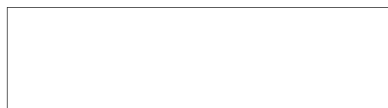


**ANALYSIS OF DESIGNATION OF PARTICIPANTS
UNDER SECTION 203 OF THE CIA RETIREMENT ACT**

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December 1984

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INTRODUCTION

WHY THIS STUDY WAS MADE

25X1 Once each year the Central Intelligence Agency submits to appropriate Committees of Congress a report on its administration of the Central Intelligence Agency Retirement Act for Certain Employees. The annual report, of which this is the ninth, is primarily a review of the manner in which the Agency exercises its discretion to designate employees for participation in the Central Intelligence Agency Retirement and Disability System (CIARDS).

25X1 The Central Intelligence Agency Retirement Act for Certain Employees (50 U.S.C 403) was originally enacted in 1964. It authorized the Director of CIA to establish a retirement system for some, but not all, Agency employees, and to designate employees for participation in the system. The law provided very broad guidelines for eligibility and these guidelines have been made more specific by Agency regulations.

25X1 Employees must perform at least sixty months of qualifying service to be eligible for participation. All overseas service is qualifying, regardless of the location of employment or the type of service performed. Overseas means any location outside the fifty states, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam.

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The legislative history of the CIA Retirement Act clearly expresses an understanding between the Agency and the Congress that the new system would not apply to all employees of the Agency. The Act did not set any limits, but it was understood that only about one-fourth to one-third of Agency employees would participate.

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During 1976 hearings on a then pending Bill, H.R. 13615, some members of the House Armed Services Committee expressed concern that the Agency might have relaxed its policies for designating employees for participation in CIARDS, and that the retirement system was being made available to a larger percentage of employees than the Congress had intended. This concern resulted in the following directive contained in the Committee Report on H.R. 13615:

"When the CIA Retirement Act was originally considered by Congress in 1964 particular attention was focused on section 203 of the Act, which authorizes the Director to designate 'such Agency officers and employees whose duties are determined by the Director to be (i) in support of Agency activities abroad hazardous to life or health or (ii) so specialized because of security requirements as to be clearly distinguishable from normal government employment, hereafter referred to as participants, who shall be entitled to the benefits of the system'. Essentially that provision was the basis for creating a separate retirement system and it was the intent of Congress that this system should apply to the relatively small percentage of Agency employees who were actually subjected to these very special hazards.

"During the course of consideration of this legislation there have been indications that in recent years there may have been deviations on the part of the Agency in administering this separate system from a strict application of the provisions of section 203 in designating officers and employees as participants in the CIA Retirement system in line with the original intent of Congress when that system was created.

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"Accordingly, in the exercise of its oversight function the Committee has directed that the CIA conduct a careful analysis of the application of the qualifying provisions of section 203 of the CIA Retirement Act in designating participants with reference to the special circumstances justifying their inclusion, and that the results of such analysis be reported to the Committee by the Director of Central Intelligence not later than October 1, 1976, and on an annual basis thereafter." [redacted]

Reports of the annual studies after the first two have been submitted to the House Permanent Select Committee on Intelligence, which now exercises an oversight function with respect to the Central Intelligence Agency. That Committee has made clear its desire that the Agency continue to submit reports of annual studies. [redacted]

SCOPE OF THIS REPORT

This study and report cover the fiscal year that began 1 October 1983 and ended 30 September 1984. Its primary objective is a review of actions involved in designating employees for participation in CIARDS and an analysis of whether the discretion exercised by the Agency is in full compliance with the law and the regulations and is consistent with established Agency policies. [redacted]

Statistical tables of the end results of Agency actions during the fiscal year show more clearly than words just how the Congressional intent that CIARDS be maintained as a retirement system for a limited number of employees is being carried out by the Agency. [redacted]

The report also covers briefly some of the events of the year that will affect future Agency administration of CIARDS. [redacted]

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HOW THE STUDY WAS CONDUCTED

The writer was given unrestricted access to all files and records containing information related to Agency administration of CIARDS, including individual case records and verbatim transcripts of the meetings of the CIA Retirement Board. Information from these sources, plus contacts with Agency personnel involved in CIARDS administration, provided a basis for evaluating Agency discretion in designating employees for participation in this special retirement system.



HOW THE REPORT IS ORGANIZED

This report is divided into the following five parts:

- PART I INTRODUCTION
- PART II QUALIFYING SERVICE
- PART III WHAT HAPPENED DURING THE YEAR
- PART IV STATISTICAL DATA
- PART V FINDINGS AND CONCLUSION



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PART II

QUALIFYING SERVICE

The Central Intelligence Agency Retirement Act of 1964 for Certain Employees contained very broad criteria for determining what service is qualifying for participation in this special retirement system. Section 203 reads in part as follows:

"The Director may designate from time to time such Agency officers and employees whose duties are determined by the Director to be (i) in support of Agency activities abroad hazardous to life or health or (ii) so specialized because of security requirements as to be clearly distinguishable from normal government employment, hereafter referred to as participants, who shall be entitled to the benefits of the system."

These criteria have been refined and made more specific by Agency

Regulations which now reads as follows:

"Qualifying service, for purpose of designation and continued participation, means performance of duty as an Agency employee:

- (a) When assigned either PCS or TDY to any place outside the 50 states, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam;
- (b) Which, in support of Agency activities abroad, requires a substantial risk to the life or health of the employee;
- (c) Which requires the continued practice of tradecraft under conditions of most stringent security in support of Agency activities; or
- (d) Which, when retirement is imminent, is adjudged to have been so sensitive or so specialized that security requirements forbid disclosure of this duty and that, as a result, it is unlikely the employee will be able to obtain employment for which otherwise qualified."

