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HEARINGS BEFORE THE SUBCOMMITTEE ON COMPENSATION OF THE COMMITTEE ON POST OFFICE AND CIVIL SERVICE HOUSE OF REPRESENTATIVES NINETIETH CONGRESS SECOND SESSION ON



H.R. 7406

A BILL TO AUTHORIZE THE FURNISHING OF SUBSISTENCE AND QUARTERS OR PER DIEM ALLOWANCE TO EMPLOYEES OF THE CORPS OF ENGINEERS ENGAGED IN FLOATING PLANT OPERATIONS

H.R. 12881

A BILL TO AUTHORIZE THE PAYMENT OF ALLOWANCES TO DEFRAY COMMUTING EXPENSES OF CIVILIAN EMPLOYEES OF EXECUTIVE AGENCIES ASSIGNED TO DUTY AT REMOTE WORKSITES, AND FOR OTHER PURPOSES

H.R. 17954

A BILL TO CORRECT CERTAIN INEQUITIES AND RELIEVE CERTAIN LIABILITIES ARISING OUT OF OVERPAYMENTS OF COMPENSATION TO GOVERNMENT EMPLOYEES AS A RESULT OF ADMINISTRATIVE ERROR IN THE APPLICATION OF CERTAIN PROVISIONS OF THE CLASSIFICATION ACT OF 1949, THE FEDERAL EMPLOYEES SALARY ACT OF 1964, AND OTHER PROVISIONS OF LAW, AND FOR OTHER PURPOSES

H.R. 18630

A BILL TO AMEND TITLE 5, UNITED STATES CODE, TO PROVIDE FOR THE PAYMENT OF OVERTIME AND STANDBY PAY TO CERTAIN PERSONNEL EMPLOYED IN THE DEPARTMENT OF TRANSPORTATION

JULY 15, 19, 29, 1968

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H.R. 7406

MONDAY, JULY 15, 1968

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COMPENSATION OF THE
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9 a.m., in room 210, Cannon House Office Building, Hon. Morris K. Udall (subcommittee chairman) presiding.

(H.R. 7406 follows:)

[H.R. 7406, 90th Cong., first sess.]

A BILL To authorize the furnishing of subsistence and quarters or per diem allowance to employees of the Corps of Engineers engaged in floating plant operations

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 35, Eighty-four Congress (45 Stat. 193; 5 U.S.C. 75a) is amended by inserting the following at the conclusion of the first sentence of that Act: "In lieu of subsistence and/or quarters, a per diem allowance may be authorized for such employees when the Corps is unable to supply suitable subsistence and/or quarters or when such employees report for work but are prevented from boarding the plant because of hazardous weather conditions. Any such subsistence and/or quarters or per diem allowance shall be furnished in accordance with standards prescribed by the Secretary of the Army."

Mr. UDALL. The Subcommittee on Compensation will be in order for the transaction of the business regularly scheduled to come before us today.

The Chair will announce that these hearings were scheduled some time ago in an effort to take care of several pending bills that we had wanted to reach for many months but had not had an opportunity to get to. I had assumed today would be a good day to take care of these bills and hear a number of witnesses and at least lay the foundation for a number of them. However, I discovered on Friday that the House of Representatives is going in session at 10 o'clock today, rather than the normal time of 12 noon. A number of important bills are scheduled to come up, including several in which I am involved. In addition to that, we just learned this morning of the death of Congressman Joe Pool, a member of this committee and a close friend of mine and many others.

In the light of these circumstances, I am not sure what course of action to take. I think, knowing Mr. Pool, he would want us to go on, knowing the business of the committee should continue. I don't know what action the House will take, but when that decision is made we will then determine what course of action to take.

In the meantime, because a number of you have come here prepared to testify, we will proceed with the business regularly scheduled, and if it is necessary to change that schedule, we will make that decision later as we go along.

The first order of business will be the consideration of H.R. 7406, to authorize the furnishing of subsistence and quarters or per diem allowance to employees of the Corps of Engineers engaged in floating plant operations. Congressman Olsen, the author of the bill, will be our first witness.

TESTIMONY OF HON. ARNOLD OLSEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MONTANA

Mr. OLSEN. I am grateful to you, Mr. Chairman and members of the subcommittee, for scheduling this hearing on my bill to eliminate two inequities now experienced by certain employees of the Corps of Engineers working on dredges.

The bill was introduced in March 1967, because I am convinced Congress did not intend to require these few workers to incur financial loss under conditions totally beyond their control. A General Accounting Office interpretation now compels officers and crewmembers of these vessels to pay for their own food and lodging when these items are not supplied on a dredge in a shipyard for repairs, or when the men are prevented from boarding the dredges because of hazardous weather.

You, of course, are familiar with the longstanding policy of Congress and the executive branch reimbursing employees for necessary living expenses for travel on official business. From time to time, we have increased the maximum per diem allowance of Federal employees in order to meet changes in costs of food, hotels, and related living expenses away from home on official travel orders. The principal purpose of the bill is to prevent financial loss to dredge employees performing work directly related to official Government business, when these essentials are normally supplied to the men as the vessels are operating.

In 1955, Congress recognized that the corps should furnish the men food and quarters aboard the dredges while operating in waterways. When the ships are berthed in shipyards for inspection, overhaul, or repair, and the men are required to stand watches, but must eat or sleep ashore, it is logical and fair that the Government continue to supply the equivalent of these necessary facilities.

The same reasoning applies when officers and crewmembers report at the dock for work, but are prevented from reaching their dredge because of high seas, hurricanes, or other serious climatic disturbances.

My bill simply permits the corps to give the men a reasonable per diem allowance to meet necessary living conditions under these limited circumstances.

I understand that in the maritime industry it is a common practice for employers to defray such costs.

I urge the subcommittee to act favorably on H.R. 7406.

Mr. UDALL. Thank you, Mr. Olsen.

The next scheduled witness is Mr. Edward D. Meigs, Chief of the Regulations and Analysis Branch, Officer of Personnel Administration, U.S. Army Corps of Engineers. Mr. Meigs, if you will come forward to the witness stand we will be glad to hear from you. Let the record show you are accompanied by Mr. William R. Murden, Chief of the Plant and Supply Branch, Operations Division, Civil Works Directorate, Office of the Chief of Engineers. Is that correct?

Mr. MEIGS. Yes.

Mr. UDALL. Why don't you let him come up to the table with you and perhaps assist you in answering questions.

TESTIMONY OF EDWARD D. MEIGS, CHIEF, REGULATIONS AND ANALYSIS BRANCH, OFFICE OF PERSONNEL ADMINISTRATION, U.S. ARMY CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY; ACCOMPANIED BY WILLIAM R. MURDEN, CHIEF, PLANT AND SUPPLY BRANCH, OPERATIONS DIVISION, CIVIL WORKS DIRECTORATE, OFFICE OF CHIEF OF ENGINEERS

Mr. MEIGS. Mr. Chairman and members of the subcommittee, I am Edward D. Meigs, Chief of the Regulations and Analysis Branch, Civilian Personnel Division Office, Chief of Engineers, Department of the Army. I have been designated to present the views of the Department of the Army on H.R. 7406. With me is Mr. William Murden, Chief, Plant and Supply Branch, Operations Division, Civil Works Directorate, Office, Chief of Engineers. We have a brief prepared statement which I would like to present to the committee.

The purpose of this bill is to amend Public Law 35, 84th Congress (69 Stat. 48), so as to provide for the payment of a per diem allowance to employees of the Corps of Engineers engaged in floating plant operations in lieu of subsistence and/or quarters when the corps is unable to supply such subsistence and/or quarters, or when such employees report for work but are prevented from boarding the plant because of hazardous weather conditions.

The views of this Department were recently furnished the chairman of the committee by letter from the Secretary of the Army. As stated therein, this Department favors enactment of this bill if it is amended to apply to employees of hopper and side-casting dredges, under circumstances beyond the control of the employees.

It is believed that the language as proposed in H.R. 7406—that is, to cover the broad term “floating plant”—would be too general and would not relate to the specific area where we have had inequities and problems of administration in the past. For example, the term “floating plant” as used in the Corps of Engineers covers all types of floating equipment, from small outboard motorboats to large vessels, such as hopper and side-casting dredges.

It is only on the large dredges that a problem has been encountered. The Corps of Engineers operates 16 hopper dredges, and two side-casting dredges, with a total personnel complement of approximately 1,200 employees. Under authority of Public Law 84-35, free subsistence and quarters are furnished these employees while they are working aboard the dredges.

The problem has resulted because these vessels must operate on extended schedules, such as 24 hours per day for at least 5 days per week, and often on a 7-day-per-week schedule. The crew complement for most of these vessels is large, varying from 50 to 125. Under this type of schedule, it is necessary to use separate crews on a rotating shift basis, with crew changes occurring every 5 to 12 days. Crew changes frequently require transportation of the crew by launch from a designated pickup point, to the dredge whenever the dredge cannot use a

berth or dock. Under adverse weather conditions, such as heavy fog or severe storms, it is impracticable to transport the crew to the dredge to begin its shift. Under these or similar circumstances beyond the control of the employees, there has been no authority to furnish an allowance in lieu of furnishing subsistence and quarters that are available to them on the dredge. The crewmembers have had to obtain food and lodgings at their own expense in available public accommodations, until transportation could be furnished.

The nature of dredging operations is such that these vessels must receive a major overhaul approximately every 12 to 18 months. Since these are large vessels essential to maintaining navigable depths in major harbors of the United States, every effort is made to arrange an overhaul schedule to return them to service in the shortest possible time. Thus, it is sometimes necessary to schedule repairs to the galley, messing, and quartering facilities simultaneous with the repairs to the hull and the operating machinery. During these periods, crewmembers assisting in the overhaul must provide their own food and/or lodgings in public accommodations, since it is not possible to use the messing and quartering facilities aboard the vessel.

Attempts have been made to resolve the problem under existing laws. However, the specific language of Public Law 84-35 authorizes the furnishing of free subsistence and quarters only "on vessels." Thus, it could not be used to authorize an allowance off the vessel. The possibility of considering the employees in travel status and eligible for per diem under the Travel Expense Act of 1949 was presented to representatives of the General Accounting Office, where it was determined that such action was inappropriate. The establishment of an allowance under the authority of the Army-Air Forces wage board was also considered by representatives of the General Accounting Office. However, the establishment of such an allowance was determined to be beyond wage board authority. Thus, it appears that the solution is new legislation. As a matter of interest, the Chief of Engineers was developing a similar legislative proposal at the time H.R. 7406 was introduced.

In summary, it is recommended that the proposed legislation be favorably considered, modified as follows:

To authorize the furnishing of subsistence and quarters without charge to employees of the Corps of Engineers engaged in floating plant operations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That Public Law 35, Eighty-fourth Congress (69 Stat. 48) is amended by substituting the following at the conclusion of the first sentence of the Act: "Where circumstances beyond the control of the employee prevent the furnishing of such subsistence and quarters on hopper and side-casting dredges, an appropriate allowance in lieu thereof may be established and paid. Any such subsistence and/or quarters or allowances in lieu thereof shall be furnished in accordance with standards prescribed by the Secretary of the Army."

We have furnished with our statement, for ready reference, a copy of the existing Public Law 84-35, with the proposed modification inserted as italic material.

Under the legislation proposed, the Chief of Engineers would recommend that the Secretary of the Army establish allowances generally comparable to per diem under the Travel Expense Act of 1949. Under the circumstances outlined above, with the variety of possible com-

bination of situations—that is, quarters furnished without meals, meals furnished without quarters, allowance for a limited number of meals—the direct application of the Travel Expense Act is cumbersome and in some instances not applicable to specific situations which could occur.

It is estimated that the cost resulting from such legislation would range from \$35,000 to \$65,000 per year, depending upon the frequency and type of repairs actually performed and the adverse weather conditions encountered.

This concludes my statement, Mr. Chairman, and I shall be happy to try to answer any questions you may have on this matter.

(The following was submitted for the record:)

PUBLIC LAW 35, EIGHTY-FOURTH CONGRESS (68 STAT. 48)

AN ACT To authorize the furnishing of subsistence and quarters without charge to employees of the Corps of Engineers engaged on floating plant operations

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of section 3 of the Act of March 5, 1928, employees of the Corps of Engineers, Department of the Army, engaged on floating plant operations may be furnished subsistence and/or quarters on vessels without charge whenever messing and/or quartering are determined to be equitable to the employees and to be necessary in the public interest in connection with such operations. Where circumstances beyond the control of the employee prevent the furnishing of such subsistence and quarters on hopper and side-casting dredges, an appropriate allowance in lieu thereof may be established and paid. Any such subsistence and/or quarters or allowances in lieu thereof shall be furnished in accordance with standards prescribed by the Secretary of the Army.

(Suggested modifications to the legislation proposed in H.R. 7406 are shown in italic.)

Mr. UDALL. That is a very good statement, Mr. Meigs. I think you get right at the important issues involved.

I am not sure I understand, however, the difference between your proposal and the proposal of Mr. Olsen. Is yours more flexible so that there could be a different variety of payments for quarters and subsistence?

Mr. MEIGS. It is less flexible with respect to the particular employees to which it would apply. In other words, we are not applying it to all employees but to employees of hopper and side-casting dredges. It is more flexible in regard to the circumstances. In other words, there may be other circumstances in which the same conditions would prevail, but we don't know what they are, so in that respect we tend to make the bill broader.

Mr. UDALL. We have relatively few ocean ports in Arizona or dredges, but what is a hopper dredge and what is a side-casting dredge? What is the distinction?

Mr. MEIGS. Could I have Mr. Murden explain that?

Mr. UDALL. Yes; Mr. Murden.

Mr. MURDEN. A hopper dredge is a seagoing vessel and it derives its name from the fact it dredges material from the bottom of the sea to the hopper itself. It usually operates in main ocean channels such as New York and San Francisco. The material is then taken to sea or disposed of. In a side-casting dredge the material is pumped out of a boom offshore.

Mr. UDALL. I have seen them and I understand.

Explain this to me: You have a dredge in San Francisco Harbor or San Francisco Bay 20 miles away somewhere at work. A crew reports to the dockside to be taken to the dredge by launch and there is fog and they can't go out. They might have to wait a day or 2 days before you can get them to the dredge. The bill would provide relief in those circumstances for an allowance so they could go to a motel or have money to buy their food or, if you had a Government facility nearby, you could perhaps provide them quarters and subsistence. Why would the crew have to stay at the wharf? If they live nearby couldn't they go home?

Mr. MURDEN. A hopper dredge is often required to travel considerable distances. We have one of these dredges in Vietnam now, and recently had two.

Mr. UDALL. It would be difficult for them to go home.

Mr. MURDEN. Sometimes they could go home but these hopper dredges travel considerable distances at times.

Mr. UDALL. If their home were nearby they could go home and wait until weather conditions were favorable enough for them to be transported by launch to the dredge, but the purpose of this bill is to cover circumstances when this is not feasible?

Mr. MEIGS. That is correct.

Mr. UDALL. I think I understand the legislation. It seems to me to make considerable sense. The cost is not large and I am glad you and Corps of Engineers and Mr. Olsen are both working on it at the same time. Maybe we can consider both proposals and come up with something that is equitable and fair. Thank you very much.

Mr. MEIGS. Thank you very much.

Mr. UDALL. The next scheduled witness is Mr. John McCart, operations director of the Government Employees' Council of the AFL-CIO. John, you have with you Mr. Bernard Winstock, legislative representative of the National Marine Engineers Beneficial Association, and Mr. Carl Sadler, legislative representative of the American Federation of Government Employees. Do you have anyone else?

Mr. McCART. Yes. We have President John F. Griner of the American Federation of Government Employees.

Mr. UDALL. I have seen that face somewhere.

Mr. McCART. And Mr. Stephen Koczak, assistant director of research of the American Federation of Government Employees; and Tal Simpkins, AFL-CIO Maritime Committee.

Mr. UDALL. The Chair is duly impressed.

Mr. McCART. I wanted to explain this large number of witnesses. It is not designed to simply impress you with numbers but to expedite the hearing, Mr. Chairman. I am very pleased that all of us are joining together in making a presentation to you. As you know, my statement is quite brief. I would like to present it to you and then ask the representatives of the other two organizations if they have anything else they would like to offer.

Mr. UDALL. We will be happy to hear from you in any way you see fit.

TESTIMONY OF JOHN A. McCART, OPERATIONS DIRECTOR, GOVERNMENT EMPLOYEES' COUNCIL, AFL-CIO; ACCOMPANIED BY JOHN F. GRINER, NATIONAL PRESIDENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES; BERNARD WINSTOCK, LEGISLATIVE REPRESENTATIVE, NATIONAL MARINE ENGINEERS BENEFICIAL ASSOCIATION; TAL SIMPKINS, AFL-CIO MARITIME COMMITTEE; CARL SADLER, LEGISLATIVE REPRESENTATIVE, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES; AND STEPHEN A. KOCZAK, ASSISTANT DIRECTOR OF RESEARCH, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

Mr. McCART. Under existing law (Public Law 35, 84th Cong., May 13, 1955), the Corps of Engineers may provide subsistence and quarters to officers and crewmembers only when the corps' floating plant equipment is in actual operation. The statute has been construed by the Comptroller General as limiting food and lodging to this condition alone.

During the course of a year, these dredges must report to a shipyard for inspection and necessary repairs. Certain members of the crew are required to remain on board to perform necessary maintenance and to protect Government property.

In some instances, the crew is able to continue sleeping and taking their meals aboard the vessel. However, there are times when the nature of the repair work necessitates discontinuing these services, or the corps determines that it would be uneconomical to maintain steward's facilities. In these cases, employees must provide sleeping quarters and food at their own expense.

Often, the vessel is berthed in a shipyard located many miles away from the homes of officers and crewmembers.

The bill permits the corps to supply employees a per diem allowance for sleeping accommodations and meals when they are not available aboard the floating plant.

The second remedy in the bill corrects the inequity resulting from conditions completely beyond the control of the employees in question.

Occasionally, crewmembers return to the boat landing prepared to report to work, but are unable to board a vessel because of serious adverse weather conditions. They must then obtain food and lodging at their own expense until the weather subsides.

H.R. 7406 will correct these deficiencies, which we believe Congress did not intend when it enacted the subsistence and quarters statute.

The Government Employees' Council and its affiliated unions strongly urges favorable action by the subcommittee on the pending bill at an early date.

Mr. Chairman, perhaps President Griner has a comment he would like to offer on behalf of his organization.

Mr. UDALL. Very well. Mr. Griner?

Mr. GRINER. Mr. Chairman, we endorse this bill wholeheartedly. However, we don't believe it goes far enough. We would like to see this bill amended in order to take care of a situation that happens almost daily.

As the largest organization of Federal employees, representing more than 405,000 employees under exclusive collective bargaining agree-

ments and with a paying membership exceeding 285,000, the American Federation of Government Employees has an active continuing interest in matters of compensation, including per diem and subsistence and quarters.

We are therefore most grateful that the chairman of this subcommittee has scheduled hearing on H.R. 7406, introduced by Representative Arnold Olsen, to eliminate the vestiges of inequity in the payment of "subsistence and quarters or per diem allowance to employees of the Corps of Engineers engaged in floating plant operations."

We endorse the bill without reservation. Certainly, any employee who reports to work and is prevented from boarding the plant solely because of hazardous weather conditions is not at fault. In most of these cases, moreover, we have found that the employees themselves might have hazarded the dangers involved but the Army Corps of Engineers (that is, the employer) was not willing to provide the transportation, because of the hazards involved.

Since the time this bill was introduced on March 16, 1967, another very serious matter has been called to our attention respecting the inequities to which these Corps of Engineers employees are often subjected, especially if they are members of crews serving on mobile dredges. We should be most grateful, therefore, if your subcommittee, in considering Representative Olsen's bill on subsistence, quarters and per diem or another bill, H.R. 12881, on commuting to "remote work-sites," introduced by Representative Charles H. Wilson, would deal also with this other problem.

To illustrate the problem in concrete terms, I should like to cite the case which exists in the Philadelphia district. It is typical of other districts and thus will serve as a representative example.

The dredges in that district have a normal geographical work area that extends from Trenton, N.J., in the north to the mouth of Delaware Bay in the south. This is therefore also the extent of the "normal commuting area" for the crews which work aboard the dredges.

Yet on many occasions the dredges are removed from this normal work and commuting area to places as far north as Bangor, Maine, and as far South as Norfolk, Va. The crew on board the dredge at the time on its normal 10-day shift is therefore simply removed, with the dredge, from its normal commuting area. The crew already off the dredge, taking its 4-day normal shift-off, simply has to catch up with the dredge by commuting to the new area. For this trip, it is paid. However, the crew on board, when its own 4-day-off shift begins, finds itself sometimes hundreds of miles away from its normal commuting area. Many of these men therefore often find that, for financial reasons, they cannot visit their families for months because of the cost of going home.

We are hopeful that your subcommittee could solve this problem without too much cost to the Government and, yet, with a sense of simple justice to these men. We would therefore appreciate your subcommittee considering sympathetically the following simple proposal, which we have written provisionally in draft language which might be simply added to H.R. 7406, or alternatively, to H.R. 12881. In other words, I believe the language would apply to both.

The language we are proposing follows :

Whenever a Federal employee, to include employees of the U.S. Army Corps of Engineers working on dredges, finds that the vessel on which he is working is removed more than fifty miles from its normal station and is outside the normal commuting area, that employee shall be paid a special commuting allowance to be able to return, at least once a month, to the normal station or commuting area of the vessel, ship or installation.

The rate of compensation shall be determined by the distance the vessel was removed from its normal station or commuting area.

When the distance away from the normal station is more than fifty miles but less than 125 miles, the employee shall be reimbursed for travel costs at a rate not to exceed the round-trip fare of rail or bus travel, whichever is lower. In the event the employee travels collectively with others by privately owned vehicle, a pro-rated compensation will be paid to him depending on the number of passengers carried.

When the distance away from normal station is more than 125 miles, the employee shall be reimbursed for travel costs at a rate not to exceed the minimum round-trip air fare. If the employee chooses to travel by rail or bus, he shall be reimbursed only for actual expenses. If he travels by privately owned vehicle, a pro-rated compensation will be paid to him, depending on the number of passengers carried.

