

AMENDING THE CENTRAL INTELLIGENCE AGENCY  
RETIREMENT ACT OF 1964 FOR CERTAIN EMPLOYEES,  
AS AMENDED

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SEPTEMBER 24, 1976.—Ordered to be printed

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Mr. INOUE, from the Select Committee on Intelligence,  
submitted the following

## REPORT

[To accompany H.R. 13615]

The Select Committee on Intelligence, to which was referred the bill (H.R. 13615) to amend the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

## PURPOSE OF THE BILL

The purpose of the bill is three-fold. First, it would provide for equalizing the benefit provisions of the CIA Retirement Act and the Civil Service Retirement Act. Also, it would improve the financial structure of the CIA Retirement system by incorporating funding provisions which have been enacted by the Congress for the Civil Service retirement fund and for the Foreign Service retirement system. In addition, the legislation would provide a procedure for shortening the interval between the time changes are made in the Civil Service system and comparable changes can be effected for the Central Intelligence system through Executive action by the President.

## BACKGROUND

The CIA Retirement Act of 1964 was enacted to provide a comprehensive retirement and disability program for a limited number of employees whose duties either were in support of Agency activities abroad, hazardous to life or health, or so specialized as to be clearly distinguishable from normal Government employment.

The Central Intelligence Agency operates under two retirement systems: the regular Civil Service retirement system for the majority of its employees and the one established under the CIA Retirement Act for a smaller number. The primary purpose of the latter system is to sustain a shorter career base for service where the conditions of employment are substantially different from those associated with normal Government employment. Key provisions of the CIA Retirement Act include a straight two-percent factor in the computation formula and retirement eligibility at age 50 after 20 years of service, both modeled after Civil Service provisions for certain personnel involved in law enforcement activities (5 U.S.C. 8336(c)). Other provisions of the CIA Retirement Act, are for the most part, also patterned after those of the Civil Service retirement system.

When the Act was first considered by Congress in 1964, it was deemed expedient to place a ceiling upon the number of persons who were to retire over the first ten years of the Act as a mechanism to assure the careful administration of the system during its formative years. This was particularly pertinent since, as stated above, the Act was not to apply to all CIA employees and, for security reasons, detailed statutory limitations could not be spelled out in the legislation.

Other differences with the Civil Service system involve internal procedures in administration in connection with the CIA personnel management system, as well as security considerations which apply to those employees of the CIA who are eligible under the CIA Retirement Act.

Over the years there have been other amendments which raised the ceiling on the number of personnel that can retire under the Act and adopted certain benefits that Congress approved for employees under the Civil Service retirement system. This legislation continues the process for equalizing benefits and authorizations which have become a part of the Civil Service retirement system.

## DISCUSSION

H.R. 13615 contains two titles. Title I is addressed to a restructuring of the financing of the system and Title II is composed of various amendments to the retirement benefits.

As indicated, both titles generally provide for conforming the CIA retirement system to others in the Executive establishment.

### *Financing*

The Committee has been told that the CIA system will be unable to continue to meet its financial obligations solely from employees and Government contributions and proceeds from interest on the payments into the retirement fund. The current estimate is that the fund will be depleted by mid-1981 unless legislative relief is forthcoming.

### *Reasons for underfunding*

The funds in the CIA retirement system have been made up exclusively of employer/employee contributions, the transfer of such contributions from the Civil Service system in the case of those members who transferred into the CIA system, and lastly, interest earned on the investment of such funds.

History has proven that those sources are not sufficient to meet obligations. The reasons are clear and are as follows. Until 1956 the Government did not match employee contributions. There have been changes in benefits without concomitant funding adjustments. Active duty pay increases have been made without proper retirement fund support, and transfers into the system with credit for military service were made, again without equalizing support for the fund.

*The proposed legislative remedy*

This legislation would provide for annual payments of interest on the unfunded liability. That provision would recognize that the fund is deficient, that the deficient funds are not available to accrue interest, and, therefore, such lost interest would be funded from the Treasury through the appropriations process.

A second provision would pay for disbursement attributable to credit for military service. In effect, this would replenish that portion of the annuity based upon retirement credit for military service for which there have been no prior contributions.

A third provision would finance unfunded liability for new benefits, extended coverage and salary increases. This, too, would prevent growth of unfunded liability because of those factors. This replenishment would be made through amortized payments over a period of 30 years.

In addition, normal costs of the program are not fully covered by employer/employee contributions. That seems to be a fact of life under inflationary conditions in all contributory Federal retirement systems as now structured. Thus, this provision would fund the difference between normal costs and employer/employee contributions.

With reference to funding for interest investment and military service credit, this bill would commence at the 70 percent level for Fiscal Year 1977, the current level for Foreign Service and Civil Service, and then rise to the 100 percent level for 1980 and thereafter. Funding for this title would amount to \$52.2 million in fiscal year 1977 and increase to \$92.5 million in Fiscal Year 1981, according to Congressional Budget Office estimates.

*Amendments to retirement benefits*

As previously indicated, these proposals have been submitted by the CIA to conform the CIA Retirement Act to amended benefits currently approved by Congress for the Civil Service retirement system and for the Foreign Service retirement system. Listed below are the highlights of changes to benefits. A complete listing is contained in the section-by-section analysis, which follows in this report.

Briefly, the enhanced benefits would include husbands of female participants, as well as wives of male participants, in defining eligibility for survivor benefits. Likewise, the eligibility of an adopted child would be broadened, as was the definition of a surviving spouse. However, the surviving spouse would not be eligible for more than one entitlement from a Federal retirement system.

The retired annuitant who elects to provide a spouse with survivorship benefits at a reduced annuity would be restored to a full annuity if the eligible spouse predeceased the retired member. Also included in the legislation is a provision regarding refunds from the system

upon the death of an annuitant that makes it clear that the existing statutory order of precedence will prevail over extraneous document designating a beneficiary unless the designation has been received by the Director.

Included is a provision for the discontinuance of a disability annuity when it is clearly demonstrated that the annuitant has had a wage earning capacity restored. Likewise, the disability could be reestablished should there be a reoccurrence of the disability.

