



GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE  
WASHINGTON 25, D. C.

12 March 1966

Honorable Charles L. Schultze  
Director, Bureau of the Budget  
Washington, D. C. 20503

Dear Mr. Schultze:

Reference is made to the request for the views of the Department of Defense on a draft bill, "To amend the Central Intelligence Agency Act of 1949, as amended, and for other purposes."

The purpose of the proposal is to provide for technical amendments to statutory authorities pertaining to the CIA, to liberalize certain existing provisions, and to make additional provisions relating to employment conditions for civilian personnel. A number of these provisions would parallel those currently authorized for foreign service personnel; others relate to the peculiar circumstances of employment of CIA personnel.

Subject to the following comments, the Department of Defense interposes no objections to the enactment of this legislative proposal:

1. Sections 1(6)(g) would entitle persons assigned to duty with the CIA from another Government agency "for a specific period of time agreed upon by both agencies" to reemployment rights similar to those authorized by section 528 of the Foreign Service Act and section 625(b) of the Act for International Development of 1961. The Department of Defense would have no objection to this provision, provided it is clearly understood that approval for such reemployment rights must be obtained from the releasing agency prior to the transfer and that they will apply only in the case of career or career conditional employees, or employees serving in excepted positions without a specific time limitation. Also, some outside limits (such as 30 months) should be placed upon the duration of service with CIA if reemployment rights are to be retained. Further, there should be a requirement for certification by CIA as to satisfactory performance of service with that Agency to qualify an employee exercising reemployment rights to receive within-grade salary advancements and other salary adjustments to which he would have been entitled if he had remained in his previous position.

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2. In lines 6 and 7 of section 1(6)(h) the words "where such claim arises abroad" could be interpreted to apply to Territories, Commonwealths, or possessions. Since it may not be the intent of the drafters to have this result, it is suggested that the language "where the damage, loss, personal injury, or death occurs outside the United States or the Territories, Commonwealths, or possessions" be considered as a substitute for "where such claim arises abroad." Also, since the statutory limitation in 10 U. S. C. 2734 is two years, it may be desirable to include a similar provision in this bill, rather than one year.

3. Section 2(3)(a) of the bill would permit a reemployed CIA annuitant to receive the salary of his position plus so much of his annuity as would equal his CIA salary at the time of his retirement. Currently, such reemployed annuitants receive the same treatment as Civil Service retirees, with the amount of their annuities being deducted from their salaries. Section 2(3)(a) would therefore place CIA retirees in a preferred category. Also, there are large numbers of employees under the Civil Service Retirement System who may retire under the same conditions as CIA employees, and the proposed language would be even more inequitable as to these employees. It is suggested that consideration be given to eliminating section 2(3)(a) from the bill.

In addition to the above comments, it is suggested that the following technical changes be incorporated in the proposed bill.

- a. Page 1, line 4. Change "403(a)" to "403a"
- b. Page 4, line 10. Change "subsections" to "subparagraphs"
- c. Page 4, line 11. Change "paragraphs" to "subparagraphs"
- d. Page 5, lines 1 and 2. Delete "60 Stat. 808;"
- e. Page 9, line 2. Delete "50 U.S.C. 403(d) et seq.", which was the original section 4 of the Central Intelligence Agency Act of 1949, as amended; that section was repealed by section 21(b)(2) of Public Law 85-507. Substitute "section 4 et seq. of this Act". (Former original section 5 of reference Act was redesignated section 4 (sec. 21(b)(2) of Public Law 85-507).)
- f. Page 11, line 18. Section 273 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees has no subsection (c) (78 Stat. 1043).

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The conditions relied upon by CIA to support certain portions of this legislation are considered to be generally applicable to certain employees of the National Security Agency. This Department is studying this matter and, if found to be justified, will recommend such legislation as may be necessary to meet NSA requirements.

Sincerely,

A handwritten signature in cursive script, appearing to read "L. Niederlehner".

L. Niederlehner  
Acting General Counsel