *United States Code, is*
23 *amended—*

1 (1) *in subparagraph (A) by inserting “and ex-*
2 *cept as provided in subparagraph (E),” after “of this*
3 *subsection,”; and*

4 (2) *by adding at the end the following:*

5 “(E) *An agency, or part of an agency, that is an ele-*
6 *ment of the intelligence community (as that term is defined*
7 *in section 3(4) of the National Security Act of 1947 (50*
8 *U.S.C. 401a(4))) shall not make any record available under*
9 *this paragraph to—*

10 “(i) *any government entity, other than a State,*
11 *territory, commonwealth, or district of the United*
12 *States, or any subdivision thereof; or*

13 “(ii) *a representative of a government entity de-*
14 *scribed in clause (i).”.*

15 **SEC. 308. COOPERATIVE RELATIONSHIP BETWEEN THE NA-**
16 **TIONAL SECURITY EDUCATION PROGRAM**
17 **AND THE FOREIGN LANGUAGE CENTER OF**
18 **THE DEFENSE LANGUAGE INSTITUTE.**

19 *Section 802 of the David L. Boren National Security*
20 *Education Act of 1991 (50 U.S.C. 1902) is amended by*
21 *adding at the end the following new subsection:*

22 “(h) *USE OF AWARDS TO ATTEND THE FOREIGN LAN-*
23 *GUAGE CENTER OF THE DEFENSE LANGUAGE INSTI-*
24 *TUTE.—(1) The Secretary shall provide for the admission*
25 *of award recipients to the Foreign Language Center of the*

1 *Defense Language Institute (hereinafter in this subsection*
2 *referred to as the ‘Center’). An award recipient may apply*
3 *a portion of the applicable scholarship or fellowship award*
4 *for instruction at the Center on a space-available basis as*
5 *a Department of Defense sponsored program to defray the*
6 *additive instructional costs.*

7 “(2) *Except as the Secretary determines necessary, an*
8 *award recipient who receives instruction at the Center shall*
9 *be subject to the same regulations with respect to attend-*
10 *ance, discipline, discharge, and dismissal as apply to other*
11 *persons attending the Center.*

12 “(3) *In this subsection, the term ‘award recipient’*
13 *means an undergraduate student who has been awarded a*
14 *scholarship under subsection (a)(1)(A) or a graduate stu-*
15 *dent who has been a fellowship under subsection (a)(1)(B)*
16 *who—*

17 “(A) *is in good standing;*

18 “(B) *has completed all academic study in a for-*
19 *ign country, as provided for under the scholarship or*
20 *fellowship; and*

21 “(C) *would benefit from instruction provided at*
22 *the Center.”.*

1 **SEC. 309. ESTABLISHMENT OF NATIONAL FLAGSHIP LAN-**
2 **GUAGE INITIATIVE WITHIN THE NATIONAL**
3 **SECURITY EDUCATION PROGRAM.**

4 *(a) NATIONAL FLAGSHIP LANGUAGE INITIATIVE.—*

5 *(1) EXPANSION OF GRANT PROGRAM AUTHORITY.—*
6 *Subsection (a)(1) of section 802 of the David L.*
7 *Boren National Security Education Act of 1991 (50*
8 *U.S.C. 1902) is amended—*

9 *(A) by striking “and” at the end of sub-*
10 *paragraph (B)(i);*

11 *(B) by striking the period at the end of sub-*
12 *paragraph (C) and inserting “; and”; and*

13 *(C) by adding at the end the following new*
14 *subparagraph:*

15 *“(D) awarding grants to institutions of*
16 *higher education to carry out a National Flag-*
17 *ship Language Initiative (described in subsection*
18 *(i)).”.*

19 *(2) PROVISIONS OF NATIONAL FLAGSHIP LAN-*
20 *GUAGE INITIATIVE.—Such section, as amended by sec-*
21 *tion 308, is further amended by adding at the end the*
22 *following new subsection:*

23 *“(i) NATIONAL FLAGSHIP LANGUAGE INITIATIVE.—(1)*
24 *Under the National Flagship Language Initiative, institu-*
25 *tions of higher learning shall establish, operate, or improve*
26 *activities designed to train students in programs in a range*