There would be a section added to the CIA Retirement Act which would enable the President, when he determines that parity between the Civil Service system and the CIA system is appropriate, to authorize for the CIA system those benefits which Congress has provided in amendments to the Civil Service Retirement Act.

### *Civil Service and Foreign Service Legislation*

For an examination of legislation similar to H.R. 13615 previously approved by Congress see:

Public Law 91-93; approved October 20, 1969, H.R. 9825, 83 Stat. 136, the Civil Service Retirement Amendments of 1969.

Public Law 91-201, approved February 28, 1970, H.R. 14789, 84 Stat. 17, the Foreign Service Act Amendments of 1969.

Public Law 84-350 approved July 12, 1976, S. 3168, the "Foreign Relations Authorization Act, fiscal year 1977."

### AGENCY VIEWS

The CIA forwarded the proposed legislation, originally introduced as H.R. 11088, to the House of Representatives. Amendments that were made in the resulting clean bill, H.R. 13615, has the approval of the Agency. The Office of Management and Budget offered no objection. The CIA letter to the chairman of the Senate Select Committee is set out below.

CENTRAL INTELLIGENCE AGENCY,  
Washington, D.C., September 21, 1976.

HON. DANIEL K. INOUE,  
*Chairman, Select Committee on Intelligence,*  
*U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: H.R. 13615 "To amend the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, and for other purposes," which passed the House on 13 September is now before the Committee for consideration. I urge prompt Committee action to allow passage in the 94th Congress of this most urgently needed legislation.

Title I of H.R. 13615 improves the financial soundness of the CIA Retirement Fund by adopting procedures approved by the 91st Congress for the Civil Service and Foreign Service retirement systems and for the Foreign Service retirement system in the 94th Congress. There is one important difference in that the Agency's funding procedures provide for annual appropriation authority rather than the indefinite permanent authority for the Civil Service and Foreign Service retirement systems. Under Title I, an annual appropriation, beginning fiscal year 1977, would be authorized under a formula to cover outlays not met by contributions. Based on the President's

original budget request for fiscal year 1977, the Congress has approved \$28.3 million for this purpose in the Defense Appropriations Act for fiscal year 1977, subject to the passage of authorizing legislation.

Title II of H.R. 13615 conforms the CIA Retirement Act to changes in the Civil Service retirement system to establish parity between the two systems. These include surviving spouse annuities and benefits; definition of surviving child; increase in annuities to certain retirees prior to 20 October 1969; establishment of a minimum annuity; retirement credit for separation for work injuries; retirement credit as military service for certain service in the Public Health Service or the Coast and Geodetic Survey; disability annuities; waiver of payments in certain instances; and changing of a beneficiary.

Title II also proposes an administrative procedure, by Executive order, to adopt for the Agency system future changes in the Civil Service system which are substantially identical to provisions in the Agency system. This was approved for the Foreign Service retirement system in Section 503 of Public Law 94-350. The Congress, may of course still effect any future changes in the Agency system.

Enclosed is a Sectional Analysis of H.R. 13615 which sets forth in detail each section of the bill and a cost estimate as submitted originally by the Agency to the Congress.

Needless to say, your efforts in this matter will be most appreciated by all present and future retirees of the Agency.

Sincerely,

GEORGE BUSH, *Director.*

Enclosures.

## TITLE I—FINANCING

Section 101 amends section 111 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, to add three definitions concerning the funding of the System:

"Fund balance" is defined as the par value of securities in which retirement money is invested plus the uninvested cash remaining in the Retirement Fund.

"Unfunded liability" is defined as the estimated amount needed to finance all benefits payable from the Fund less the money now in the Fund and to be placed in the Fund in the future.

"Normal cost" is defined as the level percentage of payroll required to meet the cost of benefits payable under the System, less the expenses attributable to service performed under another retirement system.

The preceding definitions are necessary for implementing subsequent provisions of the bill; definitions comparable to the first two were adopted by the Civil Service Retirement System under section 101(3) of Public Law 91-93; the normal cost definition is similar to that adopted for the Foreign Service system under section 512 of Public Law 94-350.

Section 102 amends section 261 of the Act to add three new paragraphs concerning the funding of the System:

New paragraph (b) authorizes appropriations to the Fund in equal annual installments over a 30-year period to finance

any newly created unfunded liability incurred by the enactment of future legislation, or the exercise of authority based on statute, including benefit improvements for active employees, extension of coverage to new groups of employees, general salary increases, and any new statutory annuity increases (other than automatic cost-of-living adjustments). Interest would be required to be included in these amortized payments at the rate used in the then most recent valuation of the system.

New paragraph (c) provides authority for annual appropriations, for that portion of the normal cost of the System which is not being currently defrayed by contributions.

New paragraph (d) provides authority for annual appropriations, for interest on the unfunded liability computed for that year at the interest rate used in the then most recent valuation of the System, and for that portion of disbursement for annuities for that year which the Director estimates is attributable to credit allowed for military service. Payments under this paragraph would commence with fiscal year 1977, at 70 percent of the prescribed amount. An additional 10 percent would be paid in each subsequent year until, in 1980 and in each subsequent year, 100 percent of the prescribed amount would be paid.

Provisions identical to new paragraphs (b) and (d) except for a change in the effective date and a change in the appropriation authority in paragraph (d), were enacted for the Civil Service by sections 103(a) (2) and 103(b) of Public Law 91-93 and for the Foreign Service by sections 104(a) and 104(b) of Public Law 91-201. A provision similar to new paragraph (c) has been adopted for the Foreign Service system except for a change in the appropriation authority, in section 512 of Public Law 94-350.