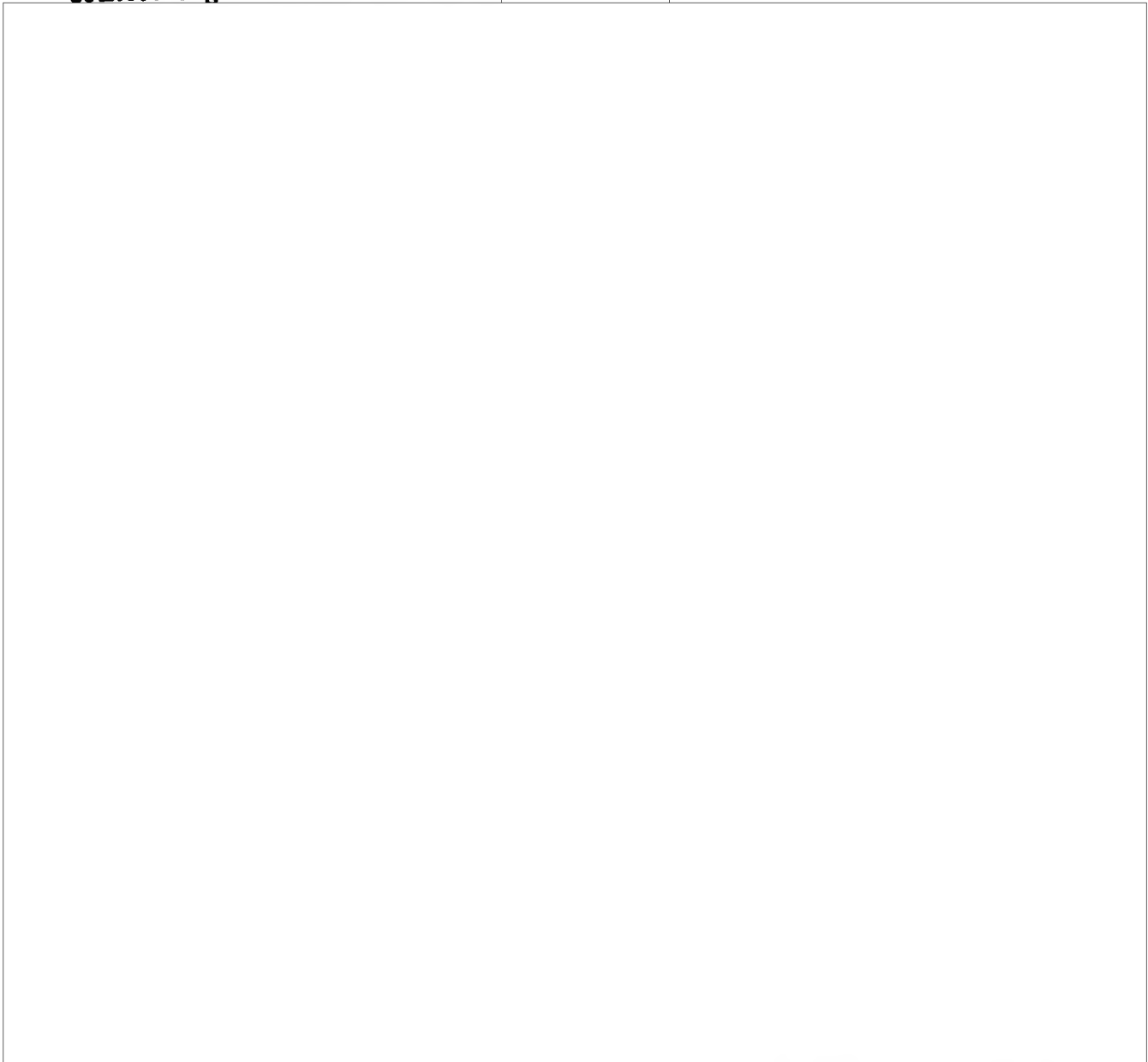
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All service overseas, regardless of location or type, is qualifying for participation in CIARDS. An employee needs 60 months of qualifying service to be designated for participation, but all overseas service is counted regardless of the total.

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Eighty three retirees had more than 20 years of service overseas; 9 had more than 25 years; one employee served for 27 years and 10 months overseas.

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PART THREE

WHAT HAPPENED DURING THE YEAR

25X1 The CIA Retirement Board continued to function effectively in its role of assisting the Director of Personnel to designate employees for participation in CIARDS, to determine what service is qualifying, and to approve retirements.

25X1 There were no changes in Agency policy that will affect the exercise of discretion in these determinations, and the changes in the law and the regulations that occurred during the year will have no bearing on these decisions.

25X1 The percentage of Agency employees who are participants in CIARDS is at its lowest point since the system was originally put into effect. Only 19 percent of employees are designated for CIARDS participation as of 30 September 1984, compared with a high of 34.6 percent as of 31 December 1974. The number of CIARDS participants now is down from as of 31 December 1971, and up from a year ago.

25X1 Changes in law during the year related largely to annuity cost-of-living adjustments, with one change affecting interest on deposits for military service.

25X1 One Executive Order was issued to conform CIARDS to a change already enacted for the Civil Service Retirement System. This relatively minor change affected only interest on deposits for military service.

25X1 The Agency reissued its regulations relating to CIARDS to reflect all of the changes in law that have occurred since 8 September 1982, plus changes of a technical and clarifying nature.

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Although no new former spouses were added to the two currently receiving benefits under the CIA Spouses Retirement Equity Act of 1982, 26 more have been found potentially eligible for benefits in the future.

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Additional information on these and other happenings will be found in the pages that follow

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CIA RETIREMENT BOARD

25X1 One of the first actions taken by the Agency after the CIA Retirement Act was passed in 1964 was to establish the CIA Retirement Board.

25X1 This Board consists of a Chairman and four other members, each of whom is a senior official of the Agency and a representative of a Directorate. Members of the Board are appointed by the Director of Personnel.

25X1 The Board assists the Director of Personnel in exercising authority delegated to him by the DCI in connection with administration of CIARDS. Among the important responsibilities are to (a) determine what services of employees are qualifying for participation in CIARDS, (b) designate employees for participation, and (c) approve retirements under CIARDS. These functions must be carried out with due regard to the law, the regulations, and Agency policy as reflected by precedent decisions.

25X1 Staff services to the Board are supplied by (a) a Legal Advisor, (b) a Technical Advisor, (c) an Executive Secretary who prepares an agenda for each meeting, presents items for Board discussions, and prepares minutes after each meeting, and (d) a Recording Secretary who produces a verbatim transcript of the proceedings of each meeting. Each of these staff members attends meetings but does not have voting privileges.