Every employee will become eligible for this compensated commuting allowance at his very first tour of off-duty following the departure of his vessel from its normal station. Thereafter, the employee will become eligible for additional commuting allowances every other subsequent tour of off-duty, provided that no more than twelve such compensated commuting allowances may be authorized to be paid to him in any fiscal year.

Though realizing that there are probably many flaws in the specific language of our draft proposal, we have presumed to submit it in this form in the hope that it might prove, nevertheless, useful as a point of departure to this subcommittee.

In closing we wish again to express our appreciation to Representative Morris Udall and to the other members of this subcommittee for scheduling hearings on this subject and for giving us the opportunity to testify today.

Mr. UDALL We will consider the alternate language you propose.

Mr. GRINER. It is additional language rather than alternate language. The bill as written is fine but we don't think it goes far enough and I certainly agree with the administration's viewpoint that hopper dredges are the main thing we are disturbed about so far as this organization is concerned.

Mr. UDALL Thank you.

Mr. McCART. I think Mr. Winstock would like to add a few words.

Mr. UDALL. Very well, Mr. Winstock.

Mr. WINSTOCK. Thank you.

We will agree that as far as the National Marine Engineers Beneficial Association is concerned, actually the hopper dredges are the vessels in question. I am speaking today on behalf of the AFL-CIO Maritime Committee as well as the officers on the ships.

What Mr. Griner said is quite true. For example, the Dredge *Merit* operated by the Wilmington, Del., district, has been operating off the Atlantic coast in Atlantic City and around that area. For the men to get home is almost impossible. But that is a mild example. The Dredge *Hyde* operates between New York and Jacksonville and the men work 10 days and have 2 days off. The cost of transportation is prohibitive for a man to go home for his 2 days off. If the ship operates in an area like Fire Island, it means putting the men on a launch and putting them ashore. I was on an inlet about 50 miles below Atlantic City. The

launch leaves the men ashore at a Coast Guard station in a little town 50 miles from any transportation. They can get a bus there. These conditions prevail in the Corps of Engineers. There is no such thing as saying this particular dredge belongs to the New Orleans district or to the Galveston district. The dredges in the Galveston district operate out of Port Arthur, hundreds of miles from the homes of the men.

So that, as Mr. Griner pointed out, it is true that in many cases the men cannot actually get home. Those who apply for a job are told they can go home every night, and every couple weeks they can go home for 4 days off to be with their families.

Mr. UDALL. When a vessel is moved 1,000 miles to a certain area, is it customary for the men to stay there a couple months or so, so that their families can be moved there?

Mr. WINSTOCK. Generally it would be there a month or 2 months or perhaps just 1 or 2 weeks. They just move them to do a specific job. Then they will be moved to another area. Some dredges operate in a predictable area practically all the time. Others are moved around for the most part. These schedules may be changed at any time. In other words, they send us a schedule showing what the operations will be for a period of 6 or 7 months. This is not a guaranteed schedule. The men may be told they will be operating in New York Harbor for 2 or 3 months, but if something of an emergency nature should come up in North Carolina the corps would send the dredge where they can do the job.

Mr. UDALL. I can sympathize with them. We in Congress don't have any idea from one week to the next what our schedule will be. In fact, there is a similarity between Mr. Griner's proposal and the situation Congressmen find themselves in, which is the reason it was felt they should have a paid trip home after serving here for a while.

Mr. WINSTOCK. By law, the Government gets bids on jobs that have to be done. In other words, the corps cannot say, "This is a Philadelphia ship and we will put it in a Philadelphia yard," or "This is a New York ship and we will put it in a New York yard." The jobs are open for bids. Private yards will bid on the jobs. The lowest bidding yard will get the job.

When a ship will be in a yard for a considerable period of time, the corps will ask the men to take their vacation to coincide with its being in the yard, and to a great extent they do this, but there are certain key officers that the corps does not give that privilege to. I have no quarrel with that because there has to be some responsible supervision of all this money that is being spent. This means the officers on the ships should be there to supervise the work and also certain key personnel among the unlicensed who are necessary.

We have had cases where ships have been as long as 2 months in the shipyards and the Government has requested that certain people stay on those ships, and they have had to pay their own food and lodging because none has been provided. As a result, these people have had to pay out money they can't afford. All this bill will do is correct that inequity. And it is only in this area. In other cases where a private ship goes in a shipyard, the operator of the vessel is responsible for the upkeep of the people who stay on the ship.

Mr. UDALL. You support not only the original bill but the addition Mr. Griner spoke of?

Mr. WINSTOCK. Yes; we do.

Mr. UDALL. This is a little bit out of order, but let me ask Mr. Meigs this: Have you been aware previously of this additional proposal of Mr. Griner's?

Mr. MEIGS. We are aware of the situation. We were not aware of the legislative proposal. Actually, it has a lot of ramifications and would require study before we could come to a position on it.

One point I might make is we would not think it would be possible for H.R. 7406 to deal with the situation, because it has to do basically with subsistence and quarters on the vessels. We would have to develop our position on other points.

The circumstances these gentlemen have described are basically the operating circumstances. This is why it is necessary to furnish subsistence and quarters aboard the vessels because the vessels are basically the homes of the individuals.

I might say I am not sure I would agree with the statement made as to the extent to which we hold out the bright lights to induce the men to come on board.

Mr. UDALL. Can you give me an estimate of the cost of Mr. Griner's proposal?

Mr. MEIGS. No; I cannot. It is substantial and would require a careful analysis.

Mr. UDALL. And probably it would require some judgment by the Bureau of the Budget before you could take a stand on it?

Mr. MEIGS. Yes.

Mr. UDALL. Who is next, Mr. McCart?

Mr. MCCART. Mr. Bernard Winstock, Mr. Chairman.

Mr. UDALL. You may proceed Mr. Winstock.

Mr. WINSTOCK. I am Bernard Winstock of the National Marine Engineers Beneficial Association. I am appearing today on behalf of the AFL-CIO Maritime Committee.

First of all, Mr. Chairman, we want to express our appreciation to you for scheduling this hearing and, secondly, for giving us the opportunity to testify. Our testimony in support of H.R. 7406 will be brief.

It is our belief that H.R. 7406 is intended to correct an inequity that exists nowhere else in the Federal service.

As you know, Public Law 35 of the 84th Congress authorized the Corps of Engineers to furnish subsistence and quarters to employees engaged on floating plant operations.

About 1964, the General Accounting Office informally ruled that the subsistence and quarters could only be provided on the vessel. This informal ruling has been followed by the Corps of Engineers. By so doing, they have created the inequitable situations which are outlined below.

When the Army directs certain vessels into the shipyard for repairs or overhauls, they also assign certain personnel to the vessel to make sure that the work is done properly by people who are competent and knowledgeable about the ship. These people will also do certain work themselves during this period. In many situations it is impossible to provide subsistence and quarters on the vessel during this time. The men then have to provide subsistence and quarters (at their own expense). They are in the yard because they have been so directed; and, if they were employed under the same situation by any other Federal agency, they would receive travel and allowances.

When the ships go into the shipyards, chances are they are not even close to where the people reside, thereby precluding them from going home at night. This is true because the crew on these ships are from various parts of the country and, when the ship is in a shipyard, it is in the one that has submitted the lowest bid, which could be anyplace on the east coast.

Another situation arises when the crewmembers would be ashore and could not get aboard because of adverse weather conditions. This has happened more than once. In these situations, the corps has wanted to pay the subsistence, but has been unable to do so because of the above-mentioned ruling.

Because these employees are required to provide their own subsistence and quarters in these situations, it is the only situation that we are aware of where a civil service employee is required to do so.

Again we thank you, Mr. Chairman, and ask that you and your committee take expeditious action to correct these inequities.

Mr. McCART. Mr. Tal Simpkins of the AFL-CIO Maritime Committee may wish to add a few words.

Mr. SIMPKINS. I would suggest you would not want to make this bill too restrictive as applying to hopper dredges and side-casting dredges because in 2 or 3 years you may have another name for a dredge. The bill does say "necessary in the public interest," which would appear to me to control the situation.

Mr. UDALL. That is a good point.

Mr. McCART. Mr. Sadler, do you want to add anything?

Mr. SADLER. I reiterate and agree wholeheartedly with Mr. Griner's statement.

Mr. GRINER. There is one thing I would like to call your attention to. Corps of Engineers representatives, by what they have said, have substantiated the need for this additional legislation. I didn't think the situation was as bad as they say it is. They say it would cost a considerable amount of money. I don't think so. We represent several dredges throughout the country, one in the Great Lakes, two in Philadelphia, one down South, there are five or six of them altogether. We do know occasionally when they go out they have been out as much as 6 months. On the other hand, when they leave these principal ports they are usually not out more than a week or 2 or 3 weeks. I am rather surprised at the way these people are being abused. I don't think we should let this go by. Let us include in this bill whatever is necessary because if we don't we will have years to wait.

Mr. UDALL. We appreciate your advice. Thank you all for helping us this morning.

Mr. McCART. Thank you very much.

Mr. UDALL. The next scheduled witness on H.R. 7406, is our old friend, Mr. Nathan Wolkomir.

**TESTIMONY OF NATHAN T. WOLKOMIR, PRESIDENT, NATIONAL
FEDERATION OF FEDERAL EMPLOYEES, ACCOMPANIED BY
BENJAMIN HINDEN, LEGISLATIVE REPRESENTATIVE**

Mr. WOLKOMIR. Thank you.

For the record my name is Nathan T. Wolkomir. I am President of the National Federation of Federal Employees, the pioneer and the

largest of all independent general unions of Federal employees. To my right is Benjamin Hinden from our legal staff.

For purposes of expediency we did combine in our statement our position on all three bills scheduled to come before this subcommittee this morning. I will confine my remarks at this time to H.R. 7406. We concur with the testimony you have received so far 100 percent. We, too, represent members of the Corps of Engineers, primarily in the western areas, including Arizona, where the Colorado River wends its way, and those experiences you have heard are applicable to our people there, too.

Our organization has a long and consistent record of support of constructive legislation for Federal employees.

The subcommittee is addressing itself at this time to H.R. 7406, a bill to authorize a per diem allowance to employees of the Corps of Engineers engaged in floating plant operations when the Corps of Engineers is unable to supply suitable subsistence and/or quarters or when such employees report for work but are prevented from boarding the plant because of hazardous weather conditions. When dredges (plants) of the Corps of Engineers are in dock for repairs away from the home port, the employees may not be permitted to remain aboard and the galley may be shut down. Under such circumstances it is only fair and equitable that they be paid a per diem allowance since the Corps of Engineers is unable to furnish suitable subsistence and/or quarters. In this situation the employees have to pay out of their own pockets under existing law for their subsistence and/or quarters. Also, when employees report for work on the dredges but are prevented from boarding the dredges because of hazardous weather conditions, they should be paid a per diem allowance. If they had been able to board the dredges, they would have been supplied with subsistence and quarters. Thus, under such conditions a per diem allowance is fully justified. Mr. Chairman, we strongly support the enactment of H.R. 7406 which has for its objective the correction of these obvious and unwarranted inequities.

In our experience, our people who work on the plants may travel from Portland to San Francisco and sometimes they are away from their homes for months or weeks. We are appreciative, however, of the Department of the Army's stand that mobility is a condition of employment for these people. The small inequities sometimes become gross because of certain conditions. Right now we are going through a trial at Blythe, Calif., on the Colorado River. Under exclusive recognition for groups of these individuals both in Portland, Oreg., and Blythe, Calif., NFFE was informed that they will be moving both dredges and floating plants because of the needs of the Department of the Army and/or Bureau of Reclamation. This presents a burden that I don't think has been presented. Normally they are assigned for a year should be paid a per diem allowance. If they had been able to board or 2 years and know they will be in this home environment for a while. They move their families and their children go to the schools in that environment. Sometimes the dredges may move for a long period of time to move from California to New Mexico and this is an additional hardship because of the cost of the move, which may not be a functional transfer. This is a condition I think the committee should also analyze before the bill is enacted.

I think this generally concludes our statement on H.R. 7406, and we appreciate this opportunity to give the position of the National Federation of Federal Employees.

Thank you very much.

Mr. UDALL. Thank you.

The Chair is in a little bit of a quandary. I had hoped to complete the testimony on all of these bills today so that possibly action could be taken before Congress adjourns. I am told by the staff that the Speaker's Office has still not made a decision as to whether the House will consider any business today. The rules of the House prohibit me from continuing these hearings once the House goes into session. It may be that within a half hour or an hour we will have completed the business of the day in the House so that we may have an opportunity to complete the testimony scheduled for today. On the other hand, it may be that we will be unable to continue hearings today. We have concluded the testimony on H.R. 7406. We have Mr. Wolkomir, Mr. Griner, and Mr. Barclay here to testify on the other two bills scheduled for today. What I propose tentatively is to make a decision some time before 12 noon whether or not to go on this afternoon. If the House is not going to be transacting business this afternoon we could meet again at 1:30 and finish the other two bills.

Is there anyone else here scheduled to appear on these other bills who would be unable to be back at 1:30 if we could do so?

Mr. WOLKOMIR. With your kind permission, we would like to have our statement made a part of the record and be excused from appearing this afternoon.

Mr. PETTIS. I wonder if I may have the same privilege, so that it could be in the record?

Mr. UDALL. Let me say to my colleague that if we are unable to meet this afternoon we would probably schedule these hearings later this week. In that event, would you like to appear in person?

Mr. PETTIS. I would prefer to appear in person, but if you meet this afternoon I would like my statement made a part of the record.

Mr. UDALL. That will be done. We will leave it this way: If we are to meet this afternoon you will be called by 12 o'clock. In other words, a decision will have been made one way or the other by 12 o'clock, but tentatively we will plan to meet at 1:30 to complete the testimony on the other bills. Mr. Pettis will be the first witness if we have the hearing this afternoon. If the House decides to go on with the transaction of business this afternoon, we will fix a definite date in the future to continue the hearings.

With that understanding, the subcommittee will stand adjourned.
(Thereupon, at 10:05 a.m. the subcommittee adjourned.)

H.R. 12881 AND RELATED BILLS

FRIDAY, JULY 19, 1968

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COMPENSATION OF THE
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:15 a.m. in room 210, Cannon House Office Building, Hon. Morris K. Udall (subcommittee chairman) presiding.

Mr. UDALL. The subcommittee will come to order for consideration of business scheduled before it today.

The first order of business will be the hearing on H.R. 12881 by Mr. Wilson, of California.

There are similar bills by Congressman Pettis, H.R. 10342, and Congressman Reinecke, H.R. 18400. These are bills to authorize the payment of allowances to defray commuting expenses of civilian employees of executive agencies assigned to duties at remote worksites, and for other purposes.

(H.R. 12881 follows:)

[H.R. 12881, 90th Cong., first sess.]

A BILL To authorize the payment of allowances to defray commuting expenses of civilian employees of executive agencies assigned to duty at remote worksites, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding section 1765 of the Revised Statutes (5 U.S.C. 70), each civilian employee in the executive branch of the Government who is assigned to duty (other than temporary duty) at a site so remote from the nearest established communities or suitable places of residence as to require an appreciable amount of expense, hardship, and inconvenience on the part of the employee in commuting to and from his residence and such worksite, shall be paid, in accordance with regulations prescribed by the President, in addition to the rate of compensation for his position, an allowance of not to exceed \$10 a day. Such regulations shall establish the rates at which the allowance is to be paid and shall define and designate those sites, areas, and groups of positions to which such rates shall apply.

Mr. UDALL. The first scheduled witness this morning is our colleague and a member of this committee, Hon. Charles Wilson, from the State of California.

TESTIMONY OF HON. CHARLES H. WILSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. WILSON. I appreciate very much the opportunity which you have given me to testify in favor of the bill, H.R. 12881, which I introduced in the House on September 13, 1967.

As the title of the bill states, it is designed to authorize the payment of allowances to defray commuting expenses of civilian employees of

executive agencies assigned to duty at remote worksites, and for other purposes.

My awareness of the serious conditions of hardship, injustice and inequity involved in this matter was provoked by letters which I received from employees working at Fort Irwin, located in California.

I should like to relate some of the problems, as reported to me, which exist at Fort Irwin. I believe a good many of these problems would be corrected in part by H.R. 12881.

Because of the remoteness of Fort Irwin from any habitable community, employees must commute an average—and I emphasize the word average—of 108 miles per day, spending about 2½ hours average travel time to and from the nearest communities of Barstow, Lenwood, Daggett, Hinkley, Yermo, Newberry, Helendale, Hesperia, and Victorville-Apple Valley, Calif.

The access to Fort Irwin from these communities is over desert roads. Cars break down, and they need special maintenance; the health of employees is affected in the absence or the breakdown of, air conditioning.

The exceptional hardships of access to Fort Irwin have been minimized by some of the Federal and local government or private authorities. I should like to list some of the facts which have been brought to my attention:

In the first instance, NASA-Goldstone Tracking Station, itself located at Fort Irwin, allows for extra pay to all of its own employees and furnishes air-conditioned automobiles to transport them to and from their homes in Barstow and its vicinity.

Postal employees of Barstow California Post Office are allowed government time to travel to and from their Fort Irwin, California Post Office in Post Office vehicles.

Private employees who work on the Federal Government contract projects which are let at Fort Irwin-Goldstone area receive extra and supplemental payments above their regular hourly pay for working in this "hardship" area.

In order to maintain any kind of elementary education for dependent children of the military personnel stationed at Fort Irwin, the Department of the Army has gone so far as to provide air-conditioned quarters on the post for all schoolteachers, from kindergarten through the eighth grade, who agree to teach there.

Why, then, should not all Federal employees, not just postal and NASA employees, have relief from these exceptional hardships?

Additionally, further evidence indicates that the Federal Government itself is seriously harmed by this condition because of the very bad morale, low efficiency and high turn-over in personnel. To illustrate, I should like to read into the record an excerpt from a letter written on January 26, 1968, by William H. Hall, DAC, the comptroller at Fort Irwin, Calif., in answer to the request of one of the employees there for release to accept employment elsewhere. The excerpt follows:

This installation has a major problem in both the hiring and retention of qualified civilian personnel due to its isolated position and this fact is always cited by visiting inspectors and auditors. Fort Irwin's civilian turnover rate runs about 35 percent * * *.

These facts, I believe, are sufficient to suggest that some solution is urgently needed. I understand that when similar situations were called to the attention of Congress, specifically in connection with the Nevada atomic test site and in connection with employees assigned to duty on the California offshore islands, remedies specifically directed to those situations were provided by Congress.

My bill, H.R. 12881, is directed however not only to correcting the situation at Fort Irwin but also toward providing a general framework which would allow statutory remedies to be applied to any other similar cases which might arise.

Mr. UDALL. Thank you for a very helpful statement.

The next witness will be our colleague, Hon. Jerry L. Pettis, from the State of California.

Congressman Pettis, we are happy to have you here.

You may proceed and endeavor to enlighten this learned committee.

Mr. PETTIS. Thank you, Mr. Chairman.

I now know what it means to be a one-man band. You are it.

TESTIMONY OF HON. JERRY L. PETTIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. PETTIS. Mr. Chairman, members of the committee, I greatly appreciate the opportunity to appear before you to testify in support of my bill, H.R. 10342, which would authorize the payment of allowances to defray commuting expenses of civilian employees assigned to duty at remote worksites.

I cannot emphasize enough the importance of this legislation, especially to the people involved at Fort Irwin, Calif., where the average round trip from residence to Fort Irwin is 108 miles. In fact, in some instances, employees are commuting as much as 260 miles round trip per day. These employees travel to and from the communities of Barstow (76 miles); Lenwood (82 miles); Daggett (92 miles); Hinkley (92 miles); Yermo (94 miles); Newberry (130 miles); Helendale (112 miles); Hesperia (146 miles); and Victorville (132 miles). Inasmuch as there are no adequate living facilities closer to the worksites, the employees have no alternative but to spend up to 2½ hours average per day in traveling to and from work.

Besides the time element, I would like to mention here that the roads are not the best. For instance, the access road from Barstow to Fort Irwin is a narrow, two-lane black top pavement across isolated desert terrain. Temperatures range from 18° to 122° Fahrenheit. Driving is hazardous in view of sharp curves around passes and the presence of soft shoulders on the entire length of the roadbed. Winds have been recorded as high as 135 miles per hour. Resultant sandstorms contribute to hazardous commuting conditions and result in abnormal wear and tear on vehicles. This highway is considered to be unsafe, unsound, and generally unfit for the use of all persons. However, it is the only means of traveling between Barstow and Fort Irwin.

The long hours spent away from home each day because of the lengthy commuting time required coupled with the absence of any commuting allowance to offset the inconveniences, hardships, and expenses associated with travel to and from their homes has taken its

toll of professional, technical, and clerical employees. It has generated a feeling of dissatisfaction among the employees, and officials are facing an extremely high turnover.

Some jobs which include a number of critical positions such as industrial engineer, digital computer systems operator supervisor, engineering technician, and management technician, have been vacant for periods exceeding 6 months. Positions vacant more than 30 days comprised 6 percent of the total civilian workforce. From one-third to one-half of the long-term vacancies are in occupations crucial to effective mission accomplishment in view of absence of backup positions due to the scope of the installation.

There has been a 100-percent voluntary quit rate among engineering draftsmen and a 34 percent voluntary quit rate among engineering technicians. Exit interviews demonstrate that losses in these categories relate either to commuting problems or to more desirable employment opportunities available elsewhere. (Fort Irwin competes in the labor market with the Marine Corps Supply Center, private business, and the Goldstone Tracking Station complex where working conditions are more favorable.)

Other than in isolated cases, tenure of employees in key civilian positions, coupled with delay in obtaining replacements, obviously does not provide the desirable continuity of operations. Certainly if our employees received an allowance of not less than \$4.50 per day—and not more than \$10 per day—a great deal of the difficulties in maintaining stability of employment at the site would be remedied. Enactment of this bill would alleviate this situation.

The Federal Government already recognizes the Fort Irwin-Goldstone Tracking Station vicinity as an isolated work area based on the following facts:

1. NASA-Goldstone Tracking Station recognizes this situation through extra pay to all employees and the furnishing of expense-paid, air conditioned automobiles to and from their homes in Barstow and vicinity.