## TITLE II—RETIREMENT ACT AMENDMENTS

Section 201 removes dependency requirements from the definition of the term "widower" and thereby conforms the Act to the requirement of Public Law 92-187 concerning equality of benefits for married women Federal employees. As a result, widowers of female participants or retirees will be accorded the same benefits as widows of deceased male participants or retirees. Section 201 also changes the definition of child to include an adopted child who is under a petition for adoption at the time of the participant's death and makes such child eligible for survivorship benefits if the surviving spouse proceeds with the adoption. Section 201 further changes the definition of "widow" and "widower" to reduce from two years to one year the marriage requirement to be entitled to a survivor annuity and thereby conform the Act to Public Law 93-260.

Section 202 amends the Act as follows:

First, it amends the current provision for annuity for surviving spouse to whom the retiree was married at the time of retirement by authorizing payment of that annuity to a subsequent spouse. The spouse acquired after retirement must

qualify as a widow or widower as those terms are defined in section 204 of the Act as amended by section 201 of the bill.

Second, it authorizes a survivor annuity for a widow or widower of a retiree who was unmarried at the time of retirement, subject to the election of a reduced annuity for this purpose by the retiree pursuant to section 203 of the bill.

Third, it requires the surviving spouse, widow, or widower to elect between the benefits afforded under section 202 of the bill and any other entitlements to survivor benefits from a retirement system for Government employees.

Fourth, it provides for the commencement and termination date for the survivor annuities provided under section 202 of the bill.

Fifth, it provides that a participant must at the time of retirement elect in writing not to provide any surviving spouse benefits as provided in section 221(b). This adopts a provision in Section 8339(j), Title 5, of the Civil Service retirement system.

Finally, it provides that annuities reduced to provide for a surviving spouse shall for each full month during which an annuitant is not married, be recomputed and paid as if the annuity had not been reduced. Upon remarriage, the annuity would be reduced by the same percentage as in effect at the time of retirement. All annuities are covered except no increase in annuity may be made for any period prior to November 1, 1974. This conforms the Act to Public Law 93-474, which became effective October 26, 1974.

Section 203 provides a retiree who is unmarried at the time of retirement with an irrevocable election to select a reduced annuity and provide, under section 202 of the bill, survivorship protection for a spouse acquired after retirement. The election must be received within one year after the marriage and voids any election made at the time of retirement for a survivor annuity for an individual with an insurable interest as authorized under current law (section 221 of the Act). The retiree's annuity is paid at the reduced rate starting with the first day of the month following receipt of the election.

Section 204 imposes a minimum retirement annuity based upon the Social Security minimum primary insurance amount and conforms the Act to the requirements of Public Law 93-273, which increased certain annuities and was signed into law April 26, 1974. The annuitant's monthly benefit would not be increased to such minimum if the individual receives any other periodic payment from the United States Government of a similar nature, including, but not limited to, social security, annuity, other civilian or military retired pay, pension, or veterans compensation, and the monthly rate of such periodic payment equals or exceeds the smallest primary insurance amount which may be in effect from time to time.

Sections 205, 206, and 207 amend section 231 of the Act to allow persons who are separated or retired on a nondisability retirement to later apply under specified requirements for a disability retirement if a disabling condition existed at the time of separation or retirement.

The changes also grant termination authority to the Director in those instances where there has been restoration of earning capacity; allow voluntary or involuntary retirement for such restored retirees; and assure that periods of voluntary or involuntary retirement do not count for service credit. These amendments adopt existing authorities in Section 8337, Title 5, of the Civil Service retirement system.

Section 208 changes the "Death in Service" provisions of the Act (section 232) to remove the dependency requirements currently attached to the payment of a survivor annuity to a widower of a female participant who dies in service. The changes are compatible with the changes made in the definition of the term "widower" under section 201 of the bill.

Section 209 amends Section 241 of the Act with regard to filing designation of beneficiary for the payment of contributions and interest in excess of benefits received to survivors of participants under the Act. The amendment states clearly that the order of preference set out in that section shall prevail over any extraneous document designating a beneficiary unless the designation has been received by the Director. This conforms the Act to a similar provision in the Civil Service Retirement system under Public Law 89-373 approved March 23, 1966. The provision was sought by the Civil Service Commission to make clear that the statutory order of precedence prevails and avoid the problems of conflicting case law and resultant serious delays in paying insurance claims to survivors. Adoption of the provision by the Central Intelligence Agency Retirement Act will avoid these same problems.

Section 210 updates the citation in Section 251 of the Act. Section 210 also provides retirement service credit for periods of separation from Federal Government employment covered by employees' compensation for work injuries under 5 U.S.C. 8101 et seq.

Section 211 amends Section 252 of the Act to credit service in the Regular or Reserve Corps of the Public Health Service after June 30, 1960, or as a commissioned officer in the Coast and Geodetic Survey after June 30, 1961. This conforms the Act to Public Law 86-415, approved April 8, 1960, which credits, as military service under the Civil Service Retirement Act, certain prior service in the Regular or Reserve Corps of the Public Health Service after June 30, 1960, and conforms the Act to Public Law 87-233, approved September 14, 1961, which similarly credits under the Civil Service system service as a commissioned officer in the Coast and Geodetic Survey (now functionally within the National Oceanic and Atmospheric Administration).

Section 212 adds a new section to "PART G—MONEYS" to grant the Director the authority to waive recovery to payments from a recipient made under the Act if in the judgment of the Director the individual is without fault and recovery would be against equity and good conscience. This section also allows the Director to withhold or recover moneys mentioned under the Act from a former employee of the Agency where there is a finding and certification by the Director that the former employee exercised fraud. This section conforms the Act to a similar provision in the Civil Service retirement system (section 8346 of Title 5, U.S.C., Public Law 89-554), which became effective



tive September 6, 1966. The necessity for this provision was highlighted as the result of the recent overpayment in cost-of-living increases for all Government retirement systems based on a miscalculation of the data utilized. This section would be made effective sufficiently retroactive to allow the Director to waive the overpayment to annuitants under the Agency's retirement system as was done by the Civil Service Commission in December 1974 for Civil Service retirees.