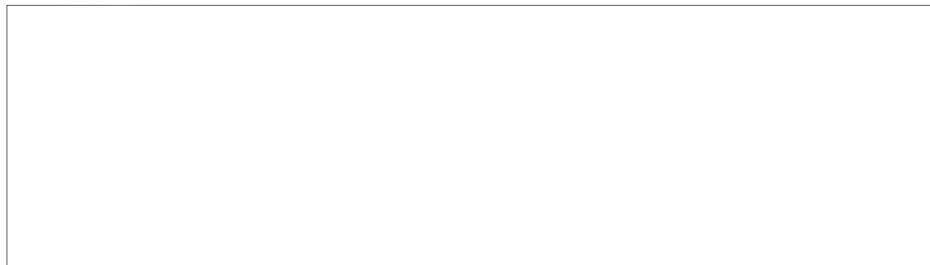
25X1 During the fiscal year that ended 30 September 1983, turnover changed the complexion of the CIA Retirement Board. The Chairman, three other Members, and the Executive Secretary were replaced. The one remaining Member had been appointed in April of 1981.

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25X1 Two of the Members who were appointed in F.Y. 1983 were replaced in F.Y. 1984. The Board now consists of a Chairman appointed in August of 1983, and Members appointed in April of 1981, August of 1983, February of 1984, and April of 1984. The Director of Personnel and the Chairman and two other Members of the Board are participants in CIARDS. The other two Board Members are in the Civil Service Retirement System.

25X1 During Fiscal Year 1984 the Board held ten regular meetings, varying in length from twenty minutes to two hours and forty-five minutes. Total time for the ten Board meetings was 12 hours and ten minutes. The Board made recommendations that resulted in the following:



25X1 Most of the Board's meeting time was spent considering employee applications for approval of domestic service as qualifying for CIARDS. One unusually difficult case will demonstrate how seriously the Board considers its responsibility to be fair to each individual employee, while at the same time carefully observing and applying the law, the regulations, and Agency policy as reflected in decisions over the years.



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While this case was unusually difficult and time-consuming, taking up nearly 4 hours of the time of the Board, it accomplished several results:

1. The employee had his day in court and was given every opportunity to support his claim.
2. Both the employee and the Board now know how many months of the employee's service are qualifying. He may very well perform additional qualifying service in the future and attain CIARDS participation.
3. The record established by consideration of various assignments in this case will facilitate consideration of future applications by other employees.
4. In a sense, the detailed discussions were informative and educational to individual members of the Board.

One item discussed and decided by the Board during the year resulted in a change in the regulations and merits some discussion. Until 27 August 1984 paragraph (c) of the regulation defining qualifying service read as follows:

"(c) Which requires the continued practice of tradecraft under conditions of most stringent security for the purpose of maintaining personal cover in support of Agency activities; or"

The 27 August 1984 revision of the regulations changed paragraph (c) to read:

"(c) Which requires the continued practice of tradecraft under condition of most stringent security in support of Agency activities; or"

As will be noted, the change consists solely of deleting the phrase "for the purpose of maintaining personal cover". Before it was adopted, the Board discussed the proposed change at length and finally approved it without objection from any Member.

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25X1 The revision was not intended to change past practice, but rather to make it easier to decide future cases by putting the emphasis on "stringent tradecraft" rather than on "personal cover". Applicants tended to describe service they considered to be qualifying in terms of cover, which isn't qualifying unless the practice of stringent tradecraft is involved - tradecraft to protect the particular operation they are working on.

25X1 The paragraph above is this writer's interpretation of the basis on which the Board decided to change the regulation. It is a distillation of discussions over many pages of the verbatim transcript of two meetings of the Board. In a wide range of views expressed during the discussion, not every thought is consistent with the final decision.

25X1 If future cases follow the precedents of those decided before this revision of the regulations, which the Board stated to be its intention, no change in policy will have occurred. If, on the other hand, future decisions are different because of the change in regulations, then the Agency will have made a change in the policies under which it determines what service is qualifying for CIARDS without intending to do so.

25X1 A reading of the verbatim transcripts of the ten regular meetings of the Retirement Board during F.Y. 1984, plus a review of selected individual cases, confirms that the Board continues to adhere strictly to the law, the regulations, and established Agency policy. No exceptions or deviations were found

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CHANGES IN THE CIA RETIREMENT ACT

The Central Intelligence Agency Retirement Act for Certain Employees may be amended in either of two ways:

1. Directly by enactment of an Act of Congress, or
2. Indirectly by enactment of an amendment to the Civil Service Retirement Act, followed by issuance of an Executive Order to conform the CIA Retirement Act to the revised provisions.

The final step in the process of amendment is to revise Agency Regulations to reflect the new provisions.

During the fiscal year that ended 30 September 1984, one amendment to CIARDS was effected by the indirect process. Public Law 98-94, enacted 24 September 1983 amended the Civil Service Retirement Act to extend by one year the interest-free period for deposits to cover post-1956 military service prescribed by P.L. 97-253 dated 8 September 1982.

Executive Order 12485 issued July 13, 1984 conformed CIARDS to this change in the Civil Service Retirement Act enacted by P.L. 98-94.

Agency Regulations were revised and reissued 27 August 1984, and the revision includes the change brought about by enactment of P.L. 98-94 and issuance of Executive Order 12485

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25X1 Three other changes were made by the direct process.

Public Law 98-270 enacted 18 April 1984 cancelled the cost-of-living annuity increase scheduled for 1 May 1984, and changed the method of determining the amount of future increases. These two changes directly amended provisions of law that had been made specifically applicable to CIARDS, so no Executive Order is needed to conform CIARDS to the new provisions.

25X1 The percentage by which annuities will be increased in the future will be determined by comparing the Consumer Price Index for the third quarter of the calendar year to the CPI for the third quarter of the previous year.

25X1 Public Law 98-396 enacted 22 August 1984 also directly amended provisions of law specifically applicable to CIARDS. This change repealed the provision of P.L. 97-253 that specified a Fiscal Year 1985 COLA for under-age 62 non-disability retirees at a rate different from other retirees. As a result of this change, the COLA effective 1 December 1984 will be the same (3.5 percent) for all retirees regardless of age.

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EXECUTIVE ORDERS

Executive Order 12485 signed 13 July 1984, was the only Executive Order issued during the past year to conform CIARDS to legislation enacted to amend the Civil Service Retirement Act. The amendment itself was of minor importance except to a relatively few employees personally affected.

For many years military service performed after 1956 could not be credited in the computation of annuity once the individual involved reached age 62. Public Law 97-253 the "Omnibus Budget Reconciliation Act of 1982", enacted 8 September 1982 and P.L. 97-346 enacted 15 October 1982, amended this so-called "Catch 62" provision. New employees are now required to make a deposit to the Retirement Fund equal to 7 percent of the military pay in order to receive any credit for post-1956 military service. Present employees may either make the deposit and continue to include the military service after age 62, or they may not make the deposit and have credit for the service deleted from the annuity computation at age 62. Individuals retired on or before 8 September 1982 may not make a deposit; their annuity after age 62 will include post-1956 military service and the annuity will be reduced by the amount of Social Security benefit attributable to the post-1956 military service.

