

APPROVED
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THE WHITE HOUSE
WASHINGTON
October 4, 1976

ACTION

Last Day: October 9

MEMORANDUM FOR THE PRESIDENT
FROM: JIM CANNON *JDC*
SUBJECT: S. 3380 - For the relief of
Mary Vance Trent

Attached for your consideration is S. 3380, sponsored by Senator Sparkman.

The enrolled bill would increase Foreign Service retirement annuity for the beneficiary to the amount that would have been payable had she retired prior to April 1, 1974.

The enrolled bill was a State Department proposal.

Additional information is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Kilberg), NSC and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign S. 3380 at Tab B.





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

OCT 1 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 3380 - For the relief of
Mary Vance Trent
Sponsor - Sen. Sparkman (D) Alabama

Last Day for Action

October 9, 1976 - Saturday

Purpose

Increases Foreign Service retirement annuity for Mary Vance Trent to the amount that would have been payable if she had retired prior to April 1, 1974.

Agency Recommendations

Office of Management and Budget	Approval
Department of State	Approval

Discussion

In 1974, Miss Trent, a Foreign Service Officer, was assigned to the Office of Micronesian Status Negotiations in Saipan, Micronesia, which is not a regular Foreign Service post. Through no fault of her own, she was not notified of the cost-of-living increase in Foreign Service retirement annuities that became effective on April 1, 1974, until after that date and consequently did not retire in time to benefit from that annuity adjustment. The enrolled bill was a State Department legislative proposal and would increase her annuity retroactively to the amount that she would have received if she had retired by April 1, 1974.

During the time in question, Saipan was not on the State Department's mailing list for distribution of general departmental notices, and information about the U.S. Consumer Price Index and related Foreign Service cost-of-living annuity increases was not readily available from local news sources. Despite repeated requests, Miss Trent did not receive copies

of the Department's newsletter from October 1973 to May 1974, some of which contained information about the April cost-of-living increase, nor did she receive any other communications concerning that adjustment. She learned about the increase after its effective date from another Foreign Service officer traveling through Saipan.

Miss Trent was nearing retirement age and has stated that she would have retired no later than March 31, 1974, if she had received any of several notices sent to all Foreign Service posts advising employees considering retirement of the advantages of retiring prior to April 1, 1974, in order to benefit from the 6.3% cost-of-living increase effective on that date.

She did retire in August 1974, and her annuity today is some \$450 per year less than it would be if she had retired prior to April 1, 1974. The State Department reports that her financial loss will increase and that over a period of years it will amount to several thousand dollars.

Miss Trent presented her case to the Foreign Service Grievance Board which found in her favor and urged the Department of State to seek a remedy. Accordingly, on April 30, 1976, the Department submitted draft legislation on Miss Trent's behalf, in the belief that her assignment was unique and that no other Foreign Service retiree was similarly affected. The Foreign Service Retirement Act was amended by P.L. 94-350 on July 12, 1976 to permit re-computation of annuities in cases such as this, but the new provisions apply only to persons who retire in the future.

The Department of State recommends that the enrolled bill be approved, and we concur.

James M. Frey
Assistant Director for
Legislative Reference

Enclosures



DEPARTMENT OF STATE

Washington, D.C. 20520

SEP 29 1976

Dear Mr. Lynn:

In reply to Mr. Frey's request for our views and recommendations on S. 3380, an enrolled bill for the relief of Mary Vance Trent, the Department recommends approval.

The Department recommended this legislation to this Congress pursuant to a recommendation of the Foreign Service Grievance Board and with the concurrence of your office. The bill would authorize the annuity for Miss Trent, a retired Foreign Service officer, to be computed as if she had retired on March 31, 1974 rather than on the basis of her actual retirement date several months later. Because a cost-of-living increase in Foreign Service annuities became effective April 1, 1974, this change will mean an increase of about \$450 per year in Miss Trent's annuity.

