

LHM

17 November 1966

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MEMORANDUM FOR THE RECORD

SUBJECT: Cost-of-Living Adjustment of Annuities Under CIA Retirement Act
(Section 291 (a) (2) of P. L. 88-643)

1. In all probability, a cost-of-living adjustment will be due under the CIA Retirement Act on 1 April 1967. This adjustment will be an approximate 4.2 per cent increase and will be applied against those annuities having a commencement date earlier than 2 January 1966 (about 45 in number). The increase, if due, is obligatory upon the CIA Retirement and Disability Fund. However, recent amendments to the Civil Service Retirement Act raise certain questions in the effecting of this increase.

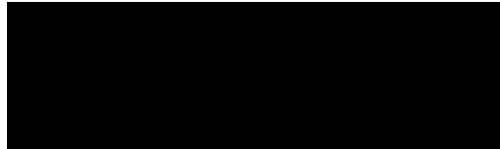
2. The determining factor in triggering an adjustment under Section 291 is the "percentum change in the price index" which is determined under Section 18 of the Civil Service Retirement Act. Unfortunately (as a result of the 1965 Daniels Bill amendment to the Civil Service Retirement Act), Section 18 of the Civil Service Retirement Act is no longer responsive to the requirements of Section 291 of the CIA Retirement Act. (Pertinent statutory language is attached.)

3. The building blocks for an adjustment under Section 291 are annual average changes in the Consumer Price Index. However, as a result of the Daniels Bill, Section 18 of the Civil Service Retirement Act no longer provides a basis for the Civil Service Commission to make this determination. Since such a determination is the triggering mechanism for adjustments under Section 291, a technical nullity results.

4. The Department of State faces the same problem with respect to the Foreign Service Retirement System. P. L. 89-308, approved 31 October 1966, adopted language for the Foreign Service Retirement System practically identical to Section 291 of the CIA Retirement Act. However, a practical difference does exist. On 1 April 1966 State granted a 3.1 per cent annuity increase under their cost-of-living adjustment provision. While it is touch and go as to whether the annual average change in the Consumer Price Index between 1965 and 1966 will support another increase by State on 1 April 1967, it is apparent that if it does State will overcome the technical statutory problem in 1967 as they did in 1966. Reason appears to be on their side.

5. The use of the Civil Service Commission's determination under Section 18 of the Civil Service Retirement Act for the CIA Retirement Act and the Foreign Service Retirement System was primarily one of convenience. Nothing unique to the Commission's powers or responsibilities was involved in taking the Consumer Price Index, an official publication of the Bureau of Labor Statistics, and computing the percentum change from one year to the next. Consequently, there appears to be a strong basis for holding that, irrespective of the changes made in Section 18 of the Civil Service Retirement Act by the Daniels Bill, those operating factors in Section 18 before the Daniels amendment which are critical to the implementation of Section 291 of P. L. 88-643 may still be resorted to for the purposes originally intended. Once this conclusion is agreed to, the method for doing so should be easy to work out.

6. Statutory language pertinent to the above and calculations involved in estimating the 4.2 per cent increase are attached.



Office of Legislative Counsel

STATINTL

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OLC/LLM:dsw (17 Nov 1966)

P. L. 87-793 (OCTOBER 11, 1962) ADDED SECTION 18 TO THE CSRA WHICH, IN PERTINENT PART, READS AS FOLLOWS:

"Sec 18 (a): After January 1, 1964, and after each succeeding January 1, the Commission shall determine the percentum change in the price index from the later of 1962 or the year preceding the most recent cost-of-living adjustment to the latest complete year. On the basis of such Commission determination, the following adjustments shall be made:

"1) Effective April 1, 1964, if the change in the price index from 1962 to 1963 shall have equaled a rise of at least 3 percentum, each annuity....

. . .

"2) Effective April 1 of any year other than 1964 after the price index change shall have equaled a rise of at least 3 percentum, each annuity...."

THE TERM "PRICE INDEX" WAS ALSO DEFINED IN P. L. 87-793 TO MEAN:

"...the annual average over a calendar year of the Consumer Price Index (all items--United States city average) published monthly by the Bureau of Labor Statistics." (Underlining supplied)

CIA RETIREMENT AND DISABILITY ACT FOR CERTAIN EMPLOYEES, P. L. 88-643 (OCTOBER 13, 1964):

"Sec 291 (a): On the basis of determinations made by the Civil Service Commission pursuant to Section 18 of the Civil Service Retirement Act, as amended, pertaining to percentum change in the price index, the following adjustments shall be made:

"1) Effective April 1, 1966, if the change in the price index from 1965 to 1966 shall have equaled a rise of at least 3 percentum, each annuity....

. . .

"2) Effective April 1 of any year other than 1966 after the price index change shall have equaled a rise of at least 3 percentum, each annuity...."

THE CHANGES MADE BY THE DANIELS BILL IN SECTION 18 OF THE CSRA
PERTAINING TO PERCENTUM CHANGE IN THE INDEX ARE EXCEPTED

"Sec 18 (a): ... (1) The percentum rise in the price index... determined by the Commission on the basis of the annual average price index for a calendar year 1962 and the price index for the month latest published on the date of enactment of this amendment....

. . .

"b) Each month after the first increase under this section, the Commission shall determine the percentum change in the price index. Effective the first day of the third month which begins after the price index shall have equaled a rise of at least 3 percentum for three consecutive months over the price index for the base month, each annuity...."

THE DANIELS BILL, P. L. 89-205 (27 SEPTEMBER 1965) REDEFINED PRICE
INDEX AS USED IN THE CSRA (5 USC 2251) AND ADDED A DEFINITE "BASE
MONTH":

"1) The term "price index" shall mean the Consumer Price Index (all items--United States city average) published monthly by the Bureau of Labor Statistics. The term "base month" shall mean the month for which the price index showed a percentum rise forming the basis for a cost-of-living annuity increase."

CALCULATIONS FOR 1 APRIL 1967 ANNUITY ADJUSTMENT

1. It is assumed that the base year for any increase under Section 291 (a) (2) is 1964. The Consumer Price Index for 1964 is 108.1. Based on only the first nine months of 1966, it is estimated that the Consumer Price Index will at least equal or exceed 112.6.
2. The point rise in the price index from 1964 to 1966 amounts to 4.5.
3. The per cent rise, 1964 through 1966, equals 4.16 per cent and rounded to the nearest tenth of 1 per cent, equals 4.2 per cent.

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| TRANSMITTAL SLIP | | DATE |
| | | 18 Nov 66 |
| TO: JSW | | |
| ROOM NO. | BUILDING | |
| REMARKS: | | |
| I think the questions raised in the attached need to be focused on soon, if they haven't been already. Further, there are basic problems raised by Emmet & Ben last week. | | |
| FROM: LLM | | |
| ROOM NO. | BUILDING | EXTENSION |

FORM NO. 241
1 FEB 55

REPLACES FORM 36-8
WHICH MAY BE USED.

(47)

21 Nov 1966

This day discussed this with Mr. Warner and [redacted] Mr. Warner will take this up with Mr. Echols, Director of Personnel.

STATINTL

LLM

17 Nov
Memo for record
Sec. 29(a)