P.L. 97-253 specified that interest would be required on any deposit for military service made more than two years after the later of 1 October 1982, or the date of appointment of a new employee. Interest would begin after the specified two-year period.

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Public Law 98-94, signed 24 September 1983 changed the date "October 1, 1982" in the above paragraph to "October 1, 1983". In other words, the period during which a deposit to cover post-1956 military service could be made without payment of interest was extended for one year.

Executive Order 12485 amended Section 252 (h) (2) (A) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, to conform to the change in the Civil Service Retirement Act enacted by P.L. 98-94.

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REGULATIONS

25X1 On 27 August 1984 the Agency reissued its regulations pertaining to CIARDS. In addition to changes of a clarifying and technical nature, the reissue brought the Agency up to date to recognize changes made by the following:

P.L. 97-253 enacted 8 September 1982

P.L. 97-269 enacted 27 September 1982

P.L. 97-346 enacted 15 October 1982

P.L. 97-377 enacted 21 December 1982

P.L. 98-94 enacted 24 September 1983

P.L. 98-270 enacted 18 April 1984

P.L. 98-369 enacted 18 July 1984

P.L. 98-396 enacted 22 August 1984

E.O. 12443 issued 27 September 1983

E.O. 12485 issued 13 July 1984. (U)

25X1 Copies of the revised regulations were transmitted to the
25X1 Chairmen of the House Permanent Select Committee on Intelligence and the
Senate Committee on Intelligence by letters dated 23 November 1984.

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CENTRAL INTELLIGENCE AGENCY SPOUSES RETIREMENT

EQUITY ACT OF 1982

25X1 The CIA Spouses Retirement Equity Act of 1982, Title VI of Public Law 97-269 enacted 27 September 1982, provides a measure of financial protection to certain former spouses as well as current spouses. To qualify as a former spouse, a wife or husband must have been married to an Agency employee during at least 10 years of creditable service, and must have been outside the United States with the employee for at least five of those years. This law directly amended CIARDS but was also made applicable to Agency employees who are under Civil Service Retirement.

P.L. 97-269 included this directive:

"(o) The Director shall, on an annual basis -

- 25X1 (1) inform each participant of his or her right of election under subsections (f) (2) and (n); and
- (2) to the maximum extent practicable, inform spouses or former spouses of participants or former participants of their rights under this section and sections 222, 223, and 234 (c), (d), and (e)."

25X1 The required annual notice to retirees went out in October, 1984.

25X1 The notice to employees and spouses was issued on 7 December 1984.

25X1 During the fiscal year that ended 30 September 1984, 67 individuals inquired about their eligibility for benefits under P.L. 97-269. None of them were eligible for immediate annuities, although 6 will be eligible for a share of monthly annuity when the employee retires, and another 20 will be eligible for a monthly benefit if they survive the retired employee to whom they were formerly married.

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25X1 This brings to 134 the number of direct inquiries processed since enactment of P.L. 97-269. Two former spouses are currently receiving monthly benefits. Thirteen former spouses will qualify for a share of monthly benefits when the employee retires, and 27 are eligible for a monthly benefit if they survive the retired employee.

25X1 On 8 November 1984, which is after the end of the fiscal year covered by this report, the President signed Public Law 98-615, the "Civil Service Retirement Spouse Equity Act of 1984". This law, which is more liberal than the 1982 provisions enacted for CIARDS, will apply to all Agency employees who are under the Civil Service Retirement Act. It does not amend CIARDS, and the authority of the President to conform CIARDS to Civil Service Retirement amendments is specifically made inapplicable to its provisions.

25X1 A bill H.R. 5805 in the 98th Congress to liberalize the 1982 provisions for CIARDS was not enacted. It will probably be reintroduced in the 99th Congress.

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CHANGES IN ANNUITY COLA

25X1 Immediately before enactment of the Omnibus Budget Reconciliation Act of 1982, annuities under both the Civil Service Retirement System and CIARDS were adjusted once a year to reflect inflation. The amount of each COLA was equal to the percentage change in the Consumer Price Index from December of one year to December of the next. The annuity increase was effective March 1 and first paid in the April checks. The age of the annuitant was not a factor in determining the amount of the increase.

Public Law 97-253 enacted 8 September 1982 (the Omnibus Budget Reconciliation Act of 1982) made a number of changes, including the following:

1. For fiscal years 1983, 1984, and 1985 annuitants under age 62 (except survivors and employees retired for disability) were to receive one half of the assumed increase in the price index, plus any amount by which the actual increase in CPI might exceed the assumed increase. Assumed increases in CPI were 6.6 percent for fiscal year 1983, 7.2 percent for 1984, and 6.6 percent for 1985. These so-called Diet COLAs would end with F.Y. 1985, and thereafter all annuitants would get the same percentage increase regardless of age.



2. The effective date of COLAs was delayed to April 1 for fiscal year 1983, May 1 for fiscal year 1984, and June 1 for fiscal year 1985.

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25X1 3. The pay of any civilian employee also receiving military retired or retainer pay would be reduced by the amount of any cost-of-living increase in the retired or retainer pay

25X1 The changes in paragraphs numbered 1 and 2 above were made specifically applicable to CIARDS as well as CSR. Paragraph 3 applied to all civilian employees.

25X1 Public Law 98-270 enacted 18 April 1984, the Omnibus Budget Reconciliation Act of 1983, changed the following for both CSR and CIARDS.

25X1 1. Cancelled annuity increases for fiscal year 1984, which otherwise would have become effective May 1 1984.

25X1 2. Permanently changed the effective date of future increases to December 1 for 1984 and subsequent years.

25X1 3. Changed the method of determining the amount of each COLA to a comparison of the average CPI for the third calendar quarter of one year with the average CPI for the third calendar quarter of the next year. The COLA would equal the percentage increase in CPI resulting from this comparison.

