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97TH CONGRESS 1st Session | HOUSE OF REPRESENTATIVES | REPORT No. 97-332

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1982

NOVEMBER 16, 1981.—Ordered to be printed

Mr. BOLAND, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 3454]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3454) to authorize appropriations for fiscal year 1982 for the intelligence and intelligence-related activities of the U.S. Government, for the Intelligence Community Staff, and for the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1981 for the intelligence and intelligence-related activities of the U.S. Government, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1982".

TITLE I—INTELLIGENCE ACTIVITIES

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1982 for the conduct of the intelligence and intelligence-related activities of the following agencies of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

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(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of the Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.
(10) The Drug Enforcement Administration.

CLASSIFIED SCHEDULE OF AUTHORIZATIONS

SEC. 102. The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1982, for the conduct of the intelligence and intelligence-related activities of the agencies listed in such section, are those specified in the classified Schedule of Authorizations prepared by the committee of conference to accompany H.R. 3454 of the Ninety-seventh Congress. That Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

CONGRESSIONAL NOTIFICATION OF EXPENDITURES IN EXCESS OF PROGRAM AUTHORIZATIONS

SEC. 103. During fiscal year 1982, funds may not be made available for any activity for which funds are authorized to be appropriated by this Act unless such funds have been specifically authorized for such activity or, in the case of funds appropriated for a different activity, unless the Director of Central Intelligence or the Secretary of Defense has notified the appropriate committees of Congress of the intent to make such funds available for such activity.

AUTHORIZATION OF APPROPRIATIONS FOR COUNTER-TERRORISM ACTIVITIES OF THE FEDERAL BUREAU OF INVESTIGATION

SEC. 104. In addition to the amounts authorized to be appropriated under section 101(9), there is authorized to be appropriated for fiscal year 1982 the sum of $11,900,000 for the conduct of the activities of the Federal Bureau of Investigation to counter terrorism in the United States.

TITLE II—INTELLIGENCE COMMUNITY STAFF

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1982 the sum of $13,600,000.

AUTHORIZATION OF PERSONNEL END-STRENGTH

SEC. 202. (a) The Intelligence Community Staff is authorized two hundred and twenty full-time personnel as of September 30, 1982. Such personnel may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) During fiscal year 1982, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representa-

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tion from elements of the United States Government engaged in intelligence and intelligence-related activities.

(c) During fiscal year 1982, any officer or employee of the United States or member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY

SEC. 203. During fiscal year 1982, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a-4031) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1982 the sum of $84,600,000.

TITLE IV—SUPPLEMENTAL AUTHORIZATION FOR FISCAL YEAR 1981

AUTHORIZATION OF APPROPRIATIONS

SEC. 401. In addition to the funds authorized to be appropriated under title I of the Intelligence Authorization Act for Fiscal Year 1981 (Public Law 96-450; 94 Stat. 1975), funds are hereby authorized to be appropriated for fiscal year 1981 for the conduct of the intelligence and intelligence-related activities of the United States Government. The amounts authorized to be appropriated under the preceding sentence are those specified for that purpose in the classified Schedule of Authorizations described in section 102.

TITLE V—GENERAL PROVISIONS RELATING TO THE CENTRAL INTELLIGENCE AGENCY

ALLOWANCES AND BENEFITS FOR CENTRAL INTELLIGENCE AGENCY PERSONNEL

SEC. 501. Section 4 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403e) is amended—

(1) by inserting "(a)" before "Under such regulations"; and

(2) by adding at the end thereof the following new subsection:

"(b)(1) The Director may pay to officers and employees of the Agency, and to persons detailed or assigned to the Agency from other agencies of the Government or from the Armed Forces, allowances and benefits comparable to the allowances and benefits authorized to be paid to members of the Foreign Service under

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chapter 9 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4081 et seq.) or any other provision of law.

"(2) The Director may pay allowances and benefits related to officially authorized travel, personnel and physical security activities, operational activities, and cover-related activities (whether or not such allowances and benefits are otherwise authorized under this section or any other provision of law) when payment of such allowances and benefits is necessary to meet the special requirements of work related to such activities. Payment of allowances and benefits under this paragraph shall be in accordance with regulations prescribed by the Director. Rates for allowances and benefits under this paragraph may not be set at rates in excess of those authorized by section 5724 and 5724a of title 5, United States Code, when reimbursement is provided for relocation attributable, in whole or in part, to relocation within the United States.

"(3) Notwithstanding any other provision of this section or any other provision of law relating to the officially authorized travel of Government employees, the Director, in order to reflect Agency requirements not taken into account in the formulation of Government-wide travel procedures, may by regulation—

"(A) authorize the travel of officers and employees of the Agency, and of persons detailed or assigned to the Agency from other agencies of the Government or from the Armed Forces who are engaged in the performance of intelligence functions, and

"(B) provide for payment for such travel, in classes of cases, as determined by the Director, in which such travel is important to the performance of intelligence functions.

"(4) Members of the Armed Forces may not receive benefits under both this section and title 37, United States Code, for the same purpose. The Director and Secretary of Defense shall prescribe joint regulations to carry out the preceding sentence.

"(5) Regulations issued pursuant to this subsection shall be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate before such regulations take effect.".