Section 213 adds a new "PART K—CONFORMITY WITH CIVIL SERVICE RETIREMENT SYSTEM" to the Act to authorize administrative changes in Central Intelligence Agency retirement provisions to maintain existing conformity between the Civil Service and Central Intelligence Agency retirement systems. Under this amendment, whenever a law enacted after January 1, 1975 amends a provision of the Civil Service retirement system or otherwise changes retirement benefits for employees or annuitants under that system which prior thereto had been substantially identical to a corresponding provision of law governing benefits payable under the Central Intelligence Agency retirement system, the President, if he determines it appropriate to maintain the previous conformity between the two systems could issue an order to apply the new Civil Service provision or benefit to the Central Intelligence Agency. This could be done retroactively in the interest of equity where necessary.

In addition to the applicability of this proposal to amendments of Civil Service retirement provisions that were substantially identical to corresponding Central Intelligence Agency retirement provisions immediately prior to enactment of the Civil Service amendment, it is intended that the proposal apply to amendments of Civil Service provisions enacted after January 1, 1975 but before enactment of this bill which were substantially identical either to corresponding Central Intelligence Agency retirement provisions when this bill is introduced or to Central Intelligence Agency retirement provisions as proposed in this bill.

Authority would not be available under the proposal to change a Central Intelligence Agency retirement provision that had not been substantially identical to the Civil Service provision prior to the latter's amendment. For example, if the present regular Civil Service multiplication factor, which is less than 2% for the first ten years of service, were increased, a corresponding increase could not be extended to the Central Intelligence Agency retirement system under this authority because the Central Intelligence Agency retirement system multiplication factor is 2% for all years of service. Neither could a change affecting only a special group, such as the change in the law-enforcement employee multiplication factor made by P.L. 93-350, be extended to the Central Intelligence Agency retirement system under this authority because this proposal would be applicable only to amendments of Civil Service retirement provisions applicable generally.

Section 213 is based upon section 512 of Public Law 74-350 which amended the Foreign Service Retirement Act. This establishes authority to adopt by administrative action applicable changes in the Civil Service system and shortens the existing time lag resulting from

normal Executive and Legislative processing to adopt separately for the Agency retirement system each applicable change in the Civil Service system. The proposal does not in any way abridge the right of Congress to enact future laws changing the Central Intelligence Agency retirement system provisions or benefits.

Section 214 increases annuities that occurred prior to October 20, 1969, and further conforms the Act to the requirements of Public Law 93-273, which authorized payment effective August 1, 1974. Retirees under the Act (and Civil Service retirees) prior to October 20, 1969, did not receive the liberalization in retirement computation made under Public Law 91-185, effective December 30, 1969. Under Public Law 91-185 the computation of annuities was changed from a high 5-years average salary to a high 3-years average salary and unused sick leave was counted as service for annuity computation purposes.

Section 215 provides effective dates in phase with those established for the Civil Service Retirement System in connection with identical changes. These dates assure that the treatment afforded retirees and their survivors under the CIA Retirement Act will not be different than that afforded retirees and their survivors under the Civil Service Retirement System. Section 215 provides that all of the provisions in the bill become operative effective October 1, 1976.

## TITLE I

Cost estimates for financing the CIA Retirement System are as follows:

### FISCAL DATA <sup>1</sup>

[In millions of dollars]

	1977	1978	1979	1980	1981
Sec. 102(c) of title I .....	8.2	8.6	8.9	9.4	9.9
Sec. 102(d) of title I .....	41.8	49.4	57.0	65.0	66.5
Total .....	50.0	58.0	65.9	74.4	76.4

<sup>1</sup> Revised May 5, 1976, to give effect to actuarial study of the Central Intelligence Agency retirement and disability system as of Dec. 31, 1973, updated to reflect estimated active and annuitant payrolls for fiscal year 1977.

No estimates are provided for Section 102(b) inasmuch as all costs under that Section are prospective contingent upon enactment of new or liberalized benefits, extension of coverage or increases in salaries on which benefits are computed.

## TITLE II

Cost estimates of changes to conform the CIA Retirement System to the Civil Service retirement system are as follows:

*Section 202 of title II* restores to full annuity the reduction for survivor annuity upon death of the spouse.

### ESTIMATED COST

\$3.8 million increase in unfunded liability for the Fund.

The normal cost of the CIA Retirement System would be increased by .160 percent of the payroll for participants.

Section 211 of title II increases annuities based on separations prior to October 20, 1969 by \$240 per annum for annuitants and by \$132 per annum for surviving spouses.

#### ESTIMATED COST

\$1.1 million increase in unfunded liability for the Fund.

#### CONGRESSIONAL BUDGET OFFICE

COST ESTIMATE AUGUST 30, 1976

1. Bill number: H.R. 13615.

2. Bill title: Amendments to the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended.

3. Purpose of bill: The provisions of this bill are designed to provide financing of the CIA retirement fund on an actuarial basis, and to liberalize benefits. The liberalization extends to the CIA system benefits provided in the past to the Civil Service system. In addition, the bill would permit the President to extend to the CIA system, by executive order, future provisions of law which liberalize the benefits of the Civil Service system. This bill would provide permanent authorization for appropriations to the CIA retirement fund to—

(1) finance the unfunded liability created by new or liberalized benefits, extension of coverage, and increases in salary;

(2) meet the normal cost, which is not met by contributions by the employee or employers and

(3) provide interest on the unfunded liability and that portion of the annuities which are paid and which are attributable to credit allowed for military service.

4. Budget impact:

#### *Authorization amounts and estimated costs*

<i>Fiscal year:</i>	<i>In millions of dollars</i>
1977	52.4
1978	62.9
1979	73.4
1980	84.4
1981	89.0

5. Basis for estimate: This estimate is based on an actuarial valuation of the fund done by the Department of the Treasury using dynamic assumptions. The fund valuation assures a 7 percent interest rate and 4 percent annual increases in wages and the Consumer Price Index. These assumptions are used to determine the normal cost of the fund.

The CBO estimate of the cost of Sections 102(b) and 102(c) has been computed using assumed average dollar weighted wage increases of 5.2 percent on October 1, 1976, 6.0 percent in 1977, 6.2 percent in 1978, 6.1 percent in 1979, and 6.3 percent in 1980.