25X1 Public Law 98-369 enacted 18 July 1984 prospectively repealed the provision of P.L. 97-253 that required a reduction in the pay of an employee equal to any cost-of-living increase he or she received in military retired or retainer pay

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The provision of P.L. 97-253 that prescribed diet COLAs for non-disability retirees under age 62 was allowed to expire by its own terms after fiscal year 1985. The House of Representative passed a bill, H.R. 4170, containing a provision to limit under-age 62 COLAs to one half the full COLA for fiscal years 1986 and 1987. The Senate-passed version of H.R. 4170 contained no such provision. In a conference on the bill, the House receded to the Senate, and the bill finally enacted as P.L. 98-369 on 18 July 1984 is silent about under-age 62 cost-of-living adjustments. There is no language in any law that repeals under-age 62 COLAs. The provision of the 1982 law which established them for fiscal years 1983, 1984 and 1985 was never extended beyond fiscal year 1985.

When it appeared that half the assumed increase in the price index for fiscal year 1985 (3.6%) might exceed the actual increase (which turned out to be 3.5%) Congress included a provision in Public Law 98-396 enacted 22 August 1984 (a supplemental appropriation law) to limit the December 1, 1984 COLA for non-disability retirees under age 62 to the actual percentage increase in CPI.

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PART IV
STATISTICAL DATA

In this part of the report statistical tables are used to show the end results of the Agency's administration of CIARDS. Most of the tables show what happened during the fiscal year with numbers for other years used for purposes of comparison and to show total experience since the program began. Most of the tables are self-explanatory and require little or no narrative.

PARTICIPATION IN CIARDS

The legislative history of the CIA Retirement Act reflects a clear understanding between the Agency and the Congressional Committees that CIARDS participation would be limited to approximately 30 percent of Agency employees. This understanding was never put into a directive or a provision of law.

From 1964 to 1976 employees could be approved for participation in CIARDS with as little as eighteen months of qualifying service. They were later removed from CIARDS unless they continued to acquire additional months of qualifying service. By 1971 CIARDS participation exceeded 30 percent and peaked at 34.6 percent in 1974.

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The Civil Service Retirement System applies to new employees of the Agency and their retirement deductions go into the Civil Service Retirement Fund. When an employee is designated for CIARDS participation, his or her retirement account is transferred from the Civil Service Retirement Fund to the CIARDS Fund. During the period when employees were admitted to CIARDS with eighteen months of qualifying service and later removed if they failed to meet additional service requirements, there was a constant flow of transfers of accounts from CSR to CIARDS, back to CSR, and in many cases once again back to CIARDS. [REDACTED]

Permanent participation in CIARDS requires 60 months of qualifying service. In 1976 the Agency changed its policy to require 60 months for designation and back-and-forth transfers between funds were eliminated except for an occasional employee who elects out of CIARDS at the point of fifteen years of service. [REDACTED]

Participation in CIARDS continues to drop, and reached a new low of 19 percent at the end of fiscal year 1984. This is a drop of 1.2 percent from a year ago. [REDACTED]

Future participation in CIARDS will probably not vary much from the present, unless there are significant changes in Agency strength or in the number or duration of overseas assignments. See TABLE 1 [REDACTED]

DESIGNATIONS AND REMOVALS

Only one employee was removed, by voluntary election at the completion of 15 years of service. See TABLE 2 [REDACTED]

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PART V
FINDINGS AND CONCLUSION

FINDINGS

1. Only nineteen percent of Agency employees were participants in CIARDS as of 30 September 1984. This is the lowest participation since the system was originally established, and is far below the thirty percent initially estimated by the Agency and the Congressional Committees.
2. Although only one Agency employee in five is a participant in CIARDS, forty-seven percent of retirements in F.Y. 1984 were under the special CIA system. This is the first year since 1974 that more than half of all Agency retirements have been under the Civil Service Retirement System.
3. CIARDS continues to serve the objective of retiring certain essential employees at ages younger than those normally experienced under the Civil Service Retirement System. Although the average age at retirement has gone up almost two years since 1979, the average Agency employee retiring in F.Y. 1984 under CIARDS was four full years younger than the average CSR retiree.
4. Changes in the law during 1984 deal primarily with annuity cost-of-living adjustments. There were no changes that will have any bearing on the Agency's exercise of discretion to designate employees for participation in CIARDS.

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25X1 5. The Agency's regulations pertaining to CIARDS were reissued
25X1 11 August 1984 to reflect changes brought about by all laws
enacted and Executive Orders issued since 8 September 1982, and
to include changes of a technical and clarifying nature.

CONCLUSION

25X1 The CIA Retirement Board continued its strict application of
the law and the regulations dealing with service qualifying for
CIARDS, and observed Agency policy as established by precedent
decisions.

25X1 The Central Intelligence Agency Retirement Act of 1964 For
Certain Employees is being administered as a system for a quite
' limited number of employees, in conformance with the intent of
Congress.

25X1 Extensive review revealed no deviations or exceptions from
the law, the regulations, or established Agency policy during the
fiscal year ending 30 September 1984.

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Changes to CIARDS Since 1965

Time did not permit a total analysis of all of the changes to CIARDS since 1965 when the law was enacted. However, the basic changes have been primarily to conform general provisions to laws passed for the Civil Service Retirement System. Probably the most significant changes are the ones which:

a) Changed in 1976 the requirements for being designated a participant in CIARDS to require that an employee have at least 60 months qualifying service before being designated for CIARDS participation.

b) Spousal legislation enacted in 1982.

2. Provide the authority under which non-CIARDS retirees are retired.

ANSWER

Although Section 8 of the CIA Act of 1949, as amended, provides authority for the Agency to set up its own retirement system, CIA employees not now covered under the CIA Retirement and Disability System are retired under the Civil Service Retirement System (5 U.S.C. 55 8831 et seq.)

3. Which laws regard federal employees and retirement (those laws found generally in Title 5 of the United States Code) apply to CIA.

ANSWER

The "notwithstanding any other provisions of law" language in Section 8 of the CIA Act allows the Agency to diverge from Title 5 as necessary to carry out Agency functions. It has been our policy, however, to follow the Title 5 provisions relating to federal employment when appropriate; and in the great majority of cases, we have been able to conform to general Government-wide laws.

5. In the DCIs letter to the OMB Director dated March 18, 1985, on page 4 he states that "nearly 50% of Agency employees bear the lifelong burden of cover; yet, a majority of those under cover are not qualified for CIARDS." a) Provide a detailed derivation of how the 50% value was calculated. b) Indicate the number included in this 50% who are covered by CIARDS and the number of employees included in the 50% who are covered by CSRS. c) For those in the 50% not covered by CIARDS, provide the reasons why they are not covered. Also, define "lifelong burden of cover."