AUTHORITY TO CARRY FIREARMS

SEC. 502. Subsection (d) of section 5 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f(d)) is amended to read as follows:

"(d) Authorize personnel designated by the Director to carry firearms to the extent necessary for the performance of the Agency's authorized functions, except that, within the United States, such authority shall be limited to the purposes of protection of classified materials and information, the training of Agency personnel and other authorized persons in the use of firearms, the protection of Agency installations and property, and the protection of Agency personnel and of defectors, their families, and other persons in the United States under Agency auspices; and".

UNAUTHORIZED USE OF CENTRAL INTELLIGENCE AGENCY NAME, INITIALS, OR SEAL

SEC. 503. The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding at the end thereof the following new section:

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"MISUSE OF AGENCY NAME, INITIALS, OR SEAL

"SEC. 13. (a) No person may, except with the written permission of the Director, knowingly use the words 'Central Intelligence Agency', the initials 'CIA', the seal of the Central Intelligence Agency, or any colorable imitation of such words, initials, or seal in connection with any merchandise, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Central Intelligence Agency.

"(b) Whenever it appears to the Attorney General that any person is engaged or is about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.".

INTELLIGENCE ADVISORY COMMITTEES

SEC. 504. (a) Subsection (a) of section 303 of the National Security Act of 1947 (50 U.S.C. 405) is amended by striking out "at a rate not to exceed $50 for each day of service" in the last sentence and inserting in lieu thereof the following: "at a daily rate not to exceed the daily equivalent of the rate of pay in effect for grade GS-18 of the General Schedule established by section 5332 of title 5, United States Code".

(b) Subsection (b) of such section is amended by striking out "section 281, 283, or 284 of Title 18" and inserting in lieu thereof "section 203, 205, or 207 of title 18".

TITLE VI—GENERAL PROVISIONS RELATED TO THE NATIONAL SECURITY AGENCY

ALLOWANCES AND BENEFITS FOR NATIONAL SECURITY AGENCY PERSONNEL

SEC. 601. (a) Subsection (b)(1) of section 9 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended to read as follows:

"(1) allowances and benefits—

"(A) comparable to those provided by the Secretary of State to members of the Foreign Service under chapter 9 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4081 et seq.) or any other provision of law; and

"(B) in the case of selected personnel serving in circumstances similar to those in which personnel of the Central Intelligence Agency serve, comparable to those provided by the Director of Central Intelligence to personnel of the Central Intelligence Agency; and".

(b) Such section is further amended by adding at the end thereof the following new subsections:

"(d) Members of the Armed Forces may not receive benefits under both subsection (b)(1) and title 37, United States Code, for

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the same purpose. The Secretary of Defense shall prescribe such regulations as may be necessary to carry out this subsection.

"(e) Regulations issued pursuant to subsection (b)(1) shall be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate before such regulations take effect.".

LANGUAGE TRAINING AND CRYPTOLOGIC LINGUIST RESERVE PROGRAMS

SEC. 602. The National Security Agency Act of 1959 is amended—

(1) by inserting after section 9 the following:

"SEC. 10. (a) The Director of the National Security Agency shall arrange for, and shall prescribe regulations concerning, language and language-related training programs for military and civilian cryptologic personnel. In establishing programs under this section for language and language-related training, the Director—

"(1) may provide for the training and instruction to be furnished, including functional and geographic area specializations;

"(2) may arrange for training and instruction through other Government agencies and, in any case in which appropriate training or instruction is unavailable through Government facilities, through nongovernmental facilities that furnish training and instruction useful in the fields of language and foreign affairs;

"(3) may support programs that furnish necessary language and language-related skills, including, in any case in which appropriate programs are unavailable at Government facilities, support through contracts, grants, or cooperation with nongovernmental educational institutions; and

"(4) may obtain by appointment or contract the services of individuals to serve as language instructors, linguists, or special language project personnel.

"(b)(1) In order to maintain necessary capability in foreign language skills and related abilities needed by the National Security Agency, the Director, without regard to subchapter IV of chapter 55 of title 5, United States Code, may provide special monetary or other incentives to encourage civilian cryptologic personnel of the Agency to acquire or retain proficiency in foreign languages or special related abilities needed by the Agency.

"(2) In order to provide linguistic training and support for cryptologic personnel, the Director—

"(A) may pay all or part of the tuition and other expenses related to the training of personnel who are assigned or detailed for language and language-related training, orientation, or instruction; and

"(B) may pay benefits and allowances to civilian personnel in accordance with chapters 57 and 59 of title 5, United States Code, and to military personnel in accordance with chapter 7 of title 37, United States Code, and applicable provisions of title 10, United States Code, when such personnel are assigned to training at sites away from their designated duty station.

"(c)(1) To the extent not inconsistent, in the opinion of the Secretary of Defense, with the operation of military cryptologic reserve units and in order to maintain necessary capability in foreign language skills and related abilities needed by the National Security Agency, the Director may establish a cryptolo-

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gic linguist reserve. The cryptologic linguist reserve may consist of former or retired civilian or military cryptologic personnel of the National Security Agency and of other qualified individuals, as determined by the Director of the Agency. Each member of the cryptologic linguist reserve shall agree that, during any period of emergency (as determined by the Director), the member shall return to active civilian status with the National Security Agency and shall perform such linguistic or linguistic-related duties as the Director may assign.