The estimated costs of Title II are based on Section 211, which increases annuities based on separations prior to 20 October 1969 by \$240 per annum for annuitants and by \$132 per annum for surviving spouses, and Section 202, which restores to full annuity the reduction for survivor annuity upon death of the spouse. The remaining sections of Title II do not have an identifiable budgetary cost.

6. Estimate comparison: The Central Intelligence Agency estimate is based on the same actuarial valuation as the CBO estimate. The Agency has provided no estimate of the cost of future pay raises under Section 102(b) of the Act, while the CBO estimate is based on a specified set of pay increases. As a result the CBO estimate is higher.

The Agency did not provide a budget cost estimate for Title II, but the CBO estimate is consistent with Agency estimates of increases in the unfunded liability and normal cost as a result of Title II.

7. Previous CBO estimate: CBO prepared an estimate on the identical bill May 10, 1976. This estimate differs only in the estimated pay raises for federal employees. The change in pay raise assumptions result in an increase in the cost of the bill in fiscal year 1977 of \$2 million. Subsequent years are lower than the May estimate.

8. Estimate prepared by: Robert E. Schafer.

9. Estimate approved by:

JAMES L. BLUM,

*Assistant Director for Budget Analysis.*

#### COMMITTEE ESTIMATE

The Committee's inquiry into the financial impact of the legislation agrees generally with the estimate submitted by the Congressional Budget Office.

#### FISCAL IMPACT STATEMENT

Enactment of this legislation will not have any significant effect on the national economy.

#### COMMITTEE OVERSIGHT COMMENT

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 by the Committee, it took notice of the comment of the House Committee on Armed Services in its report on page 13. Accordingly, the Select Committee intends to exercise its oversight function of this retirement system as a regular course of business for the future and has been assured by the Director of Central Intelligence that the study being conducted of the system by his office reflects, in the preliminary stages, no improper uses of this special retirement system. The report required by the House of Representatives will be furnished to the Senate Select Committee at the same time.

## TABULATION OF COMMITTEE VOTE

In accordance with Rule 2.6 of the Committee Rules of Procedure, H.R. 13615 was ordered favorably reported without amendment, by unanimous vote.

## CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic and existing law in which no change is proposed is shown in roman) :

CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT OF 1964 FOR CERTAIN EMPLOYEES, AS AMENDED (78 STAT. 1043, P.L. 88-643, OCTOBER 13, 1964, 40 U.S.C.A. 403 NOTE <sup>2</sup>)

\* \* \* \* \*

## TITLE I—TITLE AND DEFINITIONS

\* \* \* \* \*

## PART B—DEFINITIONS

SECTION 111. When used in this Act, the term—

(1) "Agency" means the Central Intelligence Agency;

(2) "Director" means the Director of Central Intelligence;

**[and]**

(3) "Qualifying service" means service performed as a participant in the system or, in the case of service prior to designation, service determined by the Director to have been performed in carrying out duties described in Section 203;

(4) "Fund balance" means the sum of—

(a) *the investments of the fund calculated at par value; and*

(b) *the cash balance of the fund on the books of the Treasury;*

(5) "unfunded liability" means the estimated excess of the present value of all benefits payable from the fund to participants and former participants, subject to this Act, and to their survivors, over the sum of—

(a) *the present value of deductions to be withheld from the future basic salary of participants currently subject to this Act and of future Agency contributions to be made in their behalf; plus*

(b) *the present value of Government payments to the fund under section 261 (b) and (c) of this Act; plus*

(c) *the fund balance as of the date the unfunded liability is determined; and*

(6) "Normal cost" means the level percentage of payroll required to be deposited in the fund to meet the cost of benefits

*payable under the System (compared in accordance with generally accepted actuarial practice on an entry-age basis) less the value of retirement benefits earned under another retirement system for military employees and less the cost of credit allowed for military service.*

\* \* \* \* \*

SEC. 204. (a) Annuitants shall be participants who are receiving annuities from the fund and all persons, including surviving wives and husbands, widows dependent widowers, children and beneficiaries of participants or annuitants who shall become entitled to receive annuities in accordance with the provisions of this Act.

(b) When used in this Act the term—

(1) "Widow" means the surviving wife of a participant who was married to such participant for at least two years *one year* immediately preceding his death or is the mother of issue by marriage to the participant.

(2) Dependent widower "Widower" means the surviving husband of a participant who was married to such participant for at least two years *one year* immediately preceding her death or is the father of issue by marriage to the participant. and who is incapable of self-support by reason of mental or physical disability, and who received more than one half of his support from such participant.

(3) "Child," for the purposes of section 221 and 232 of this Act, means an unmarried child, including (i) an adopted child *or a child who lived with and for whom a petition for adoption was filed by a participant and who is adopted by the surviving spouse after the participant's death,* and (ii) a stepchild or recognized natural child who lived with the participant in a regular parent-child relationship, under the age of eighteen years, or such unmarried child regardless of age who because of physical or mental disability incurred before age eighteen is incapable of self-support, or such unmarried child between eighteen and twenty-two years of age who is a student regularly pursuing a full-time course of study of training on residence in high school, trade school technical or vocational institute, junior college, college, university, or comparable recognized educational institution. A child whose twenty-second birthday occurs prior to July 1 or after August 31 of any calendar year, and while he is regularly pursuing such a course of study or training, shall be deemed for the purpose of this paragraph and section 221 (e) of this Act to have attained the age of twenty-two on the first day of July following such birthday. A child who is a student shall not be deemed to have ceased to be a student during any interim between school years if the interim does not exceed five months and if he shows to the satisfaction of the Director that he has a bona fide intention of continuing to pursue a course of study or training in the same or different school during the school semester (or other period into which the school year is divided) immediately following the interim. The term "child," for purposes of section 241, shall include an adopted child and a natural child, but shall not include a stepchild.