ANSWER

c) Those under cover who are not covered by CIARDS do not have five years of qualifying service as required by the CIARDS Act of 1964. See attachment for additional information.

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4. For the years 1975, 1980, and 1984 provide a breakdown by career track (operations officer, communicator, clerical, etc.) of retirees under CIARDS and retirees under the Civil Service Retirement System.

ANSWER

Total figures of retirees under CIARDS and CSRS are provided under Question 7. Data on breakdown by career track (operation officers, communicators, etc.) are not immediately available.

c) To understand the personnel of CIA, it is first necessary to understand the system which produces a CIA employee, a system which in some ways is similar to other organizations but which in the aggregate is unique. CIA has the most rigorous pre-employment screening process in the United States. Nowhere else is each applicant subject to such continued scrutiny.

A typical applicant first takes an eight-hour Agency-unique exam developed by the Office of Strategic Services in World War II and modified through the years by some of the best minds in the fields of education and psychology. This test provides insights into an applicant's intellectual capability, temperament, work attitudes, vocational interest, writing ability and psychological profile. Those who do well on the test, who have demonstrated high achievement either in their academic or professional careers, and who have favorable personal interviews are placed into the medical/security clearance procedure.

Employment by the Central Intelligence Agency carries with it extraordinary health risks. These risks are inherent both in geographic and socio-political environments to which employees are liable for assignment. Our medical screening must disqualify, for example, applicants known to be at increased risk for such things as cardiovascular, endocrine or gastrointestinal disorders. The stresses involved in highly classified work and overseas environment require us to have an extraordinarily detailed psychiatric screening program for all applicants. We require not only that applicants themselves pass this medical screening, but for those in the overseas career track, dependents must be similarly cleared.

Our security/suitability screening is the most detailed in the United States Government. Every employee, from the highest to the lowest, is investigated by our own officers in a process that covers the last 15 years of an applicant's life. Again, dependent factors can be disqualifying for the applicant. When all the data is accumulated, we have a very thorough understanding of the applicant's entire life style. This data is validated during a polygraph interview given all applicants.

At the end of a three-year probationary period after being hired, the whole medical/security process is repeated. It is gratifying to note that 99% of our employees successfully complete this probationary review.

It is not surprising that we must consider large numbers of applicants to find the precious few who can meet these demanding standards. Despite enormous difficulties which may get worse year after year, we have attracted analysts, attorneys, doctors, case officers, engineers and scientists of the highest caliber. In FY-84 more new employees entered on duty than at any time in our recorded history. Recruitment, however, remains one of our principal priorities. It is a never-ending struggle which can only get more difficult as we compete in the marketplace with major U.S. industries for the best and the brightest.

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c) Entering on duty, the CIA employee becomes part of a world which is generally isolated, nomadic, idealistic, secretive and increasingly dangerous. In addition to those personal constraints common to the few in government who hold clearances at the CIA level, our employees must endure even more severe conditions. Every five years, they are subject to a full security reinvestigation. They have no job tenure. They may not travel abroad, publish articles, marry a non-U.S. citizen, or attend international conferences without advance Agency approval. They can receive no public recognition for their professional achievements but, on the contrary, must suffer in silence innumerable calumnies.

25X1 Dominating all other considerations, however, is the single heaviest
burden of all, cover. Nearly [] of CIA employees are under cover. Daily
25X1 events others take for granted have for us potential cover ramifications:
25X1 carpooling, telephone messages, double salaries, credit investigations,
court appearances, and neighborhood gossip. The list is endless. []

25X1 [] Stress is inevitable in such a dual life.

Living cover pertains to one's self-image and the need for social inclusion and recognition and becomes more conflictual with a family's growing need for social status, recognition and identity. The spouse must always be on guard even in the most casual of conversation with friends and neighbors. The employee's true profession must be concealed from the children until of an age which allows them to handle the knowledge responsibly. Thus, the stress of dual life extends to every member of the family.

Cover impacts on those employees who themselves may not be under cover. Social interchange outside the work place must be handled with discretion. Even if not under cover in Washington, employees who travel abroad must develop a cover legend. The Agency avoids large, morale-building organizational events popular with similar institutions out of fear of jeopardizing employee cover.

6. Are there any blocks of employees not now covered by CIARDS who, due to the dangerous nature of their work or other characteristics, are easily identifiable? For the retirees under CSRS in the last 5 years provide a breakdown by the following characteristics:

CSRS Retirees

Never PCS overseas
1-3 years overseas
3-5 years overseas

ANSWERS

a) All Agency employees who perform overseas duty are exposed to dangerous work whether qualified for CIARDS or not. For instance, Intelligence analysts responsible for interpreting foreign developments are going overseas in increasing numbers in direct response to both Congressional and Administrative mandates. In 1985, more than [] analysts will travel and work overseas. More than [] non-CIARDS qualified analysts are serving abroad in such dangerous posts as El Salvador, the Middle East, the Philippines, and soon Nicaragua and Mozambique.

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b) Statistics are not immediately available on overseas service for retirees under CSRS, however, the following information which gives a snapshot of our on duty personnel, gives a good indication of overseas service:

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Employees who have served overseas less than 1 year -

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Employees who have served overseas more than one but less than 5 years -

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CONFIDENTIAL**7. Provide the following data:**

- a) the average age of CIA retirees under CSRS for 1983 and 1984, and the number of retirees under CSRS for 1983 and 1984;
- b) the number of retirees under CIARDS by year since the first year retirements occurred under the system (we have data for 1982-1984; and
- c) the number of CIA retirees under CSRS since 1960 (we have data for CSRS retirements from 1972-1982).

ANSWER

a)

	<u>NO. OF RETIREES</u>	<u>AVERAGE AGE</u>
1983		57.8
1984		58.1

b) See Attachment

c) See Attachment

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8. The number of CIA employees currently serving overseas who have qualified for CIARDS (36% indicated in the DCI's letter)?

ANSWER

25X1

serving overseas.

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9. The number of CIA employees currently serving overseas who are under CSRS (64% indicated in the DCI's letter)?

ANSWER

[Redacted]

serving overseas.