1 *of disciplines to achieve advanced levels of proficiency in*
2 *those foreign languages that the Secretary identifies as*
3 *being the most critical in the interests of the national secu-*
4 *urity of the United States.*

5 “(2) *An undergraduate student who has been awarded*
6 *a scholarship under subsection (a)(1)(A) or a graduate stu-*
7 *dent who has been awarded a fellowship under subsection*
8 *(a)(1)(B) may participate in the activities carried out*
9 *under the National Flagship Language Initiative.*

10 “(3) *An institution of higher education that receives*
11 *a grant pursuant to subsection (a)(1)(D) shall give special*
12 *consideration to applicants who are employees of the Fed-*
13 *eral Government.*

14 “(4) *For purposes of this subsection, the Foreign Lan-*
15 *guage Center of the Defense Language Institute and any*
16 *other educational institution that provides training in for-*
17 *oreign languages operated by the Department of Defense or*
18 *an agency in the intelligence community is deemed to be*
19 *an institution of higher education, and may carry out the*
20 *types of activities permitted under the National Flagship*
21 *Language Initiative.”.*

22 (3) *WAIVER OF FUNDING ALLOCATION RULES.—*
23 *Subsection (a)(2) of such section is amended by add-*
24 *ing at the end the following flush sentences:*

1 *“The funding allocation under this paragraph shall*
2 *not apply to grants under paragraph (1)(D) for the*
3 *National Flagship Language Initiative described in*
4 *subsection (i). For the authorization of appropria-*
5 *tions for the National Flagship Language Initiative,*
6 *see section 811.”.*

7 (4) *BOARD REQUIREMENT.*—*Section 803(d)(4) of*
8 *such Act (50 U.S.C. 1904(d)(4)) is amended—*

9 (A) *by striking “and” at the end of sub-*
10 *paragraph (C);*

11 (B) *by striking the period at the end of sub-*
12 *paragraph (D) and inserting “; and”; and*

13 (C) *by adding at the end the following new*
14 *subparagraph:*

15 *“(E) which foreign languages are critical to*
16 *the national security interests of the United*
17 *States for purposes of section 802(a)(1)(D) (re-*
18 *lating to grants for the National Flagship Lan-*
19 *guage Initiative).”.*

20 (b) *FUNDING.*—*The David L. Boren National Security*
21 *Education Act of 1991 (50 U.S.C. 1901 et seq.) is amended*
22 *by adding at the end the following new section:*

1 **“SEC. 811. ADDITIONAL ANNUAL AUTHORIZATION OF AP-**
2 **PROPRIATIONS.**

3 “(a) *IN GENERAL.*—*In addition to amounts that may*
4 *be made available to the Secretary under the National Secu-*
5 *riety Education Trust Fund (under section 804 of this Act)*
6 *for a fiscal year, there is authorized to be appropriated to*
7 *the Secretary for each fiscal year, beginning with fiscal year*
8 *2003, \$10,000,000, to carry out the grant program for the*
9 *National Flagship Language Initiative under section*
10 *802(a)(1)(D).*

11 “(b) *AVAILABILITY OF APPROPRIATED FUNDS.*—
12 *Amounts appropriated pursuant to the authorization under*
13 *subsection (a) shall remain available until expended.”.*

14 **SEC. 310. DEADLINE FOR SUBMITTAL OF VARIOUS OVER-**
15 **DUE REPORTS.**

16 “(a) *DEADLINE.*—*The reports described in subsection*
17 *(c) shall be submitted to Congress not later than 180 days*
18 *after the date of the enactment of this Act.*

19 “(b) *NONCOMPLIANCE.*—(1) *If all the reports described*
20 *in subsection (c) are not submitted to Congress by the date*
21 *specified in subsection (a), amounts available to be obli-*
22 *gated or expended after that date to carry out the functions*
23 *or duties of the following offices shall be reduced by $\frac{1}{3}$:*