"(2) In order to attract individuals to become members of the cryptologic linguist reserve, the Director, without regard to subchapter IV of chapter 55 of title 5, United States Code, may provide special monetary incentives to individuals eligible to become members of the reserve who agree to become members of the cryptologic linguist reserve and to acquire or retain proficiency in foreign languages or special related abilities.

"(3) In order to provide training and support for members of the cryptologic linguist reserve, the Director—

"(A) may pay all or part of the tuition and other expenses related to the training of individuals in the cryptologic linguist reserve who are assigned or detailed for language and language-related training, orientation, or instruction; and

"(B) may pay benefits and allowances in accordance with chapters 57 and 59 of title 5, United States Code, to individuals in the cryptologic linguist reserve who are assigned to training at sites away from their homes or regular places of business.

"(d)(1) The Director, before providing training under this section to any individual, may obtain an agreement with that individual that—

"(A) in the case of current employees, pertains to continuation of service of the employee, and repayment of the expenses of such training for failure to fulfill the agreement, consistent with the provisions of section 4108 of title 5, United States Code; and

"(B) in the case of individuals accepted for membership in the cryptologic linguist reserve, pertains to return to service when requested, and repayment of the expenses of such training for failure to fulfill the agreement, consistent with the provisions of section 4108 of title 5, United States Code.

"(2) The Director, under regulations prescribed under this section, may waive, in whole or in part, a right of recovery under an agreement made under this subsection if it is shown that the recovery would be against equity and good conscience or against the public interest.

"(e)(1) Subject to paragraph (2), the Director may provide to family members of military and civilian cryptologic personnel assigned to representational duties outside the United States, in anticipation of the assignment of such personnel outside the United States or while outside the United States, appropriate orientation and language training that is directly related to the assignment aboard.

"(2) Language training under paragraph (1) may not be provided to any individual through payment of the expenses of tuition or other cost of instruction at a non-Government educational institution unless appropriate instruction is not available at a Government facility.

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"(f) The Director may waive the applicability of any provision of chapter 41 of title 5, United States Code, to any provision of this section if he finds that such waiver is important to the performance of cryptologic functions.

"(g) The authority of the Director to enter into contracts or to make grants under this section is effective for any fiscal year only to the extent that appropriated funds are available for such purpose.

"(h) Regulations issued pursuant to this section shall be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate before such regulations take effect."; and

(2) by striking out "SEC. 10." before "The "Director " and inserting in lieu thereof "(i)."

SENIOR CRYPTOLOGIC EXECUTIVE SERVICE; CRYPTOLOGIC RESEARCH GRANTS; CRYPTOLOGIC PROCUREMENT; MISUSE OF AGENCY NAME

SEC. 603. The National Security Agency Act of 1959 is amended by adding at the end thereof the following new sections:

"SEC. 12. (a)(1) The Secretary of Defense (or his designee) may by regulation establish a personnel system for senior civilian cryptologic personnel in the National Security Agency to be known as the Senior Cryptologic Executive Service. The regulations establishing the Senior Cryptologic Executive Service shall—

"(A) meet the requirements set forth in section 3131 of title 5, United States Code, for the Senior Executive Service;

"(B) provide that positions in the Senior Cryptologic Executive Service meet requirements that are consistent with the provisions of section 3132(a)(2) of such title;

"(C) provide, without regard to section 2, rates of pay for the Senior Cryptologic Executive Service that are not in excess of the maximum rate or less than the minimum rate of basic pay established for the Senior Executive Service under section 5382 of such title, and that are adjusted at the same time and to the same extent as rates of basic pay for the Senior Executive Service are adjusted;

"(D) provide a performance appraisal system for the Senior Cryptologic Executive Service that conforms to the provisions of subchapter II of chapter 43 of such title;

"(E) provide for removal consistent with section 3592 of such title, and removal or suspension consistent with subsections (a), (b), and (c) of section 7543 of such title (except that any hearing or appeal to which a member of the Senior Cryptologic Executive Service is entitled shall be held or decided pursuant to procedures established by regulations of the Secretary of Defense or his designee);

"(F) permit the payment of performance awards to members of the Senior Cryptologic Executive Service consistent with the provisions applicable to performance awards under section 5384 of such title; and

"(G) provide that members of the Senior Cryptologic Executive Service may be granted sabbatical leaves consistent with the provisions of section 3396(c) of such title.

"(2) Except as otherwise provided in subsection (a), the Secretary of Defense (or his designee) may—

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"(A) make applicable to the Senior Cryptologic Executive Service any of the provisions of title 5, United States Code, applicable to applicants for or members of the Senior Executive Service; and

"(B) appoint, promote, and assign individuals to positions established within the Senior Cryptologic Executive Service without regard to the provisions of title 5, United States Code, governing appointments and other personnel actions in the competitive service.

"(3) The President, based on the recommendations of the Secretary of Defense, may award ranks to members of the Senior Cryptologic Executive Service in a manner consistent with the provisions of section 4507 of title 5, United States Code.

"(4) Notwithstanding any other provision of this section, the Director of the National Security Agency may detail or assign any member of the Senior Cryptologic Executive Service to serve in a position outside the National Security Agency in which the member's expertise and experience may be of benefit to the National Security Agency or another Government agency. Any such member shall not by reason of such detail or assignment lose any entitlement or status associated with membership in the Senior Cryptologic Executive Service.