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10. Provide the following information for 1960, 1965, 1970, 1975, 1980, and 1984:

	<u>No. of Employees Under CIARDS</u>	<u>No. of Employees Under CSRS</u>
1-5 years of CIA employment		
DDA		
DDI		
DDS&T		
DDO		
Case Officers		
Others		
6-10 years of CIA employment		
DDA		
DDI		
DDS&T		
DDO		
Case Officers		
Others		
11-15 years of CIA employment		
DDA		
DDI		
DDS&T		
DDO		
Case Officers		
Others		
16-20 years of CIA employment		
DDA		
DDI		
DDS&T		
DDO		
Case Officers		
Others		
21-25 years of CIA employment		
DDA		
DDI		
DDS&T		
DDO		
Case Officers		
Others		

26-30 years of CIA employment

DDA

DDI

DDS&T

DDO

Case Officers

Others

More than 30 years of CIA
employment

DDA

DDI

DDS&T

DDO

Case Officers

Others

Total

ANSWER

Data not immediately available.

11. How many years on average is a person employed by CIA before qualifying for CIARDS?

ANSWER

14.9 Years

noted
MAR 1985Ref. 5
File

5 March

M. J. Personnel

Bob:

Note proposed changes
to CIARDS on page
12 of bill. (This is
advance copy; OH's
Legislation Division will
soon have request for OP
comment).



**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503**

March 4, 1985

LEGISLATIVE REFERRAL MEMORANDUM

SPECIAL

LEGISLATIVE LIAISON

95-0683

TO: Legislative Liaison Officer

Department of Defense
Department of State*
Central Intelligence Agency*

*Please note Sec. 6, which was added by this Office.

SUBJECT: OPM draft bill "To amend title 5, United States Code, to reform the Civil Service Retirement System, and for other purposes."

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than March 11, 1985. Because this bill carries out proposals in the 1986 Budget, expedited review is necessary.

Questions should be referred to Curt Smith (395-6156) or to Hilda Schreiber (395-7362), the legislative analyst in this office.

Naomi R. Sweeney

Naomi R. Sweeney for
Assistant Director for
Legislative Reference

Enclosures

SECTION-BY-SECTION ANALYSIS

To accompany a draft bill

"To amend title 5, United States Code, to reform the Civil Service Retirement System, and for other purposes."

The first section titles the bill as the "Civil Service Retirement Reform Act of 1985."

Section 2 contains the various amendments to chapter 83 of title 5, United States Code, designed to curtail unnecessary and excessive expenditures for Civil Service Retirement benefits and to bring the program closer into line with private sector practices.

Paragraph (1) of section 2 amends section 8331(1)(G), (1)(iv), (7), and (20) to exclude from the Civil Service Retirement System certain individuals who are employed by the District of Columbia government. It also amends section 8331(4) to base average pay (which is used as the base for computing annuities) on the highest earnings during five consecutive years of creditable service rather than three.

Paragraph (2) of section 2 amends section 8332(b) to eliminate retirement credit for certain future service performed for the District of Columbia government.

Paragraph (3) of section 2 repeals section 8334(g)(5) which prohibits requiring a deposit for crediting unused sick leave.

Paragraph (4) of section 2 amends section 8338(a) to provide that a deferred annuity will commence on the later of age 62 or receipt of an application.

Paragraph (5) of section 2 amends section 8339 by amending subsection (h) to provide for a reduction in retirement benefits for employees (other than law enforcement officers, firefighters, and air traffic controllers) who retire or receive a deferred annuity before age 65. The reduction will eventually be 5 percent for each year or part of a year the retiree is under age 65, not exceeding ten years, but will be phased in through increases of 1/2 percent per year. Individuals who have attained age 55 by the date of enactment will not be subject to the reduction. The Office of Personnel Management will be able to waive this reduction in the case of involuntary or early retirements, but the employing agency will be required to reimburse the Fund for the cost of such waiver, unless the Office decides such reimbursement is inappropriate. Section 8339 is also amended by repealing subsection (m) relating to the crediting of unused sick leave as service in computing annuities.

Paragraph (6) of section 2 amends section 8340(b) to base cost-of-living adjustments on the lesser of the average adjustment (including zero, if applicable) in General Schedule pay rates during the same fiscal year, or the change in the Consumer Price Index (CPI). The amendments also

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provide that the amount of any annuity exceeding a specified base amount shall be increased by only 55 percent of the cost-of-living adjustment otherwise payable. The base amount in 1986 shall be \$10,000, which shall be increased in each succeeding year by the percentage of the cost-of-living adjustment taking effect the preceding December.

Paragraph (7) of section 2 amends section 8341 by amending subsections (a) and (e) to eliminate survivor benefits for students in post-secondary schools and to terminate benefits for elementary or secondary school students at the end of the month prior to completion of school or at age 19, whichever comes first. It also corrects an erroneous citation and changes the permissible interim period between school years from 5 months to 4 months. In addition, it adds a new subsection (k) which provides that, notwithstanding any other provision of law, no benefits are payable to any widow, widower, or survivor named under section 8339(k)(1) of title 5, United States Code, of any employee, Member, or annuitant, for any month during any portion of which the widow, widower, or survivor has not attained age 60, has not attained age 50 if disabled as defined under section 223(d) of the Social Security Act of 1935, as amended, or is not caring for a child, as defined in section 8341(a)(4), of the employee, Member, or annuitant. It further provides that survivor benefits paid under section 8341 following a period of non-payment by reason of new subsection (k) are computed as though the period of non-payment had not occurred.

Paragraph (8) of section 2 amends section 8345 by amending subsection (b)(2) to incorporate in title 5, United States Code, a commencing date provision enacted as a part of Public Law 97-377, and a specific commencing date provision for certain deferred annuities, and by repealing subsection (f) relating to minimum annuities.

Paragraph (9) of section 2 amends section 8347 to delete subsection (h), consistent with the exclusion of the government of the District of Columbia from the Retirement System.

Paragraph (10) of section 2 amends section 8348 to limit the provisions in subsection (h) for Postal Service payment of increases in unfunded liability attributable to benefits payable to Postal Service officers and employees, and their survivors. Assessments under that subsection will be limited to increases resulting from an employee-management agreement under title 39, or any administrative action taken by the Postal Service pursuant to law, either of which, prior to October 1, 1985, authorizes increases in pay on which benefits are computed. It then adds a new subsection (j) which requires the Postal Service and the D.C. government each to contribute to the Fund a sum to be determined by applying to the total basic pay, as defined in section 8331(3) of title 5, United States Code, paid to its employees covered by Civil Service retirement, the percentage rate determined annually by the Office of Personnel Management to be the excess of the total normal cost for the Retirement System, including the effects of future cost-of-living adjustments and future increases in pay, over the employee deduction rate specified in section 8334(a) of title 5, United States Code.