2. Postal employees of the Barstow, Calif., post office travel to and from their Fort Irwin post office duties on Government time in a post office vehicle.

3. All labor union members who work on Federal Government contract projects in the Fort Irwin-Goldstone area receive extra special payment per hour above their regular hourly pay for working in this "hardship" area.

4. All schoolteachers who teach at the Fort Irwin elementary school are provided quarters on the post by the Department of the Army. These teachers are employed by the Barstow Unified School District.

This legislation serves the same purpose as did Public Law 88-538 which, in 1964, permitted a per diem payment to civilian employees of the Department of the Navy who were required to travel daily to uninhabited islands off the shore of California. It also serves the same purpose as Public Law 89-383 which authorized the payment of allowances to be paid to employees assigned to duty at the Nevada test site of the U.S. Atomic Energy Commission.

My bill, H.R. 10342, which would be of benefit to locations where valid circumstances require that employees maintain their homes at considerable distances from their worksites, is, in my opinion, justifiable and long overdue.

Mr. Chairman, I urge support of the committee to this legislation.

Mr. UDALL. Thank you, Mr. Pettis, for a very fine statement.

I am particularly receptive to the description of the arduous desert conditions you outlined because the district I represent occasionally has weather hot enough that we can discard our overcoats in the months of July and August, too.

Mr. PETTIS. This I well know.

Mr. UDALL. Without objection a report of the Bureau of the Budget dated July 1968 commenting unfavorably on the enactment of these bills will be made part of the record at this point.

(The report referred to follows:)

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., July 16, 1968.

HON. THADDEUS J. DULSKI,
Chairman, Committee on Post Office and Civil Service,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I refer to the Committee's requests for the views of the Bureau of the Budget on H.R. 12881 and H.R. 10342, identical bills "To authorize the payment of allowances to defray commuting expenses of civilian employees of executive agencies assigned to duty at remote worksites, and for other purposes."

The purpose of the bills is to authorize a daily allowance of not to exceed \$10 for employees assigned to duty at remote worksites. The bills are apparently patterned after existing law governing such payments to employees stationed at the Atomic Energy Commission's Nevada Test Site and the California offshore island sites of the Navy Department.

The unusual work situations at these two sites resulted in legislation to permit special allowances to employees who work there. In both of these cases, however, considerable factual background was developed to support the need for special allowances. At this point, we do not have sufficient evidence of need for the allowances authorized by the bills at other work sites. Moreover, the provisions of the bills appear to be susceptible of widely varying interpretations. Such terms as "established communities" and "appreciable inconvenience" would be very difficult to define in regulations.

Until more specific information is available about other situations in which special allowances might be justified, we believe that general authority along the lines proposed by these bills would not be appropriate. In our view, such information would be necessary to determine whether general legislation is to be preferred to a tailored case by case approach and, if general legislation seems desirable, what statutory criteria are essential to guide the administration of an allowances program.

In the light of the above, we are unable to recommend the enactment of legislation at this time.

Sincerely yours,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

Mr. UDALL. Similarly, we will insert a letter of July 12, 1968, from the U.S. Civil Service Commission.

(The letter referred to follows:)

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., July 12, 1968.

HON. THADDEUS J. DULSKI,
Chairman, Committee on Post Office and Civil Service,
House of Representatives.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Civil Service Commission on identical bills H.R. 10342 and H.R. 12881, "To authorize the payment of allowances to defray commuting expenses of civilian employees of executive agencies assigned to duty at remote worksites, and for other purposes."

On two previous occasions the Congress considered and subsequently enacted legislation which provided relief to employees of specific agencies who had to

travel to remote worksites. On August 31, 1964, the Congress enacted Public Law 88-538 which provided an allowance for employees of the United States assigned to duty on one of the California offshore islands. On March 31, 1966, the Congress enacted Public Law 89-383 which provided a similar allowance for employees assigned to duty at the United States Atomic Energy Commission's Nevada Test Site, including the Nuclear Rocket Development Station. In both these instances, the Civil Service Commission reported in favor of the legislation.

We have not been able to substantiate any claim that Federal employees at any other sites are required to cope with conditions similar to those that exist at the California offshore islands and the Nevada Test Site.

We understand from the Bureau of the Budget that, in the absence of such evidence, it would not be possible for the Bureau to write regulations which could be uniformly and equitably applied. Accordingly, we cannot recommend enactment of H.R. 10342 or H.R. 12881.

If it develops that the departments or agencies have situations warranting the payment of special commuting allowances, it would be preferable to consider general legislation at that time or to enact special legislation reflecting the differing circumstances of each locality.

It should be noted, however, that if the Congress decides to act favorably on H.R. 10342 and H.R. 12881, the language of the bills should be changed to conform with section 5942 of title 5, United States Code.

The Bureau of the Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

By direction of the Commission :

Sincerely yours,

JOHN W. MACY, Jr., *Chairman.*

Mr. UDALL. The Bureau of the Budget people apparently never have had to live in this area.

The letter of the Civil Service Commission says, "We understand the Bureau of the Budget, in the absence of evidence," referring to evidence that Federal employees at other sites are required to cope with conditions similar to those in the California offshore islands at the Nevada Test Site, "it would not be possible for the Bureau to write regulations which could be uniformly and equitably applied. Accordingly, we cannot recommend enactment of these bills."

It would seem to me a rather tenuous ground for objection. As I understand the basis of your bill, Mr. Pettis, the thrust of it is simply to authorize the Government to make a finding that the worksite is so remote it poses an undue hardship and expense on the employees, and then the operating agency could, under regulations, prescribe an extra allowance of \$2, if that were indicated, or up to \$10, if that were indicated.

Mr. PETTIS. That is correct.

Mr. UDALL. This is all you seek to do—to give the Government some discretion and flexibility in determining at each installation what is an appropriate allowance.

Mr. PETTIS. In fact, Mr. Chairman, the formula which I used in my testimony is right out of existing law which was applied to these other installations. Actually in this instance I think it can be easily proved that many of the people, some 500 employees who work at Fort Irwin, are more inconvenienced than those who work offshore, who did work offshore, because that was at least a rather cool half hour or 1 hour to work, and even more of a hardship than some of the people who work at Jackass Flats.

If we are talking about equity here and doing something for these people to make them want to stay on the job in this remote site we will have to do something or wipe out the jobs. You cannot have a

100-percent vacancy in certain job classifications because these jobs are more easily available elsewhere.

Mr. UDALL. Another solution might be to move the Government facilities and operations from Fort Irwin to southern Arizona, for example.

What is the mission at Fort Irwin?

Mr. PETTIS. Multifaceted. Primarily it is a training center for the Army. They teach the young men who are in the Army how to build roads, artillery training, general Army training under very hostile conditions.

Mr. UDALL. A friend of mine once suggested it could be used as a training ground for sinners who eventually would go to hell.

Again I thank you for an excellent and very persuasive presentation.

We have just been joined by our distinguished colleague from Indiana, Mr. Hamilton.

Mr. HAMILTON. Let me apologize to my colleague for being late. I shall read his statement with care.

Mr. PETTIS. Thank you very much.

Mr. UDALL. Our next witness this morning is another one of our colleagues from California, Hon. Ed Reinecke.

TESTIMONY OF HON. ED REINECKE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. REINECKE. Mr. Chairman, I should first like to thank you and this subcommittee for the opportunity of appearing here in support of my proposed legislation, H.R. 18400. This measure will provide for the authorization of pay allowances to civilian employees of executive agencies, who, because they are assigned to work areas remote from any established community, must travel—at their own expense in time and money—incredible distances from home to work. H.R. 18400 states that under no circumstances shall the amount to be paid such employees exceed \$10 a day, and it authorizes the President to prescribe regulations establishing the proper commutation rates and designating the particular sites, areas, and groups of employees to be eligible for this allowance.

Section 70 of title 5 of the United States Code provides that no public officer may receive extra pay or allowances, unless such pay is specifically authorized by law. Since 1964, however, employees of two Federal installations have been exempted from this provision—those at the California offshore islands, and at the Nevada test site of the Atomic Energy Commission. Such allowances were granted these employees after it was discovered that neither location was within reasonable commuting distance of any residential center. It was discovered that in many cases, employees at the Nevada test site were forced to spend between 4 and 6 hours every day just commuting to and from work. It was discovered that practically all employees were traveling round trips of between 130 and 180 miles daily. The Congress very wisely recognized the inequities to Federal employees in these two cases and accordingly granted the authority for certain compensatory allowances.

For entirely sound and justifiable reasons, certain Federal installations must be located at great distances from major centers of popula-

tion. Those which engage in massive atomic or military testing activities, by the very nature of the beast, must be located in remote areas. But at the same time, these installations must be manned by capable personnel, and these employees must live somewhere. To attract and retain the type of people we need in these positions, the very least that we can do is to compensate them for the inconvenience, hardship, and expense they must bear in their not inconsiderable task of simply getting to work.

In my own district, for example, is Edwards Air Force Base. Suitable housing for the civilian employees there is remote by any reasonable standard. We have found that approximately 70 percent of the civilian technicians at the Rocket Propulsion Laboratory must travel 80 miles a day due to the expanse of property on the base; at least 10 percent must travel between 98 and 190 miles daily. At Edwards' flight test center, 56 percent travel at least 60 miles a day, and 17 percent of civilian employees must commute between 78 and 200 miles. Even high-speed freeways and the advances of automotive science cannot possibly make such a daily grind enjoyable. If such marathon commuting cannot be enjoyable, it can at least be made less of a financial burden on the dedicated men and women who work at our remote Federal installations.

But, in introducing H.R. 18400, I do not intend to seek benefit only for those employees in my own district, at Edwards or elsewhere. I intend, instead, to offer a reasonable basis for the determination of specific situations where allowances for excessive required commutation time would be allowed. The Federal Government maintains a goodly number of installations so remote as to require employees to travel substantial distances. Rather than offering another piece of specific legislation aimed at rectifying conditions at another specific location, I propose to authorize the President to set reasonable standards applicable to any and all locations where he deems hardship to exist due to remote location. In order to limit the possible burden on the tax dollar, I propose to limit the amount that any one employee may receive to \$10 a day. In many cases, this amount would undoubtedly be much less. Thus, employees at other installations which offer no housing facilities in the immediate area and which are difficult of access will not be required to suffer the strain and expense of commuting until such time as they may also be exempted from the requirements of title V, section 70.

Mr. Chairman, during the last several years, we have made substantial progress in making employment with the Federal Government attractive. The Postal Revenue and Federal Salary Act of 1967, as a prime example, should stand as one of the more progressive measures passed by any Congress in the area of Federal employee salary improvement. It will, by next year, finally achieve the principle of comparability promised by the Federal Salary Reform Act of 1962. We have, moreover, enacted a number of other enlightened measures to benefit our Government's employees in other ways.

The increasingly complex problems and demands of an increasingly complex society dictate that we be able to attract and retain the very best people available in the employ of the Government. Our potential for dealing with the problems of today and with the probabilities of tomorrow is directly dependent upon the quality of human potential

that we are able to employ and to utilize. To waste this available and invaluable human potential is not only extravagant, it could well be disastrous.

Therefore, Mr. Chairman, I urge the favorable consideration by this subcommittee of H.R. 18400. We must relieve the inequities borne by our civilian workforce employed at inaccessible locations. If we cannot bring the Federal installation out of the wilderness, the very least we can do is to make trail-blazing a bit easier and less expensive for those who, as a matter of necessity, must do it twice a day.

I am grateful for the opportunity to have been here today, and I thank my distinguished colleagues for their attention.

Mr. UDALL. Thank you for your statement.

The next witness on this legislation will be Mr. John F. Griner, president, American Federation of Government Employees.

**TESTIMONY OF JOHN F. GRINER, NATIONAL PRESIDENT,
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES**

Mr. GRINER. I am John F. Griner, national president, American Federation of Government Employees.

Mr. Carl Sadler, director of legislation, is to my right.

The American Federation of Government Employees, the largest organization of Federal employees, with a current membership in excess of 285,000, is grateful to the chairman of this subcommittee, Representative Morris K. Udall, for scheduling hearings on H.R. 12881, a bill "to authorize the payment of allowances to defray commuting expenses of civilian employees of executive agencies assigned to duty at remote worksites, and for other purposes."

Our organization fully endorses this bill, introduced by Representative Charles H. Wilson of California. We are also grateful to him for his past personal attention in seeking to remedy a most unfortunate situation at Fort Irwin, Calif., which now affects many of the Federal employees domiciled in his own district. We are even more grateful that this bill, which would go far to alleviate the bad situation at Fort Irwin, was drafted in language general enough to cover any other similar situation which might exist or come to exist in the future.

We are particularly interested in Fort Irwin because we have exclusive representation for all the employees at that particular base.

I might also point out that the way I read this bill it might also take care of situations where we have had many complaints, and that is at these missile sites which are many miles away from any kind of place where a person might be able to secure living accommodations.

I have not personally visited Fort Irwin but expect to be there around September. It is my understanding there are practically no living quarters there. It is one of the test stations. They do a lot of tank testing out there. I think that is really their principal mission.

Referring specifically to the situation at Fort Irwin, the problem there arises exclusively from the remoteness of this installation from any habitable civilian community. For this reason, because quarters are not provided for the vast majority of civilian employees and their dependents, the employees must commute an average of 105 to 110 miles per day, spending approximately 2½ hours on desert roads to Fort Irwin from such scattered communities as Barstow, Lenwood,

Helendale, Hesperia, Hinkley, Newberry, Victorville-Apple Valley, and Yermo.

The nature of the hardship, inequity, and injustice imposed on many of these Federal employees, and the consequent impact on their morale, is highlighted by the fact that private employees of private contractors working on Government contracts at Fort Irwin are already compensated for working at this "hardship" post. Obviously this "double standard" is both unjust and unwise since the money paid these private contractors comes out of Federal appropriations and, if it is just to pay private contractors such a compensation, it is certainly a matter of equity to pay Federal employees a comparable compensation.

This is another of the many examples where contract employees are paid out of the same pocket, the pocket of the taxpayer, are treated better than the employees within the Federal Government.

Recently I came across a condition at NASA down at Cape Kennedy where certain contract employees were paid a bonus—I call it a bonus—because of hardship conditions at Cape Kennedy.

None of our people are paid any such bonus. If there is a hardship at Cape Kennedy perhaps we ought to talk to some of these Florida Representatives and Senators and ask for an explanation with regard to the great State of Florida.

Moreover, a further anomaly exists because certain Federal employees are also already compensated for "hardship." For example, the NASA-Goldstone Tracking Station, located at Fort Irwin, already allows extra pay for all of its own employees and even provides payment for the financing of air-conditioned automobiles to and from employees' homes in Barstow and vicinity.

Postal employees at the Fort Irwin Post Office also are compensated because they now travel to and from work on Government time and in air-conditioned postal vehicles.

Elementary schoolteachers, from kindergarten through eighth grade, who teach the children of military personnel stationed at Fort Irwin, are provided air-conditioned quarters on the post as part of their teaching contract.

Our organization believes that it is unjust and inequitable that private contract employees, postal employees, schoolteachers, and NASA employees should receive compensation for this hardship while other Federal employees must commute this vast distance over desert roads without any compensation.

Not only is it unjust to the employee—it is unjust to the employer. The turnover rate at Fort Irwin is 35 percent. We emphasize this is 35 percent of those employees who have, as a result of exceptionally intensive and expensive recruitment programs, finally agreed to take a job at Fort Irwin. The expenses alone of the high rate of recruiting and of turnover, if saved, would more than pay the cost of defraying legitimate commuting expenses.

For this reason, we must urgently petition this distinguished subcommittee to give sympathetic attention to passing this bill in this session of Congress.

Mr. UDALL. At the bottom of page 2, and Mr. Pettis referred to this, you say that postal employees, schoolteachers, and NASA employees get a special allowance.

Why do these Federal employees get this when ordinary scheduled employees do not? Is there some special provision of law with regard to them?

Mr. GRINER. I think under the teachers' allowance they are furnished quarters, which is permissible, and they are air conditioned. They do not get special travel allowance or anything like that.

With regard to NASA, they have in their legislation, their originating legislation, a special provision where allowances of this nature can be taken care of.

I am unable to tell you the background of why the postal employees get these special allowance and the classified people do not.

It is my understanding, in taking this matter up with the Civil Service Commission, where we had made a request that some allowance be given for these conditions and also with regard to these remote missile sites, they said they had no authority to do that for the classified or the Wage Board employees.

Mr. UDALL. I can understand why a mailman delivering mail along this hot desert road might be furnished a Government automobile under some provision of law.

However, as I read the testimony I gathered these people work at a post office at Fort Irwin and are driven to and from work in a post office car.

Mr. GRINER. That is right.

We might tell you this, Mr. Chairman: This Fort Irwin is scattered over an extensive area. Practically no one lives in that entire area. It is an ideal place for testing tanks, artillery, and certain war materials which might be used in desert areas.

Fort Irwin, I believe, was started during World War II for that particular purpose.

Mr. UDALL. Is this in the old desert center area?

Mr. GRINER. Yes.

Mr. UDALL. I blew out six tires in 100 miles going out there one summer day.

Mr. GRINER. It is terrible.

Mr. UDALL. That is perhaps a record of its own.

Mr. GRINER. It could be.

Mr. UDALL. Do you have any questions, Mr. Hamilton?

Mr. HAMILTON. What kind of extra compensation do these employees in the private sector get for this work?

Mr. GRINER. I do not know that specifically. We do know they receive extra compensation.

Mr. HAMILTON. Would it be more or less than that requested in this bill?

Mr. GRINER. If it follows the general pattern it would be more.

You see, in this bill the Commission would have the authority to administer the bill. There is quite a range of regulations. In other words, what they can do is provide up to \$10 a day but they can provide for any amount from 1 cent to \$10.

Mr. HAMILTON. Do you by any chance know what NASA pays their employees there, for example?

Mr. GRINER. I do not.

Mr. HAMILTON. You have a statement—

Mr. GRINER. I can furnish that to this committee if you would like to have that.

Mr. HAMILTON. I think we should have it.

Mr. UDALL. Without objection, that statement will be supplied and made part of the record at this point.

(The statement referred to follows:)

SUPPLEMENTAL STATEMENT, ON H.R. 12881, OF JOHN F. GRINER, NATIONAL PRESIDENT OF AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, ON TRAVEL ALLOWANCE DIFFERENTIALS PAID EITHER TO PRIVATE EMPLOYEES OF GOVERNMENT CONTRACTORS, OR TO NASA-GOLDSTONE AND POST OFFICE EMPLOYEES OR TO SCHOOLTEACHERS EMPLOYED BY THE U.S. ARMY AT FORT IRWIN

Private employees of Government contractors, schoolteachers employed by the U.S. Army at Fort Irwin, and Post Office and NASA-Goldstone-Bendix contract employees receive remuneration in money or services resulting in travel allowance payments of approximately 25 percent of base pay. This is accomplished through a variety of direct or indirect payments, either as money or as services, and sometimes in both forms.

In many cases the travel allowance compensation takes the form of transportation during official work hours in Government or company vehicles at no cost to the employee. When such transportation is provided during official work hours, the employee actually works only six hours at the site but is paid for eight hours of "work."

From information available to us, we have compiled the following listing of private industry and government managed plans to compensate their employees for the 2.0 to 2.5 hours required to commute from their homes to their places of work at Fort Irwin.

PRIVATE EMPLOYEES OF GOVERNMENT CONTRACTORS

A major private firm holding a government contract at the Fort Irwin-Goldstone complex is Bendix Corporation. The base salaries of its employees there range from \$563.00 to \$746.00 per month. We understand that Bendix pays these employees a supplemental of thirteen percent of base salary, ranging from \$73.19 to \$104.44 per month. *In addition*, the company provides air-conditioned, fully serviced cars to transport the employees free to and from work. The monetary value of this free transportation service is estimated at being between \$3.00 and \$5.00 per day depending on the distance involved. This is equivalent to a further allowance between \$60.00 and \$100.00 per month over and above the 13 percent differential ranging between \$73.19 and \$104.44. Thus the actual travel allowance, in terms of supplemental money and services, appears to range between \$133.19 and \$204.44, or between 23 percent and 27 percent of base salary.

OTHER PRIVATE CONTRACTOR SALARIES

In addition to the NASA-Goldstone-Bendix situation, a variety of other arrangements exist involving private firms supplying goods or services to the Fort Irwin area. We have listed some of these arrangements below:

Bank of America employees

These employees are paid for eight hours per day but work only six hours per day, the two-hour trip to and from their homes and Fort Irwin being counted as work time. In addition, Bank of America pays an allowance of \$7.60 per day to each person traveling in his own private vehicle to his place of work at Fort Irwin. Thus, in addition to direct payments of \$7.60 per day, Bank of America pays eight hours wages for six hours work and the travel allowance compensation exceeds 25 per cent of base pay.

Private construction contractors

Craftsmen and day laborers who work an eight hour day are transported free of cost by the employing private construction contractors to their places of work. In addition to this free transportation, equivalent in value to \$3.00 to \$5.00 per day, the contractors pay day-laborers \$8.00 per day for travel time and they pay all other employees, including craftsmen and supervisors, \$9.00 per day. Total extra compensation ranges between \$11.00 and \$14.00 per day which exceeds 25 per cent of base pay.

U.S. POST OFFICE

Postal employees travel to and from their post office sites of work at Fort Irwin on official duty time. Thus they are paid eight hours for six hours of work. In addition, all post office employees are transported in air conditioned postal vehicles to their places of work. This service is equivalent to \$3.00 to \$5.00 per day. Thus post office employees enjoy a travel allowance in excess of 25 per cent of base pay.

SCHOOLTEACHERS EMPLOYED BY U.S. ARMY

Elementary school teachers (Kindergarten through eighth grade) employed at Fort Irwin to instruct children of military personnel are provided free air-conditioned living quarters at Fort Irwin and do not travel back and forth. In addition, teachers are allowed a utilities expense, including telephones, up to \$31.00 per month.

Equivalent living quarters in the civilian communities around Fort Irwin range between \$50.00 and \$100.00 per month, including utilities but *without telephone*. Assuming an average telephone expense of \$10.00 per month, the facilities provided equal \$60.00 to \$110.00 per month *and require no traveling at all* to and from work. School teachers, under these circumstances, received a supplemental allowance in services equal to at least 25 per cent of base pay.