## PART C—COMPUTATION OF ANNUITIES

## SEC. 221.—

[(b) At the time of retirement, any married participant may elect to receive a reduced annuity and to provide for an annuity payable to his wife or her husband, commencing on the date following such participant's death, and terminating upon the death or upon remarriage prior to attaining age sixty of such surviving wife or husband. The annuity payable to the surviving wife or husband after such participant's death shall be 55 per centum of the amount of the participant's computed as prescribed in paragraph (a) of this section, up to the full amount of such annuity specified by him as the base for the survivor benefits. The annuity of the participant making such election shall be reduced by  $2\frac{1}{2}$  per centum of any amount up to \$3,600 he specified as the base for the survivor benefit plus 10 per centum of any amount over \$3,600 so specified.]

(b) (1) *If a participant dies after having retired and is survived by a spouse to whom he or she was married at the time of retirement, or by a widow or widower whom he or she married after retirement, the spouse, widow, or widower is entitled to an annuity equal to 55 percent of the amount of the participant's annuity computed as prescribed in paragraph (a) of this section, up to the full amount of such annuity specified by the participant as the base for such survivor benefits at the time of retirement. The annuity of the participant shall be reduced by  $2\frac{1}{2}$  percentum of any amount up to \$3,600 specified by the participant as the base for such survivor benefit plus 10 per centum of any amount over \$3,600 so specified. If at the time of retirement, the participant does not desire any surviving spouse to receive an annuity under this paragraph he shall so state in writing to the Director.*

(2) *If an annuitant dies after having elected a reduced annuity provided in paragraph (2) of section 221(f) the surviving widow or widower is entitled to an annuity computed as prescribed in paragraph (1) of this subsection.*

(3) *A spouse acquired after retirement is entitled to a survivor annuity under this subsection only upon electing this annuity instead of any other survivor benefit to which he or she may be entitled under this or another retirement system for Government employees. The annuity of the spouse, widow, or widower under this subsection commences on the day after the annuitant dies. This annuity and the right thereto terminate on the last day of the month before the spouse, widow, or widower—*

(A) *dies; or*

(B) *remarries before becoming 60 years of age."*

(4) *An annuity which is reduced under this subsection shall, for each full month during which an annuitant is not married, be recomputed and paid as if the annuity had not been so reduced. Upon remarriage of the annuitant, the annuity shall be reduced by the same percentage reductions which were in effect at the time of retirement.*

(f)(1) Any unmarried participant retiring under the provisions of this Act and found by the Director to be in good health may at the time of retirement elect a reduced annuity, in lieu of the annuity as hereinbefore provided, and designate in writing a person having an insurable interest (as that term is used in section 9(h) of the Civil Service Retirement Act (5 U.S.C. 2259(h) [now 8339(j)]) in the participant to receive an annuity after the participant's death. The annuity payable to the participant making such election shall be reduced by 10 per centum of an annuity computed as provided in paragraph (a) of this section, and by 5 per centum of an annuity so computed for each full five years the person designated is younger than the participant, but such total reduction shall not exceed 40 per centum. The annuity of a survivor designated under this paragraph shall be 55 per centum of the reduced annuity computed as prescribed above.

(2) A participant, who is unmarried at the time of retiring and who later marries, may irrevocably elect, in a signed writing received in the Agency within one year after the marriage, a reduced annuity as provided in section 221(b). The reduced annuity is effective the first day of the month after the election is received. The election voids prospectively any election previously made under the provisions of paragraph (1) of this subsection.

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(l)(1) Notwithstanding any other provision of this section, the monthly rate of annuity payable under subsection (a) of this section, shall not be less than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act.

(2) Notwithstanding any other provision of this section, other than this subsection, the monthly rate of annuity payable under subsection (a) of this section to a surviving child shall not be less than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act, or three times such primary insurance amount divided by the number of surviving children entitled to an annuity, whichever is the lesser.

(3) The provisions of this subsection shall not apply to an annuitant or to a survivor who is or becomes entitled to receive from the United States an annuity or retired pay under any other civilian or military retirement system, benefits under title II of the Social Security Act, a pension, veterans' compensation, or any other periodic payment of a similar nature, when the monthly rate thereof, is equal to or greater than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act.

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#### PART D—BENEFIT ACCRUING TO CERTAIN PARTICIPANTS RETIREMENT FOR DISABILITY OR INCAPACITY—MEDICAL EXAMINATION—RECOVERY

SEC. 231. (a) Any participant who has five years of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with provisions of section 251 or



252(a)(2), and who becomes totally disabled or incapacitated for useful and efficient service by reason of disease, illness, or injury not due to vicious habits, intemperance, or willful misconduct. on his part, shall, upon his own application or upon order of the Director, be retired on an annuity computed as prescribed in section 221. If the disabled or incapacitated participant is under sixty and has less than twenty years of service credit toward his retirement under the system at the time he is retired, his annuity shall be computed on the assumption that he has had twenty years of service, but the additional service credit that may accrue to a participant under this provision shall in no case exceed the difference between his age at the time of retirement and age sixty. *Retirement of disability or incapacity may be approved only if the application is submitted before the applicant is separated from the Agency or within one year thereafter. This time limitation may be waived by the Director for a participant or annuitant who at the date of separation from the Agency or within one year thereafter is mentally incompetent, if the application is filed with the Agency within one year from the date of restoration of the participant or annuitant to competency or the appointment of a fiduciary, which ever is earlier.*

(b) (1) In each case, the participant shall be given a medical examination by one or more duly qualified physicians or surgeons designated by the Director to conduct examinations, and disability shall be determined by the Director on the basis of the advice of such physicians or surgeons. Unless the disability is permanent, like examinations shall be made annually until the annuitant has reached the statutory mandatory retirement age for his grade as provided in section 235. If the Director determines on the basis of the advice of one or more duly qualified physicians or surgeons conducting such examinations that an annuitant has recovered to the extent that he can return to duty, the annuitant may apply for reinstatement or reappointment in the Agency within one year from the date his recovery is determined. Upon application for the Director may reinstate any such recovered disability annuitant in the grade in which he was serving at time of retirement, or the Director may, taking into consideration the age, qualifications, and experience of such annuitant, and the present grade of his contemporaries in the Agency, appoint him to a grade higher than the one in which he was serving prior to retirement. Payment of the annuity shall continue until a date [six months] one year after the date of the examination showing recovery or until the date of reinstatement or reappointment in the Agency, whichever is earlier. Fees for examinations under this provision, together with reasonable traveling and other expenses incurred in order to submit to examination, shall be paid out of the fund. If the annuitant fails to submit to examination as required under this section, payment of the annuity shall be suspended until continuance of this disability is satisfactorily established.