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It also adds a new subsection (k) which requires the Secretary of the Treasury to implement procedures to permit identification of each benefit check issued under subchapter III of chapter 83 of title 5, United States Code, that has not been presented for payment by the close of the sixth month following the month of its issuance. The Secretary is then required to credit monthly to the Retirement Fund, out of money in the Treasury not otherwise appropriated, the amount, including interest, of all benefit checks drawn on the Fund more than 6 months previously but neither presented for payment nor previously credited to the Fund. The Secretary is also required to pay a check which was previously credited to the Fund and then to recharge the Fund and notify the Office of Personnel Management. If the Secretary determines that it is necessary to effect proper payment, he may cancel an unnegotiated check which is presented for payment and issue a new check bearing a current date.

Section 3 amends sections 8701(a)(5) and 8716(b) of title 5, United States Code, to exclude from the Federal Employees' Group Life Insurance Program certain individuals who are employed by the government of the District of Columbia.

Section 4 amends sections 8901 and 8913(b) of title 5, United States Code, to exclude from the Federal Employees Health Benefits Program certain individuals who are employed by the government of the District of Columbia.

Section 5 provides in subsection (a) that, except as otherwise provided by that section, the amendments made by section 2 of the Act shall take effect on the date of enactment of the Act.

Subsection (b) provides that the amendments made by section 2(1)(C) of the Act, concerning average pay, will take effect on October 1, 1988, and will apply only to individuals who first become eligible for immediate retirement under chapter 83 of title 5, United States Code, on or after that effective date.

Subsection (c) provides that notwithstanding section 8340 of title 5, United States Code, as amended by section 2(6) of the Act, during fiscal year 1986 no cost-of-living adjustment of annuities may take effect.

Subsection (d) provides, notwithstanding the amendments made by section 2(7) of the Act, for the continuation of benefits without regard to those amendments for any student receiving benefits on the date of enactment until the student reaches age 22 or first ceases to be a student.

Subsection (e) provides that no annuity being paid on the date of enactment of this Act may be reduced below the rate in effect on that date by reason of the amendment made by section 2(8)(B) of the Act, concerning minimum annuities, or by reason of the manner in which section 8345(f) of title 5, United States Code, was applied by the Office of Personnel Management prior to the date of enactment of this Act, and bars collection of overpayments made by reason of the Office's application of section 8345(f) prior to that date.

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Subsection (f) provides, in paragraph (1), that the amendments made by sections 2(1)(A)-(B), 2(1)(D)-(E), 2(2), 2(9), 3, and 4 of the Act, excluding the government of the District of Columbia from the Civil Service Retirement System, the Federal Employees' Group Life Insurance (FEGLI) Program, and the Federal Employees Health Benefits (FEHB) Program, shall take effect on October 1, 1985, and shall apply to service performed on or after that date. It also provides that, notwithstanding paragraph (1), an individual who is employed by the government of the District of Columbia on September 30, 1985, and who is covered by Civil Service Retirement, FEGLI, or FEHB, is treated as though the enumerated amendments had not been enacted as long as the individual remains continuously employed. Leaving employment with the government of the District of Columbia for 365 days or less, or leaving to perform full-time military service and exercising reemployment rights under chapter 43 of title 38, United States Code, does not constitute a disruption of the continuous service, irrespective of whether the break begins before, on, or after September 30, 1985.

Subsection (g) provides that the elimination of credit for unused sick leave in the computation of Civil Service Retirement annuities by section 6 of the bill would be phased in over a four-year period starting in October 1985. For individuals eligible to retire on an immediate annuity in the first of the four years, 80 percent of the amount of any unused sick leave would be used in annuity computation; for those eligible in the second year, 60 percent of any unused sick leave would be used; for those eligible in the third year, 40 percent of any unused sick leave would be used; and for those eligible in the fourth year, 20 percent of the unused sick leave would be used. Thus, for individuals who become eligible on or after October 1, 1989, there would be no sick leave credit. Individuals who are eligible to retire on an immediate annuity before October 1985 would receive service credit for all of their unused sick leave.

Subsection (h) provides that, notwithstanding the amendments to section 8340(b) of title 5, United States Code, made by section 2(6) of the Act, the amount of any adjustment in military retired or retainer pay under section 1401a of title 10, United States Code, that is determined by reference to section 8340(b) is to be determined as if such amendments had not been enacted.

Subsection (i) provides for phasing in increased contributions to the Retirement Fund by the Postal Service and the D.C. government by stating that, notwithstanding the provisions of section 8340(j) of title 5, United States Code, as added by section 2(10)(B) of the Act, in fiscal year 1986 each entity shall contribute to the Fund a sum to be determined by applying to the total basic pay, as defined by section 8331(3) of title 5, United States Code, paid to its employees the employee deduction rate specified in section 8334(a) of title 5, United States Code, plus 2 percent. Then, in each succeeding fiscal year, the rate shall be increased by 2 percent, or such lesser amount as is necessary, until it equals the rate determined annually by the Office of Personnel Management under section 8348(j).

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Subsection (j) makes the provisions of section 8348(k) of title 5, United States Code, as added by section 2(10)(B) of the Act, applicable with respect to all checks for benefits under the Civil Service Retirement System issued on or after the first day of the twenty-fourth month after the month in which the Act is enacted.

Subsection (k) requires the Secretary of the Treasury to transfer to the Retirement Fund, out of any money in the Treasury not otherwise appropriated, in the month in which the Act is enacted and in each of the succeeding 30 months, the amount necessary to reimburse the Fund for the total amount of all checks, including interest, which he and the Office of Personnel Management jointly determine to be uncashed benefit checks from the Retirement System. After money is transferred with respect to any check, that check is subject to the provisions of paragraphs (3) and (4) of section 8348(k) of title 5, United States Code, relating to subsequent payments of such checks, as added by section 2(10)(B) of the Act.

Section 6 (a) and (b), respectively, amend the Central Intelligence Agency and Foreign Service retirement laws to apply a reduction for early retirement before age 60 in those systems, paralleling the reduction proposed by section 2(5)(B) of the bill for early retirement before age 65 under the Civil Service retirement system. The other retirement reforms proposed by the Civil Service retirement system in the bill can be implemented administratively for the other two systems pursuant to section 292 of the Central Intelligence Agency retirement law and section 827 of the Foreign Service retirement law.