Miss Trent was serving in Saipan, Micronesia in 1974 which is not a Foreign Service post and not a place where information on the U.S. Consumer Price Index is available in the local press. Despite repeated requests, Miss Trent did not receive regular administrative notices addressed to all employees abroad by the Department during the period in question. As a result, she did not learn of the Foreign Service cost-of-living April 1, 1974 adjustment until after the fact and thus did not retire until later that year.

This bill will provide an annuity to Miss Trent equal to the one she would have had if the fall-back annuity computation formula had been in effect for the Foreign Service in 1974 as it was for the Civil Service.

The Honorable
James T. Lynn,
Director, Office of Management
and Budget.

Enactment of the bill would increase the unfunded liability of the Foreign Service retirement system by about \$6,000.

We believe this bill provides appropriate and fair relief for Miss Trent and recommended that it be approved.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kempton B. Jenkins".

Kempton B. Jenkins
Acting Assistant Secretary
for Congressional Relations

Date: October 2

Time: 600pm

FOR: NSC/S
Max Friedersdorf
Bobbie Kilberg

cc (for information): Jack Marsh
Jim Connor
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: October 4

Time: 1100am

SUBJECT:

S.3380-Relief of Mary Vance Trent

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

No objection

Barry Roth 10/4

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
For the President

Date: October 2

Time: 600pm

ACTION: NSC/S
Max Friedersdorf *m.f.*
Bobbie Kilberg

cc (for information): Jack Marsh
Jim Connor
Ed Schmults

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ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

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Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

Recommend Approval. m.f.

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
For the President

MEMORANDUM

NATIONAL SECURITY COUNCIL

5537

October 4, 1976

MEMORANDUM FOR: JAMES M. CANNON

FROM: *JW* Jeanne W. Davis *WJD*

SUBJECT: S. 3380

The NSC Staff concurs in the proposed enrolled bill S. 3380-Relief of Mary Vance Trent.

FOR THE RELIEF OF MARY VANCE TRENT

JUNE 15, 1976.—Ordered to be printed

Mr. SPARKMAN, from the Committee on Foreign Relations,
submitted the following

REPORT

[To accompany S. 3380]

The Committee on Foreign Relations, to which was referred the bill (S. 3380) for the relief of Miss Mary Vance Trent, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of S. 3380 is to authorize the annuity for Miss Mary Vance Trent, a retired Foreign Service Officer, to be computed as if she had retired on March 31, 1974, rather than on the basis of her actual retirement date several months later. Because of a cost-of-living increase in Foreign Service annuities became effective on April 1, 1974, this change will mean an increase of \$450 per year in Miss Trent's retirement income. At the recommendation of the Foreign Service Grievance Board, the State Department has requested authority to make this adjustment because Miss Trent, assigned to Micronesia in early 1974 and nearing retirement, was informed too late to take advantage of the early retirement benefit.

BACKGROUND

From October 1973 to April 1974, the State Department through its Newsletter informed Foreign Service officers concerning a 6.3 percent cost-of-living increase in retirement annuities due to take effect on April 1, 1974. Because such an increase would apply to the annuities of officers who had retired even one day before, its effect was to provide an incentive for retirement on March 31, 1974.

Being assigned at the time to Saipan in Micronesia, which is not a regular Foreign Service post, Miss Trent did not receive notification

of the imminent cost-of-living increase. Had she received such notice, Miss Trent later informed the Foreign Service Grievance Board, she would have set her retirement date for March 31, 1974. Instead, failing to learn of the situation until it was too late, she retired several months later, in August.

Although the Civil Service retirement system provides for "fall back" annuity computation, the Foreign Service retirement system (as set forth in the Foreign Service Act of 1946, as amended) does not. The State Department therefore lacks authority to redress the situation and has thus proposed this special legislation regarding Miss Trent's case.

COMMITTEE COMMENT

The Foreign Relations Committee notes that this legislation would be unnecessary if the Foreign Service Act were amended so as to allow the annuities of employees who retire after a cost-of-living increase to be computed on the basis of that increase when such computation would produce a higher annuity than one computed as of the actual retirement date. Such a "fall back" provision has been included in a comprehensive Foreign Service Act amendment which has passed the Senate as a part of the Foreign Relations Authorization Act, FY 1977, and is now awaiting conference. Even if enacted, however, such a provision would apply only to persons who retire in the future, and thus not to Miss Trent.