(2) *If the annuitant receiving disability retirement annuity is restored to earning capacity, before becoming sixty years of age, payment of the annuity terminates on reemployment by the Government or one year after the end of the calendar year in which capacity is restored if in each of two succeeding calendar years the income of the*

annuitant from wages or self-employment or both equals at least 80 percent of the current rate of pay of the position occupied at the time of retirement.

(c) (1) If a recovered or restored disability annuitant whose annuity is discontinued is for any reason not reinstated or reappointed in the Agency, he shall be considered *except for service credit* to have been separated within the meaning of paragraphs (a) and (b) of section 234 as of the date [he was retired for disability] of termination of the disability annuity and he shall, after the discontinuance of the disability annuity, be entitled to the benefits of that section or of section 241(a) except that he may elect voluntary retirement in accordance with the provisions of section 233 if he can qualify under its provisions or he may be placed by the Director in an involuntary retired status if he qualifies under the provisions of section 235(a). Retirement rights under this section shall be based on the provisions of this Act in effect as of the date the disability annuity was discontinued.

(2) If, based on a medical examination, the Director determines that a recovered annuitant has, before reaching age sixty-two, again become totally disabled due to recurrence of the disability for which he was originally retired, his terminated disability annuity (same type and rate) is reinstated from the date of such medical examination. If a restored-to-earning-capacity annuitant has not medically recovered from the disability for which retired and establishes to the Director's satisfaction that his income from wages and self-employment in any calendar year before reaching age sixty-two was less than 80 percent of the pay rate attached to the position from which he retired, his terminated disability annuity (same type and rate) is reinstated from the first of the next following year. If he has been allowed an involuntary or voluntary retirement annuity in the meantime, his reinstated disability annuity is substituted for it unless he elects to retain the former benefit.

#### DEATH IN SERVICE

##### SEC. 232.—

(b) If a participant, who has at least eighteen months of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with the provisions of section 251 or 252(a) (2), dies before separation or retirement from the Agency and is survived by a widow or a [dependent] widower, as defined in section 204, such widow or [dependent] widower shall be entitled to an annuity equal to 55 per centum of the annuity computed in accordance with the provisions of section 221(a), except that the computation of the annuity of the participant under such section shall be at least the smaller of (i) 40 per centum of the participant's average basic salary, or (ii) the sum obtained under such section after increasing the participant's service of the type last performed by the difference between his age at the time of death and age sixty. The annuity of such widow or [dependent] widower shall commence on the date following death of the participant and shall terminate upon death or upon remarriage prior to attaining age sixty of the widow or [dependent] widower (subject to the payment and restoration provisions of section 221(g)). [Or upon the dependent widower's becoming capable of self-support.]

PART E—DISPOSITION OF CONTRIBUTIONS AND INTEREST IN  
EXCESS OF BENEFITS RECEIVED

SEC. 241.—

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(b) In the event that the total contributions of a retired participant, other than voluntary contributions made in accordance with the provisions of section 281, with interest at the rates provided in paragraph (a) of this section added thereto, exceed the total amount returned to such participant or to an annuitant claiming through him, in the form of annuities, the excess of the accumulated contributions over the accumulated annuity payment shall be paid in the following order of precedence, upon the establishment of a valid claim therefor, and such payment shall be a bar to recovery by any other person:

[(1) To the beneficiary or beneficiaries designated by such participant in writing to the Director;]

*(1) To the beneficiary or beneficiaries designated by such participant in a signed and witnessed writing received by the Agency before his death. For this purpose, a designation, change, or cancellation of beneficiary in a will or other document not so executed and filed shall have no force or effect;*

(2) If there be no such beneficiary to the surviving wife or husband of such participant;

(3) If none of the above, to the child or children of such participant and descendants of deceased children by representation;

(4) If none of the above, to the parents of such participant or the survivor of them;

(5) If none of the above, to the duly appointed executor or administrator of the estate of such participant;

(6) If none of the above, to other next of kin of such participant as may be determined by the Director in his judgment to be legally entitled thereto.

(c) No payment shall be made pursuant to paragraph (b) (6) of this section until after the expiration of thirty days from the death of the retired participant or his surviving annuitant.

PART F—PERIOD OF SERVICE FOR ANNUITIES  
COMPUTATION OF LENGTH OF SERVICE

SEC. 251. For the purposes of this Act, the period of service of a participant shall be computed from the date he becomes a participant under the provisions of this Act, but all periods of separation from the Agency and so much of any leaves of absence without pay as may exceed six month in the aggregate in any calendar year shall be excluded, except leaves of absence while receiving benefits under [the Federal Employees' Compensation Act of September 7, 1916, as amended (5 U.S.C. 751 [now 8101] et seq.)], *chapter 81 of title 5, United States Code or any earlier statute on which such chapter is based*, and leaves of absence granted participants while performing active and honorable military or naval service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States. *A participant or former participant who returns to Government duty after a period of separation shall have included in his period of service that part*

*of the period of separation in which he was receiving benefits under chapter 81 of title 5, United States Code or any earlier statute on which such chapter is based.*

#### PRIOR SERVICE CREDIT

SEC. 252. (a) A participant may, subject to the provisions of this section, include in his period of service—

(1) civilian service in the executive, judicial, and legislative branches of the Federal Government and in the District of Columbia government, prior to becoming a participant;

(2) active and honorable military or naval service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States prior to the date of the separation upon which title to annuity is based or *active and honorable service in the Regular or Reserve Corps of the Public Health Service after June 30, 1960 or as a commissioned officer of the National Oceanic and Atmospheric Administration after June 30, 1961.*

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#### ESTIMATE OF APPROPRIATIONS NEEDED

SEC. 261 (a). The Director shall prepare the estimates of the annual appropriations required to be made to the fund, and shall cause to be made actuarial valuations of the fund at intervals of five years, or oftener if deemed necessary by him.