24 (A) *The Office of the Director of Central Intel-*
25 *ligence.*

26 (B) *The Office of Community Management Staff.*

1 (2) *The reduction applicable under paragraph (1)*
2 *shall not apply if the Director of Central Intelligence cer-*
3 *tifies to Congress by the date referred to in subsection (a)*
4 *that all reports referred to in subsection (c) have been sub-*
5 *mitted to Congress.*

6 (c) *REPORTS DESCRIBED.—The reports referred to in*
7 *subsection (a) are reports mandated by law for which the*
8 *Director of Central Intelligence has sole or primary respon-*
9 *sibility to prepare, or coordinate, and submit to Congress*
10 *which, as of the date of the enactment of this Act, have not*
11 *been submitted to Congress by the date mandated by law.*

12 **TITLE IV—CENTRAL**
13 **INTELLIGENCE AGENCY**

14 **SEC. 401. TWO-YEAR EXTENSION OF CENTRAL INTEL-**
15 **LIGENCE AGENCY VOLUNTARY SEPARATION**
16 **PAY ACT.**

17 *Section 2 of the Central Intelligence Agency Voluntary*
18 *Separation Pay Act (50 U.S.C. 403–4 note) is amended—*

19 (1) *in subsection (f), by striking “September 30,*
20 *2003” and inserting “September 30, 2005”; and*

21 (2) *in subsection (i), by striking “or 2003” and*
22 *inserting “2003, 2004, or 2005”.*

1 **SEC. 402. PROHIBITION ON IMPLEMENTATION OF COM-**
2 **PENSATION REFORM PLAN.**

3 *No plan by the Director of Central Intelligence that*
4 *would revise the manner in which employees of the Central*
5 *Intelligence Agency, or employees of other elements of the*
6 *United States Government that conduct intelligence and in-*
7 *telligence-related activities, are compensated may be imple-*
8 *mented until the plan has been specifically authorized by*
9 *statute.*

10 **TITLE V—DEPARTMENT OF DE-**
11 **FENSE INTELLIGENCE ACTIVI-**
12 **TIES**

13 **SEC. 501. USE OF FUNDS FOR COUNTER-DRUG AND**
14 **COUNTERTERRORISM ACTIVITIES FOR CO-**
15 **LOMBIA.**

16 *Notwithstanding any other provision of law, funds des-*
17 *ignated for intelligence or intelligence-related purposes for*
18 *assistance to the Government of Colombia for counter-drug*
19 *activities for fiscal years 2002 and 2003, and any unobli-*
20 *gated funds available to any element of the intelligence com-*
21 *munity for such activities for a prior fiscal year, shall be*
22 *available to support a unified campaign against narcotics*
23 *trafficking and against activities by organizations des-*
24 *ignated as terrorist organizations (such as the Revolu-*
25 *tionary Armed Forces of Colombia (FARC), the National*
26 *Liberation Army (ELN), and the United Self-Defense*

1 *Forces of Colombia (AUC)), and to take actions to protect*
 2 *human health and welfare in emergency circumstances, in-*
 3 *cluding undertaking rescue operations.*

4 **SEC. 502. PROTECTION OF OPERATIONAL FILES OF THE NA-**
 5 **TIONAL RECONNAISSANCE OFFICE.**

6 (a) *IN GENERAL.*—*Title I of the National Security Act*
 7 *of 1947 (50 U.S.C. 401 et seq.) is amended by inserting*
 8 *after section 105C (50 U.S.C. 403–5c) the following new*
 9 *section:*

10 “*PROTECTION OF OPERATIONAL FILES OF THE NATIONAL*
 11 *RECONNAISSANCE OFFICE*

12 “*SEC. 105D. (a) EXEMPTION OF CERTAIN OPER-*
 13 *ATIONAL FILES FROM SEARCH, REVIEW, PUBLICATION, OR*
 14 *DISCLOSURE.*—*(1) The Director of the National Reconnaiss-*
 15 *sance Office, with the coordination of the Director of Cen-*
 16 *tral Intelligence, may exempt operational files of the Na-*
 17 *tional Reconnaissance Office from the provisions of section*
 18 *552 of title 5, United States Code, which require publica-*
 19 *tion, disclosure, search, or review in connection therewith.*

20 “*(2)(A) Subject to subparagraph (B), for the purposes*
 21 *of this section, the term ‘operational files’ means files of*
 22 *the National Reconnaissance Office (hereafter in this section*
 23 *referred to as ‘NRO’) that document the means by which*
 24 *foreign intelligence or counterintelligence is collected*
 25 *through scientific and technical systems.*

1 “(B) Files which are the sole repository of dissemi-
2 nated intelligence are not operational files.