SUMMARY

The statistics available to our organization indicate that at Fort Irwin both the U.S. Government and private contractors now pay a supplemental travel allowance, either in money or in services, approximately equal to twenty-five per cent (25%) of base pay.

Mr. PETTIS. I might add that the NASA installation is under the administration of the Jet Propulsion Laboratory at Pasadena. It is a contract operation. It would be treated contractually.

Mr. HAMILTON. And they are not employees of NASA?

Mr. PETTIS. They are employees of NASA but under contract to the Jet Propulsion Laboratory.

Mr. GRINER. Are there not some civil service employees there, too, in addition to the contract employees?

Mr. PETTIS. Yes. That is what makes it doubly inequitable. They are working side by side, with the contract people getting this extra compensation and the civil service people not getting it.

Mr. HAMILTON. You have a statement on page 3 which states that the excessive high rate of turnover would more than save the expense of commuting.

Is that an estimate of yours or is it a carefully worked out calculation?

Mr. GRINER. It is really an estimate of mine. The last figures we got from any responsible source with regard to the training of a new employee was that it was \$6,000 per employee. Based upon that estimate of approximately \$6,000 per employee, a turnover of 35 percent, which is something like 17 percent above the normal turnover within the Federal service, it would certainly more than compensate for the difference in these allowances. That is the reasoning we applied to this statement.

Mr. HAMILTON. Thank you very much.

Mr. UDALL. Thank you, Mr. Griner. We appreciate your presence this morning. This concludes the hearing on these particular bills.

I believe there was a statement of Mr. Wolkomir relating to this bill.

Without objection that portion of his statement will appear at this point in the record.

(Mr. Wolkomir's statement referred to follows:)

The Subcommittee is also considering H.R. 12881, a Bill to authorize the payment of allowances to defray expenses of Government employees of the Executive Branch who are assigned to duty (other than temporary duty) at a site so remote from established communities or suitable places of residence as to require an appreciable amount of expense, hardship, and inconvenience on the part of the employees in commuting to and from their residence and such work-site. The allowance under the provisions of H.R. 12881 would not exceed \$10 a day. The NFFE feels very strongly that under the circumstances described in this Bill the employees are definitely entitled to receive an appropriate allowance. Our membership reports the same circumstances and that they have been unable under existing law to obtain any allowance to defray such expenses. The NFFE strongly supports H.R. 12881 and urges the enactment of legislation with provisions as set forth in this Bill.

H.R. 17954

Mr. UDALL. We will now turn our attention to H.R. 17954, introduced by the chairman of this subcommittee, to correct certain inequities and to relieve certain liabilities arising out of overpayments of compensation to Government employees as a result of administrative error in the application of certain provisions of the classification act of 1949, the Federal Employees Salary Act of 1964, and other provisions of law, and for other purposes.

(H.R. 17954 follows:)

[H.R. 17954, 90th Cong., second sess.]

A BILL To correct certain inequities and relieve certain liabilities arising out of overpayments of compensation to Government employees as a result of administrative error in the application of certain provisions of the Classification Act of 1949, the Federal Employees Salary Act of 1964, and other provisions of law, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) all overpayments of compensation made, prior to the date of enactment of this Act, to any employee in the executive branch of the Federal Government, as a result of administrative error or misinterpretation and without fault on the part of the employee concerned, are hereby validated in the following categories of cases:

(1) Overpayments of compensation resulting from the improper adjustment from a saved rate of compensation to a scheduled rate of compensation pursuant to section 507 of the Classification Act of 1949, as amended, or section 5337 of title 5, United States Code.

(2) Overpayments of compensation resulting from the failure to construe a constructive step increase received by the employee concerned during his period of entitlement to retention of compensation under section 507 of the Classification Act of 1949, as amended, or under section 5337 of title 5, United States Code, as an "equivalent increase in compensation" within the meaning of section 701 of such Act, as amended, or section 5335 of title 5, United States Code, so as to require a new waiting period to commence for the next step increase.

(3) Overpayments of compensation resulting from the erroneous application of section 102(b) (6) of the Federal Employees Salary Act of 1964 (78 stat. 401; Public Law 88-426; 5 U.S.C. 1113, note) to any employee who was demoted at any time during the period beginning on the first day of the first pay period which began on or after July 1, 1964, and ending on the date of enactment of such Act.

(4) Overpayments of compensation resulting from the failure to effect a reduction in rate of compensation following the enactment of the Federal Employees Salary Act of 1964 in the case of any employee who was promoted from a position subject to section 504 of the Federal Salary Reform Act of 1962, as amended (5 U.S.C. 1173), to another position subject to such section, at any time during the period beginning on the first day of the first pay period which began on or after July 1, 1964, and ending on the date of enactment of the Federal Employees Salary Act of 1964.

(5) Overpayments of compensation resulting from the failure to effect a reduction in rate of compensation following the enactment of the Federal Employees Salary Act of 1964 in the case of any employee who was transferred, either with or without his position, from a prevailing rate schedule to the General Schedule of the Classification Act of 1949, as amended, at any time during the period beginning on the first day of the first pay period which began on or after July 1, 1964, and ending on the date of enactment of the Federal Employees Salary Act of 1964.

(6) Overpayments of compensation resulting from the failure to effect a reduction in rate of compensation following the enactment of the Federal Employees Salary Act of 1964 in the case of any employee in the postal field service who was promoted from a position in one level of the Postal Field Service Schedule to a position in a higher level of such schedule at any time during the period beginning on the first day of the first pay period which began on or after July 1, 1964, and ending on the date of enactment of such Act.

(b) Any employee or former employee within the purview of any provision of subsection (a) of this section who has repaid to the United States all or part of the amounts the payment of which is validated by such subsection (a) shall be entitled to have refunded to him, by his employing agency at the time of the overpayment of compensation, the amount which he has repaid to the United States, if he makes application for such refund to such employing agency within two years following the date of enactment of this Act. Such employing agency is authorized and directed to make such refund in accordance with this Act.

(c) The validation, in accordance with subsection (a) of this section, of overpayments of compensation made prior to the date of enactment of this Act shall not be held or considered to validate any overpayment of compensation made on or after such date of enactment.

(d) In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, appropriate credit shall be given in accordance with the validation by this Act of overpayments of compensation.

MR. UDALL. Without objection we will insert in the record at this point a report of the Postmaster General dated July 19, 1968, signed by Mr. Watson, Postmaster General, a report of the Civil Service Commission dated July 12, 1968, signed by Mr. Macy; a report dated July 15, 1968, by Wilfred H. Rommel, Assistant Director of the Bureau of the Budget; and a report from the Navy Department dated July 16 and signed by Captain Wrzesinski. Without objection these communications will be made part of the record at this point.

(The information referred to follows:)

THE POSTMASTER GENERAL,
Washington, D.C., July 19, 1968.

HON. THADDEUS J. DULSKI,
*Chairman, Committee on Post Office and Civil Service,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request for a report on H.R. 17954, a bill to correct certain inequities and relieve certain liabilities arising out of overpayments of compensation to Government employees as a result of administrative error in the application of certain provisions of the Classification Act of 1949, the Federal Employees Salary Act of 1964, and other provisions of law, and for other purposes.

This measure would validate overpayments in compensation paid to employees of the executive branch in six categories of cases, where the overpayments resulted from administrative error or misinterpretation and without fault on the part of the employee concerned. The validation would apply only to overpayments made prior to the date of enactment of the proposed legislation. Provision is also made for refund to those employees who have repaid to the Government all or part of such overpayments received.

The Department believes that in proper and deserving cases the Government should not collect salary overpayments. We, therefore, support the principle of legislation such as H.R. 17954.

It is noted that the present bill is confined to retroactive cases involving employees who fall within the six categories. While the Department has no objection to such legislation, the Committee may wish to consider as an alternative legislation of a more substantive nature, that is, enactment of permanent legislation which would cover prospective as well as retroactive cases, and containing safeguards as to future cases in order to prevent possible misuse of such legislation.

The Bureau of the Budget has advised that there is no objection to the submission of this report to the Committee from the standpoint of the Administration's program.

Sincerely yours,

W. MARVIN WATSON.

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., July 12, 1968.

HON. THADDEUS J. DULSKI,
Chairman, Committee on Post Office and Civil Service,
House of Representatives,

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Civil Service Commission on H.R. 17954, a bill "To correct certain inequities and relieve certain liabilities arising out of overpayments of compensation to Government employees as a result of administrative error in the application of certain provisions of the Classification Act of 1949, the Federal Employees Salary Act of 1964, and other provisions of law, and for other purposes."

This legislation would excuse employees from having to refund to the Government certain overpayments made through no fault of the employees concerned as a result of administrative errors in interpreting or applying certain complex features of various salary statutes. It would also authorize refunds to employees who returned erroneous overpayments made under the same circumstances.

The Civil Service Commission has no objection to the enactment of this legislation, provided it is amended to include certain additional safeguards to protect the interests of the United States.

As the situation stands now, an employee must reimburse the Government for overpayments which were made through no fault of his own and which he believed were rightfully his. In many instances, the errors were not discovered until years later. The refund requirement has led to the introduction of numerous private relief bills.

Private legislation, however, does not afford a satisfactory solution to this problem. It is inequitable in that it singles out some persons for relief while others whose cases are equally meritorious but who have not had their cases brought to the attention of the Congress are still held liable. Moreover, it is a costly and time consuming procedure for the Congress and the agencies.

H.R. 17954 would do much to take care of the problem. It would permit more uniform treatment of the claims which comprise the bulk of overpayment cases, and it should result in a substantial reduction in the number of private relief bills.

As presently written, however, H.R. 17954 contains insufficient safeguards to protect the interests of the United States. Once a determination had been made that an error was without fault on the part of the employee, waiver of the Government's claim would be automatic. Other considerations which might have a bearing, such as the recency of the discovery of the error or whether the payment was accepted in good faith, would not be taken into account.

The Commission therefore recommends that lines 3 to 8 of page 1 of H.R. 17954 be amended to read as follows:

"That (a) all overpayments of compensation made, prior to the date of enactment of this Act, to any employee in the executive branch of the Federal Government, as a result of administrative error or misinterpretation without fault on the part of the employee concerned and received by him in good faith, are hereby validated, if in the judgment of the agency head or his designee collection would be against equity and good conscience, in the following categories of cases:":

In the long run, the best solution to the overpayment problem would be general waiver legislation providing an administrative means to settle all types of overpayment cases, prospectively as well as retrospectively. In the absence of general legislation, however, H.R. 17954 provides a reasonable stopgap.

The Bureau of the Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

By direction of the Commission:

Sincerely yours,

JOHN W. MACY, Jr., *Chairman.*

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., July 15, 1968.

HON. THADDEUS J. DULSKI,
Chairman, Committee on Post Office and Civil Service,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I refer to the Committee's request for the views of the Bureau of the Budget on H.R. 17954, "To correct certain inequities and relieve certain liabilities arising out of overpayments of compensation to Government

employees as a result of administrative error in the application of certain provisions of the Classification Act of 1949, the Federal Employees Salary Act of 1964, and other provisions of law, and for other purposes."

H.R. 17954 would apply to overpayments to Federal employees made prior to enactment of the bill. It would authorize waiver of collection in specific classes of overpayment cases. It would also authorize refund to employees of amounts already collected against those overpayments.

We note that the bill applies to overpayments as a result of administrative error and without fault on the part of the employee. However, it does not explicitly require "good faith" on the part of the employee, a test which we have normally applied in overpayment cases. Although the term in the bill "without fault" could be construed to include good faith, it could also be interpreted to apply only to the responsibility for making the error. We think that an employee who knowingly accepted erroneous payments should not be relieved of liability. Therefore, we suggest that the Committee consider amending the bill by specifically requiring that relief in overpayments cases be contingent upon good faith.

The problem of overpayments made as a result of agencies' errors in applying complicated provisions of law, is a recurring one, and, over the years, has necessitated a large number of private relief bills. Accordingly, the Bureau of the Budget believes that general legislation both prospectively and retrospectively authorizing relief of overpayment cases is desirable. If, however, general legislation is not feasible at this time, the Bureau of the Budget would recommend enactment of H.R. 17954.

Sincerely yours,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

DEPARTMENT OF THE NAVY,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., July 16, 1968.

HON. THADDEUS J. DULSKI,
*Chairman, Committee on Post Office and Civil Service,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Your request for comment on H.R. 17954, a bill "To correct certain inequities and relieve certain liabilities arising out of overpayments of compensation to Government employees as a result of administrative error in the application of certain provisions of the Classification Act of 1949, the Federal Employees Salary Act of 1964, and other provisions of law, and for other purposes," has been assigned to this Department by the Secretary of Defense for the preparation of a report thereon expressing the views of the Department of Defense.

Basically, the proposed legislation would validate overpayments of compensation to employees in the executive branch of the Federal Government in six clearly defined classes of overpayment resulting from administrative error or misinterpretation, and without fault on the part of the employee concerned, under certain provisions of the Classification Act of 1949, the Federal Employees Salary Act of 1964, and other provisions of law.

The problem of overpayment made as a result of errors in applying complicated provisions of law is a reoccurring one, and, over the years, has necessitated a large number of private relief bills. H.R. 17954 is confined to retrospective cases involving employees who fall within the six categories. While the Department of the Navy, on behalf of the Department of Defense, does not object to such legislation, the Committee may wish to consider general legislation which would cover prospective, as well as retrospective cases.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report on H.R. 17954 for the consideration of the Committee.

For the Secretary of the Navy.

Sincerely,

R. WRZESINSKI,
*Captain, U.S. Navy,
Director, Legislative Division.*

Mr. UDALL. Following this will appear the testimony of Mr. Griner on the same bill.

**TESTIMONY OF JOHN F. GRINER, NATIONAL PRESIDENT,
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES**

Mr. GRINER. Our organization, representing more than 405,000 Federal employees in exclusive bargaining contracts, is grateful to the chairman of this subcommittee, Representative Morris K. Udall, for having introduced, on June 18, 1968, his bill, H.R. 17954, which is very much needed "to correct certain inequities and relieve certain liabilities arising out of overpayments of compensation to Government employees as a result of administrative error in the application of certain provisions of the Classification Act of 1949, the Federal Employees Salary Act of 1964, and other provisions of law, and for other purposes."

There is perhaps no other single area involving so little money, as far as the Federal Government is concerned, which has produced as much hardship and inequity as this area of "overpayments of compensation because of administrative error by the Federal authorities." The American Federation of Government Employees receives regularly a great amount of correspondence on this subject, which on the one hand, involves minor amounts of money from the Federal budget, but on the other hand produces very serious hardships in the lives of the innocent victims of the "administrative error."

We find it hard to explain to our members why the Congress of the United States has not provided some systematic mechanism for the relief of the unfortunate and innocent victims of these errors. In fact, we find it difficult to understand why the generally accepted concept of contracts, accepted universally, is not allowed to apply. After all, the Federal employee supplies to the Federal Government his honest work and professional skill on the understanding that the Federal Government was and is and would be compensating him at the legal rate provided by statute. Good will, prudent judgment, and the full measure of his professional skill—all were, and are, given by the Federal employee who has become the victim of an administrative error not of his making.

And yet who is penalized? It is this honest employee—and his family and dependents. Many of these employees have their lives disrupted for years, their health damaged, their ability to meet other debts jeopardized by a sudden demand to pay back money which they accepted for years in good faith as part of their regular pay.

We don't know whether anybody should be penalized for administrative errors. Perhaps someone should be. But we do know that it is most unjust to penalize the innocent victim of someone else's error.

From the foregoing, it is obvious we endorse fully this very fine bill, H.R. 17954, introduced by Representative Udall to relieve six clearly identified types of overpayments resulting from "administrative errors committed in connection with the provisions of the Classification Act of 1949 and the Federal Employees Salary Act of 1964." We hope that his bill receives the early approval of this subcommittee and passage by Congress.

However, we feel it an obligation to raise once again with this subcommittee the question of the general principle involved. We understand that, if passed, this bill will bring, even if belatedly, a measure of justice to between 25 and 30 Federal employees whose cases are known to fall under this bill. But what of the hundreds of other cases of employees, equally innocent, who do not qualify under this legislation?

Confident in the very real awareness of the members of this subcommittee of the important human values involved, we again petition you to consider introducing additional legislation which would apply to all such cases so that the innocent victims of "administrative errors" receive relief.

I think everybody understands the merit of this particular bill. If I may have an additional minute I will tell you where we are having the greatest area of trouble and that is in the matter of classification and matters of applying the pay rates. They are misapplied sometime and do not come to light for a period of a year or 18 months, and sometimes as high as 2 or 3 years.

When they find the agency has made an error we must keep in mind that every employee of these agencies is not an expert on the application of pay rates.

Then they go back and charge this employee with the overpayment which imposes a hardship on him.

There are many other areas but that is the biggest problem area we have. I certainly hope this subcommittee will take some action on this bill.

Thank you very much and I appreciate the opportunity to appear.
Mr. UDALL. Thank you, sir.

For the record, let me say that this legislation is designed to validate overpayments of compensation that were made prior to the date of enactment of several groups of Federal employees. We have about six major categories of instances where these occurred.

The overpayments in these cases were all the result of administrative errors and in no cases were they due to any fault of the employees.

The errors are due in a major part to the complexities and confusion involved in the administration of various pay provisions as affected by the revised pay schedules and conversion provisions of the Federal Employees Pay Act of 1962, retroactive and conversion provisions of the Salary Act of 1964, which was effective on the first pay period beginning after July 1, 1964.

Also in some cases errors were made before regulations were issued explaining the new pay provisions.

We have had a number of special bills trying to grant relief in particular cases. My effort in drafting this particular piece of legislation is to have a general law which would preclude the necessity of introducing a large number of special bills or simply letting the situation stand and having a good deal of injustice done to a number of employees.

We have before the subcommittee a number of draft sheets explaining the different categories of cases and how they occur.

At this point we will hear from Dr. Herbert Block, of the Post Office Department, accompanied by Mr. Adam Wenchel, Assistant General Counsel.

Gentlemen, if you will come forward.

TESTIMONY OF DR. HERBERT BLOCK, PROGRAMING PLANNING OFFICER, POST OFFICE DEPARTMENT, ACCOMPANIED BY ADAM WENCHEL, ASSISTANT GENERAL COUNSEL, AND WILLIAM E. WOOTTON, ASSISTANT CONTROLLER FOR ACCOUNTING, POST OFFICE DEPARTMENT

Dr. BLOCK. We also have Mr. William Wootton, Assistant Controller for Accounting.

Mr. UDALL. We are glad to have you all here and we would appreciate any comments and statements you might care to make in helping us dispose of this legislation.

Mr. WENCHEL. We have no prepared statement, Mr. Chairman. We have filed, as you noted, a report with the committee.

The gist of this report is that we have no objection to this bill. However, we believe a broader bill taking care of both past and future cases would be preferable.

Mr. UDALL. In other words, this legislation is designed simply to take care of the number of specific instances which arose out of the 1962 and 1964 acts.

You would prefer general legislation as to all future salary acts to provide authority to take care of situations which might then arise?

Mr. WENCHEL. That is correct.

Mr. UDALL. I cannot say that I would quarrel with that particular philosophy because each time we have had a major pay act, conversion of grades, or difficulties in changing from one salary system to the next, we have had any number of these situations arise and Members being asked to introduce private bills.

If we establish principles for the future on a general basis this might be very helpful.

I wonder if your legal counsel here could assist in drafting the proposed amendments which would do what you suggest?

Mr. WENCHEL. We would be happy to do so.

Mr. UDALL. I would welcome it. I do hope we would be able to get a quorum together and perhaps proceed further with this legislation this year.

The gentleman from New York.

Mr. HANLEY. Thank you, Mr. Chairman.

I simply want to make this observation. I think the coordinated efforts of the Department and this committee certainly has been helpful. We hope that any language you propose will resolve any inequities which exist in the present system. I understand you to say you have no objection to the legislation?

Dr. BLOCK. We favor a broad type of general legislation which would have effect on past actions and also in future overpayments which might be made.

Mr. HANLEY. Thank you, gentlemen. I have nothing further.

Mr. HAMILTON. How many postal employees are involved here?

Dr. BLOCK. Currently? In this bill there is only one that we know of and that is the one cited in the remarks prepared by the staff of this committee.

Mr. UDALL. There could be others that are not yet detected?

Dr. BLOCK. H.R. 17934 relates only to a law passed in 1964 and to our knowledge there are no current cases which have not been resolved.

Mr. UDALL. What was the amount of overpayment in this particular instance?

Dr. BLOCK. Our records indicate about \$1,168.35. The net overpayment was \$925.05. It has all been fully repaid. It was fully repaid as of March 16, 1965.

Mr. HAMILTON. The employee paid back the money to the Government?

Dr. BLOCK. Yes.

Mr. UDALL. What is the method of collection in these cases? Do you simply deduct it or do you counsel with the employee and urge him to cough this up?

Mr. WOOTTON. In this particular instance the amount was repaid in a lump-sum payment due to the size of the salary the official was making.

Generally speaking for the clerks, carriers, and other employees, if the amounts are small, it is deducted through our mechanized payroll system.

Mr. UDALL. Is it customary for these overpayments when they occur to be discovered by an employee, your payroll computers, or by the General Accounting Office?

Dr. BLOCK. All three approaches. The typical one is that the auditors might find an overpayment. Some employees bring it to our attention where they happen to know the details of the pay actions.

Sometimes it is a payroll clerk who was rechecking his accounts and finds the error.

Sometimes it is a personnel man in a post office who knows an error has been made and submits a corrected action.

Mr. UDALL. Anything further?

Mr. HAMILTON. This bill covers only the acts of 1949 and 1964.

Do you have other instances of overpayment arising as a result of the most recent pay raise?

Dr. BLOCK. No; because the most recent pay act provided an across the board, same percentage, pay increase. Where there is an across-the-board pay increase, all pay changes are automatically corrected upon conversion to the new pay schedule.

In 1964, however, there was a variation among the different pay levels in the pay increase. The lower end received a 6 percent. The upper end received as much as 16 percent.

When there are variations among the different levels, and retroactive adjustments have to be made, we must recheck the levels and every little pay step in those levels to see that the correct amount is applied.

Mr. UDALL. AS I recall a gap of some sort caused all sorts of problems, the difference between August 1 and August 14, whether a person was promoted in that no man's land period.