“(b) *Any statute which authorizes—*

(1) *new or liberalized benefits payable from the fund, including annuity increases other than under section 291 of this Act;*

“(2) *extension of the coverage of this Act to new groups of employees; or*

“(3) *increases in salary on which benefits are computed is deemed to authorize appropriations to the fund to finance the unfunded liability created by that statute in thirty equal annual installments with interest computed at the rate used in the then most recent valuation of the System and with the first payment thereof due as of the end of the fiscal year in which each new or liberalized benefit extension of coverage, or increase in salary is effective.*

“(c) *There is hereby authorized to be appropriated to the fund each fiscal year, beginning with fiscal year 1977 such amounts as may be necessary to meet the amount of normal cost for each year which is not met by contributions under section 211 (a).*

“(d) *There is hereby authorized to be appropriated to the fund each fiscal year such sums as may be necessary to provide the amount equivalent to (1) interest on the unfunded liability computed for that year at the interest rate used in the then most recent valuation of the System, and (2) that portion of disbursement for annuities for that year which the Director estimates is attributable to credit allowed for military service, not to exceed the following percentages of such amounts: 70 per centum for 1977; 80 per centum for 1978; 90 per centum for 1979; and 100 per centum for 1980 for each fiscal year thereafter.”*

## PART G —MONEYS

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## "RECOVERY OF PAYMENTS

"SEC. 264. Recovery of payments under this Act may not be made from an individual when in the judgment of the Director, the individual is without fault and recovery would be against equity and good conscience. Withholding or recovery of money mentioned by this Act on account of a certification or payment made by a former employee of the Central Intelligence Agency in the discharge of his official duties may be made if the Director certifies that the certification or payment involved fraud on the part of the former employee."

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## PART K—CONFORMITY WITH CIVIL SERVICE RETIREMENT SYSTEM

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## AUTHORITY TO MAINTAIN EXISTING AREAS OF CONFORMITY BETWEEN CIVIL SERVICE AND CENTRAL INTELLIGENCE AGENCY RETIREMENTS AND DISABILITY SYSTEMS

SEC. 292. (a) *Whenever the President determines that it would be appropriate for the purpose of maintaining existing conformity between the Civil Service Retirement and Disability System and the Central Intelligence Agency Retirement and Disability System with respect to substantially identical provisions, he may, by Executive order, extend to current or former participants in the Central Intelligence Agency Retirement and Disability System, or to their survivors, a provision of law enacted after January 1, 1975, which:*

(1) *amends subchapter III, chapter 83, title 5, United States Code, and is applicable to civil service employees generally, or*

(2) *otherwise affects current or former participants in the Civil Service Retirement and Disability System, or their survivors.*

*Any such order shall extend such provision of law so that it applies in like manner with respect to such Central Intelligence Agency Retirement and Disability System participants, former participants, or survivors. Any such order shall have the force and effect of law and may be given retroactive effect to a date not earlier than the effective date of the corresponding provision of law applicable to employees under the Civil Service Retirement System.*

(b) *Any provisions of an Executive order issued pursuant to this section shall modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—*

(1) *all provisions of law enacted prior to the effective date of the provision of such Executive order, and*

(2) *any prior provision of any Executive order issued under authority of this section.*

*Sec. 214. (a) An annuity payable from the Central Intelligence Agency Retirement and Disability Fund to an annuitant which is based on a separation occurring prior to October 20, 1969, is increased by \$240 per annum.*

*(b) In lieu of any increase based on an increase under subsection (a) of this section, an annuity payable from the Central Intelligence Agency Retirement and Disability Fund to the surviving spouse of an annuitant, which is based on a separation occurring prior to October 20, 1969, shall be increased by \$132 per annum.*

*(c) The monthly rate of an annuity resulting from an increase under this section shall be considered as the monthly rate of annuity payable under section 221(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note) for purposes of computing the minimum annuity under new section 221(l) of the Act, as added by section 204 of this Act.*

*Sec. 215. (a) This Act shall become effective October 1, 1976.*

*(b) The amendments made by sections 201 (a), (b), (c), and (d), 202, and 208 shall not apply in the case of participants who died before January 8, 1971. The amendments made by section 201(e) shall not apply in the case of participants who died before April 9, 1974. The rights of such persons and their survivors shall continue in the same manner and to the same extent as if such amendments had not been enacted.*

*(c) The amendment made by section 203 shall apply to a participant who married prior to enactment but only if the election is made within one year after enactment.*

*(d) The amendment made by section 210 is effective only with respect to annuity accruing for full months beginning after January 8, 1971; but any part of a period of separation referred to in such amendment in which the participant or former participant was receiving benefits under chapter 81 of title 5, United States Code, or any earlier statute on which such chapter is based shall be counted whether the person returns to duty before, on, or after January 8, 1971. With respect to any person retired before such date of enactment, any such part of a period of separation shall be counted only upon application of the retired person.*

*(e) The amendment in section 211 to credit certain service in the Public Health Service is effective as of April 8, 1960, and the amendment to credit certain service in the National Oceanic and Atmospheric Administration is effective as of September 14, 1961.*

*(f) The amendment in section 212 is effective as of June 30, 1974.*

*(g) The amendment to recompute a reduced annuity during periods when not married in section 202 shall apply to annuities which commence before, on, or after the date of enactment of this Act, but no increase in annuity shall be paid for any period prior to November 1, 1974.*

*(h) Annuity increases under sections 204 and 214 shall apply to annuities which commence before, on, or after the date of enactment of this Act, but no increase in annuity shall be paid for any period prior to August 1, 1974, or the date on which the annuity commences, whichever is later.*