"(5) The Director of the National Security Agency shall each year submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, at the time the Budget is submitted by the President to the Congress for the next fiscal year, a report on executive personnel in the National Security Agency. The report shall include—

"(A) the total number of positions added to or deleted from the Senior Cryptologic Executive Service during the preceding fiscal year;

"(B) the number of executive personnel (including all members of the Senior Cryptologic Executive Service) being paid at each grade level and pay rate in effect at the end of the preceding fiscal year;

"(C) the number, distribution, and amount of awards paid to members of the Senior Cryptologic Executive Service during the preceding fiscal year; and

"(D) the number of individuals removed from the Senior Cryptologic Executive Service during the preceding fiscal year for less than fully successful performance.

"(b) The Secretary of Defense (or his designee) may by regulation establish a merit pay system for such employees of the National Security Agency as the Secretary of Defense (or his designee) considers appropriate. The merit pay system shall be designed to carry out purposes consistent with those set forth in section 5401(a) of title 5, United States Code.

"(c) Nothing in this section shall be construed to allow the aggregate amount payable to a member of the Senior Cryptologic Executive Service under this section during any fiscal year to exceed the annual rate payable for positions at level I of the Executive Schedule in effect at the end of such year.

"SEC. 13. (a) The Director of the National Security Agency may make grants to private individuals and institutions for the conduct of cryptologic research. An application for a grant under this sec-

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tion may not be approved unless the Director determines that the award of the grant would be clearly consistent with the national security.

"(b) The grant program established by subsection (a) shall be conducted in accordance with the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.) to the extent that such Act is consistent with and in accordance with section 6 of this Act.

"(c) The authority of the Director to make grants under this section is effective for any fiscal year only to the extent that appropriated funds are available for such purpose.

"SEC. 14. Funds appropriated to an entity of the Federal Government other than an element of the Department of Defense that have been specifically appropriated for the purchase of cryptologic equipment, materials, or services with respect to which the National Security Agency has been designated as the central source of procurement for the Government shall remain available for a period of three fiscal years.

"SEC. 15. (a) No person may, except with the written permission of the Director of the National Security Agency, knowingly use the words 'National Security Agency', the initials 'NSA', the seal of the National Security Agency, or any colorable imitation of such words, initials, or seal in connection with any merchandise, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the National Security Agency.

"(b) Whenever it appears to the Attorney General that any person is engaged or is about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other action as it warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.".

TITLE VII—DEFENSE INTELLIGENCE AGENCY PERSONNEL PROVISIONS

DEFENSE INTELLIGENCE SENIOR EXECUTIVE SERVICE; MERIT PAY SYSTEM

SEC. 701. (a)(1) Part II subtitle A of title 10, United States Code, is amended by adding at the end thereof the following new chapter:

"Chapter 83—DEFENSE INTELLIGENCE AGENCY CIVILIAN PERSONNEL

"Sec.
"1601. Defense Intelligence Senior Executive Service.
"1602. Defense Intelligence Agency merit pay system.
"1603. Limit on pay.

"§ 1601. Defense Intelligence Senior Executive Service

"(a) The Secretary of Defense may by regulation establish a personnel system for senior civilian personnel within the Defense Intelligence Agency to be known as the Defense Intelligence Senior

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Executive Service. The regulations establishing the Defense Intelligence Senior Executive Service shall—

"(1) meet the requirements set forth in section 3131 of title 5 for the Senior Executive Service;

"(2) provide that positions in the Defense Intelligence Senior Executive Service meet requirements that are consistent with the provisions of section 3132(a)(2) of title 5;

"(3) provide rates of pay for the Defense Intelligence Senior Executive Service that are not in excess of the maximum rate or less than the minimum rate of basic pay established for the Senior Executive Service under section 5382 of title 5, and that are adjusted at the same time and to the same extent as rates of basic pay for the Senior Executive Service are adjusted;

"(4) provide a performance appraisal system for the Defense Intelligence Senior Executive Service that conforms to the provisions of subchapter II of chapter 43 of title 5;

"(5) provides for removal consistent with section 3592 of such title, and removal or suspension consistent with subsections (a), (b), and (c) of section 7543 of title 5 (except that any hearing or appeal to which a member of the Defense Intelligence Senior Executive Service is entitled shall be held or decided pursuant to procedures established by regulations of the Secretary of Defense);

"(6) permit the payment of performance awards to members of the Defense Intelligence Senior Executive Service consistent with the provisions applicable to performance awards under section 5384 of title 5; and

"(7) provide that members of the Defense Intelligence Senior Executive Service may be granted sabbatical leaves consistent with the provisions of section 3396(c) of title 5.

"(b) Except as otherwise provided in subsection (a), the Secretary of Defense may—

"(1) make applicable to the Defense Intelligence Senior Executive Service any of the provisions of title 5 applicable to applicants for or members of the Senior Executive Service; and

"(2) appoint, promote, and assign individuals to positions established within the Defense Intelligence Senior Executive Service without regard to the provisions of title 5 governing appointments and other personnel actions in the competitive service.

"(c) The President, based on the recommendations of the Secretary of Defense, may award ranks to members of the Defense Intelligence Senior Executive Service in a manner consistent with the provisions of section 4507 of title 5.

"(d) Notwithstanding any other provision of this section, the Secretary of Defense may detail or assign any member of the Defense Intelligence Senior Executive Service to serve in a position outside the Defense Intellience Agency in which the member's expertise and experience may be of benefit to the Defense Intelligence Agency or another Government agency. Any such member shall not by reason of such detail or assignment lose any entitlement or status associated with membership in the Defense Intelligence Senior Executive Service.

"(e) The Secretary of Defense shall each year submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate,

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at the time the Budget is submitted by the President to the Congress for the next fiscal year, a report on the executive personnel in the Defense Intelligence Agency. The report shall include—

"(1) the total number of positions added to or deleted from the Defense Intelligence Senior Executive Service during the preceding fiscal year;

"(2) the number of executive personnel (including all members of the Defense Intelligence Senior Executive Service) being paid at each grade level and pay rate in effect at the end of the preceding fiscal year;

"(3) the number, distribution, and amount of awards paid to members of the Defense Intelligence Senior Executive Service during the preceding fiscal year; and

"(4) the number of individuals removed from the Defense Intelligence Senior Executive Service during the preceding fiscal year for less than fully successful performance.

"§1602. Defense Intelligence Agency merit pay system

"The Secretary of Defense may by regulation establish a merit pay system for such employees of the Defense Intelligence Agency as the Secretary considers appropriate. The merit pay system shall be designed to carry out purposes consistent with those set forth in section 5401(a) of title 5.

"§1603. Limit on pay

"Nothing in this chapter shall be construed to allow the aggregate amount payable to a member of the Defense Intelligence Senior Executive Service under this chapter during any fiscal year to exceed the annual rate payable for positions at level I of the Executive Schedule in effect at the end of such year.".

(2) The table of chapters at the beginning of subtitle A of title 10, United States Code, and the table of chapters at the beginning of part II of such subtitle, are amended by adding after the item relating to chapter 81 the following new item:

"83. Defense Intelligence Agency Civilian Personnel ..... 1601".

(b) The authority of the Secretary of Defense under chapter 83 of title 10, United States Code, as added by subsection (a), may be delegated in accordance with section 133(d) of title 10, United States Code.

TITLE VIII—PROVISIONS APPLICABLE TO MORE THAN ONE AGENCY AND EFFECTIVE DATE

EXCLUSION FROM VETERANS PREFERENCE PROVISIONS

SEC. 801. Section 2108(3) of title 5, United States Code, is amended by striking out "or the General Accounting Office" and inserting in lieu thereof ", the Defense Intelligence Senior Executive Service, the Senior Cryptologic Executive Service, or the General Accounting Office".

ACCUMULATION OF ANNUAL LEAVE NOT SUBJECT TO LIMITATION

SEC. 802. Section 6304 of title 5, United States Code, is amended by striking out subsections (f) and (g) and inserting in lieu thereof the following:

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"(f) Annual leave accrued shall not be subject to the limitation on accumulation otherwise imposed by this section if such leave is accrued by an individual while serving in a position in—

"(1) the Senior Executive Service;

"(2) the Senior Foreign Service;

"(3) the Defense Intelligence Senior Executive Service; or

"(4) the Senior Cryptologic Executive Service.".

EARLY RETIREMENT

SEC. 803. Section 8336 of title 5, United States Code, is amended by inserting "(1)" after "(h)" and by adding at the end thereof the following new paragraph:

"(2) A member of the Defense Intelligence Senior Executive Service or the Senior Cryptologic Executive Service who is removed from such service for less than fully successful executive performance after completing 25 years of service or after becoming 50 years of age and completing 20 years of service is entitled to an annuity.".

INCREASES IN EMPLOYEE BENEFITS AUTHORIZED BY LAW

SEC. 804. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such benefits authorized by law.

RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES

SEC. 805. The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

EFFECTIVE DATE

SEC. 806. The amendments made by titles V, VI, and VII and by this title shall take effect as of October 1, 1981.

And the Senate agree to the same.

EDWARD P. BOLAND,
CLEMENT J. ZABLOCKI,
NORMAN Y. MINETA,
BOB STUMP,
J. K. ROBINSON,
G. WILLIAM WHITEHURST,
BILL YOUNG,

For such matters within the jurisdiction of the Committee on Armed Services pursuant to clause 1(c) of Rule X of the Rules of the House of Representatives:

MELVIN PRICE,
SAMUEL S. STRATTON,
WM. L. DICKINSON,

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For such matters within the jurisdiction of the Committee on the Judiciary pursuant to clause 1(m) of Rule X of the Rules of the House of Representatives:

PETER W. RODINO, Jr.,
DON EDWARDS,
ROBERT MCCLORY,
Managers on the Part of the House.

BARRY GOLDWATER,
MALCOLM WALLOP,
JAKE GARN,
DAVID DURENBERGER,
BILL ROTH,
HARRISON H. SCHMITT,
JOHN WARNER
(for matters of interest to Committee on Armed Services),
DANIEL PATRICK MOYNIHAN,
DANIEL K. INOUYE,
HENRY M. JACKSON,
LLOYD BENTSEN,
Managers on the Part of the Senate.

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JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3454) to authorize appropriations for fiscal year 1982 for the intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, and for the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1981 for the intelligence and intelligence-related activities of the United States Government, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—INTELLIGENCE ACTIVITIES

Due to the classified nature of intelligence and intelligence-related activities, a classified annex to this joint explanatory statement serves as a guide to the classified Schedule of Authorizations by providing a detailed description of program and budget authority contained therein as reported by the Committee of Conference.

The actions of the conferees on all matters at difference between the two Houses (stated in the classified annex, supplement and appendix that accompanied the House bill and the Senate amendment) are shown below or in the classified annex to this joint statement.

A special conference group resolved differences between the House and Senate regarding DoD Intelligence Related Activities, referred to as Tactical Intelligence and Related Activities (TIARA). This special conference group was necessitated by the differing committee jurisdictions between the two Houses and consisted of members of the House and Senate Committees on Armed Services and the House Permanent Select Committee on Intelligence.

The amounts listed for TIARA programs represent the funding levels jointly agreed to by the TIARA conferees and the House and Senate conferees for the Department of Defense Authorization Act, 1982, for those programs subject to annual authorization and contained in the Department of Defense Authorization bill. In addi-

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tion, the TIARA conferees have agreed on the authorization level, as listed in the classified Schedule of Authorizations, the joint statement, and its classified annex, for TIARA programs which fall into the appropriation categories of Military Pay, Other Procurement, and Military Construction.

The Senate amendment contained a provision (Sec. 510) which would make it a federal crime to kill, or attempt to kill, CIA personnel while acting in the line of duty, intelligence defectors, or foreign visitors who are present in the United States under the auspices of the Director of Central Intelligence. The conferees agreed that such a proposal deserved consideration but recognized that the House Judiciary Committee had not had an opportunity to adequately consider the matter. The conferees therefore agreed to defer this proposal without prejudice. It was further agreed that separate legislation on this proposal would be introduced.

SECTION 103

Section 103 of the House bill provided that each individual ceiling established specifically in the Schedule of Authorizations would be a limitation on obligation and expenditure except by notification of the appropriate committees of Congress fifteen days prior to the intended obligation or expenditure. The Senate amendment contained no similar provision.

The conferees agreed to revised language requiring that no funds may be appropriated or otherwise made available through transfer, reprogramming, etc., unless specifically authorized or unless by notification. The conferees intend that specifically authorized intelligence activities be considered as those activities described in annual budget justification material as modified by the Congress. In addition, the conferees agreed that the notification requirement is not intended to apply to reprogrammings below agreed-to dollar thresholds, releases from authorized contingency funds, or to Economy Act transactions for specific activities otherwise authorized by law. Further, the conferees agreed that while notification required under this provision should be made at least fifteen days prior to completion of the funding transaction, circumstances may occasionally require later notification.

The Administration has argued that circumstances could arise in which prior notice of an activity would be required by Section 103 but would not be required by the Intelligence Oversight Act. Whether or not such circumstances could exist, the conferees agree that should questions arise on the issue in the future, resolution should be guided by the principles of comity and mutual understanding as set forth in the statement of managers accompanying the conference report on the Intelligence Oversight Act (H. Rept. 96-1350). Under all circumstances, however, the notification of the Intelligence Committees required by this Section, must be provided.

SECTION 104

Section 105 of the House bill authorized appropriations of $11,900,000 for activities of the Federal Bureau of Investigation undertaken to counter domestic terrorism. The Senate amendment contained no such specific provision. The funding level recommended by the Senate and reflected in Section 101 of the Senate amendment, was the same as the House bill.

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The conferees agreed to the House provision.

TITLE II—INTELLIGENCE COMMUNITY STAFF

CONFERENCE ACTIONS, FISCAL YEAR 1982 (SEC. 201)

[In millions of dollars]

Project	Fiscal year 1982 request	House action	Senate action	Conference authorization
External research contracts	3.1	−0.8		2.3
Personnel compensation	9.9	−1.0		8.9
Remaining ICS funding	2.4			2.4
Total ICS funding	15.4	−1.8		13.6
Total ICS manpower	(245)	(−25)		(220)

The conferees agreed to a reduction of $1.8 million for the Intelligence Community Staff. This reduction also results in the deletion of 25 previously authorized positions on the Staff.

The conferees recognize that the Director of Central Intelligence plans to transfer certain existing personnel and functions into the Intelligence Community Staff from other components. The provisions of Title II allow for transfer of personnel for up to one year on a nonreimbursable basis. If the Director wishes to make the transfer permanent, he may recommend increased personnel ceilings next year with corresponding reduction in ceiling in the losing component.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

There were no differences at conference to be resolved on CIARDS. Both the House and the Senate authorized $84,600,000, the amount requested.

TITLE IV—SUPPLEMENTAL AUTHORIZATION, FISCAL YEAR 1981

The actions of the conferees on all matters at difference between the two Houses (stated in the classified annex and supplement that accompanied the House bill and the Senate amendment) are shown in the classified annex to this joint statement.

TITLE V—GENERAL PROVISIONS RELATING TO THE CIA

SECTION 501

The House bill contained a provision (Section 502(a)) which would permit the Director of Central Intelligence to: pay CIA officers, employees, detailees and assignees benefits and allowances comparable to those paid to members of the Foreign Service under chapter 9 of title I of the Foreign Service Act of 1980; pay other allowances and benefits to CIA personnel in connection with certain specified aspects of authorized intelligence activities; and establish travel regulations for CIA personnel inconsistent with government-wide travel procedures where important to the performance of intelli-

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gence functions. The Senate amendment (Section 505) provided similar, but more broadly drafted, grants of authority.

The conferees agreed to the House language with minor drafting changes.

The conferees note that although the language agreed to speak in terms of benefits and allowances provided to officers, employees, detailees and assignees of the CIA, benefits and allowances may be provided under the authority of these provisions to such CIA personnel for their dependents just as under the Senate language. Thus visits by children to parents with whom they do not regularly reside would be included among the benefits that could be extended consistent with the new authority.

In agreeing to the House-recommended limitation on reimbursement for portions of travel attributable to travel within the United States, agreed to for reasons of basic fairness, the conferees discovered a disturbing aspect in their examination of these same government-wide rates of reimbursement for officially related personnel transfers. These rates are inadequate to compensate government officials for the real cost of moving from assignment to assignment. Intelligence personnel have been particularly affected because career development often requires frequent moves between major metropolitan centers at the price of considerable personal loss. The conferees believe that government-wide rates ought to be reexamined in light of this dilemma, which promises to discourage the morale and efficiency of significant numbers of intelligence personnel. The conferees believe this reassessment should come both from the executive branch, which presently limits reimbursements at levels below that permitted by law, and from the Congress, which should consider prompt revision of the present statutory authorities relating to transfer expenses.

The conferees also wish to note that the regulations under which the authorities provided to the Director of Central Intelligence may be implemented should deal with those categories and classes of cases where, under appropriate authorities, allowances or benefits may be extended. The committees wish to be provided with these regulations in advance of their implementation because of the hitherto unparalleled grant to authority which the benefits and allowances provisions confer on the Director. This requirement also applies—for the same reasons—to any subsequent modification of such regulations which involve a change of substance. The conferees wish to emphasize, however, that this review of regulations is intended only to examine the broader categories and classes of cases in which certain benefits or allowances will be extended. This review is not intended to be a case-by-case review of decisions taken pursuant to the regulations, but of the policy which guides them.

With particular reference to those authorities provided to the Director which may depart from government-wide travel procedures, it should be noted that the original House language was amended by the conferees to make clear that the decisions which the Director makes under this authority are to be made in regulations dealing with classes of cases. These classes of cases must be dealt with in the regulations, but decisions on individual cases may be delegated by the regulations to appropriate officials.

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SECTION 502

The Senate amendment contained a provision (Section 503) authorizing CIA personnel to carry firearms to perform authorized CIA functions. The House bill contained no such provision.

The conferees agreed to the Senate provision, but specifically limited CIA firearms authority within the United States to the protection of classified materials and information, the training of CIA personnel in the use of firearms; maintenance of the security of CIA installations and property; and protection of CIA personnel, defectors and their families, and other persons in the United States under CIA auspices.

SECTION 503

The Senate amendment contained a provision (Section 504) proscribing the unauthorized use of the CIA's name, initials or seal in a manner reasonably calculated to convey the impression that such use was authorized and authorizing the Attorney General to seek to enjoin such unauthorized use. The House bill contained no such provision.

The conferees agreed to the Senate provision, with the deletion of redundant matter.

The conferees recognize that some organizations may presently use the initials CIA as an abbreviation or logo for their business name which is other than "Central Intelligence Agency." Section 503 would not prevent legitimate use of these initials by such organizations as an abbreviation or logo for their name so long as there is no false representation of Agency endorsement. It is not the intent of this section to bar members of the public from selling or using T-shirts and souvenirs which bear the Agency's name or initials, provided that the seller or user does not falsely represent that he is acting with the approval or on behalf of the Agency. In other words, the placement of the Agency's name, initials or seal on an item of merchandise, without other facts indicating that the item is being used in a manner reasonably calculated to convey the false impression that such use is approved, endorsed or authorized by the Agency, would not be a sufficient basis for an injunction under this section.

TITLE VI—GENERAL PROVISIONS RELATED TO THE NATIONAL SECURITY AGENCY

SECTION 601

Section 502(b) of the House bill would permit the Director of the National Security Agency to provide, to a selected group of civilian and military cryptographic personnel serving in circumstances similar to those in which CIA personnel serve, benefits and allowances identical to those which could be provided to CIA employees under Section 502(a) of the House bill. The Senate amendment (Section 506) provided authority to the Director of NSA to provide benefits and allowances to NSA personnel parallel to those provided for CIA employees by Section 505 of the Senate amendment.

The conferees agreed to the House provision, including reporting requirements identical to those required by Section 501.

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SECTION 602

The House bill contained a provision (Section 503) which authorizes the Director of the National Security Agency: to pay for and otherwise support language and language-related training for NSA employees, and to do so in non-governmental institutions when suitable training courses or instruction is unavailable through government language training centers; to support non-government programs furnishing such instruction when necessary programs are not available at government language training centers; to hire or contract for necessary instructors or other language experts as needed; to offer incentives to civilian NSA employees to maintain language skills not required for their present assignment or to acquire new languages; to offer similar incentives, as well as appropriate training and related benefits and allowances, to retired NSA employees or to other qualified individuals in order to establish a cryptologic linguist reserve; and to provide language training to family members of a certain class of NSA employees who perform representational duties overseas. The Senate amendment contained a provision (Section 508) providing similar authorities. The Senate provision also would extend Civil Service retirement benefits to contract employees of NSA.

The conferees agreed to the House provision with certain minor or technical changes including reporting requirements identical to those in Sections 501 and 601. The conferees also agreed that, while appropriations for language training and the operation of the cryptologic linguist reserve under the authority of Section 602 need not be a line item in applicable appropriation acts, requests for such appropriations should be clearly identified in the budget justification materials submitted to appropriate congressional committees.

SECTION 603

The Senate amendment contained provisions (Section 611-614) permitting the creation at NSA of a Senior Cryptologic Executive Service and a merit pay system similar to the Senior Executive Service and the merit pay system established by the Civil Service Reform Act of 1978. The House bill contained no such provision.

The conferees agreed to a revised version of the Senate language. This new language closely parallels that of the Government Accounting Office's Senior Executive Service (31 U.S.C. 52-4), but achieves all the purposes of the Senate amendment.

Authority for creation of the Senior Cryptologic Executive Service and the establishment of its parameters through regulation is to lie with the "Secretary of Defense (or his designee)." This phrase was employed by the conferees because the NSA, as a Defense Agency, must remain responsive to direction from the Secretary. Ordinarily, as is the case today under other provisions of the National Security Agency Act, the Secretary delegates his responsibilities to the Director of NSA. Where appropriate, however, as where equities exist which go beyond the interest of NSA, the Secretary will be able to exercise policy guidance in the establishment of the SCES.

The conferees note that the annual report on the SCES required to be provided to the intelligence committees by the Director of

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NSA may be classified since it requires, in some cases, listing numbers of SCES members in certain categories.

The conferees also note that the new authorities created by this provision are in addition to and not intended to diminish any authority provided to NSA by Section 2 of the National Security Agency Act of 1959. Further, neither the Senior Cryptologic Executive Service nor the Defense Intelligence Senior Executive Service should be considered included within the definition of the "excepted service," as defined by Section 2103(a) of title 5, United States Code.

The House bill contained a provision (Section 504) which would permit the Director of the NSA to make grants for cryptologic research. Funds for this purpose were required to be shown as a line item in the applicable appropriations act. The Senate amendment contained no such provision.

The conferees agreed to accept the House language, except that funds for the cryptologic grant program need only be clearly identified in the annual NSA budget justification materials submitted to the appropriate congressional committees.

The House bill contained a provision (Section 505) providing that funds specifically appropriated to non-Defense Agencies for the purchase of cryptologic equipment, materials or services which will be purchased by NSA, acting as the central source of all such government procurements, shall remain available for three fiscal years. The Senate amendment contained no such provision.

The conferees agreed to the House provision.

The Senate amendment contained a provision (Section 507) proscribing the unauthorized use of the NSA's name, initials or seal in a manner reasonably calculated to convey the impression that such use was authorized and authorizing the Attorney General to seek to enjoin such unauthorized use. The House bill contained no such provision.

The conferees agreed to the Senate provision with the deletion of one superfluous sentence and a redrafting to make the provision identical to that pertaining to the unauthorized use of the CIA's name, initials or seal (Section 503 of the conference report). The conferees intend that this provision be interpreted just as Section 503 of the conference report.

SECTION 701

The Senate amendment contained provisions (Sections 601–605) permitting creation within the Defense Intelligence Agency of a Senior Defense Intelligence Executive Service comparable to the Senior Executive Service, providing DIA a general exemption from the classification system, extending authority to the Secretary of Defense to terminate the employment of any DIA employee when he determined such action would be in the interests of the United States, and providing that organizational, functional and personnel related information concerning DIA need not be made public. The House bill contained no similar provisions.

The conferees agreed to revised language creating a Defense Intelligence Senior Executive Service and a merit pay system at DIA. The conferees agreed not to include the other portions of the Senate amendment but agreed that these proposals deserved the scrutiny of regular hearings and consultation among all commit-

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tees of appropriate jurisdiction. The authorities provided under Section 701 of the conference report are identical to those provided, in the case of the Senior Cryptologic Executive Service, by Section 603.

SECTIONS 801, 802, 803

The Senate amendment contained appropriate technical amendments (Sections 603–605, 613) applicable to both the Senior Cryptologic Executive Service and the Senior Defense Intelligence Executive Service. The House bill contained no such provision.

The conferees agreed to incorporate these provisions in similar language.

SECTION 805

The Senate amendment provided that the authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States. The House bill contained similar language applying to the entire Act.

The conferees agreed to the Senate provision.

SECTION 806

The House bill provided for an effective date of October 1, 1981 for all non-budgetary provisions. The Senate amendment provided for different effective dates for its various provisions.

The conferees agreed to the House provision.

EDWARD P. BOLAND,
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BOB STUMP,
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Managers on the Part of the House

BARRY GOLDWATER,
MALCOLM WALLOP,
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DAVID DURENBERGER,
BILL ROTH,
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JOHN WARNER
(for matters of interest to Committee on Armed Services),
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LLOYD BENTSEN,
Managers on the Part of the Senate.

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