Mr. HAMILTON. Would this be prospective in operation only?

Dr. BLOCK. Prospective for the most part. The proposed bill has a 2-year period in which the employee can submit a request for refund.

Mr. HAMILTON. But it does not cover 1966, for example?

Dr. BLOCK. Not as it is now written.

Mr. UDALL. Would the amendment we are discussing help us?

Dr. BLOCK. Only to the extent that you would be willing to include a statement regarding the period of time within which an employee could submit a request for refund because to our knowledge all these have been cleaned up.

Mr. HAMILTON. Is there no possibility of error arising from the 1966 act?

Dr. BLOCK. If so they have been cleaned up by now. We are now working on the 1967 act but there is no problem there.

Most of the errors are not due so much to the legislation as to our own internal processing problems.

Mr. HAMILTON. What I am trying to avoid is a gap. We have a bill before us covering the 1949 and 1964 acts and your amendment is prospective in operation.

Mr. WENCHEL. We hesitate to say that a situation cannot arise because whenever we say that invariably something has arisen.

Mr. HAMILTON. It might be advisable to put in something covering the most recent pay act.

Mr. WENCHEL. I would think so.

Mr. HAMILTON. Perhaps you can add that to your amendment.

Mr. UDALL. Yes, give us some help in an overall and inclusive amendment so we can cover 1962 and 1964, the future acts, and the interim acts which Mr. Hamilton has rightfully put his finger on. Anything further? If not, we thank you.

The next witness is Mr. Barclay, the Assistant General Counsel, General Accounting Office.

I believe you are accompanied by Mr. Campbell?

Mr. BARCLAY. That is right, Mr. Chairman.

TESTIMONY OF F. HENRY BARCLAY, JR., ASSISTANT GENERAL COUNSEL, GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY JAMES M. CAMPBELL, ATTORNEY, OFFICE OF THE GENERAL COUNSEL

Mr. BARCLAY. H.R. 17954 is designed to validate certain improper payments of compensation made to civilian employees prior to the date of enactment resulting from administrative misinterpretation of the controlling statutory provisions in six enumerated categories of cases. The first two categories relate to those provisions of the former Classification Act of 1949, as amended, and superseding provisions now appearing in title 5, United States Code, covering pay saving upon downgrading of employees subject to the general schedule.

Categories 3, 4, and 5 relate to overpayments resulting from improper construction of the conversion provisions of section 102 of the Federal Employees Salary Act of 1964 as applied to various types of employees covered by or transferring to positions under the general schedule.

Category 6 relates to the improper application of the postal pay provisions of the Federal Employees Salary Act of 1964 in the case of postal field service employees who received promotions during the period covered by the retroactive pay increases granted by such statute.

Each of the enumerated categories of cases, except category 6, was the subject of one or more decisions of the General Accounting Office and each category involves technical interpretations of controlling statutory provisions. We do not know how many cases may be included in each of the enumerated categories and neither can we offer a reasonable estimate of the aggregate amount of the overpayments. The bill involves a matter of policy for determination by the Congress and we

offer no recommendation regarding its merits. In our opinion the provisions of the bill appear to be adequate to afford the relief intended in each category of cases set forth therein.

We have furnished members of your staff informally with copies of certain pertinent decisions of our Office which relate to several of the categories of overpayments set forth in the bill and we shall endeavor to render such further assistance as may be requested by your committee.

We would concur with the Post Office representatives that this is a problem area which continues to plague the administrative agencies. We are not aware at this moment of overpayments under the 1967 act. We are familiar with the overpayments under prior Acts.

They were discovered through administrative audit, or by audit action of our office.

On this latter point I would like to emphasize that by the very nature of our current audit procedures it frequently is a delayed matter of maybe 2 to 3 years before these errors are discovered. At that point we have a substantial overpayment to a particular employee, and it is a very difficult debt in many cases for him to repay.

We find that many of the bills that are introduced before the Judiciary Committee on an individual case basis come before our office for report. It takes a considerable amount of effort on the part of our audit staff to ascertain and verify the detailed facts of these cases on an individual case basis. This is out of proportion to what our work schedule should be.

Mr. UDALL. While the GAO makes no recommendation on policy here, I suppose what you are telling us is that if there is a \$700 to \$800 overpayment you perhaps spend that much money's worth of your time in processing a private bill, not to mention the time of the Judiciary Committee staff, the cost of the reporter to transcribe the hearing, printing of the bill, and all the rest.

Mr. BARCLAY. That is exactly it.

Mr. UDALL. Even if we should get the money back and save the Government that overpayment we defeat ourselves in many cases by this process.

Mr. BARCLAY. That is right.

The other specific comment I would like to make at this point, and I do not know the full answer to it, is the suggestion of the Post Office about a general bill.

Mr. UDALL. I wanted your comments on that.

Mr. BARCLAY. As I understand it, this would be solely in the area of compensation.

However, as I am sure you are aware, there have been bills over a number of years where there would be a general waiver authority not only in compensation but all other overpayments. I believe this has been before the Judiciary Committee. It has been the subject of several conferences between our Office and the Bureau of the Budget.

I must say not too much progress has been made in coming to a full agreement as to the passage of the general waiver bill.

They continue to change the bills in form as they are introduced from year to year.

The latest one I am aware of is H.R. 9163 of the 90th Congress which was introduced in April of 1967. We had conferences but were not in

full agreement with that particular bill. We had been in agreement more or less on an earlier bill which I believe passed the House.

Mr. UDALL. What are the major difficulties in finding a suitable general piece of legislation and in drafting such legislation?

Mr. BARCLAY. One of the areas of disagreement appears to be as to what amount—for example, \$150 or \$500—would be proper as a waiver provision by the agencies themselves rather than by the processes of the General Accounting Office in the collection of debts.

It was felt by our Office, I believe the last figure was \$500, that it should not be \$500. We thought that was rather high. We originally suggested a figure of \$150.

Too high an administrative waiver ceiling throws the burden of the waiver provision back into the hands, we feel, of the very people who have been involved in the matter of the overpayment itself. This is one area of dispute. I would prefer not to comment on the other areas since I have not gone into detail regarding those bills recently. I know there were other areas of disagreement.

Mr. UDALL. I want you to throw up red flags so when we get the language from the Post Office people we would know what those dangers are.

Mr. BARCLAY. We would like to offer any cooperation we can. We would be happy, if you so desire, to sit in on meetings or look at any legislation that is prepared in this area to see whether the same problems are involved which came up in the past.

Mr. UDALL. Based on your experience in this field I think we would welcome those comments.

Anything further, gentlemen?

Mr. CAMPBELL. I think one of the criteria that was looked at before when this legislation was being considered was whether you should go ahead and relieve every overpayment made due to administrative error or whether there had to be a hardship on the employee in the matter of repaying it.

Then again there was a question Mr. Barclay alluded to. If every individual agency is given authority to waive you may get nonuniform application of the law. Some agencies would be more restrictive than others. Therefore there are a number of problems which have to be studied carefully in connection with any general waiver authority.

Mr. UDALL. Mr. Hanley?

Mr. HANLEY. Gentlemen, from your experience, what is the frequency of the overpayment?

Mr. BARCLAY. This is a difficult question to answer because of the fact that generally the cases we see are only in two areas. One, there may be individual situations which our audit people have raised and no private bill ever is introduced. That could be one area.

The other cases we first see when a private bill is sent over. At that time our office will look into the particular case to find out what the facts are. Frequently those are cases where errors have been administratively discovered. The agencies have either already taken action to collect or are about to take action to collect from the employees.

As we alluded to in our statement for the record, we actually do not know the extent of the overpayments over the years.

I suppose they are substantial but actually as to the exact numbers in the way of people and money I do not think it is known by anyone.

Numerically I would not figure it would be too high.

Mr. CAMPELL. No, but occasionally you get an overpayment which, while we may see one case, it may be representative of cases that do arise all over the country throughout Government installations.

We would have no way of knowing how many individual cases there are. It is just that difficult. We would have no way of knowing how many individual cases actually come up under each of these various principals involving overpayments.

Mr. BARCLAY. I think it would vary considerably, too.

Take a specific case. I remember a private bill that—I don't have the number of this legislative relief bill—covered one particular case which was discovered by our Audit Division. As a result of the bill and a further look into the overpayment, the administrative agency came up with 25 other identical cases. In the type of operation that we do in our audit now, we go in and find a particular case and turn it over to the agency to then examine their records to see if they have other cases. It is not unusual for this to happen. It will vary from 10 to 25 cases or more that will turn up on an identical basis. The amounts of overpayments will be different.

Mr. HANLEY. You stated that in some instances several years have elapsed before the errors were uncovered, and, in many instances, the principal in the case has departed or moved on.

Mr. BARCLAY. This frequently happens. Employees no longer are there, former employees may have died. We have one pending now, just reported on 3 or 4 days ago, of an individual, with a bill introduced for relief, and meanwhile he has died.

Mr. HANLEY. You have evidenced great interest in behalf of the General Accounting Office and hope to enact corrective legislation. How actively have you pursued your interest?

Mr. BARCLAY. The interest in the general waiver legislation?

Mr. HANLEY. Yes.

Mr. BARCLAY. We have been very active in that legislation over the years. In fact, running back to 4 or 5 years ago, we were extremely active. The activity somewhat tapered off because of the factors of differences of opinion on the various bills that have been introduced and the factor that there always seemed to be a roadblock one way or the other.

As I said previously, on the latest bill, which was introduced in 1967, no action has been taken. No action has been taken at all on H.R. 9163. There was quite a bit of discussion on the bill over at the Bureau of the Budget at one time. However, it has just stayed in status quo since then.

Mr. HANLEY. I thank you, gentlemen. I have no further questions, Mr. Chairman.

Mr. UDALL. The gentleman from Indiana.

Mr. HAMILTON. Two specific cases bother me, and perhaps you could relieve me.

Suppose you have a computer that gets out of whack and makes out a check for \$1 million to somebody. In the amendment proposed by the Post Office Department, are we going to be in a position of validating an overpayment in that kind of instance?

Mr. BARCLAY. This would be a compensation case on an individual overpayment, just on an exaggerated case?

Mr. HAMILTON. Right.

Mr. BARCLAY. I think the legislation would be certainly so drafted to overcome this type of error.

Mr. HAMILTON. In the Post Office Department letter they have a phrase, "containing safeguards in future cases in order to correct possible misuse of such legislation." I presume and I hope that they would have in mind that kind of a situation?

Mr. BARCLAY. Yes, indeed, I would hope so, too.

Mr. CAMPBELL. We have not seen the Post Office Department's proposal.

Mr. HAMILTON. The second instance is where there are employees who receive overcompensation and then voluntarily return that. If there are, and then other employees accept that money and the Government validates payment to employees who don't turn it back, you are in a position of rewarding a person who has not been honest and not rewarding the fellow who has been honest.

Mr. BARCLAY. I think it is entirely correct as a fact that many of them do voluntarily pay back the indebtedness. However, I believe the type of cases that we are dealing with basically are cases where in good faith the employees have received overpayments through no knowledge on their part that they are actually being overpaid because they occur at a time when there is a change in their pay rate and they don't have any way of ascertaining, except by each individual going back to his technical people, that this overpayment has occurred.

When the overpayment is discovered and the employee is notified, the employees react quite differently.

Mr. HAMILTON. Perhaps it would not be a case of dishonesty, but at the same time you are penalizing the employee who raises a question about how his paycheck is computed.

Mr. BARCLAY. Personally I have not seen before our Office the case of the employee himself who has raised the question as to the rate but I am sure this has happened. It would be hard to believe that that has not occurred. That would not be the ordinary case. It would depend upon the situation and knowledge really of the individual employees. I think, for instance, that for a person in either Mr. Campbell's or my own position, there would be considerably more obligation on us if we got a change in the pay rate and received our check. We should know enough about the area to hesitate and take a look at the pay rate or whatever may be involved and see whether it is correct.

Mr. HAMILTON. At any rate, you don't see this as too much of a problem?

Mr. BARCLAY. No, sir, it is not too much of a problem.

Mr. UDALL. Thank you, gentlemen, for being most helpful.

Mr. BARCLAY. Thank you, Mr. Chairman.

Mr. UDALL. Without objection, the Chair would like to insert in the record at this point, a statement of the National Association of Letter Carriers, signed by James Rademacher, vice president, in support of the legislation, with suggested amendments; a letter from Patrick Nilan, legislative director of the United Federation of Postal Clerks, in support of the legislation, with suggested amendments; a statement by John McCart, executive director of the Government Employees' Council, AFL-CIO, in support of the legislation.

Hearing no objection, those statements will be made a part of the record.

(The statements follow:)

NATIONAL ASSOCIATION OF LETTER CARRIERS,
Washington, D.C., July 16, 1968.

To: Hon. Morris K. Udall, Room 455 Cannon Office Building.
Subject: H.R. 17954.

DEAR CONGRESSMAN UDALL: We respectfully request that you consider this communication as evidence of the support of the National Association of Letter Carriers for H.R. 17954, legislation upon which the Subcommittee on Compensation is conducting hearings on July 19.

The legislation is intended to correct certain inequities and relieve certain liabilities arising out of overpayment of compensation to government employees as a result of administrative error. Although we do not have any examples of administrative errors in the areas defined by the six sections of H.R. 17954, we wholeheartedly concur that employees should not be required to make repayment of any over-payment of compensation paid in any one of these categories as a result of administrative error.

We would appreciate consideration of amendments to H.R. 17954 which is also intended for "other purposes". We have in mind two important items: (1) an amendment to provide that employees who are erroneously placed into a salary step through administrative error be included in the provisions of this bill; and (2) that an amendment to Public Law 89-380, the Back Pay Act of 1966, be considered as appropriate to this type of legislation.

We have had examples of letter carriers being placed into an improper pay step, only at a later date being required to make restitution of the over-payment. This has occurred when, for instance, a rural carrier has transferred to city carrier and through administrative error was placed into an improper pay step. An audit ascertained the error and the employee was required to repay the overpayment. A simplified amendment would merely declare that overpayments of compensation resulting from administrative error in the placement of an employee in an improper pay step would be validated.

The second amendment has to do with Public Law 89-380. We have had a number of personnel actions at the Board of Appeals and Review at the Post Office Department whereby employees have been restored to their positions after appeals or suspension actions have been rescinded. In each case retroactive pay is due and there is deducted any amounts earned through other employment during the period of suspension or removal. I am attaching a photostatic copy of Public Law 89-380 so that you might find in Section 3, Part 1, reference to this authority.

The problem lies in the fact that employees are required to deduct overtime and moonlighting wages from the retroactive pay. An example: A letter carrier in Oklahoma was entitled to \$1500 retroactive pay, having been restored to his position after being removed for a period of three months. During this three months the letter carrier worked at an establishment which paid overtime and his combined income from the normal workweek, plus overtime wages, exceeded \$1500. Therefore, he was not entitled to any retroactive postal wages.

We feel that the amount of wages received from other employment during the period of suspension, or removal, should be for the money received over a 40-hour workweek during the time the employee would normally be employed. If the employee found work during evening hours, or was paid overtime wages after his normal eight hours of employment, he should not be expected to report these wages as income for purposes of the Back Pay Act.

We feel that it is appropriate to the legislation under consideration by your Subcommittee that such an amendment be considered; and we urge that while attempting to correct inequities in pay loss that you give consideration to this suggested amendment.

We appreciate being permitted to express our views on the subject of H.R. 17954 and trust that our suggestions will receive favorable consideration.

Very truly yours,

JAMES H. RADEMACHER, *Vice President.*

Public Law 89-380, 89th Congress, H.R. 1647, March 30, 1966

AN ACT To provide for the payment of certain amounts and restoration of employment benefits to certain Government officers and employees improperly deprived thereof, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Back Pay Act of 1966".

SEC. 2. For the purposes of this Act—

- (1) "agency" means—
- (A) each executive department of the Government of the United States;
 - (B) each agency or independent establishment in the executive branch of such Government;
 - (C) each corporation owned or controlled by such Government;
 - (D) the Administrative Office of the United States Courts;
 - (E) the Library of Congress;
 - (F) the General Accounting Office;
 - (G) the Government Printing Office; and
 - (H) the municipal government of the District of Columbia.

SEC. 3. Each civilian officer or employee of an agency who, on the basis of an administrative determination or a timely appeal, is found, on or after the date of enactment of this Act, by appropriate authority under applicable law or regulation to have undergone an unjustified or unwarranted personnel action taken prior to, on, or after the date of enactment of this Act, which has resulted in the withdrawal or reduction of all or any part of the pay, allowances, or differentials of such officer or employee—

(1) shall be entitled, upon correction of such personnel action, to receive for the period for which such personnel action was in effect an amount commensurate with the amount of all or any part of the pay, allowances, or differentials, as applicable, which such officer or employee normally would have earned during such period if such personnel action had not occurred, less any amounts earned by him through other employment during such period; and

(2) for all purposes, shall be held and considered to have rendered service for such agency during such period, except that such officer or employee shall not be credited, by reason of the enactment of this Act, leave in an amount which would cause any amount of leave to his credit to exceed any maximum amount of such leave authorized for such officer or employee by law or regulation.

SEC. 4. The United States Civil Service Commission shall prescribe regulations to carry out the provisions of this Act. Such regulations shall not be applicable with respect to the Tennessee Valley Authority and its officers and employees.

SEC. 5. There are hereby repealed—

(1) section 6(b) of the Act of August 24, 1912, as amended (5 U.S.C. 652 (b)); and

(2) that part of the third proviso of the first section of the Act of August 26, 1950 (5 U.S.C. 22-1), which reads: "and if so reinstated or restored shall be allowed compensation for all or any part of the period of such suspension or termination in an amount not to exceed the difference between the amount such person would normally have earned during the period of such suspension or termination, at the rate he was receiving on the date of suspension or termination, as appropriate, and the interim net earnings of such person".

Approved March 30, 1966.

UNITED FEDERATION OF POSTAL CLERKS, AFL-CIO,
Washington, D.C., July 16, 1968.

HON. MORRIS K. UDALL,
Chairman, Subcommittee on Compensation, House Post Office and Civil Service Committee, Washington, D.C.

DEAR CONGRESSMAN UDALL: We appreciate your sponsorship of H.R. 17954 concerned with the correction of certain inequities and relieving of certain liabilities arising out of overpayments of compensation to Government employees.

The United Federation of Postal Clerks endorses this legislation. However, we would like to propose an amendment to H.R. 17954 which would correct additional compensation liabilities resulting from administrative errors in the postal field area.

We suggest this amendment be included as a new section (7) and we also suggest the following language:

"(7) Overpayments of compensation, resulting from administrative error in the proper placement of any employee in the postal field service who was changed from one level of the postal field service schedule to a lower level and entitled to salary protection under Section 3560, of Title 39, United States Code at any time after the first day of the first pay period which began on or after July 1, 1964.

Administrative Vice President Henry T. Anglim of our organization joins with me in requesting favorable consideration by your Committee of this proposed amendment to H.R. 17954. We are attaching with this statement several examples of employee compensation liabilities in the postal field service which would not be taken care of under H.R. 17954 without our proposed amendment.

We will appreciate your favorable consideration of this statement by the United Federation of Postal Clerks.

With best wishes, I am

Sincerely yours,

PATRICK J. NILAN,
Legislative Director.

STATEMENT OF JOHN A. MCCART, OPERATIONS DIRECTOR, GOVERNMENT
EMPLOYEES' COUNCIL, AFL-CIO

Mr. Chairman and members of the subcommittee, the 35 unions affiliated with the Council join me in extending appreciation for your introduction of H.R. 17954 and the opportunity to express our support for the legislation.

Briefly, the measure will make it unnecessary for certain postal and classified employes to repay overpayments in connection with the 1962 and 1964 salary increase acts caused by administrative errors.

The revised salary schedules incorporated in Public Laws 87-793 and 88-426 and their application to various groups of employes transferred to these schedules or paid earlier at rates outside the regular schedules resulted in considerable confusion in administration. The fact that the 1964 statute, approved August 14, was retroactive to July 1 caused some of the errors. In some instances, the mistakes occurred before the necessary regulations were promulgated to all activities in the Federal and postal service. However, in no case was the employe at fault in the administration of the pay laws.

A report of the Comptroller General dated October 5, 1965, indicated that office would not object to legislation relieving employes of the obligation to reimburse the Government for overpayments, provided the legislative remedy is applied equally to all affected employes. We certainly endorse this position as a matter of equity.

The six situations described appear to cover all instances in which employes were mistakenly overcompensated. However, it is possible that some of the unions associated with the Council may be aware of other cases not included in the language of the bill. If so, we join in recommending their inclusion.

In enacting the pay statutes, we are confident Congress did not intend to subject employes to financial liability for honest errors committed by agency representatives in computing their salary entitlement. Approval of the pending bill will correct a situation, which could cause considerable inconvenience to the employes and agencies involved. The cost of collecting these small amounts could be greater than the overpayments themselves.

The Council appreciates very much the enlightened approach embodied in H.R. 17954 and the attitude expressed by the General Accounting Office. We request the Subcommittee to act favorably on the proposal in the immediate future.

Mr. UDALL. Also, that portion of Mr. Wolkomir's statement directed to this legislation will be inserted in the record at this point.

(The portion of Mr. Wolkomir's statement referred to follows:)

The Subcommittee is also addressing itself to H.R. 17954, a bill to correct certain inequities and relieve certain liabilities arising out of overpayments of pay to Government employes as a result of administrative error in the application of certain provisions of the Classification Act of 1949, the Federal Employees Salary Act of 1964, and other provisions of law.

The bill covers a number of situations where overpayments of salary have been made as a result of administrative error or misinterpretation and without

fault on the part of the employee concerned. The Comptroller General has referred to his rule that all monies paid for salary in excess of the lawful amount must be refunded to the Government even though the employee was not at fault in accepting the erroneous payment. (31 Comp. Gen. 177.)

This is a severe and harsh rule where the principle of equity is entirely missing. Relief in situations as described in H.R. 17954 now must be obtained through private bills. The NFFE believes, however, that legislation, such as proposed in H.R. 17954, is more appropriate to all employees concerned in the circumstances than private bills where some employees may receive private legislative relief and other employees may not. It also would relieve the Congress of the need to act on such measures on an individual basis. Thus, the legislation as set forth in H.R. 17954 is overall preferable to remedy these situations over private relief bills. The NFFE strongly favors H.R. 17954 and supports its enactment.