The Committee notes further that this legislation is occasioned by unique circumstances—Miss Trent's having been outside normal information channels during the Micronesia negotiations—and is thus not likely to set a precedent.

COST ESTIMATE

It is estimated that enactment of S. 3380 would increase the unfunded liability of the Foreign Service retirement system by \$6,000.



MARY VANCE TRENT

SEPTEMBER 17, 1976—Committed to the Committee of the Whole House and
ordered to be printed

Mr. MOORHEAD of California, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany S. 3380]

The Committee on the Judiciary, to whom was referred the bill (S. 3380) for the relief of Miss Mary Vance Trent, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to provide that the annuity payable from the Foreign Service Retirement and Disability fund pursuant to Title VIII of the Foreign Service Act of 1946, as amended (22 U.S.C. 1061-1116), to Miss Mary Vance Trent, a retired Foreign Service officer, shall be adjusted and paid from its commencing date in the amount that would be payable if it had commenced April 1, 1974, disregarding service and salary earned on and after such date but basing the credit for unused sick leave on Miss Trent's sick leave balance on her actual date of separation.

STATEMENT

The bill S. 3380 is identical to the bill recommended in an Executive Communication directed to the Speaker of the House and referred to this Committee in April of this year and introduced in the House as H.R. 13941. The Department of State has therefore recommended enactment of the bill, and the communication of that Department is set out at the end of this report.

As is outlined in the Statement accompanying the State Department letter, this is a bill which provides relief to Mary Vance Trent, a retired Foreign Service officer. Relief is required because Miss Trent through no fault on her part was not notified of the cost-of-living increase that became effective on April 1, 1974 until after that date and consequently did not retire in time to benefit by that annuity

adjustment. Miss Trent did retire in August 1974, but on a lower annuity than she would have received if she had retired prior to April 1, 1974.

Miss Trent was assigned to the Office of Micronesian Status Negotiations, an interagency group with headquarters in offices of the Interior Department in Washington. The officer, however, worked in Saipan in Micronesia which is well off the beaten track especially with respect to news about the U.S. Consumer Price Index and related Foreign Service cost-of-living increases.

Micronesia, the Trust Territory of the Pacific, is under the jurisdiction of the Department of Interior. Saipan is not a Foreign Service post. Unfortunately during the time in question, it was not on anyone's mailing list for distribution of general departmental notices. The Department of State has since corrected that. Despite complaints from the officer, she did not receive any copies of the Department's Newsletter from October, 1973 to May, 1974, some of which contained information about the April cost-of-living increase, nor any other communications concerning that adjustment. She learned about the increase after its effective date from another Foreign Service officer traveling through Saipan.

Miss Trent was nearing retirement age and would have retired no later than March 31, 1974, if she had received any of several notices sent to all Foreign Service posts advising employees considering retirement of the advantages or retiring prior to April 1 to benefit from the 6.3% cost-of-living increase effective on that date. The officer did retire in August, 1974, but her annuity today is some \$450 per year less than it would be if she had retired in March, 1974. She will suffer a continuing and increasing financial loss that over a period of years will amount to several thousand dollars, unless some action is taken to remedy the situation.

Miss Trent presented her case to the Foreign Service Grievance Board. The Board, then chaired by William E. Simkin, made a finding in favor of Miss Trent on March 11, 1975. The Board concluded "that the Department has a responsibility actively to seek a means of redress for the grievance in this case, and that it should do everything in its power to bring about a means of redress." The Department lacks authority to redress this wrong. Accordingly, it has recommended enactment of this bill which would provide appropriate redress.

The State Department statement observed that the Foreign Service retirement system does not contain a provision similar to one contained in the Civil Service retirement system (Public Law 93-136), which allows annuities of employees who retire after the effective date of a CPI increase to be computed on the basis of that previous adjustment when such computation would produce a higher annuity than one computed as of the actual retirement date. If it did contain such a provision, this bill would be unnecessary.