3 “(3) Notwithstanding paragraph (1), exempted oper-
4 ational files shall continue to be subject to search and review
5 for information concerning—

6 “(A) United States citizens or aliens lawfully
7 admitted for permanent residence who have requested
8 information on themselves pursuant to the provisions
9 of section 552 or 552a of title 5, United States Code;

10 “(B) any special activity the existence of which
11 is not exempt from disclosure under the provisions of
12 section 552 of title 5, United States Code; or

13 “(C) the specific subject matter of an investiga-
14 tion by any of the following for any impropriety, or
15 violation of law, Executive order, or Presidential di-
16 rective, in the conduct of an intelligence activity:

17 “(i) The Permanent Select Committee on
18 Intelligence of the House of Representatives.

19 “(ii) The Select Committee on Intelligence
20 of the Senate.

21 “(iii) The Intelligence Oversight Board.

22 “(iv) The Department of Justice.

23 “(v) The Office of General Counsel of NRO.

24 “(vi) The Office of the Director of NRO.

1 “(4)(A) Files that are not exempted under paragraph
2 (1) which contain information derived or disseminated
3 from exempted operational files shall be subject to search
4 and review.

5 “(B) The inclusion of information from exempted oper-
6 ational files in files that are not exempted under paragraph
7 (1) shall not affect the exemption under paragraph (1) of
8 the originating operational files from search, review, publi-
9 cation, or disclosure.

10 “(C) The declassification of some of the information
11 contained in exempted operational files shall not affect the
12 status of the operational file as being exempt from search,
13 review, publication, or disclosure.

14 “(D) Records from exempted operational files which
15 have been disseminated to and referenced in files that are
16 not exempted under paragraph (1) and which have been
17 returned to exempted operational files for sole retention
18 shall be subject to search and review.

19 “(5) The provisions of paragraph (1) may not be su-
20 perseded except by a provision of law which is enacted after
21 the date of the enactment of this section, and which specifi-
22 cally cites and repeals or modifies its provisions.

23 “(6)(A) Except as provided in subparagraph (B),
24 whenever any person who has requested agency records
25 under section 552 of title 5, United States Code, alleges that

1 *NRO has withheld records improperly because of failure to*
2 *comply with any provision of this section, judicial review*
3 *shall be available under the terms set forth in section*
4 *552(a)(4)(B) of title 5, United States Code.*

5 *“(B) Judicial review shall not be available in the man-*
6 *ner provided for under subparagraph (A) as follows:*

7 *“(i) In any case in which information specifi-*
8 *cally authorized under criteria established by an Ex-*
9 *ecutive order to be kept secret in the interests of na-*
10 *tional defense or foreign relations is filed with, or*
11 *produced for, the court by NRO, such information*
12 *shall be examined ex parte, in camera by the court.*

13 *“(ii) The court shall, to the fullest extent prac-*
14 *ticable, determine the issues of fact based on sworn*
15 *written submissions of the parties.*

16 *“(iii) When a complainant alleges that requested*
17 *records are improperly withheld because of improper*
18 *placement solely in exempted operational files, the*
19 *complainant shall support such allegation with a*
20 *sworn written submission based upon personal knowl-*
21 *edge or otherwise admissible evidence.*

22 *“(iv)(I) When a complainant alleges that re-*
23 *quested records were improperly withheld because of*
24 *improper exemption of operational files, NRO shall*
25 *meet its burden under section 552(a)(4)(B) of title 5,*

1 *United States Code, by demonstrating to the court by*
2 *sworn written submission that exempted operational*
3 *files likely to contain responsible records currently*
4 *perform the functions set forth in paragraph (2).*