Mr. UDALL. Before adjourning, I would advise the members of the subcommittee that as soon as we can find a convenient day I will endeavor to schedule executive consideration of the bills we have been hearing testimony on in these two sessions.

I also have just introduced a bill I consider as having some urgency and some merit, relating to overtime payment of airport controllers. It is a very serious situation and a very serious defect in the law. We will have a hearing on that and try to move some bill in the subcommittee, three or four miscellaneous bills, too.

If there is no further business to come before us, the subcommittee stands adjourned subject to the call of the Chair.

(Whereupon, at 10:25 a.m., the subcommittee adjourned subject to call of the Chair.)

H.R. 18630

MONDAY, JULY 29, 1968

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COMPENSATION
OF THE COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:30 a.m. in room 210, Cannon House Office Building, Hon. Morris K. Udall (chairman of the subcommittee) presiding.

Mr. UDALL. The Subcommittee on Compensation will come to order for the consideration of H.R. 18630.

Without objection we shall place in the record at this point the official letter of the Department of Transportation dated June 27, 1968, transmitting the proposed bill, together with a copy of the bill itself. (The letter and bill follow:)

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., June 27, 1968.

HON. JOHN W. McCORMACK,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I transmit herewith for the consideration of the Congress a draft of a proposed bill, to provide for the payment of overtime and standby pay to certain personnel employed in the Department of Transportation.

The bill is designed to provide additional flexibility and equity in scheduling overtime, callback for non-scheduled overtime, and standby time for personnel of the Federal Aviation Administration in the Department of Transportation whose functions directly affect the orderly, efficient, and safe flow of air traffic. The bill would provide for payment for such duty in a manner which will be fair and equitable to the FAA and to the employees.

As detailed below, the problems with which we are concerned arise because of limitations in the existing statutes relating to the payment of overtime and standby pay to employees in positions for which the basic pay exceeds the rate for the first step of Grade GS-10.

The extremely high rate of growth of air transportation is a major factor creating the need for substantial overtime on the part of our air traffic controllers and airway facilities personnel. In the last five years the number of passengers carried by our scheduled airlines has doubled, and the number will double again in the next five years. This growth is matched and in some ways exceeded by the growth of general aviation. There are more than 100,000 general aviation aircraft today. In five years there will be more than 150,000. Therefore, extensive use of overtime is necessary. For example, starting in June 1968, employees in the New York Air Route Traffic Control Center will begin working six days a week, and will continue working six days until relief is available.

To meet the unprecedented growth of air transportation and reduce the requirement for overtime worked by our employees, we will continue to need additional employees for the operation and maintenance of the air traffic control system. The administration has proposed new user charges to provide funds for the expansion of our work force and the capacity of the airway system. The use of overtime is currently an essential need in the air traffic control system. The need for overtime will exist, but to a lesser extent, when the system is staffed with fully trained employees as it would not be economically feasible to staff for unanticipated absences, severe weather conditions or peak traffic conditions.

1. Overtime

Existing statutory provisions (5 U.S.C. 5542) authorize the payment of overtime pay for work officially ordered or approved in excess of forty hours in an administrative workweek or in excess of eight hours in a day. Payment for overtime work is authorized at the rate of one and one-half times the hourly rate of basic pay of the employee if his basic pay does not exceed the rate of basic pay for Step 1 of Grade GS-10 (\$6.36 per hour). For an employee whose basic pay does exceed the rate for Step 1 of Grade GS-10, the maximum overtime hourly rate of pay is limited to that amount, \$6.36 per hour.

The problem with the foregoing limitation can best be illustrated in the case of air traffic control specialist positions. These are highly skilled and demanding positions. The journeymen air traffic controller at certain high activity locations is classified at Grade GS-12. His crew chief is classified at GS-13. In order to keep these air traffic control towers and centers properly manned 24 hours a day, 7 days a week, it is necessary at many towers and centers to schedule these employees on a rotating basis, which includes Sunday work. Sunday work (when performed during a regularly scheduled 8-hour period of service which is not overtime) is compensable under existing law, 5 U.S.C. 5546(a), at a premium pay rate of 25 percent above the employee's regular rate of basic pay.

These round-the-clock staff requirements for air traffic control specialists are met to the maximum extent feasible by rotation and by scheduling the workweek of the available air traffic control personnel, including regularly scheduled overtime hours. In addition, these employees must from time to time be called back for unscheduled overtime duty to meet unforeseeable fluctuations in air traffic or special air traffic burdens imposed by weather conditions.

One result of the "GS-10/Step 1" limitation on payment of overtime is that the GS-12 and GS-13 air traffic control specialist or crew chief receives less than time and one-half for his overtime work. In fact, the percentage of premium pay decreases steadily as the employee's rate of basic pay increases, and the "premium" disappears entirely when the overtime work is performed by an employee whose regular rate of pay equals or exceeds that for a position at GS-12, Step 6. From that point forward the employee actually draws less hourly pay for overtime work than he does for regular non-overtime work. This situation creates gross inequities and inevitably generates employee morale problems, as well as reluctance by employees to remain available for frequent callback for overtime work.

The following example illustrates the problem in more concrete terms: Under the Federal Salary Act of 1967, an air traffic control specialist in Grade GS-12, Step 6, receives \$6.43 per hour as his basic regular rate of pay. When he performs regularly scheduled Sunday work (non-overtime) he receives an additional 25 percent for a total of \$8.04 per hour for scheduled Sunday work. On the other hand, if this same GS-12, Step 6 air traffic control specialist is required to work overtime he receives a maximum payment of \$6.36 per hour for such overtime. This is seven cents per hour less than his regular rate of pay. If this unscheduled overtime work is performed on a Sunday the maximum overtime rate remains at \$6.36 because of the "GS-10/Step 1" limitation, creating a disparity of \$1.68 per hour as against his rate of pay for regularly scheduled non-overtime Sunday work. The disparities become even greater if the employee is at a higher step in grade and draws a regular rate of pay higher than that of GS-12/Step 6. A crew chief at GS-13, Step 5, for example, is paid \$1.00 per hour less for overtime than for regular time with correspondingly larger disparities for Sunday overtime work.

The overall result is that the employee working under the conditions described above not only finds himself working overtime for less than his regular rate of pay but may be working side by side with an employee of the same grade who, because he is working on his regularly scheduled Sunday shift, is being paid substantially more per hour for the same work.

The illustration speaks for itself by indicating the employee morale problems that exist in such a situation, and the accompanying problems of having employees willingly remain available for such overtime work.

The remedy applied by our draft bill is simply to remove the "GS-10/Step 1" limitation from the payment of overtime for those FAA personnel who perform functions which directly affect aviation safety and to permit the payment to such employees of straight time and one-half overtime pay.

The draft bill does not seek to alter the limitation on premium pay imposed by 5 U.S.C. 5547, which limits the aggregate pay including premium to the maxi-

mum rate for Grade GS-15. This limitation poses no serious problem at this time.

2. Standby Time

The draft bill proposes also to eliminate the "GS-10/Step 1" limitations presently imposed on payment for standby duty pursuant to 5 U.S.C. 5545(c) (1), to alleviate inequities in standby duty assignments similar to those discussed above with respect to overtime.

The Department of Transportation estimates that: (1) The overtime pay provisions would effect 9,000 to 10,000 air traffic controllers and approximately 6,000 airway facilities personnel; and (2) Based on Fiscal Year 1969 overtime pay costs of \$8,300,000, the overtime pay provision would result in an additional cost of \$1,500,000 annually.

The Bureau of the Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this proposed legislation to the Congress.

Sincerely,

JOHN E. ROBSON,
Acting Secretary.

Enclosures.

[H.R. 18630, 90th Cong., second sess.]

A BILL To amend title 5, United States Code, to provide for the payment of overtime and standby pay to certain personnel employed in the Department of Transportation

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5542(a) of title 5, United States Code, is amended by adding the following new paragraph after paragraph (2) :

"(3) Notwithstanding paragraphs (1) and (2) of this subsection for an employee of the Department of Transportation who occupies a nonmanagerial position and, as determined by the Secretary of Transportation,

"(A) the duties of which are critical to the immediate daily operation of the air traffic control system, directly affect aviation safety, and involve physical or mental strain or hardship;

"(B) in which overtime work is therefore unusually taxing; and

"(C) in which operating requirements cannot be met without substantial overtime work;

the overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of basic pay of the employee, and all that amount is premium pay."

SEC. 2. Section 5545(c) (1) of such title is amended by inserting "(or, for a position described in section 5542(a) (3) of this title, of the basic pay of the position)" after "GS-10."

SEC. 3. The amendments made by this Act shall take effect on the first day of the first pay period which begins on or after the thirtieth day after the date of enactment of this Act.

SECTIONAL ANALYSIS

The first section provides for an overtime hourly rate of pay of an amount equal to one and one-half times the hourly rate of basic pay for certain employees of the Federal Aviation Administration in the Department of Transportation.

The current statutory provision limits the hourly rate of overtime pay to that for the base of GS-10. This means that many employees engaged in critical operations of the air traffic control system are paid less than their basic rate for essential overtime work. The bill would provide true time and one-half for their overtime work and would thus serve to fairly compensate them for the necessary disruption of their free time in order to perform required agency work.

The employees covered by the bill are air traffic control specialists and airway facilities personnel whose duties are critical to the effective operation of the air traffic control system. Overtime work performed by these employees is unusually taxing in that requirements for expediting the safe movement of air traffic and speedy restoration of navigational aids place extreme physical and mental pressure on the employees who must perform the work.

Section 2 of the draft bill amends Section 5545(c) (1) of Title 5 of the United States Code to provide that employees covered in the first section of the draft bill will receive an annual premium not to exceed 25 percent of their basic annual salary when they are required to remain in a standby status beyond their normal periods of duty.

The current statutory provision limits such payment to not more than 25 percent of the minimum rate of basic pay for GS-10. The proposed change will provide fair compensation for those employees who must remain confined to their stations or their quarters and be immediately available for service in critical aviation work.

The proposed change affects only the rate of pay for the employees described. It does not change the basic premises of standby pay as provided in the law or the Civil Service Commission regulations which implement the law.

Section 3 establishes the effective date for the new premium pay provisions.

Mr. UDALL. The first witness scheduled this morning is Mr. David D. Thomas, Deputy Administrator of the Federal Aviation Administration, Department of Transportation. Mr. Thomas, if you will come forward and take the stand we will be happy to hear from you.

TESTIMONY OF DAVID D. THOMAS, DEPUTY ADMINISTRATOR, ACCOMPANIED BY JOSEPH H. TIPPETS, ASSOCIATE ADMINISTRATOR FOR PERSONNEL AND TRAINING, FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

Mr. THOMAS. Good morning, Mr. Chairman.

I have a prepared statement, Mr. Chairman. It is reasonably brief and I would like to read it, if that is satisfactory.

Mr. UDALL. You may proceed.

Mr. THOMAS. Mr. Chairman and members of the committee, my name is David D. Thomas. I am Deputy Administrator of the Federal Aviation Administration. I appreciate this opportunity to appear before you today to discuss the subject of providing fair and equitable overtime and standby pay for certain personnel of the Federal Aviation Administration whose functions directly affect the safe operation of the air traffic control system.

The problems which concern us arise because of limitations in the existing statutes relating to the payment of overtime and standby pay to employees in positions for which the basic pay exceeds the rate for the first step of grade GS-10.

Our principal concern is with the statutory limitations as they apply to overtime pay. Under present law, overtime work is authorized at the rate of one and one-half times the hourly rate of basic pay of the employee, but only if his basic pay does not exceed the rate of basic pay for the first step of grade 10. If the employee draws basic pay in excess of the rate of basic pay for the first step of grade 10, the maximum overtime hourly rate of pay is limited to \$6.71 per hour, the overtime rate paid for the first step of grade 10.

The problem with this limitation is particularly acute in the case of air traffic control specialist positions in the various field operating facilities. These are demanding positions and require highly skilled people. The principal grade of air traffic controllers is grade 12, with some classified higher. In order to keep these control facilities properly manned 24 hours a day, 7 days a week, it is necessary to schedule these employees on a rotating basis. Many employees are working a scheduled 6-day week with overtime hours scheduled in advance, and all are subject to being called back from time to time for unscheduled overtime duty to meet unforeseeable fluctuations in air traffic or special air traffic burdens imposed by weather conditions.

One result of the "grade 10/step 1" limitation on payment of overtime is that the grade 12 and grade 13 air traffic control specialist receives less than time and one-half for his overtime work. In fact, the percentage of premium pay decreases steadily as the employee's rate of basic pay increases, and the "premium" disappears entirely when the overtime work is performed by an employee whose regular rate of pay equals or exceeds that for a position at grade 12, step 6. From that point forward the employee actually draws less hourly pay for overtime work than he does for regular nonovertime work. In the case of an air traffic control specialist at grade 13, step 5, for example, the employee is paid \$1.14 per hour less for overtime than for regular time. The system creates gross inequities and inevitably generates morale problems, as well as reluctance by employees to remain on standby for frequent callback for overtime work.

Thus, some employees find themselves working overtime for less than their regular rate of pay. Not only that, they may be working side by side with employees of the same grade on a regular Sunday shift who are being paid substantially more per hour for the same work. Sunday work when performed during a regularly scheduled 8-hour period of service is not overtime. However, this work is compensable at a premium pay rate of 25 percent about the employee's regular rate of basic pay. Thus, the grade 12, step 6 employee who is not on overtime receives the additional 25 percent for Sunday work (\$8.54 per hour), but the employee at that same grade and step who is on overtime is still limited to the maximum overtime rate of \$6.71 per hour.

The remedy which we propose to this problem is contained in the bill the department submitted to Congress last month which the chairman introduced by request as H.R. 18630. That bill would remove the "grade 10/step 1" limitation on the payment of overtime for those FAA personnel who perform functions which directly affect aviation safety, and permit the payment to such employees of straight time and one-half overtime pay.

For the past several months, FAA has found it necessary to schedule a great deal of overtime for personnel who man the agency's air traffic control centers and towers. This need stems from the fact that increases we have made in manpower have not kept pace with the rapid growth in air traffic. The relationship of this growth, and expected future growth, to the functions of the air traffic control system is reflected by statistics on aircraft operations handled by our control centers and towers. For example, the number of aircraft operated under the instrument flight rules handled by control centers has risen from 13.5 million in fiscal year 1966 to 18 million in fiscal year 1968, and we expect it to rise to 21.4 million in fiscal year 1969, an increase of 58.5 percent over the 1966 figure. The total landings and takeoffs at airports served by our control towers has risen from 41.2 million in fiscal year 1966 to 53.3 million in fiscal year 1968, and we expect the figure to rise to 61.5 million in fiscal year 1969, an increase of 49.3 percent.

Because of this increase in workload, employees in some of the control centers and towers are regularly working either a scheduled 6-day workweek or a heavy overtime schedule that virtually amounts to a 6-day week. This condition will continue for many months to come. Although action taken to date by the House and Senate with respect to DOT appropriations would provide for some increases in staffing,

the limitations on hiring contained in the recently enacted Revenue and Expenditure Control Act would preclude such increases. As long as those hiring limitations remain in effect, we have no alternative but to schedule more overtime and to close or limit the hours of operation of our facilities. Any increases that could be made in our manpower would have a beneficial effect on a long-term basis. However, I should point out that new personnel coming into air traffic control work must undergo extensive training. For example, it presently takes 3½ years to progress from the grade 6 trainee level to a radar control position in an air route traffic control center.

I would like to point out that the existing situation with respect to the growth of air traffic, and the manpower problems that stem from that growth, have given the overtime problem considerable emphasis that might not have otherwise occurred. The extent to which controller personnel have been adversely affected by the existing statutory limits on overtime pay has increased significantly, and the incessant requirement to work overtime has been particularly burdensome. However, it should be understood that the nature of the air traffic control system gives rise to a need for a substantial amount of overtime for controllers even when sufficient manpower is available. This is so because it is not economically feasible to staff our facilities for unanticipated absences, severe weather conditions, peak traffic conditions, or continuous equipment surveillance. Therefore, we do not look upon H.R. 18630 as the remedy to a rather crucial manpower problem. We look upon the bill as a means to remedy the unfairness of a pay system which the manpower problem, and its effects upon the employees and the air traffic control system, has helped to bring into focus.

The bill removes the "grade 10/step 1" limitation in the case of employees of the Department occupying nonmanagerial positions, the duties of which are determined by the Secretary to be critical to the immediate daily operation of the air traffic control system, directly affect aviation safety, and involve physical or mental strain or hardship. Also, the overtime work for employees performing such duties must be unusually taxing, and it must be found that operating requirements cannot be met without substantial overtime work. In those cases where the Secretary finds that the duties involved are critical to the effective operation of the air traffic control system, this bill will provide coverage for air traffic control specialists (including crew chiefs) in en route and terminal air traffic control facilities and in flight service stations, and airway facilities personnel. Overtime work for personnel in such positions is unusually taxing in that requirements for expediting the safe movement of air traffic and the speedy restoration of navigational aids, including essential equipment in air traffic control facilities, place extreme physical or mental pressure on the employees who must perform the work.

Now I would like to discuss briefly the remaining portion of H.R. 18630 which deals with standby pay. Under existing law, an annual premium not to exceed 25 percent of an employee's basic annual salary may be paid when an employee is required to remain in a standby status beyond normal periods of duty. However, such payment is limited to not more than 25 percent of the minimum rate of basic pay for grade GS-10. The bill would eliminate the "GS-10/step 1" limitation as it applies to employees in the same positions to which the

proposed measure on overtime would apply. We believe this provision is necessary to compensate fairly those employees who must remain confined to their stations or their quarters and be immediately available for service critical to the operation of the air traffic control system.

Mr. Chairman, that concludes my statement. I would be happy now to try to answer any questions you may have.

Mr. UDALL. Thank you, Mr. Thomas. I think you presented a very helpful statement on a very important bill. I hope the committee can turn its attention to it and perhaps get some action on it before Congress adjourns.

You indicate that the passage of this bill is not any solution to the manpower problems presently plaguing the control of our aircraft in the skies, nor is this intended to be a stopgap piece of legislation. The basic thrust, as I understand your statement, is that a basic injustice exists and will continue even if you get the number of personnel you need?

Mr. THOMAS. That is correct.

Mr. UDALL. Give me a little of the basic information on this. I probably know more about this than some members, I suppose, but what is the range of grades in the whole system? For example, what is the lowest level of a person who may have something to do with the movement of aircraft? Where does he go first? Do you put him first in the control tower running the ground control board?

Mr. THOMAS. Not necessarily. We bring him in at the present time at grade 6 as a trainee. He progresses and, depending on the level of the facility, he generally is a controller at grade 10 to grade 12. Most of the radar controllers are grade 12. The Civil Service Commission has just recently approved new standards which make adjustments in the entrance grade, depending on experience. But generally when he comes in, he has had military training, that is, experience in military air traffic control work. He has passed a very rigid medical examination, a psychological examination—because we want stable people—an aptitude test, and is very well qualified. He comes in as a trainee, then is an assistant controller, then a controller in a center or a tower. We have been training them on the job at our major facilities. Starting this fall, we will do all our training at Oklahoma City, and then send them out to the major facilities.

Mr. UDALL. What is the level of the ordinary fellow in an out-of-the-way flight station?

Mr. THOMAS. Generally, grade 9.

Mr. UDALL. And the ordinary, let us say, tower controller not in a metropolitan area?

Mr. THOMAS. He could be grade 9, 10, or 11.

Mr. UDALL. But the most skilled person in this whole system FAA runs is the radar controller in the busiest metropolitan areas?

Mr. THOMAS. Yes; and under the new classification, which will not be implemented until we can sort out our finances, he will be grade 13.

Mr. UDALL. Take a typical fellow who has reached the top, grade 13, and is qualified to handle one of the positions. What annual salary will he be earning under present law?

Mr. THOMAS. The present salary of a grade 13—the base pay—is \$14,409. If he goes through all the longevity steps, he reaches \$18,729.

Mr. UDALL. Under the present law, even though he puts in considerable overtime, he will not get overtime pay?

Mr. THOMAS. No. Under present law, even if he is at the base pay of \$14,409, his regularly hourly rate is \$6.93, his Sunday pay is \$8.66, and his overtime pay is \$6.71 an hour. So, he makes less on his overtime pay under the present law than on his regular working pay.

Mr. UDALL. If he is in the first \$14,409 step he would earn something additional on an annual basis because most of them are working overtime, is that right?

Mr. THOMAS. Yes. On an annual basis, he makes roughly \$40 for each overtime day he puts in, and let us say, he puts in 50 of them. That gives him an additional \$2,000 which, incidentally, I might add, he does not want. He would much rather not have the overtime pay and not do the overtime work.

Mr. UDALL. What steps have been taken to remove the manpower ceiling on FAA controllers? Is there any action pending on this?

Mr. THOMAS. Yes. The Senate Appropriations Committee added an exemption from the personnel limitation caused by the tax hike bill, and that passed the Senate. It would remove people in the FAA from that provision, and add other people. I understand that goes to conference with the House tomorrow.

Mr. UDALL. Even if this limitation is removed, do you have the funds prospectively at hand to get a larger number of personnel?

Mr. THOMAS. The House voted and passed its appropriation bill giving us about 1,250 additional personnel. The Senate added 1,996 to this, with the funds for the people. So that there would be about 1,250 on the House version, and another 2,000 on the Senate version, and whatever they come out with in between. My assumption is that because the funds are included in both appropriation bill reports, there would be funds.

Mr. UDALL. As you indicate in your statement, however, even if this were true this afternoon, the leadtime to crank these people into the system and get them trained would be a matter of months if not a couple of years, is this correct?

Mr. THOMAS. Yes, sir.

Mr. UDALL. I have always been a little troubled by this arbitrary GS-10 limitation on overtime pay. Of course, sometimes you have to have an arbitrary rule or cutoff point. I wanted you to philosophize a little bit about that. The philosophy of that rule is that sometimes after you climb the ladder you leave the ranks of the hourly employee and begin to have executive and administrative duties. The vice president of a big company, for example, does not punch a timeclock. The idea was at some point in the Federal Establishment to have to have a cutoff point and say beyond this point we will not continue to have overtime pay. We placed it at GS-10. What I am asking you now is, if GS-10 is not the proper cutoff point, what is? The draft bill the Department sent us does not suggest a cutoff point, and if this bill were passed the GS-18 would still get overtime if he were in the proper classification.

Mr. THOMAS. I think we are generally in sympathy with the idea of a limitation on overtime pay, and even maybe with a reduction in overtime to discourage it for people who can control their time. Incidentally, this bill would not apply to the entire Federal Aviation Administration.

Mr. UDALL. I understand.

Mr. THOMAS. It would apply to a very limited group of occupations. However, these people have no control over whether they work overtime or not. I can delay answering a letter, but they have no control. An airplane is there and it is running out of fuel. They have to be on duty. They can't schedule their time. It is very demanding work. I think their pay is given them not because of their executive ability, but in recognition of the demanding work they are doing and their safety responsibilities. We do not propose that this legislation would apply to any of our personnel whose work is deferrable, but only to those whose work cannot be scheduled by the employee, involves safety, and is very demanding. Of course, we have no GS-18 employees in this work, but if we did, I would suggest the legislation be applied to them as well.

Mr. UDALL. You say there are a number of GS-13's and that this is and will be the top position in aircraft control. Are there any GS-14's performing these duties?

Mr. THOMAS. A few are watch supervisors or crew chiefs. The supervisors work on the floor and have responsibility for the control of traffic. The bill would not include those in the office doing the planning or scheduling of this work. It would only include the man with the microphone in his hand or supervising the men controlling traffic.

Mr. UDALL. Would there be any GS-15's?

Mr. THOMAS. I don't know of any case where there would be GS-15's.

Mr. UDALL. The Congress is always interested in precedents. What would be wrong with simply raising the GS-10 limitation to a GS-14, for example? Would this harm your operations or defeat the purposes of the bill?

Mr. THOMAS. May I ask Mr. Tippets, our Associate Administrator for Personnel and Training, to respond to that. At the moment, I can think of no grade 15's.

Mr. TIPPETS. Not now. The new Civil Service Commission standards would include a number of grade 14's. Looking down the road a number of years, if it is a high-density location we could have grade 15 supervisors, but not at this point. As Mr. Thomas explained, we want to restrict it to those who cannot control their overtime. But in the years ahead, we anticipate changes in the system.

Mr. UDALL. Certainly, and in the years ahead we could make the necessary changes, but I am trying to avoid setting precedents. If we were to limit this to the lowest step of grade 14 or grade 15 we would cover practically all the problems you have now and probably all the foreseeable problems you may have. Is that correct?

Mr. THOMAS. Certainly. If it covers GS-14, it would not harm us.

Mr. UDALL. You made a clear record that the only people who would benefit by this legislation are those whose duties are critical to the immediate daily operation of the air traffic control system, directly affect aviation safety, and involve physical or mental strain or hardship. You make the record perfectly clear that the bill would not apply to anyone working in the office on personnel problems or working in the office on engineering problems, but it would apply to the people controlling the planes or supervising the control of the planes with microphones?

Mr. THOMAS. Yes.

Mr. UDALL. We have a letter signed by D. D. Thomas dated July 26 which I will read because it is short:

DEAR MR. CHAIRMAN: This letter is in response to a request of the committee staff respecting the airway facilities personnel who would be covered by the provisions of H.R. 18630.

Under the provisions of the bill, it is necessary that the Secretary of Transportation determine that the duties of the employee be critical to the immediate daily operation of the air traffic control system and directly affect aviation safety. Among those who will qualify under those criteria are airway facilities technical personnel who keep the air traffic control, communications, and navigation systems working. It is the duty of these personnel to assure continuous and reliable technical operation of radar display, instrument landing, and other systems for the control and use of air traffic. They insure that technical operation is within prescribed standards, certify satisfactory operation, prevent deterioration, and in the event of equipment failure or abnormal operation take expeditious corrective action to preclude air traffic delays and assure aviation safety. These airway facilities personnel, of course, do not include the air traffic control specialists who will be covered by the bill.

This is the second part of the coverage of this bill?

MR. THOMAS. Yes, sir.

MR. UDALL. These are the electronics specialists who may have to fix radar equipment?

MR. THOMAS. Yes. They are very critical to the operation. We do run around-the-clock service. The standby provisions apply to them as a group more than to anybody else. This is because, when we have two people, we have to have one man immediately available at 2 o'clock or 3 o'clock in the morning to fix any piece of equipment that may fail.

MR. UDALL. Is the problem that they are in grades 11, 12, and 13 so that this grade 10 limitation affects a great many of them?

MR. THOMAS. It does not affect as many. Right now the predominant grade of the electronic technician is grade 11. The second predominant grade is grade 9. But we do have 900 of them in grade 12 and about 250 in grade 13. They maintain computers and very complex radar. There is some effect, but it is not as marked.

MR. UDALL. Have you made an estimate as to the amount of money this bill would cost the taxpayers if passed?

MR. THOMAS. Yes. We have made some estimates. I think at the time we sent the bill up we estimated our total overtime cost was running \$8.5 million, and this bill would come to about \$1.5 million extra. Due to the increase in traffic, our new estimate of overtime cost is \$14 million, and the cost of this bill would be an additional \$2.1 million.

MR. UDALL. You feel this would contribute to greater air safety?

MR. THOMAS. Yes. We would like not to use overtime, but we must at the moment; and we think the present situation is grossly unfair to the controllers. This is a sore point with them. We think, in equity, we should go forward with this bill.

MR. UDALL. Without objection, the letter from Mr. Thomas dated July 26, 1968, will be printed in its entirety in the record at this point.
(The letter follows:)

DEPARTMENT OF TRANSPORTATION,
FEDERAL AVIATION ADMINISTRATION,
Washington, D.C., July 26, 1968.

HON. MORRIS K. UDALL,
Chairman, Subcommittee on Compensation, Post Office and Civil Service Committee, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to a request of the Committee staff respecting the airway facilities personnel who would be covered by the provisions of H.R. 18630.

Under the provisions of the bill, it is necessary that the Secretary of Transportation determine that the duties of the employee be critical to the immediate daily operation of the air traffic control system and directly affect aviation safety. Among those who will qualify under those criteria are airway facilities technical personnel who keep the air traffic control, communications, and navigation systems working. It is the duty of these personnel to assure continuous and reliable technical operation of radar display, instrument landing, and other systems for the control and use of air traffic. They insure that technical operation is within prescribed standards, certify satisfactory operation, prevent deterioration, and in the event of equipment failure or abnormal operation take expeditious corrective action to preclude air traffic delays and assure aviation safety. These airway facilities personnel, of course, do not include the air traffic control specialists who will be covered by the bill.

I trust that this information meets your needs. Please do not hesitate to contact us if there is any further information we can supply.

Sincerely,

D. D. THOMAS,
Deputy Administrator.

Mr. UDALL. I have to leave for a moment to attend another meeting so I will ask Mr. Hamilton to preside until I return.

Mr. HAMILTON. Mr. Ruppe?

Mr. RUPPE. Would the difficulties we are encountering today be due to the shortage of controllers or to the density of the air traffic?

Mr. THOMAS. It is really both. We have several things that are coming to a head all at once. For one thing, we have very limited runway capacity—just the necessary concrete to handle airplanes. Traffic density is increasing markedly, about 20 percent per year. Then, there is a shortage of controllers. By way of example, and we have a lot of them, one day last week, at the Washington center at Leesburg we had all the controllers available on overtime. And, we were still short 12 or 14 to cover all the positions. They had to restrict the traffic to what they could handle safely. This has a marked effect on traffic.

On the other hand, at places like Chicago O'Hare Airport, we have a runway out for about 5 months while it is being repaired. So we have many things that are acting together. All of which tend to create delays, but there is a fundamental controller shortage.

Mr. RUPPE. Going back several years, was there any way of foreseeing this?

Mr. THOMAS. The answer looking backward is yes, but everyone failed to forecast the rate of growth that we have had. However, the President last fall recognized that we were going to have to have more personnel and more equipment; and he directed the Secretary of Transportation to come up with requirements for personnel and equipment, and a method of paying for them. So there were user charge proposals which, I must say, were not received too well. But I think the fundamental solution will be to get on with the user charges, and to divorce this from general appropriations so that, as the traffic increases, there will be the funds to go with it.

Mr. RUPPE. In the last few years was the agency faced with a budget restriction or did they fail to see the need for additional controllers?

Mr. THOMAS. I think it is fair to say no agency ever receives what they think they need. There have been budget restrictions. It is a combination of both.

Mr. RUPPE. A shortage of financing and failure to project?

Mr. THOMAS. Yes.

Mr. RUPPE. No further questions.

Mr. HAMILTON. Are these controllers the men who sit and watch the radar screens all the time?

Mr. THOMAS. Yes, and the men who maintain the radar equipment.

Mr. HAMILTON. I have watched them and I would think a man's efficiency would go down after he puts in a full day.

Mr. THOMAS. We think so too.

Mr. HAMILTON. So there is some risk, at least, in overtime?

Mr. THOMAS. There is no doubt they are getting tired. We would prefer not to work them 60 hours a week as we are doing to some of them now. We are making studies and, if we knew no man should work more than 6 hours a day 5 days a week, we would like to eliminate the overtime. However, if we went to a 5-day week immediately, we would almost close down some airports now.

Mr. HAMILTON. What is the average workweek of these men?

Mr. THOMAS. Today?

Mr. HAMILTON. Yes.

Mr. THOMAS. At our busiest locations—for instance New York—6 days a week, 8 hours a day; and we hold them over frequently not to exceed 10 hours a day.

Mr. HAMILTON. So they are often working 60 hours a week, then?

Mr. THOMAS. Forty-eight to sixty hours a week.

Mr. HAMILTON. At the busiest airports?

Mr. THOMAS. Yes.

Mr. HAMILTON. What would be the optimum number of hours for them to work?

Mr. THOMAS. We would like to work them a 5-day week or 40 hours a week, but not on control duty the entire 40 hours. We would like to work them, say, 6 hours a day on control duty; or 30 hours a week on control duty and another 10 hours on training, familiarization, and other activities.

Mr. HAMILTON. When you say some are working 60 hours a week, do you mean on control duty?

Mr. THOMAS. Yes.

Mr. HAMILTON. So some are working twice the number of hours you think would be best from the standpoint of safe operation?

Mr. THOMAS. Well, I won't say safe. But I will say more efficient, and much more useful.

Mr. HAMILTON. What are your immediate plans now to relieve this situation in the years ahead of you?

Mr. THOMAS. Well, we can go on two extremes. We had our regional directors in last week, and we will be meeting with the aviation industry. If the appropriation bill is passed with the exemption from limitation on personnel as voted by the Senate, we would get another 3,500 people we could put in the system immediately. If the Expenditure Control Act provisions apply—and right now they do apply—we will have to reduce to our 1966 level and decrease 2,600 rather than adding 3,500. Then the only way we can do it is reduce the hours of facilities. We have already done so at 117 towers. We can close some and not have to staff them; and we can restrict the amount of traffic by putting rigid and arbitrary restrictions on the traffic. It certainly will be some combination of reducing facilities, reducing hours, and reducing traffic.

Mr. HAMILTON. Assuming the Congress acts to your reasonable satisfaction this year, how long will it be before you have the pressure relieved on air traffic controllers?

Mr. THOMAS. Even if we get all that is in the Senate bill—and that is the maximum now before Congress—it would be another year or a year and a half. This is so even if we attempt to employ the most experienced men we can get out of the military. Many have completed their military service and been trained as controllers, and some are available. We are changing our training so that one man is trained to turn one bolt, in effect. But I would say we are 12 to 18 months away from daylight under the most favorable action by Congress. Under the most unfavorable action by Congress, we are several years away.

Mr. HAMILTON. Any further questions?

Mr. RUPPE. I believe you mentioned this legislation we are looking at today would help relieve the shortage of controllers?

Mr. THOMAS. No. The legislation we are looking at today would relieve an inequity to people working overtime. It would not relieve the shortage. They are working overtime, and none have refused to work overtime although they get less than the rate of basic pay. But we think this bill would relieve an inequity. It would not relieve the shortage.

Mr. RUPPE. I think you said under favorable action by Congress it would be 18 months before the shortage would be relieved and under less favorable action it would be several years away?

Mr. THOMAS. Yes; because we would start by closing facilities, and it takes a long time to build them back up.

Mr. RUPPE. Has the agency attempted to train people to meet the needs?

Mr. THOMAS. Yes. It is now pending in the Appropriations Committees. It depends on whether we are restricted on personnel under the Expenditure Control Act. The only direction we have at the moment is to start reducing personnel.

Mr. RUPPE. So no matter what you would like to do as an agency, you are in an inflexible position. You could not hire additional controllers today?

Mr. THOMAS. Not today. If the limitation is removed, we could hire them.

Mr. RUPPE. How long does it take to train them?

Mr. THOMAS. About 4 years for major facilities.

Mr. RUPPE. If you got a new man in would you put him in Green Bay and put the more experienced men in New York or Chicago?

Mr. THOMAS. Yes. For example, in Chicago we recently brought in people who lived in Chicago and had military training as controllers. We put them on and they are doing very well.

Mr. RUPPE. Thank you very much.

Mr. HAMILTON. Thank you very much for your testimony, Mr. Thomas.

Mr. THOMAS. Thank you.

Mr. HAMILTON. The next witness is Mr. John F. Griner, president of the American Federation of Government Employees. I see Mr. Griner is not present but his representative is.

TESTIMONY OF STEPHEN A. KOCZAK, ASSISTANT DIRECTOR OF RESEARCH, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

Mr. KOCZAK. Mr. Chairman, Mr. Griner is out of town so I should like to be allowed to submit his testimony. My name is Stephen A.

Koczak. I am assistant director of research for the American Federation of Government Employees.

Mr. HAMILTON. Please proceed.

Mr. KOCZAK. There is no more urgent and pressing issue at this moment, so far as the safety and welfare of the traveling American public is concerned, than flight safety. As the national president of the American Federation of Government Employees, representing more than 405,000 Federal employees throughout the United States, Puerto Rico, and many foreign posts, I can personally testify that travel in the air is becoming increasingly onerous and dangerous. The situation is rapidly approaching a national crisis.

The safety of the millions of passengers who travel in the air depends primarily on the conscientious and heroic work of the air traffic control employees. Altogether, as of June 30, 1968, there were only 6,803 persons in flight towers responsible for the entire safe, speedy, efficient movement of thousands of commercial, private, and military airplanes through the American skies.

These men and women have performed heroic work. Because of the extreme congestion of the airways and because of the administrative failure to provide enough airports and enough air traffic control personnel, this group of Federal employees, less than 7,000 in number, have had to work hour, upon hour, upon hour of overtime.

Their careful and efficient work and, I think we must clearly say, their heroic devotion to duty both during regular and during overtime hours should have won them the gratitude of the Nation.

It should have. And yet what has happened?

The simple fact is that more than 2,000 of these air traffic control employees actually get less money during their overtime work than they do during their regular 40 hours of normal duty. This is an incontestable and an incredible fact.

This situation, I believe everyone will agree, needs an immediate remedy.

How did such an unacceptable situation arise?

The reasons for the existence of this situation are the statutes themselves governing compensation for overtime. They provide that anyone earning more than the minimum of GS-10 salary, currently \$9,297 per annum, will be compensated for any overtime worked at the rate of $1\frac{1}{2}$ times the minimum GS-10 salary.

Converted into dollar-per-hour terms, the hourly rate for \$9,297 is \$4.47; $1\frac{1}{2}$ times \$4.47 is \$6.71.

In other words, \$6.71 per hour is the maximum any Federal employee can receive for overtime work.

Yet \$6.71 is less than the normal straight time hourly rate for any Federal employee who is in the fifth step of GS-12 and for all employees higher than the fifth step of GS-12. Converted into annual terms, \$6.71 is equal to \$13,441.

Let us apply these figures to the grade structure of the air traffic control employees actually involved in flight control functions. The following tabulation is by grade and annual salary range.

Grade	Number of employees	Annual salary range
GS-15	41	\$19,780 to \$25,711.
GS-14	374	\$16,946 to \$22,031.
GS-13	775	\$14,409 to \$18,729.
GS-12	1,822	\$12,174 to \$15,828.
GS-11	2,183	\$10,203 to \$13,263.
GS-10	1,124	\$9,297 to \$12,087.
GS-9	21	\$8,462 to \$11,000.
GS-8	286	\$7,699 to \$10,012.
GS-7	None	
GS-6	177	\$6,321 to \$8,221.

From the foregoing table it is apparent that approximately 30 to 35 percent of the air traffic control employees receive less per hour for overtime work than for regular normal time work.

Many of these employees, especially the most senior and the most experienced and the most vital to air traffic safety earn as much as \$5.75 less for each hour of overtime as for each hour of normal time.

Let us look at some of the kinds of work these men and women perform in their daily work.

The pertinent classification standards of the Civil Service Commission state the following:

Air traffic control work is the work involved in providing for the safe, orderly and rapid movement of air craft through the nation's airspace. To accomplish this, rules have been established to govern flight under various weather conditions and in various areas. Along the Federal airways and in designated control zones, provision has been made for actual "control" of aircraft flight when the weather conditions become bad enough that a pilot cannot rely on a "see and be seen" concept to avoid other aircraft. He flies, then, under Instrument Flight Rules (IFR) and according to instructions given him by the controller. These keep him separated from all other air craft flying under the same regulations. Pilots may, by filing an IFR flight plan and being given clearance to proceed on a certain route, receive this separation from other IFR traffic even when the weather conditions are not bad. In terminal areas and on certain congested routes, all flights receive control instructions and advice, regardless of weather conditions.

All pilots, whether they choose to fly IFR or VFR (Visual Flight Rules, under which the "see and be seen" concept is applied), may avail themselves also of flight assistance service. This service involves the provision of all information pertinent to flight and is given to all pilots requesting it whether or not they are flying in controlled airspace and regardless of weather conditions.

These control and flight assistance services are conducted through a network of centers, terminal facilities, stations, and combined facilities which are equipped to provide preflight assistance, to monitor the operation of the navigational aids used by pilots in flight, to relay information covering long flights, to provide inflight assistance, to issue control instructions, and to provide emergency service for those lost or in difficulty.

These facilities are linked by a vast interphone network and are assigned radio frequencies for direct contact with pilots in flight. Operations must be conducted at a very high speed and safety will not permit misinterpretation of messages or instructions. For these reasons, standardized codes, symbols, signals and phraseologies for delivery of information have been developed. Where possible, standard control procedures have also been developed.

The largest group of positions in the Air Traffic Control Series is that directly engaged in issuing control instructions and providing flight assistance service to pilots and in administering the day-to-day work at the network of field facilities.

The most important characteristic of all of these positions is a responsibility for life and property, engendered by their responsibility for assuring the safe, orderly, and expeditious movement of air traffic. Another inherent characteristic of all operating, working-level air traffic control positions is a requirement for coordination with other individuals in regard to transfer of information, planning of control actions to avoid conflict with another controller's planned actions, and requests to other positions or facilities for approval of proposed courses of action.

Thus, the ability to communicate clearly, to take into account the plans of other individuals, to assess the effects of current or planned courses of action, and to adapt quickly to rapidly changing situations is important in all of these positions.

In addition to their responsibility for the life and property aboard all civilian planes in the air, the air traffic control employees have an important function in assisting military flights. This function involves responsibility for handling messages concerning the movements of military aircraft, for assuring that these aircraft arrive or are accounted for, and for issuing flight advisories to military aircraft under certain conditions.

In the event of a surprise air attack upon the United States, the alertness of these air traffic control employees might well determine the very survival of the United States.

I believe the foregoing justifies not only time and one-half overtime for these employees, it justifies more.

Yet all that is being asked in the very fine bill, H.R. 18630, introduced by the distinguished chairman of this subcommittee, Congressman Morris K. Udall, is that these employees receive at least the same treatment afforded every private employee in the United States; that is, that they be paid time and one-half for every hour of overtime, with the computation being determined on their own base rate of pay and not on some fixed lesser rate of pay, such as the minimum step of GS-10.

Our organization endorses Congressman Udall's bill, H.R. 18630, and we pledge that we will cooperate in every way to obtain its early passage.

As a concluding footnote, I should like to observe that one important improvement we would like to see in this bill is that its provisions be applied to every department and agency of the Federal Government and not just to the Department of Transportation. If this were done, another continuing inequity and discrimination against fair pay standards for Federal employees would be remedied.

We wish to express once again our appreciation to Congressman Udall and to the other members of this subcommittee for the opportunity to testify on this important and urgent legislation.

Mr. UDALL. Thank you. Any questions?

Mr. HAMILTON. I am interested in your footnote. I wanted to ask a question on that, but first let me say your computations on page 2 showing the number of employees, their grade, and annual salary range, are very helpful and I personally appreciate it very much.

What will be the effect of your footnote request in terms of cost? Do you have any computations on that at all?

Mr. KOCZAK. No, sir. Of course what we had primarily in mind, at this stage, is that this bill is an emergency bill. If there is an emergency situation in some other department, with the same conditions involved, the principle of equity should apply to these other persons as well as to controllers confronted with this situation.

I gather your question is directed to the basic matter of whether anybody should be asked to work overtime for less than one and one-half times his base pay. I imagine this is what the committee is interested in. I think, as a matter of principle, if the concept of comparability with private industry is applied, we cannot reject that concept simply because a person is a Federal employee. If he would be receiving one and one-half times his base pay in private employment, he

should receive one and one-half times his base pay in Federal employment.

Mr. HAMILTON. As I understand, there are no exemptions at the present time from this overtime pay limitation?

Mr. KOCZAK. That is right.

Mr. HAMILTON. If this legislation is passed I can see considerable pressure being applied for other exemptions.

Mr. KOCZAK. I should think we would discover people in other departments working under the same kind of stress and strain, and I am sure our organization would be informed of that. So I think it is only fair to say the passage of this bill would result in this response, and we think it should. It is unfair for persons to receive significantly less for overtime pay when they are contributing so much to the national safety.

Mr. UDALL. Will the gentleman yield?

Mr. HAMILTON. Yes.