It was also pointed out that this bill would authorize a recomputation of Miss Trent's annuity exactly as if such a provision had been a part of the Foreign Service Act at the time she actually retired. Such an amendment of the Foreign Service Act was included in S. 1791, as passed by the Senate in 1974, and is included in similar draft

legislation now pending in the Congress. However, this legislation would apply only to persons who retire in the future.

Miss Trent had a unique assignment to a remote area far outside the U.S. where Foreign Service personnel were not customarily assigned. The Department states that it knows of no other employee in similar circumstances who did not receive notification about upcoming cost-of-living increases.

It is estimated that enactment of the bill would increase the unfunded liability of the Foreign Service retirement system by \$6,000.

The committee agrees that the unique circumstances of this case justify legislative relief. It is recommended that the bill be considered favorably.

DEPARTMENT OF STATE,
Washington, D.C., April 30, 1976.

HON. CARL B. ALBERT,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: The Department recommends the attached draft bill for the relief of Mary Vance Trent, a retired Foreign Service officer, to the Congress for early and favorable consideration. Relief is required because Miss Trent, through no fault on her part, was not notified of the cost-of-living increase that became effective on April 1, 1974 until after that date and consequently did not retire in time to benefit by that annuity adjustment.

Miss Trent was serving in Saipan in 1974, which is not a Foreign Service post and not a place where information on the U.S. Consumer Price Index is available in the local press. Despite repeated requests, Miss Trent did not receive regular administrative notices addressed to all employees abroad by the Department during the period in question. As a result, she did not learn of the Foreign Service cost-of-living adjustment effective April 1, 1974 until after the fact and thus did not retire until later that year. Because the Foreign Service did not and still does not have the "fall-back" annuity computation formula in effect for the Civil Service, she is losing over \$450 per year in annuity and the loss will increase with every subsequent cost-of-living increase.

The Foreign Service Grievance Board has rendered a decision favorable to Miss Trent. The Board found that the problem arose because of a communications failure which was in no way the fault of Miss Trent. Notices intended for distribution to all employees about the April, 1974 cost-of-living increase were not forwarded to Saipan and, consequently, Miss Trent had no way of knowing about the increase. The Board also accepted Miss Trent's position that she would have elected retirement on March 31, 1974 had she been aware of the April 1 increase. Since Miss Trent was nearing mandatory retirement age, we see no reason to doubt this conclusion.

The Board formally advised the Department that it has a responsibility actively to seek a means of redress for Miss Trent and that this includes supporting necessary legislation. The Department concurs with the Grievance Board finding and is accordingly recommending favorable action on the attached draft bill.

We are advised by the Office of Management and Budget that there is no objection from the standpoint of the Administration's program

to the submission of this legislation to the Congress. We are sending a similar letter to the President of the Senate.

Sincerely yours,

ROBERT J. McCLOSKEY,
*Assistant Secretary for
Congressional Relations.*

Enclosure : Draft bill and explanation.

A bill for the relief of Mary Vance Trent

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the annuity payable from the Foreign Service Retirement and Disability Fund pursuant to title VIII of the Foreign Service Act of 1946, as amended (22 U.S.C. 1061-1116), to Mary Vance Trent, a retired Foreign Service officer, shall be adjusted and paid from its commencing date in the amount that would be payable if it had commenced April 1, 1974 disregarding service and salary earned on and after such date but basing the credit for unused sick leave on Miss Trent's sick leave balance on her actual date of separation.

○

Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,
one thousand nine hundred and seventy-six*

An Act

For the relief of Miss Mary Vance Trent.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the annuity payable from the Foreign Service Retirement and Disability Fund pursuant to title VIII of the Foreign Service Act of 1946, as amended (22 U.S.C. 1061-1116), to Miss Mary Vance Trent, a retired Foreign Service officer, shall be adjusted and paid from its commencing date in the amount that would be payable if it had commenced April 1, 1974, disregarding service and salary earned on and after such date but basing the credit for unused sick leave on Miss Trent's sick leave balance on her actual date of separation.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*