5 *“(II) The court may not order NRO to review*
6 *the content of any exempted operational file or files*
7 *in order to make the demonstration required under*
8 *subclause (I), unless the complainant disputes NRO’s*
9 *showing with a sworn written submission based on*
10 *personal knowledge or otherwise admissible evidence.*

11 *“(v) In proceedings under clauses (iii) and (iv),*
12 *the parties may not obtain discovery pursuant to*
13 *rules 26 through 36 of the Federal Rules of Civil Pro-*
14 *cedure, except that requests for admissions may be*
15 *made pursuant to rules 26 and 36.*

16 *“(vi) If the court finds under this paragraph*
17 *that NRO has improperly withheld requested records*
18 *because of failure to comply with any provision of*
19 *this subsection, the court shall order NRO to search*
20 *and review the appropriate exempted operational file*
21 *or files for the requested records and make such*
22 *records, or portions thereof, available in accordance*
23 *with the provisions of section 552 of title 5, United*
24 *States Code, and such order shall be the exclusive*
25 *remedy for failure to comply with this subsection.*

1 “(vii) If at any time following the filing of a
2 complaint pursuant to this paragraph NRO agrees to
3 search the appropriate exempted operational file or
4 files for the requested records, the court shall dismiss
5 the claim based upon such complaint.

6 “(viii) Any information filed with, or produced
7 for the court pursuant to clauses (i) and (iv) shall be
8 coordinated with the Director of Central Intelligence
9 prior to submission to the court.

10 “(b) DECENNIAL REVIEW OF EXEMPTED OPER-
11 ATIONAL FILES.—(1) Not less than once every 10 years, the
12 Director of the National Reconnaissance Office and the Di-
13 rector of Central Intelligence shall review the exemptions
14 in force under subsection (a)(1) to determine whether such
15 exemptions may be removed from the category of exempted
16 files or any portion thereof. The Director of Central Intel-
17 ligence must approve any determination to remove such ex-
18 emptions.

19 “(2) The review required by paragraph (1) shall in-
20 clude consideration of the historical value or other public
21 interest in the subject matter of the particular category of
22 files or portions thereof and the potential for declassifying
23 a significant part of the information contained therein.

24 “(3) A complainant that alleges that NRO has improv-
25 erly withheld records because of failure to comply with this

1 subsection may seek judicial review in the district court of
2 the United States of the district in which any of the parties
3 reside, or in the District of Columbia. In such a proceeding,
4 the court's review shall be limited to determining the fol-
5 lowing:

6 “(A) Whether NRO has conducted the review re-
7 quired by paragraph (1) before the expiration of the
8 10-year period beginning on the date of the enactment
9 of this section or before the expiration of the 10-year
10 period beginning on the date of the most recent re-
11 view.

12 “(B) Whether NRO, in fact, considered the cri-
13 teria set forth in paragraph (2) in conducting the re-
14 quired review.”.

15 (b) *CLERICAL AMENDMENT.*—The table of contents
16 contained in the first section of such Act is amended by
17 inserting after the item relating to section 105C the fol-
18 lowing new item:

 “Sec. 105D. Protection of operational files of the National Reconnaissance Of-
 fice.”.

19 **SEC. 503. ELIGIBILITY OF EMPLOYEES IN INTELLIGENCE**
20 **SENIOR LEVEL POSITIONS FOR PRESI-**
21 **DENTIAL RANK AWARDS.**

22 Section 1607 of title 10, United States Code, is amend-
23 ed by adding at the end the following new subsection:

1 “(c) *AWARD OF RANK TO EMPLOYEES IN INTEL-*
2 *LIGENCE SENIOR LEVEL POSITIONS.—The President, based*
3 *on the recommendations of the Secretary of Defense, may*
4 *award a rank referred to in section 4507a of title 5 to em-*
5 *ployees in Intelligence Senior Level positions designated*
6 *under subsection (a). The award of such rank shall be made*
7 *in a manner consistent with the provisions of that section.”.*

Union Calendar No. 354

107TH CONGRESS
2^D SESSION

H. R. 4628

[Report No. 107-592]

A BILL

To authorize appropriations for fiscal year 2003 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.

JULY 18, 2002

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed