

22 April 1966

MEMORANDUM FOR THE RECORD

SUBJECT: Cost of Living Adjustments - CIA Retirement Act

1. An opportunity to liberalize the Agency's pending legislation on cost-of-living adjustments has resulted from the introduction of S. 3247, a bill to amend the Foreign Service Retirement Fund. With Administration backing, this bill proposes to apply to Foreign Retirement Act retirees the recently enacted 6.1% annuity increase enacted for the benefit of Civil Service retirees (Daniels bill), but on a prospective basis.
2. While the Agency's pending legislation is identical in language to the Daniels bill, its application in the first instance to CIA Retirement Act retirees is substantially different. This is because the Daniels bill was slightly prospective and gave those eligible for voluntary retirement an opportunity to retire and to benefit from the first and substantial 6.1% increase authorized by it. Under the Agency's pending legislation only those who retired under the CIA Retirement Act on or before 30 December 1965 would receive the 6.1% increase. Further, those who did retire on or before that date, had no assurance that Congress would pass similar legislation for their benefit.
3. Under these circumstances it appears that it is now timely to seek an Agency determination on whether our pending cost-of-living legislation should be brought into line with the Administration backed prospective dates set forth in S. 3247. This determination also involves the tactical aspect as to whether this adjustment should be accomplished formally through the Bureau of the Budget or informally by committee action.


Office of Legislative Counsel

Attachment: Introduction of S. 3247 (Congressional Record)

OGC/LC:LLM:acw (22 April 1966)

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CONGRESSIONAL RECORD — SENATE

April 20, 1966

By Mr. PROUTY:
S. 3246. A bill for the relief of Massoud Philip Sissi; to the Committee on the Judiciary.

By Mr. FULBRIGHT (by request):
S. 3247. A bill to provide certain increases in annuities payable from the Foreign Service Retirement and Disability Fund, and for other purposes; to the Committee on Foreign Relations.

(See the remarks of Mr. FULBRIGHT when he introduced the above bill, which appear under a separate heading.)

By Mr. RIBICOFF:
S. 3248. A bill to amend section 404(b) of the Housing Act of 1950 relating to the definition of educational institution; to the Committee on Banking and Currency.

(See the remarks of Mr. RIBICOFF when he introduced the above bill, which appear under a separate heading.)

By Mr. HAYDEN (for himself, Mr. FANNIN, Mr. KUCHEL, and Mr. MURPHY):

S. 3249. A bill to consent to the interstate compact defining the boundary between the States of Arizona and California; to the Committee on the Judiciary.

By Mr. MAGNUSON (by request):
S. 3250. A bill to establish minimum standards for passenger vessels and to require disclosure of construction details on passenger vessels; and

S. 3251. A bill to repeal the laws authorizing limitation of shipowners' liability for personal injury or death, to require evidence of adequate financial responsibility to pay judgments for personal injury or death, or to repay fares in the event of nonperformance of voyages, and for other purposes; to the Committee on Commerce.

(See the remarks of Mr. MAGNUSON when he introduced the above bills, which appear under a separate heading.)

By Mr. WILLIAMS of New Jersey:
S. 3252. A bill for the relief of Micaela Misiego-Llagostera; to the Committee on the Judiciary.

By Mr. BREWSTER:
S. 3253. A bill to amend section 33 of the Federal Employees' Compensation Act so as to provide for the establishment of a Federal employee accident prevention program; to the Committee on Labor and Public Welfare.

(See the remarks of Mr. BREWSTER when he introduced the above bill, which appear under a separate heading.)

By Mr. TYDINGS:
S. 3254. A bill to amend sections 2072 and 2112 of title 28, United States Code, with respect to the scope of the Federal Rules of Civil Procedure and to repeal inconsistent legislation; to the Committee on the Judiciary.

(See the remarks of Mr. TYDINGS when he introduced the above bill, which appear under a separate heading.)

By Mr. JAVITS (for himself and Mr. PROUTY):
S.J. Res. 155. Joint resolution to provide for the establishment of an Office of Deputy Superintendent of the Arts within the Recreation Board for the District of Columbia to develop and conduct a program of the arts for the District of Columbia; to the Committee on the District of Columbia.

(See the remarks of Mr. JAVITS when he introduced the above joint resolution, which appear under a separate heading.)

CONCURRENT RESOLUTION
PRINTING OF ADDITIONAL COPIES
OF HEARINGS ENTITLED "TWENTIETH ANNIVERSARY OF THE EMPLOYMENT ACT OF 1946 AN ECO-

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Mr. DOUGLAS. Mr. President, on behalf of the Joint Economic Committee, I

submit, for appropriate reference, a concurrent resolution authorizing the printing of 5,000 additional copies of its hearings entitled "Twentieth Anniversary of the Employment Act of 1946 an Economic Symposium."

The VICE PRESIDENT. The concurrent resolution will be received and appropriately referred.

The concurrent resolution (S. Con. Res. 86) was referred to the Committee on Rules and Administration, as follows:

S. CON. RES. 86

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Joint Economic Committee five thousand additional copies of its hearings of the Eighty-ninth Congress, second session, entitled "Twentieth Anniversary of the Employment Act of 1946 An Economic Symposium."

RESOLUTION

INVESTIGATION OF THE TRADING WITH THE ENEMY ACT

Mr. DIRKSEN, from the Committee on the Judiciary, reported an original resolution (S. Res. 251) to investigate the Trading With The Enemy Act, which was referred to the Committee on Rules and Administration.

(See the above resolution printed in full when reported by Mr. DIRKSEN, which appears under the heading "Reports of Committees.")

INCREASES IN ANNUITIES FROM FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

Mr. FULBRIGHT. Mr. President, by request, I introduce for appropriate reference a bill to provide certain increases in annuities payable from the Foreign Service Retirement and Disability Fund, and for other purposes.

The proposed legislation has been requested by the Assistant Secretary of State for Congressional Relations for the Secretary 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 may be printed in the Record at this point, together with the letter from the Assistant Secretary of State for Congressional Relations to the Vice President in regard to it, as well as with the section-by-section analysis and the explanation of the bill.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the bill, letter, section-by-section analysis, and explanation will be printed in the Record.

The bill (S. 3247) to provide certain increases in annuities payable from the foreign service retirement and disability fund, and for other purposes introduced by Mr. Fulbright, was received, read twice by its title, referred to the Committee on Foreign

Relations, and ordered to be printed in the RECORD, as follows:

S. 3247

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 804(b) of the Foreign Service Act of 1946, as amended (22 U.S.C. 1064(b)), is amended by adding the following:

"4. 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 per centum rise forming the basis for a cost-of-living increase."

(b) Section 832 of such Act, as amended (22 U.S.C.—), is amended to read as follows:

"Sec. 832 (a) Subject to the provisions of paragraph (b), each annuity payable from the Fund on April 1, 1966 shall be increased by 6.1 per centum. Each annuity payable from the Fund (other than the immediate annuity of an annuitant's survivor or of a child under section 821(c)) which has a commencing date after April 1, 1966 and not later than the first day of the sixth month which begins after the date of enactment of this amendment shall be increased by 6.1 per centum.

"(b) Those annuities increased by the cost-of-living provisions of the Foreign Service Annuity Adjustment Act of 1965 shall be adjusted to reflect the percentage increase under paragraph (a) had it been applied to the annuity on April 1, 1966 or its subsequent commencing date.

"(c) Each month after April 1966 the Secretary shall determine the per centum 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 per centum for three consecutive months over the price index for the base month, each annuity payable from the Fund which has a commencing date not later than such effective date shall be increased by the per centum rise in the price index (calculated on the highest level of the price index during the three consecutive months) adjusted to the nearest one-tenth of 1 per centum. The month of July 1965 shall be the base month for determining the per centum change in the price index until the next succeeding increase occurs.

"(d) Eligibility for an annuity increase under this section shall be governed by the commencing date of each annuity payable from the Fund as of the effective date of an increase, except as follows:

"(1) Effective from its commencing date, an annuity payable from the Fund to an annuitant's survivor (other than a child under section 821(c)), which annuity commences after April 1, 1966, shall be increased by the total per centum increase the annuitant was receiving under this section at death; or if death occurred between April 1, 1966, and date of enactment, the per centum increase the annuitant would have received;

"(2) For purposes of computing an annuity which commences after April 1, 1966, to a child under section 821(c), the items \$600, \$720, \$1,800, and \$2,160 appearing in section 821(c) shall be increased by the total per centum increase allowed and in force under this section, and in case of a deceased annuitant, the items 40 per centum and 50 per centum appearing in section 821(c) (1) and (2) shall be increased by the total per centum increase allowed and in force under this section to the annuitant at death.

"(e) No increase in annuity provided by this section shall be computed on any additional annuity purchased at retirement by voluntary contributions.

The monthly installment of annuity after adjustment under this section shall be fixed at the nearest dollar, except that

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such installment shall after adjustment reflect an increase of at least \$1."

The letter, section-by-section analysis, and explanation presented by Mr. FULBRIGHT, are as follows:

DEPARTMENT OF STATE,
Washington.

The VICE PRESIDENT,
U.S. Senate.

DEAR MR. VICE PRESIDENT: Enclosed is draft legislation to provide cost-of-living increases in annuities payable from the Foreign Service Retirement and Disability Fund that will match, as nearly as possible, benefits recently granted civil service annuitants.

A recommendation to this end made by the Cabinet Committee on Federal Staff Retirement Systems has been endorsed by the President.

It was intended that Public Law 89-308, the Foreign Service Annuity Adjustment Act of 1965, provide a formula for cost-of-living increases to Foreign Service annuitants identical with those authorized for civil service annuitants. However, Public Law 89-308 was in the process of action by the Senate and House committees before Public Law 89-205 containing an improved cost-of-living formula for civil service annuitants was drafted and ultimately approved. As a consequence the improved formula applicable to civil service annuitants is not applicable to Foreign Service annuitants.

It is hoped that this legislation may be given consideration during the 2d session of the 89th Congress and that it may receive the support of the Senate Foreign Relations and the House Foreign Affairs Committees.

The Department has been informed by the Bureau of the Budget that there would be no objection, from the standpoint of the administration's program, to the presentation of this draft legislation to the Congress for its consideration.

Sincerely yours,

For the Secretary of State:

DOUGLAS MACARTHUR II,
Assistant Secretary for Congressional
Relations.

SECTION-BY-SECTION ANALYSIS

Section 1(a) redefines the Consumer Price Index to mean the monthly price average instead of the average over a full calendar year. It also defines a new term "base month" to mean the month referred to for determining an increase in annuities after the first increase granted by this act.

Section 1(b) provides that on April 1, 1966, each annuity payable from the fund on that date shall be increased by 6.1 percent, and further that each annuity which begins after April 1, 1966, and not later than the first day of the sixth month after enactment will also be increased by the same percentage.

Any cost-of-living increase which may be effected under the provisions of the Foreign Service Annuity Adjustment Act of 1965 will be absorbed by the 6.1-percent increase. Under existing law, a percentage increase is due April 1, 1966, of 4.3 and if this proposed amendment is not enacted before that date, such increase will be adjusted to 6.1, but will not be added to the 4.3-percent increase.

Section 1(b) guarantees a cost-of-living increase whenever the price index shall have equaled a rise of at least 3 percent for 3 consecutive months over the price index for the base month. The base month, as a take-off point, is established as July 1965, from which to determine the next increase after April 1, 1966, to coincide with the formula established by Public Law 89-205 for the cost-of-living increases now applicable to civil service annuitants.

Provision is made for the passing on to survivors of annuitants the total percent being received by the annuitant at death, or

if the annuitant dies between April 1, 1966, and date of enactment, the survivor would receive 6.1 percent in lieu of 4.3 percent, and in the case of children the total percent increase allowed and in force under this section will be added to annuities which begin after April 1, 1966, whether the child's annuity results from a death in service case, or the death of an annuitant.

Section 1(b) also prohibits inclusion of annuity purchase by voluntary contributions from the annuity upon which the increases are calculated.

The adjusted monthly annuity rate would be fixed at the nearest dollar, but the monthly rate would be increased by at least \$1. The last clause would apply in a case involving a number of children. One family of 10 children annuitants now receives \$180 annually for each child. If an increase is only 3 percent, this would be only 45 cents per month except for this proviso, which would make it \$1 per month.

DRAFT BILL TO INCREASE FOREIGN SERVICE ANNUITIES
PURPOSE

1. To authorize a 6.1 percent annuity increase effective April 1, 1966, to all annuities payable as of that date.

2. To extend this 6.1 percent increase to all annuities commencing after April 1, 1966, and not later than the first day of the sixth month which begins after enactment of this amendment.

3. To substitute 6.1 percent increase effective April 1, 1966, for the increase of 4.3 percent due April 1, 1966, under existing law.

4. To provide future cost-of-living annuity increases based on the same formula now applicable to civil service annuities.

EXPLANATION

Under existing law, section 9 of Public Law 89-308, Foreign Service annuities which commenced prior to January 2, 1965, will be increased on April 1, 1966, by 4.3 percent. Certain survivor annuities which commenced after January 2, 1965, will also be increased by this percentage.

Similar law, applicable to civil service annuities, was enacted in 1962 but never became operative since it was superseded in 1965. The proposed amendment seeks to adopt the same type of formula for Foreign Service annuities, as is now applicable to civil service annuities, and to grant the same percentage increase effective April 1, 1966, as was granted to certain civil service annuitants on December 1, 1965.

Those annuities which under existing law will be increased on April 1, 1966, would be adjusted to reflect the 6.1 percent increase in lieu of the 4.3 increase. In other words, the new percentage rate of 6.1 would be substituted for, but not added to, the 4.3 percent.

In order that persons desiring to retire in the near future have the advantage of the 6.1 increase, it is proposed to extend it to those annuities which commence not later than the first day of the sixth month which begins after enactment. Thus, if the bill should be enacted during the month of June 1966, those annuities which commence on or before December 1, 1966, would be increased. This period is proposed because of employees being located abroad and the time necessary to plan ahead.

The month of July 1965 is designated as the base month for the next increase after April 1, 1966, to coincide with the base month indicated in Public Law 89-205, which authorized a 6.1 percent increase to certain civil service annuitants. The figure of 6.1 percent is derived from the price index change from 1962 to July 1965 of 4.6 percent, plus an additional 1.5 percent.

The remaining sections of the proposed amendment parallel the provisions applicable to civil service annuities.

AMENDMENT OF SECTION 404(b)
OF HOUSING ACT OF 1950, RELATING TO THE DEFINITION OF EDUCATIONAL INSTITUTION

Mr. RIBICOFF. Mr. President, I introduce for appropriate reference, a bill to make clear that State agencies and authorities established to provide or finance housing or other educational facilities for public or private institutions of higher education may borrow under the college housing loan program for private as well as public institutions.

Section 404(b) of the Housing Act of 1950 defines the term "educational institution" and thereby determines what institutions are qualified to borrow funds under the college housing loan program. The first clause of this subsection makes qualified borrowers of substantially all private and public institutions of higher education.

The second clause makes qualified borrowers of private and public hospitals operating a school of nursing.

The third clause makes qualified borrowers of nonprofit corporations established to provide housing or other educational facilities for any institution, private or public, which is included in the first clause.

The fourth clause makes qualified borrowers of State agencies and authorities established to provide or finance housing or other educational facilities for any public institution which is included in clause 1. Herein lies the trouble. This is the category of qualified borrowers which may be restricted to public institutions of higher education and does not include private institutions.

An examination of the legislative history of section 404(b) makes clear that the inclusion of the word "public" was not designed to prevent State authorities from borrowing under the college housing loan program for construction of facilities of private institutions. The use of the word was merely descriptive. It reflected the fact that the State authorities in existence in 1957 were engaged in providing or financing facilities only for public institutions—primarily State university systems. The word "public" was not intended to disqualify an authority established to provide or finance facilities for private institutions from borrowing on behalf of these institutions under the college housing loan program.

Now, the State of Connecticut Educational Facilities Authority, established in 1965, is authorized to provide and finance facilities for all institutions of higher education in Connecticut, both private and public. Similar authorities exist in New York and Vermont. Therefore, it is important that the eligibility of these authorities as qualified borrowers under the college housing loan program be clarified. Although private institutions may qualify as borrowers directly, in many cases it will be necessary to obtain part of the financing for their construction from the authority. It will be more efficient, less costly, and simpler for the authority to provide all of their financing, obtaining the needed funds in