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## CONGRESSIONAL RECORD — SENATE

January 23, 1986

of the American population who fly them for business and recreation; and

"Whereas, With Lock Haven, Pennsylvania, being the "home" of the Piper Cub, the year 1987 being the 50th anniversary of the Piper name, and a large extensive, international celebration already being planned to honor this event, it seems proper that the Post Office in Lock Haven, Pennsylvania, have the privilege of presenting a first-day issue of a W. T. Piper and "Cub" memorial stamp; therefore be it

*Resolved*, That the Senate of Pennsylvania recognize the great contributions made to aviation history by William Thomas Piper, Sr., and his remarkable "Cub" airplane, and urge the citizen Stamp Advisory Committee of the United States Postal Service to issue a W. T. Piper and "Cub" memorial stamp; and further request that the Post Office in Lock Haven, Pennsylvania, be designated as the place of presenting the first-day issue of the memorial stamp; and be it further

*Resolved*, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each House of Congress, to each member of Congress from Pennsylvania, and to Mr. Belmont Faries, Chairman, Citizen Stamp Advisory Committee of the United States Postal Service."

POM-552. A petition from a citizen of Salem, Massachusetts, praying for a redress of grievances; to the Committee on the Judiciary.

POM-553. A resolution adopted by the Board of Education of the Carlsbad Municipal School District, Carlsbad, New Mexico, favoring the rejection of H.R. 1523 and S. 415; to the Committee on Labor and Human Resources.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LUGAR (by request):

S. 2015. A bill to provide for the security of U.S. diplomatic personnel, facilities and operations, and for other purposes; to the Committee on Foreign Relations.

By Mr. DIXON:

S. 2016. A bill to provide for public financing of Federal elections for the U.S. Senate, and for other purposes; to the Committee on Rules and Administration.

By Mr. CHILES:

S. 2017. A bill to amend title 5, United States Code, to expand the class of individuals eligible for refunds or other returns of contributions from contingency reserves in the employees health benefits fund; to the Committee on Governmental Affairs.

By Mr. ROTH:

S. 2018. A bill entitled the "Federal Employees Health Benefits Rebate Act of 1986"; to the Committee on Governmental Affairs.

By Mr. TRIBLE:

S. 2019. A bill to bar construction of new prison facilities at the Lorton Prison in Fairfax County, VA, to accelerate the completion of new prison facilities within the District of Columbia, and for other purposes; to the Committee on Governmental Affairs.

By Mr. RIEGLE (for himself, Mr. ROTH, Mr. PROXMIRE, Mr. EXOR, Mr. INOUYE, Mr. QUAYLE, Mr. DECONCINI, Mr. LUGAR, Mr. GRASSLEY, Mr. FELL, Mr. KENNEDY, Mr. MURKOWSKI, Mr. DOMENICI, Mr. PRESSLER, Mr. LEVIN,

Mr. ROCKEFELLER, Mr. FRYOR, Mr. SIMON, Mr. GORE, Mr. KERRY, Mr. BUMPERS, Mr. BRADLEY, Mr. HEINZ, Mr. DIXON, Mr. DOLE, and Mr. BURDICK):

S.J. Res. 258. A joint resolution designating "Baltic Freedom Day"; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DIXON:

S. Res. 297. A resolution to call for an International Congress on Terrorism; to the Committee on Foreign Relations.

By Mr. WEICKER (for himself, Mr. HATCH, Mr. KENNEDY, Mr. STAFFORD, Mr. NICKLES, Mr. KERRY, Mr. THURMOND, and Mr. SIMON):

S. Res. 298. A resolution expressing support and encouragement of the Senate for the U.S. Disabled Ski Team at the 1986 World Disabled Ski Championships to be held in Salem, Sweden, on April 6 through April 17, 1986; to the Committee on Commerce, Science, and Transportation.

By Mr. HART (for himself and Mr. MATHEIAS):

S. Con. Res. 103. A concurrent resolution to commend Bishop Desmond Tutu for his courageous work for peace and equality in South Africa; to the Committee on Foreign Relations.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LUGAR (by request):

S. 2015. A bill to provide for the security of U.S. diplomatic personnel, facilities, and operations, and for other purposes; to the Committee on Foreign Relations.

## DIPLOMATIC SECURITY ACT

● Mr. LUGAR. Mr. President, by request, I introduce for appropriate reference a bill to provide for the security of U.S. diplomatic personnel, facilities, and operations.

This proposed legislation has been requested by the Department of State and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with a section-by-section analysis of the bill and the letter from the Under Secretary of State for Management to the President of the Senate dated December 19, 1985.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

## UNDER SECRETARY OF STATE

## FOR MANAGEMENT

Washington, December 19, 1985.

Hon. GEORGE BUSH,

President, U.S. Senate.

DEAR MR. PRESIDENT: Enclosed for consideration by the Congress is a draft bill to

provide for the security of United States diplomatic personnel, facilities and operations, and for other purposes.

In June of this year the Secretary of State's Advisory Panel on Overseas Security, chaired by Admiral Bobby R. Inman, concluded its work and issued its Report. The Report contained 91 recommendations designed to strengthen the Department of State's security program to meet the difficult challenges posed by terrorism directed at diplomatic personnel, facilities and operations. This draft bill is based upon the Report and recommendations of the Advisory Panel.

The proposed legislation contains three principal features.

First, it sets forth the responsibility of the Secretary of State with respect to the security of diplomatic operations at home and abroad. It also provides for the Bureau of Diplomatic Security of the Department of State to be headed by an Assistant Secretary of State and sets forth certain provisions relating to the Diplomatic Security Service of the Department of State.

Second, the proposed legislation calls for the Secretary of State to convene Accountability Review Boards to investigate incidents involving serious injury, loss of life or significant destruction of property at or related to United States Government missions abroad (other than military installations). As part of the accountability review process, the board convened in response to an incident would not only make findings and recommendations relating to security generally; it would also determine whether, and in what ways, a breach of duty by an individual employee contributed to the incident, and it would make appropriate disciplinary recommendations.

Third, the proposed legislation provides an authorization of appropriations for Fiscal Year 1986 and for Fiscal Year 1987, to enable the Department to fulfill its security-related responsibilities. In addition, the bill authorizes appropriations for Fiscal Year 1986 for counter-terrorism research and development.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this legislation, and that its enactment would be in accord with the program of the President.

Sincerely,

RONALD L. SPIERS.

Enclosures: Bill and Analysis.

S. 2015

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SEC. 1. SHORT TITLE.

This Act may be cited as the "Diplomatic Security Act."

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) the United States has a crucial stake in the presence of United States Government employees representing United States interests abroad; and

(2) conditions confronting United States Government employees and missions abroad are fraught with security concerns which will continue for the foreseeable future.

(3) the resources now available to counter acts of terrorism and protect and secure United States Government employees and missions abroad, as well as foreign officials and missions in the United States, are inadequate to meet the mounting threat to such personnel and facilities.

(b) **PURPOSES.**—The purposes of this Act are—

(1) to set forth the responsibility of the Secretary of State with respect to the security of diplomatic operations in the United States and abroad;

(2) to provide for an Assistant Secretary of State to head the Bureau of Diplomatic Security of the Department of State, and to set forth certain provisions relating to the Diplomatic Security Service of the Department of State;

(3) to maximize coordination by the Department of State with Federal, State, and local agencies and agencies of foreign governments in order to enhance security programs;

(4) to promote strengthened security measures and to provide for the accountability of United States Government employees with security-related responsibilities; and

(5) to provide authorization of appropriations for the Department of State to carry out its responsibilities in the area of security and counterterrorism, and in particular to finance the acquisition and improvements of United States Government missions abroad, including real property, buildings, facilities, and communications, information and security systems.

#### TITLE I—DIPLOMATIC SECURITY

##### SEC. 101. RESPONSIBILITY OF THE SECRETARY OF STATE.

(c) **SECURITY FUNCTIONS.**—The Secretary of State shall develop and implement in consultation with other agencies having personnel or missions abroad, within the scope of the resources made available, policies and programs, including funding levels and standards to provide for the security of United States Government operations of a diplomatic nature and foreign government operations of a diplomatic nature in the United States, to include—

(1) protection of all United States Government employees on official duty abroad, other than those under the command of a United States area military commander, and their accompanying dependents;

(2) establishment and operation of security functions at all United States Government missions abroad, other than facilities or installations subject to the control of a United States area military commander;

(3) establishment and operation of security functions at all Department of State facilities in the United States; and

(4) protection of foreign missions, international organizations and foreign officials and other foreign persons in the United States, as authorized by law.

(b) **ASSISTANCE.**—Other Federal agencies through agreements shall cooperate to the maximum extent possible with the Department of State and may—with or without reimbursement—provide assistance to the Department, perform security inspections and provide logistical support relating to the differing missions and facilities of other agencies, and perform other overseas security functions as may be authorized by the Secretary of State, to facilitate fulfillment of the responsibilities described herein. Specifically, the Secretary of State may agree to delegate operational control of overseas security functions of other Federal agencies to the heads of such agencies, subject to the Secretary's authority as set forth in subsection (a) and provided that the agency head receiving such delegated authority shall be responsible to the Secretary of State in the exercise of the delegated operational control. Upon request and with or without reimbursement, the Department of State may provide training assistance and related equipment to host government personnel as-

signed to protect United States Government employees and missions abroad.

(c) **CHIEF OF MISSION.**—Nothing contained herein shall be construed to limit or impair the authority or responsibility of a chief of mission under section 207 of the Foreign Service Act of 1980, as amended (22 U.S.C. 3927).

(d) **OTHER AGENCIES.**—Nothing contained herein shall be construed to limit or impair the authority or responsibility of any other Federal, State or local agency with respect to law enforcement or domestic security operations, as confirmed by Sections 125 and 126 of Public Law 99-93 (99 Stat. 416-418) or with respect to intelligence activities as defined in Executive Order 12333, or successor orders, and intelligence personnel and information associated therewith.

(e) **CERTAIN LEASE ARRANGEMENTS.**—The Administrator of General Services is authorized to lease up to 250,000 square feet in the United States for the Department of State to accommodate the personnel required to carry out the purposes of this Act. The Department of State shall pay for such space at the rate established by the Administrator of General Services for space and related services.

##### SEC. 102. BUREAU OF DIPLOMATIC SECURITY.

(a) **ASSISTANT SECRETARY.**—The Bureau of Diplomatic Security of the Department of State shall be headed by an Assistant Secretary of State.

(b) **NUMBER OF ASSISTANT SECRETARIES.**—The first section of the Act entitled "An Act to strengthen and improve the organization and administration of the Department of State, and for other purposes," approved May 26, 1949 (22 U.S.C. 2652), is amended by striking out "fourteen" and inserting in lieu thereof "fifteen".

(c) **POSITIONS AT LEVEL IV OF THE EXECUTIVE SCHEDULE.**—Section 5315 of title 5, United States Code, is amended by striking out "(14)" following "Assistant Secretaries of State" and inserting in lieu thereof "(15)".

##### SEC. 103. DIPLOMATIC SECURITY SERVICE.

(a) **DIRECTOR.**—The Diplomatic Security Service of the Department of State shall be headed by a Director designated by the Secretary of State. The Director shall be a member of the Senior Foreign Service or the Senior Executive Service and shall be qualified for the position by virtue of demonstrated ability in the area of security, law enforcement, management or public administration. Experience in management or operations at overseas diplomatic posts shall be considered an affirmative factor in the selection of the Director. The Director shall act under the supervision and direction of an Assistant Secretary of State.

(b) **ASSIGNMENT AND APPOINTMENT.**—Positions in the Diplomatic Security Service shall be filled in accordance with the provisions of the Foreign Service Act of 1980, as amended (22 U.S.C. 3901 *et seq.*), and title 5, United States Code. The Secretary of State shall prescribe the qualifications required for assignment or appointment to such positions. In the case of positions designated for special agents, the qualifications may include minimum and maximum entry age restrictions and other physical standards, and shall incorporate such standards as may be required by law in order to perform security functions, to bear arms and to exercise investigatory, warrant, arrest and such other authorities as are available by law to special agents of the Department of State and the Foreign Service. The regulations to be prescribed by the Secretary with respect to such special agents, pursuant to section 37 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2709), may provide

such special disciplinary procedures as are deemed necessary to carry out the purposes of this Act.

(c) **FUNCTIONS.**—The Diplomatic Security Service shall perform such functions as may be assigned to it by the Secretary of State.

#### TITLE II—PERFORMANCE AND ACCOUNTABILITY

##### SEC. 201. ACCOUNTABILITY REVIEW.

In any case of serious injury, loss of life or significant destruction of property at or related to a United States Government mission abroad which is covered by the provisions of this Act (other than a facility or installation subject to the control of a United States area military commander), the Secretary of State shall convene an Accountability Review Board (hereinafter in this title referred to as the "Board"); provided, however, that no such Board shall be convened where the Secretary determines that a case clearly involves only causes unrelated to security, or that a case clearly involves no breach of duty by a United States Government employee.

##### SEC. 202. ACCOUNTABILITY REVIEW BOARD.

(a) **MEMBERSHIP.**—The Board shall consist of not less than three nor more than five members, including a Chairperson, designated or appointed by the Secretary of State. The Director of Central Intelligence is authorized to designate a member. In cases where intelligence sources and methods are involved, the Secretary of State and the Director of Central Intelligence shall jointly designate the members of the Board.

(b) **FACILITIES, SERVICES, SUPPLIES AND STAFF.**—

(1) **SUPPLIED BY DEPARTMENT OF STATE.**—The Board shall obtain facilities, services and supplies through the Department of State. All expenses of the Board, including necessary costs of travel, shall be paid by the Department of State. Travel expenses authorized under this subsection shall be paid in accordance with subchapter 1 of chapter 57, title 5 of the United States Code, or other applicable law.

(2) **DETAIL.**—At the request of the Board, employees of the Department of State or other Federal agencies, members of the Foreign Service or uniformed members of the military services may be temporarily assigned, with or without reimbursement, as staff employees for the Board. Upon request, an inspector general of the Department of State may provide assistance to the Board.

(3) **EMPLOYEES, EXPERTS AND CONSULTANTS.**—The Board may appoint and fix the pay of such other employees and may employ and compensate experts and consultants in accordance with section 3109 of title 5 of the United States Code, who shall be responsible solely to the Board, as the Board considers necessary to carry out its functions.

##### SEC. 203. PROCEDURES.

(a) **EVIDENCE.**—The Board is authorized to administer oaths and affirmations and require that depositions be given and interrogatories answered. The Board may issue or authorize the issuance of a subpoena for the attendance and testimony of witnesses, who are not employees of Federal agencies, and the production of documentary or other evidence from any person, who is not an employee of a Federal agency, or entity in such instances where the Board finds that such a subpoena is necessary in the interests of justice for the development of relevant, admissible evidence. In the case of contumacy or refusal to obey a subpoena issued under this section a court of the United States within the jurisdiction of which a person is directed to appear or produce information, or

within the jurisdiction of which the person is found, resides, or transacts business, may upon application of the Attorney General issue to such person an order requiring such person to appear before the Board to give testimony or produce information as required by the subpoena. Subpoenaed witnesses shall be paid the same fee and mileage allowances which are paid subpoenaed witnesses in the courts of the United States. Nothing contained herein shall be construed to require that the Attorney General release any information to the Board unless the Attorney General determines that such release will not seriously impair any pending criminal investigation or prosecution.

(b) **CONFIDENTIALITY.**—The Board shall adopt for administrative proceedings under this title such procedures with respect to confidentiality as may be deemed necessary, including procedures relating to the conduct of closed proceedings or the submission and use of evidence *in camera*, to ensure in particular the protection of classified information relating to national defense, foreign policy or intelligence matters. The Director of Central Intelligence shall establish the level of protection required for intelligence information and for information relating to intelligence personnel, including standards for secure storage.

(c) **RECORDS.**—Records pertaining to administrative proceedings under this title shall be separated from all other records of the Department of State, and shall be maintained under appropriate safeguards to preserve confidentiality and classification of information. Such records shall be prohibited from disclosure to the public until such time as the Board completes its work and is dismissed. The Department of State shall turn over to the Director of Central Intelligence intelligence information and information relating to intelligence personnel which shall then become records of the Central Intelligence Agency. After that time, only such exemptions as apply to other records of the Department of State under said section 552(b) shall be available for the remaining records of the Board.

(d) **STATUS OF BOARD.**—The provisions of sections 1-14 of title 5 Appendix of the United States Code and section 552b of title 5 of the United States Code shall not apply to an Accountability Review Board.

#### SEC. 204. FINDINGS.

The Board convened in any case shall make written findings determining—

(1) whether there are reasonable grounds to believe that the injury, loss of life or destruction of property with respect to which the Board was convened was security-related; and

(2) whether there is reasonable cause to believe that a breach of duty by a United States Government employee contributed to such injury, loss of life or destruction of property.

In making its findings, the Board shall take into account such standards of conduct, statutes, rules, regulations, instructions and other sources as may have been pertinent to the performance of work and official duties.

#### SEC. 205. PROGRAM RECOMMENDATIONS.

The Board shall make recommendations as appropriate to improve the efficiency, economy, suitability or security of any program or operation subject to this Act which the Board has reviewed. In particular, the Board shall make recommendations as appropriate to promote security awareness and individual accountability for security programs.

#### SEC. 206. DISCIPLINARY PROCEEDINGS.

(a) **NOTICE.**—In any case in which the Board makes an affirmative finding of reasonable cause under section 204, it shall

promptly notify the employee concerned. The Board at the same time shall notify the head of the employing agency or the military service involved and recommend that an appropriate investigatory or disciplinary proceeding be initiated.

(b) **RECORD.**—The Board shall transmit to the Secretary, head of other employing agency or head of military service as the case may be a certified copy of the record of the proceeding, which shall be part of the official record for all purposes of any disciplinary action against the employee concerned.

#### SEC. 207. CERTAIN AGENCY ACTIONS.

(a) **ADMINISTRATIVE LEAVE.**—Following notification to an employee of an affirmative finding of reasonable cause under section 204, that employee may be placed on administrative leave for such period or periods as the Secretary of State, the head of the employing agency if other than the Department of State, or head of military service determines to be consistent with the interests of the United States.

(b) **DISCIPLINARY ACTION.**—Not later than 30 days after a disciplinary recommendation is made by the Board pursuant to section 206, the Secretary of State, the head of the employing agency if other than the Department of State, or head of military service shall initiate or take such action as is deemed appropriate and shall report to the Board on such action.

#### SEC. 208. TRANSMISSION OF REPORTS.

The Board shall promptly transmit to the Secretary of State all findings, decisions and recommendations made pursuant to sections 204 through 206 and reports received under section 207(b). The Secretary of State shall promptly report to the appropriate committees of the Congress on all recommendations of the Board, as well as on any action taken with respect to such recommendations.

#### SEC. 209. RELATION TO OTHER PROCEEDINGS.

(a) **FOREIGN SERVICE GRIEVANCES.**—Notwithstanding any other provision of law, no action taken with respect to a member of the Foreign Service in accordance with this title shall be considered grounds for a grievance action under chapter 11 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4131-4140).

(b) **REVIEW ABILITY.**—Nothing in this Act shall be construed to create administrative or judicial review remedies or rights of action. Determinations by the Secretary of State under section 201 of this Act shall not be reviewable in any court.

### TITLE III—AUTHORIZATION OF APPROPRIATIONS

#### SEC. 301. AUTHORIZATION.

(a) **SECURITY ENHANCEMENT PROGRAM.**—In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated to the Department of State for "Administration of Foreign Affairs" for the purposes of this Act such sums as may be necessary for fiscal year 1986, and for fiscal year 1987. Within the scope of total funds available for security, the Department of State shall ensure that equitable funding levels are provided and that, where appropriate, specific amounts are identified for the overseas security of other foreign affairs agencies on an annual basis.

(b) **COUNTERTERRORISM RESEARCH AND DEVELOPMENT.**—There are authorized to be appropriated to the Department of State for antiterrorism research and development such sums as may be necessary for fiscal year 1986.

#### SEC. 302. FOREIGN BUILDINGS PROGRAM.

In the implementation of any foreign buildings program funded from amounts au-

thorized by section 301, the Foreign Buildings Office of the Department of State shall utilize, to the maximum extent possible, American contractors from the private sector.

#### SECTION-BY-SECTION ANALYSIS

(An act to provide for the security of U.S. diplomatic personnel, facilities and operations, and for other purposes)

##### SECTION 1—SHORT TITLE

The Act may be cited as the "Diplomatic Security Act."

##### SECTION 2—FINDINGS AND PURPOSE

The Diplomatic Security Act is a response to the new and profoundly difficult security-related challenges confronting United States Government employees and missions abroad, as well as foreign officials and missions within the United States. The Act is based on the recommendations of the Advisory Panel on Overseas Security formed by the Secretary of State in July 1984. The Panel consisted of Admiral Bobby R. Inman (Chairman), Senator Warren B. Rudman, Congressman Daniel A. Mica, Ambassador Lawrence S. Eagleburger, Ambassador Anne L. Armstrong, Lieutenant General D'Wayne Gray and Messrs. Robert J. McGuire and Victor H. Dikeos (Executive Secretary).

The Act creates a comprehensive new framework for the enhanced security of official personnel and facilities. The framework consists of three complementary facets. The Act sets forth the responsibility of the Secretary of State with respect to the security of diplomatic operations at home and abroad, and additionally sets forth certain provisions relating to the Bureau of Diplomatic Security and the Diplomatic Security Service of the Department of State; it provides for the convening of boards of inquiry to examine issues of accountability in cases involving terrorist or security-related attacks against United States Government personnel or facilities abroad; and it provides authorization of appropriations necessary for the Department of State to carry out its responsibilities in the area of security and counterterrorism, and in particular to finance the acquisition of new missions overseas as recommended by the Advisory Panel on Overseas Security.

#### TITLE I—DIPLOMATIC SECURITY

##### SECTION 101—RESPONSIBILITY OF THE SECRETARY OF STATE

Subsection (a) of section 101 requires the Secretary of State to develop and implement, within the scope of resources made available, policies and programs, including funding levels and standards, to provide for the security of United States Government operations overseas of a diplomatic nature and foreign government operations of a diplomatic nature in the United States. The subsection provides specific content to the formulation "operations of a diplomatic nature" by listing certain overseas and domestic security functions which are encompassed by the Secretary's responsibility.

With respect to overseas security, under paragraph (1) of this subsection the responsibility of the Secretary of State extends to the protection of all United States Government employees who are overseas on official duty (and their accompanying dependents), other than those under the command of a United States area military commander. The formulation used to describe the persons covered derives generally from section 207 of the Foreign Service Act of 1980, as amended (22 U.S.C. 3927), which specifies the persons who are under the direction and supervision of a United States chief of mission. Similarly, under paragraph (2) the Sec-

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retary's responsibility extends to the establishment and operation of security functions at all United States Government missions abroad, other than facilities or installations subject to the control of a United States area military commander.

On the domestic side, under paragraph (3) the responsibility of the Secretary of State embraces the establishment and operation of security functions at all Department of State facilities in the United States. It also extends, under paragraph (4), to the protection of foreign missions, international organizations and foreign officials and certain other foreign persons in the United States. As the phrase "as authorized by law" in paragraph (4) makes clear, the precise scope of the latter function is defined by other provisions of law on the subject, in particular section 37 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2709), which was recently enacted by section 125 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93).

Section 101 also contains certain other provisions which are closely related to the matters described in subsection (a). Subsection (b) imposes an obligation on other Federal agencies through agreements to cooperate to the maximum extent possible with the Department of State to facilitate fulfillment of its security responsibilities. It also provides that for these purposes such agencies through agreements may render assistance, with or without reimbursement, to the Department of State. It is expressly provided that such agencies may perform security inspections, provide logistic support, and perform other overseas security functions as authorized by the Secretary of State. Assistance of this kind would be appropriate in circumstances, for example, involving the facilities of other agencies abroad and provision is made for delegation of operational control, subject to the Secretary's overall responsibility. Subsection (b) also provides that the Department of State may furnish training assistance and related equipment, upon request and with or without reimbursement to host government personnel assigned to provide security for United States Government employees and missions abroad. Such assistance would be independent of existing programs for antiterrorism assistance under chapter 8 of Part II of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2349aa *et seq.*).

Subsection (c) makes clear that this Act does not limit on impair the authority or responsibility of a chief mission as set forth in section 207 of the Foreign Service Act of 1980, as amended (22 U.S.C. 3927). Similarly, subsection (d) makes clear that this Act does not limit or impair the authority or responsibility of any other Federal, State or local agency with respect to law enforcement or domestic security operations as confirmed by Sections 125 and 126 of P.L. 99-93, or with respect to intelligence activities (as defined by Executive Order), intelligence personnel and associated information. This language protects, for example, CIA's existing security responsibilities for CIA personnel, information and activities so that it may effectively carry out its assigned responsibilities and mission, and excludes from the Act CIA facilities not colocated with missions of a diplomatic nature. The language also protects the provision of protective services by the Secret Service pursuant to 3 U.S.C. Section 202 and 18 U.S.C. Section 3056.

The specific approval contained in subsection (e) for a lease of up to 250,000 square feet in this country by the Administrator of General Services serves to expedite the process of accommodating the personnel

needed by the Department of State to carry out its security-related responsibilities. The Public Buildings Amendments of 1972 require the Administrator to charge commercially comparable rates for space and services.

#### SECTION 102—BUREAU OF DIPLOMATIC SECURITY

Subsection (a) of section 102 provides for the Bureau of Diplomatic Security of the Department of State to be headed by an Assistant Secretary of State. The appointment of the Assistant Secretary for Diplomatic Security would be made by the President with the advice and consent of the Senate, as is the case with the other Assistant Secretaries of State. Subsections (b) and (c) provide for technical conforming changes in the law made necessary by the increase in the number of Assistant Secretaries at the Department of State.

#### SECTION 103—DIPLOMATIC SECURITY SERVICE

Under subsection (a) of section 103, the Diplomatic Security Service of the Department of State is to be headed by a Director who shall: 1) be chosen by the Secretary of State, 2) be a member of the Senior Foreign Service or the Senior Executive Service, 3) have qualifications appropriate for the position, and 4) act under the supervision and direction of an Assistant Secretary of State.

Subsection (b) makes clear that the Diplomatic Security Service is to be staffed by drawing upon the existing Foreign Service and Civil Service personnel systems. Qualifications required for assignment or appointment to positions in the Diplomatic Security Service are to be prescribed by the Secretary of State. In the case of "Special Agents," the position qualifications may include minimum and maximum entry age limitations (e.g., 21 years minimum and 35 years maximum). Such limitations are commonly found in organizations having security-related responsibilities. In addition, the position qualifications for Special Agents must incorporate the standards required by law in order to carry out security functions and to exercise the law enforcement authorities available to such Special Agents. Section 37 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2709) provides for the Secretary to issue regulations governing activities of the Special Agents. In view of the fact that Special Agents perform a unique function—they are directly involved in protecting lives and carry firearms in certain situations—subsection (b) authorizes the Secretary to include in such regulations provisions for special disciplinary procedures to apply to Special Agents. Such procedures might, for example, pertain to the use of administrative leave (a common element of practice among organizations having security-related responsibilities).

Subsection (c) provides that the Diplomatic Security Service shall perform such functions as the Secretary of State may assign to it.

#### TITLE II—PERFORMANCE AND ACCOUNTABILITY

##### SECTION 201—ACCOUNTABILITY REVIEW

Section 201 instructs the Secretary of State to convene a board of inquiry, referred to as an Accountability Review Board (the "Board"), in any case involving serious injury, loss of life or significant destruction of property at or related to a United States Government mission abroad covered by the provisions of the Act (other than a facility or installation subject to the control of a United States area military commander). The requirement does not, however, pertain to cases which the Secretary of State determines to clearly involve only natural or other causes not related to security. It also

does not pertain to cases in which the Secretary determines that there was clearly no breach of duty by a United States Government employee that contributed to such injury, loss of life or destruction of property.

#### SECTION 202—ACCOUNTABILITY REVIEW BOARD

Under subsection (a) of section 202, a Board shall consist of three to five members designated by the Secretary of State, who also chooses the Chairperson of the Board. The Director of CIA is authorized to designate a member, and, in cases involving intelligence sources and methods, jointly with the Secretary of State designate all members of the Board. Board members appointed from outside the Government would be special Government employees for conflict of interest purposes. Travel expenses authorized under this Section shall be paid in accordance with 5 U.S.C. subchapter 57, or other applicable law (i.e. the Foreign Service Act).

Subsection (b) deals with the issue of support services for the Board. The Board is to obtain all necessary facilities, services and supplies through the Department of State. The Board's expenses are also to be paid by the Department. In addition, the Board may retain the services of employees, experts and consultants who shall be responsible to the Board, may request that employees of other agencies be detailed to the Board, and may request assistance from an inspector general of the Department of State.

#### SECTION 203—PROCEDURES

Section 203 empowers the Board to make use of certain authorities of a procedural nature. In particular, under subsection (a) of this section, the Board may issue or authorize the issuance of a subpoena to obtain the testimony of witnesses (who are not employees of executive agencies of the Federal Government) and the production of documentary or other evidence from any such person or from an entity other than a Federal executive agency. In the event of refusal to obey such a subpoena, the board may apply to the Attorney General to request enforcement by an appropriate United States court. The Attorney General may withhold information if disclosure would prejudice a criminal investigation or prosecution.

Under subsection (b), the Board shall adopt for administrative proceedings under this title such procedures with respect to confidentiality as it deems necessary, to ensure in particular the protection of classified information relating to national defense, foreign policy or intelligence. Those procedures may pertain to the conduct of closed proceedings, for example, or to the submission and use of evidence *in camera*. The Director of CIA prescribes the level of safeguards for intelligence information, including secure storage requirements.

Subsection (c) provides that the records relating to administrative proceedings under this title (including any hearing under section 206) must be maintained separately from all other records of the Department of State and that they must be adequately protected. This subsection creates a (b)(3) exemption under the Freedom of Information Act. Affected employees, however, would have such access to records concerning them as is authorized under the Privacy Act (5 U.S.C. 552a). Upon completion of a Board's work intelligence records would be turned over to CIA and other records to State. Only those Freedom of Information Act exemptions applicable to Department records generally would be available for records in its custody. Subsection (d) exempts Accountability Review Boards, from

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the Government in the Sunshine Act and Federal Advisory Act.

## SECTION 204—FINDINGS

Section 204 requires the Board inquiring into an incident to make written findings of two kinds. First, the Board must determine whether there are reasonable grounds to believe that the injury, loss of life or destruction of property with respect to which the Board was convened was security-related. Second, the Board must determine whether there is reasonable cause to believe that a breach of duty by an individual employee of the United States Government contributed to such injury, loss of life or destruction of property. The section specifies that in making its findings the Board is to consult and take into account all sources (such as statutes, regulations and instructions) relevant to the issue of work performance and official duty.

It should be noted that not all inquiries would present a Board with complicated factual circumstances or difficult judgments to make. In a case involving relatively few or relatively easy issues, the Board can—and it is fully expected that it would—move with correspondingly greater speed to complete the inquiry called for by this title.

## SECTION 205—PROGRAM RECOMMENDATIONS

When an Accountability Review Board is convened to investigate an incident involving injury, loss of life or destruction of property at a United States government mission overseas, a principal purpose of its inquiry must be to enable the Department of State to take corrective action to avoid any such incident in the future. Accordingly, section 205 contemplates that the Board shall draw the necessary conclusions from its investigation and make appropriate recommendations to improve security and promote security awareness of missions and personnel subject to this Act.

## SECTION 206—DISCIPLINARY PROCEEDINGS

There may be many cases in which a Board finds no probable cause to believe that any breach of duty by an employee contributed to the injury, loss of life or destruction of property involved in an incident. In such cases, the Board's inquiry ends with its written findings and program recommendations under the preceding two sections. However, in any case in which the Board makes an affirmative reasonable cause finding with respect to an individual employee, the Board's inquiry leads to a second phase, which is the subject of this section.

Under subsection (a) of section 206, the Board must promptly notify any employee with respect to whom it has made an affirmative reasonable cause finding. The Board also must notify the head of the employing agency or military service concerned with a recommendation that an appropriate investigatory or disciplinary proceeding be initiated.

Subsection (b) requires the Board to draw conclusions from its decision in the case and recommend to the Secretary of State or other agency head concerned disciplinary action as appropriate. In connection with its recommendation, the Board must also transmit a certified copy of the record of the proceeding. That record becomes part of the official record for purposes of any subsequent disciplinary action.

## SECTION 207—CERTAIN AGENCY ACTIONS

Under subsection (a) of section 207, an employee who receives notification of an affirmative reasonable cause finding may be placed on administrative leave for such period or periods as is determined by the head of employing agency or head of military service concerned to be consistent with

the national interest. Such leave could be granted, for example, in a case in which the employee's continuing presence on the job was considered to constitute a risk to security. Subsection (b) provides that within thirty days after a disciplinary recommendation is made by the Board, the Secretary or agency head must initiate or take action as deemed appropriate and inform the Board of such action. It should be noted that nothing in this title would preclude an agency from taking action with respect to an employee (e.g. a reassignment or suspension without pay) under authorities other than this Act.

## SECTION 208—TRANSMISSION OF REPORTS

Section 208 requires the Board to transmit promptly to the Secretary of State all of its findings, decisions and recommendations. The section also requires the Secretary to report promptly to the appropriate committees of Congress on all recommendations of the Board and on any action taken with respect to those recommendations, including reports received under Section 207(b).

## SECTION 209—RELATION TO OTHER PROCEEDINGS

Section 209(a) makes clear that a member of the Foreign Service with respect to whom action is taken in accordance with this title may not utilize Foreign Service grievance procedures, to challenge such action.

Section 209(b) makes clear that this Act creates no administrative or judicial review remedies or rights of action. No findings, decisions, or recommendations made under this title may be used in civil actions as *res judicata* or otherwise. Of particular concern are attempts to hold personally liable those who participate as members or witnesses under Sections 201 through 205 of the Act. Determinations by the Secretary of State not to convene a Board under Section 201 are not subject to judicial review.

## TITLE III—AUTHORIZATION OF APPROPRIATIONS

## SECTION 301—AUTHORIZATION

*Security enhancement*

The additional amounts authorized to be appropriated by section 301(a) will be used by the Department of State to carry out the purposes of this Act. The Department is required to assure that, within amounts actually made available, equitable funding levels are provided and specific amounts identified for security needs of other foreign affairs agencies.

*Counter-terrorism research and development*

Subsection (b) authorizes appropriation of such sums as maybe necessary in Fiscal Year 1986 for counter-terrorism research and development.

## SECTION 302—FOREIGN BUILDINGS PROGRAM

Section 302 requires the Foreign Buildings Office of the Department of State, in its implementation of the Act, to make maximum possible use of American contractors from the private sector to carry out the multi-year foreign buildings program to be funded from amounts authorized by section 301. The services to be provided by such contractors could include, for example, project management and control to ensure that individual projects are completed on schedule and within budget, as well as construction management inspection, testing and review. ●

By Mr. DIXON:

S. 2016. A bill to provide for public financing of Federal elections for the U.S. Senate, and for other purposes; to the Committee on Rules and Administration.

## SENATE GENERAL ELECTION REFORM ACT

Mr. DIXON. Mr. President, I have on several occasions discussed the matter of campaign finance and the escalating costs of elections during our deliberations in this Chamber.

My concern has been that a scandal relating to campaign finance is just waiting to happen. We don't know when or where, but we can predict that one of these days a major catastrophe is going to be upon us. Our reaction, unfortunately, will not be rational or reasonable. We will rush into some kind of quick fix that may well turn out to be a mistake, because it will be overly restrictive, punitive and altogether unwise.

In order to avoid such an eventuality, I have advocated public financing for Senate campaigns. This approach to financing elections is something that will ultimately come to pass. We should take this step in an orderly, deliberate fashion, rather than wait until a scandal is upon us, forcing us to react in the heat of the moment.

As a means of forestalling such an eventuality, I introduced S. 85 in the last Congress. This bill was the subject of oversight hearings by the Rules Committee. Today I again offer this bill for consideration by my colleagues since we intend to embark upon a thorough review of campaign finance.

Although this is a complex matter, there are several basic concerns confronting us in relation to how we finance election campaigns.

First and foremost, the costs of campaigns have gotten out of hand. My proposed legislation copes with this problem by placing a limit on spending for Senate campaigns based on a formula related to the voting age population in each State.

A second disturbing development is the decline in small contributions to Federal election campaigns. My response to this alarming situation is to provide matching funds from the Presidential checkoff fund to encourage small contributors to return to the election process. My plan envisions Federal matching of contributions from individuals up to \$100. It is absolutely essential to take steps to restore the confidence of small contributors in our Federal elections, so that they will once again contribute to the candidates of their choice.

If we can limit campaign spending in Senate races, and if we can successfully encourage small contributors to return to the Federal election process, we will have solved the bulk of the difficulties now facing us in each succeeding election cycle.

A third element which contributes greatly toward deterring campaign financing abuse is public disclosure. This requirement for campaign contributions is already on the law books, and the public and all interested parties can pore over these records to determine the sources and amounts of campaign contributions. I have always