Mr. UDALL. Did you hear my philosophical discussion with Mr. Thomas on this?

Mr. KOCZAK. Yes, sir.

Mr. UDALL. What is your response? Are you in agreement that if we remove the GS-10 ceiling we should have another kind of limitation, or do you think the Assistant Secretary of Transportation should be paid overtime?

Mr. KOCZAK. In principle we think comparability with private industry practices should apply in the Federal Government. Obviously we would prefer a GS-15 limitation to a GS-10 limitation because the inequity is lifted considerably, simply by lifting the level. The lifting of the ceiling would automatically mean the inequity is removed from thousands of people who are in GS-12, step 5, because it is only at this stage the inequity begins to apply. If the ceiling is lifted—and I think it should be to the first step of grade 15—in practical terms you would have achieved what we subscribe to as a matter of principle.

Mr. HAMILTON. Do you have any estimates of the cost to the Government if we do as you suggest?

Mr. KOCZAK. We had drawn up tentative estimates and threw them away because, in theory, when this is applied the inequities correct themselves. I think Congressman Ruppe asked another witness earlier, if there had been planning for this emergency. In a Federal agency there is often little or no planning because by the GS-10 overtime limitation, you can sweat people in Federal employment and get more out of them. In fact, financially, it is better, from a budgetary standpoint, to have people work 60 hours a week. So the controller shortage problem of the FAA might not have arisen at all if we had not had this GS-10 limitation. This is one of the reasons we believe there should be no arbitrary GS levels on overtime. Then, budget people would come to Congress for funds for additional employees and they themselves would put self-enforcing controls on overtime expenditures.

Mr. RUPPE. Do you visualize the need for this exemption of air traffic controllers because they do direct work rather than executive work?

Mr. KOCZAK. Yes. We have testified on the basis of an important safety factor. All of our people use aircraft mostly now for our travel

and the urgency of our testimony is directed primarily to solving the problem in the FAA. Therefore, even if the general principle we expressed were rejected by the subcommittee, we would still recommend that the FAA problem be solved for the safety of the American public.

Mr. RUPPE. Is there any way of defining it so that one individual might be called upon to work without overtime pay because of his executive position? Is there a way of breaking it down between working in an executive position and in direct work? Could we define the need for overtime payment on that basis?

Mr. KOCZAK. Yes. I believe there are approximately 18,000 employees of the Federal Aviation Administration, and in our testimony we have figured 6,803 because these are operational control tower personnel. We have also testified that this bill, in effect, would affect only about 2,000 of these. So as this bill is written its impact would not be on more than 2,000 persons. It is an ad hoc bill to solve a problem that exists for 2,000 people. The other 4,000 people would not be affected in any way because they are receiving proper time and one-half overtime since they are drawing salaries under GS-10 first step where the time and one-half applies, normally.

Mr. RUPPE. Beyond the FAA to other agencies can you visualize a division between people in an air controller capacity as distinguished from an executive position?

Mr. KOCZAK. Yes.

Mr. RUPPE. Do you feel this bill, if passed, would diminish the problem?

Mr. KOCZAK. If this bill were passed and the limitations on FAA personnel ceilings were lifted and the appropriation bill provisions for additional personnel were passed, we believe in less than 1 year the problem would be resolved.

Mr. RUPPE. But according to the previous gentleman's testimony the additional personnel would not be brought into play for several years.

Mr. KOCZAK. Normally, they would not be fully trained in less than 4 years, but there are many people in the military now who can go directly in and not take 4 years. Assuming there are no emergency actions at all taken by the FAA it would involve a 4-year leadtime. However, by emergency action, such as was taken in the case of Chicago, there would be a means of obtaining persons who would come right in. Also, they might be willing to come in more rapidly if they got time and one-half overtime pay.

Mr. RUPPE. So really there are two factors involved: (1) Increase in personnel would bring in people trained by the military or other agencies; and (2) you would have an increase in the esprit de corps of the men you have there now?

Mr. KOCZAK. That is correct.

Mr. RUPPE. One more question. This is not to needle you in any way but a number of people have asked me why it is that the productivity in the Post Office Department seems to be limited to perhaps 2.5 percent as compared to private industry where they point to 30 or 35 percent increase in productivity over the same period. I wonder if you would philosophize on this a bit?

Mr. KOCZAK. I could not really address myself to that with any knowledge except a general observation on the use of statistics. Pri-

vate industry, unlike the Government, goes out and invests its money and personnel in the highest reward areas, while the Post Office Department must continue to deliver something like junk mail that nobody else may want to take over. Obviously, if one wants to look at the greatest improvements, they would be found to exist in the innovative industries. You might ask why it is that in the textile industry there is also only a 2.5 percent improvement in the private sector. That is, why would one find the same range from 30 to 25 percent to exist also in the private sector?

Mr. UDALL. Will the gentleman yield? There are certain kinds of activities in which you can use machines and computers and techniques; but until you find a better way to sort mail and deliver it to the homes we won't have much productivity increase in the Post Office Department. We don't have it in the barbershops. You can apply the same thing to the guide who takes people hunting or fishing. These people have not shown much increase in productivity.

Mr. RUPPE. My question was not intended to embarrass you.

Mr. UDALL. We always hear arguments about who represents whom in these fields of employment. The American Federation of Government Employees has how many of the 6,800 persons here involved?

Mr. KOCZAK. I would say we have a very small fraction, perhaps 5 percent or so.

Mr. UDALL. You are interested in this because of its ramifications, I suppose?

Mr. KOCZAK. Yes; and our testimony was primarily from the standpoint of the safety factor.

Mr. UDALL. Thank you.

Mr. KOCZAK. Thank you.

Mr. UDALL. I had planned to finish the hearing on this bill this morning, but an emergency has arisen in regard to the manpower problem of the Post Office Department and there is a special meeting of the full committee at 11 o'clock.

We have four additional scheduled witnesses this morning. We have Mr. John McCart of the Government Employees' Council.

Mr. McCART. I would be happy to have my statement introduced in the record.

Mr. UDALL. All right. I will come back to you in a moment.

We also have scheduled Mr. James D. Hill, general counsel of the Air Traffic Control Association. Mr. Hill, are you based in Washington?

Mr. HILL. Yes; but I will be out of town Tuesday and Wednesday. I would have to submit my statement.

Mr. UDALL. And, Mr. Kenneth T. Lyons, president of the National Association of Government Employees, has been scheduled.

Mr. LYONS. I have controllers from the Los Angeles Air Route Control Center, and I am positive I could hold them over until tomorrow morning.

Mr. UDALL. Tomorrow is out of the question because of another subcommittee meeting. If we resume the hearing, it would be Wednesday.

Mr. Von Kann, what is your problem?

Mr. VON KANN. No problem. We would be happy to submit a statement for the record, sir.

Mr. UDALL. I have really two options. One would be to have the people who have indicated they would submit their statements, do so, and use the remaining time to hear from Mr. Lyons.

The second option would be to try to get permission to come back at 2 o'clock this afternoon, but we run the risk that objection would be made.

Another would be to schedule a meeting for 9:30 Wednesday morning and go into it at some length. We would have all the time we would need.

The other factor I would like to mention before I ask you for your druthers on this is there will be a full committee meeting on Thursday. If we could finish today, it might well be possible to get the subcommittee together on Wednesday and report the bill out. Then we might get action on it by the full committee on Thursday. I am sure most of you would rather see the bill begin to move along than to have a couple of hours of our time and attention. I suspect we will get favorable action from the subcommittee.

Let me go around the room again. Based on that, Mr. McCart, do you think it would be wise to try to finish in the next 20 minutes and get action this week, hopefully?

Mr. McCART. I think action is the most important element, Mr. Chairman. I am happy to submit.

Mr. UDALL. Mr. Hill?

Mr. HILL. I will submit, sir.

Mr. UDALL. Mr. Lyons, if we gave you the next 20 minutes, do you feel you would have had due process?

Mr. LYONS. I think we can, because we have other hearings, I believe, on Thursday, and the witnesses have to be held over for that anyway.

Mr. UDALL. Mr. Von Kann?

Mr. VON KANN. I would like to expedite action, sir.

Mr. UDALL. With that understanding, Mr. McCart, your statement will appear at this point in the record.

**TESTIMONY OF JOHN A. McCART, OPERATIONS DIRECTOR,
GOVERNMENT EMPLOYEES' COUNCIL, AFL-CIO**

Mr. McCART. Mr. Chairman and members of the subcommittee, the Government Employees' Council appears today to urge favorable action by the subcommittee on the pending bill assuring employees engaged in air traffic control operations in the Department of Transportation that they will receive normal overtime compensation for work beyond the usual workweek.

Thirty-five AFL-CIO unions representing employees in classified, wage board, and postal occupations comprise the council. They join in endorsing H.R. 18630.

We commend you, Congressman Udall, for the understanding and sense of justice involved in your introduction of H.R. 18630.

It is unnecessary to belabor the critical situation existing around many of our airports today. Recent newspaper accounts throughout the country have underscored the grave traffic congestion prevailing in the airplanes, particularly in the larger cities. Those of us who find it necessary to use air transportation to any extent have certainly experienced these conditions, which are hazardous to life and property in the air and on the ground.

Air traffic control employees are carrying a staggering burden as they arrange takeoffs and landings of thousands of planes daily. We have been most fortunate that their expert knowledge and dedication to duty have avoided air tragedies in so many instances. All of us are aware that these positions require the utmost mental concentration. In addition, they entail great physical demand. One need only review the Civil Service Commission's description of air traffic control functions or observe the employees at work to understand the enormity of their responsibilities. In addition to guiding aircraft to and from our airports, traffic control employees are responsible for civilian planes in transit, and service military planes to a lesser extent.

Increasing use of air transportation for passengers and freight, it has become necessary for traffic control employees to work greater and

The simple fact is that the complement of air traffic personnel is woefully inadequate. Less than 7,000 individuals carry the weight of the direct air traffic control activity on their shoulders. With the ever-greater amounts of overtime.

The pending bill provides in essence that these employees will receive the time and one-half rate of base pay applicable to most other Federal workers for overtime work.

Congress is moving towards alleviating the existing difficulty by providing funds for additional air traffic employees in the Department of Transportation appropriation now under consideration.

The overtime problem, which H.R. 18630 will relieve, is caused by the present pay law. Those employees paid more than the minimum rate of GS-10 are entitled to pay for overtime work only at the first step of GS-10. In practical terms this means that any employee paid more than \$9,297 annually receives less than time and one-half compensation for overtime work. In effect, the individual occupying the fifth step of GS-12 or above is paid less than his basic hourly salary for working overtime hours.

H.R. 18630 will provide equity to some extent by removing this artificial barrier in the case of air traffic personnel.

We recommend that the subcommittee extend consideration to expanding the "true" overtime concept to other employees similarly affected in other Government activities.

As for the pending bill, the need is immediate and urgent. The council recommends that the subcommittee move without delay to correct the present injustice.

Mr. UDALL. You favor the legislation, is that correct?

Mr. McCART. By all means, Mr. Chairman.

Mr. UDALL. You concur in the views expressed by the AFGE previously?

Mr. McCART. Yes, sir.

Mr. UDALL. That covers the whole field of Government employees, rather than just the air controllers?

Mr. McCART. By all means, to meet the present critical situation.

Mr. UDALL. Mr. Hill, you will turn in your statement. It will be printed at this point.

**TESTIMONY OF JAMES D. HILL, GENERAL COUNSEL, AIR
TRAFFIC CONTROL ASSOCIATION, INC.**

Mr. HILL. Mr. Chairman and members of the committee, the Air Traffic Control Association is an association of approximately 5,500 air traffic controllers in the employ of the Federal Aviation Administration. At the present time there are approximately 20,000 such persons, divided as follows:

<i>Fiscal year 1967</i>	
Air route traffic control centers-----	6, 935
Airport control towers-----	6, 238
Flight service stations-----	4, 520
Headquarters personnel-----	877
Total-----	18, 378
<i>Fiscal year 1968</i>	
Centers-----	7, 565
Towers-----	6, 953
Flight service stations-----	4, 520
Headquarters-----	905
Total-----	19, 943

The personnel increase shown in fiscal 1968 resulted from a supplemental appropriation during the course of the year by which the Congress authorized the agency to employ an additional 1,449 air traffic controllers.

The urgent necessity of enactment of the present measure, which would authorize payment of true time and a half for overtime for air traffic controllers, is the result of circumstances which have occurred over the last several years. We think it might be helpful to the committee if we were to set out the history of this problem and to attempt to put it into context.

The Nation's air traffic has been increasing at the rate of about 15 percent per year, compounded annually. Today the number of aircraft handled by air route traffic control centers, airport control towers, and flight service stations, is approximately twice what it was 6 years ago. The Federal Aviation Administration has recently issued a 10-year forecast in which it estimates that air traffic volume will triple or quadruple again in the next 10 years. But meanwhile, the size of the controller work force has remained approximately the same. Shortly after the agency was created by the Federal Aviation Act of 1958, the controller work force was stabilized at approximately 17,000 positions, including flight service station specialists, and, except for the current year's increase, it has changed little since then.

Our present problem had its genesis in the policy decision of a former Administrator to have what he referred to as a "lean and clean" agency. Although yearly statistics showed that air traffic volume was increasing by 15 percent annually, no requests were made to the Congress for an increase in the size of the controller work force that was designed to cope with this traffic increase or to meet future increases. Then to make matters worse, the controller training school at Oklahoma City was closed in fiscal year 1963. Prior to this time, controllers had received initial training of 14 weeks at the FAA Academy at Oklahoma City. When this school closed, initial training was pushed

back into the field facilities, which meant that raw recruits were sent directly to facilities where they had to be trained in most instances by journeyman controllers who were taken off their duties to conduct this training. This increased the shortage of journeymen controllers available for active control duty. Further, it meant that facility staffing was unrealistic. Although, on paper, it might appear that a facility was fully staffed with employees, in fact many of them were raw trainees who were not certificated as journeymen and could not legally perform air traffic control duties. We should mention at this point that it takes approximately 2 years for a recruit to be checked out and certificated as a controller at the smaller facilities, and about 2 more years, or a total of 4 years for him to be checked out and certificated to control traffic by radar at the larger facilities.

Also, Agency recruitment did not even keep pace with the normal attrition caused by deaths, retirements, and resignations, and the pipeline of controllers in training commenced to run dry.

As a result, it became increasingly necessary for the Agency to require controllers to work overtime to provide the numbers of people on duty required to handle the steadily increasing air traffic. This requirement has steadily increased. Originally, the Agency gave controllers "compensatory time off" but this eventually became ineffective. "Comp time" is effective to handle a temporary or seasonal increase in work volume, but it does not work when volume continually increases, because there never comes a time when the employee can use his compensatory time off, and at the end of the year, under civil service regulations, it must be forfeited. As a result, in May 1967 the Agency made a policy decision to pay all controllers cash for overtime work. This has continued since, and with this decision the 6-day week subsequently became a way of life in many facilities in the air traffic control system. For some time, this was handled on an informal basis with the facility chief calling back controllers who were willing to work overtime or who could be reached by telephone. But as the 6-day week has continued and controllers have continually become more exhausted, the Agency found itself unable adequately to staff facilities by this method, and now facility after facility has been formally and officially placed on a regular 6-day week basis. Now, because of the steadily increasing air traffic volume and continually worsening controller shortage, even this has become insufficient, and has led to fatigue and lessened employee work efficiency and deteriorating morale.

Last week the Acting Administrator of FAA said that the air route traffic control center at Leesburg, Va., now has every available controller on duty on a 6-day week—and is still 14 men short.

Last year the Congress took official notice of this steadily increasing emergency, and by supplemental appropriation gave the Agency additional funds with which to employ an additional 1,449 controllers. This was not requested by the administration; indeed, the administration would not even permit the Agency to appear before the competent committees and support the increase. It was advocated and supported by other segments of the industry, associations of air carriers, the airline pilot's association, the association of private pilots, and the controller's associations. The increase was literally forced down the throat of a reluctant administration.

This year the administration has relented, and permitted the Agency to request a further increase of 1,213 air traffic controller positions.

This has been approved by the House, and is now pending in the Senate. Before the Senate Appropriations Committee just last week, the committee further added another 1,505 positions.

All of these increases—the one approved last year and the two proposed for this year—would amount to about a 25-percent increase in air traffic control personnel, to cope with a 100-percent increase in workload. At the most, it would only provide the badly needed staffing that is required as a result of past increases in volume; it would in no sense be a planning for the future to meet further increases in traffic volume, which we know are coming next year and in future years.

Further, each of these new men must be recruited, must pass rigorous entrance examinations, must go through initial training, and must then successfully pass through 2 or 4 years of on-the-job training, before they will enter the system and ease the present crisis. There will be many of the trainees who will be found unsuited for this highly specialized work after progressing through much of the formal training course.

The air traffic controller works under unbelievable pressure and tension. An airline pilot once described his own profession as "hours of boredom intermixed with moments of sheer terror." The controller has no hours of boredom. He should handle no more than five or six aircraft at a time, but it is routine now for many of them to handle 15 to 25 at a time. Because of personnel shortages, they often have no relief at lunch and many of them eat at their work positions. There is no one to give them a 5- or 10-minute break. There is inadequate backup for annual leave and sick leave. Controllers must sit at their work under extreme pressure for 8 to 10 hours at a time. When they get off duty, they go home in a state of exhaustion. Medical studies of controllers show that they require an inordinate amount of sleep and that they are peculiarly subject to the diseases which result from unrelieved pressure and tension—heart attacks, ulcers, and nervous breakdowns. Yet the same Agency which finds it necessary to work controllers on a 48-hour week, has a regulation which forbids airline pilots to fly more than 100 hours a month, a limitation imposed for air safety, and by labor contracts with their companies most airline pilots have a ceiling of 75 to 85 hours per month.

As the members of this committee are undoubtedly aware, the problem caused by the steadily increasing volume of air traffic has recently become a crisis. A few years ago, it was expected that there would be delays on landing in adverse weather conditions when each aircraft must be landed by instrument procedures. For the last several years, delays have been customary at the busier airports even in excellent weather conditions. Within the last several weeks, the delays have become intolerable. Recent newspaper items disclose that Northeast Airlines has found arrival delays at La Guardia as high as 2 hours and 50 minutes for a 45-minute flight. Braniff reports encountering delays of 2 hours and 30 minutes upon arrival at Kennedy Airport, with necessity that some flights be diverted to Newark Airport. Another air carrier has reported that on some days, none of its flights have left the ground less than 43 minutes after they taxied out to the end of the runway, and that one flight was listed as No. 41 in departure sequence on a day with perfect weather conditions. The major airlines which serve New York City have reported that they may run out of pilot

flight time before the end of the month. We have received reports from passengers of instances in which it has taken 5, 6, or 7 hours for short flights in and out of New York City. When this situation exists, air transportation has become useless, because it has lost its primary advantage—speed. Today, a passenger can often get from Washington to New York, or return, faster by automobile, bus, or train than he can by air carrier. Similar, serious delay situations are reported to exist in Chicago, and to a lesser extent, at other major cities. The simple unescapable fact is, the air transportation system is literally coming apart at the seams because of airport and airway congestion. The facts concerning the present crisis have been excellently collected in an article in the *Wall Street Journal* for Tuesday, July 23. We attach a copy for the committee's information.

A number of things must be done to alleviate this situation. Many of them are not within the province of this committee. They are now being considered by other committees of the Congress. Many cities need another major airport or satellite airports for general aviation use. Several thousand existing airports need urgently to be improved. Hundreds of millions of dollars worth of radar and other air traffic control equipment is needed in order to expedite and efficiently manage the traffic flow. The controller work force needs to be augmented by several thousand positions. The controllers need the benefit of the early retirement plan because this is definitely a young man's game and a 55-year-old controller cannot be expected to handle heavy traffic any more than a 55-year-old athlete can be expected to continue to play major league baseball. (The present civil service retirement program requires 30 years' service at age 55.) Higher salaries are needed for all levels of controllers in the system to provide compensation commensurate with the unique responsibilities and demands of the job. This is particularly true for the busier facilities, because many controllers are reluctant to take such man-killing assignments at the present time. Finally, controllers need to receive true time and a half for their overtime, because until all of the other necessary things are accomplished, the present controller work force must continue to meet the emergency by working overtime. This situation will continue at least for the immediate future.

To sum it up, many controllers have been working long extra hours and a 6-day week for a long time, and they will undoubtedly be required to continue to do so at least for another 3 or 4 years until the present personnel shortage is obviated.

The bill which is now before this committee for consideration is an essential first step in contributing to improving the conditions which have resulted in our Nation's air transportation crisis. The controllers are highly skilled craftsmen who take great pride in their work. They are proud to do more than their share. But they have been compelled to do it for much too long without adequate compensation or recognition. The overtime pay law, as it is now worded, is a cruel injustice to the controller and one which should be immediately repaired.

The unfairness arises from the language of the present overtime pay law which provides that it shall be paid at the minimum rate of basic pay for grade GS-10. Before the enactment of Public Law 89-504, July 18, 1966, overtime was based on the minimum rate of a grade GS-9.

The difficulty with this is that most controllers are in grade GS-12. Civil Service Commission classification standards divide air traffic control facilities into three levels: at the lowest level, the journeyman controller is a grade GS-10; at the next level he is at grade GS-11, and at the highest density facilities he is at GS-12. The levels are based on traffic volume. Because of the steadily increasing traffic volume every air route traffic control center but one is now classified at the highest level, and all of the busier towers are also classified at the highest level. As a result, well more than half of the controllers are at grade GS-12, and most of the remainder are at grade GS-11. But their overtime is based on the bottom in-step grade of a GS-10. This means that there are almost no controllers who actually receive full time and a half for their overtime. To make it worse, when a controller has reached the middle in-step grades of a GS-12, his straight-time pay exceeds that of 150 percent of a GS-10, with the result that a large part of the controller work force, probably more than half, not only do not get time and a half for overtime, they get less than their straight-time pay. In the higher in-grades of GS-12 a controller receives approximately 90 percent of his straight-time pay, when he works overtime.

This unpleasant situation is made even more ironic by an unintended consequence of the Sunday premium pay law, enacted in 1966. This law provided, for the first time, pay of 125 percent for work on Sunday "which is not overtime work." We think that the Congress has a worthy, altruistic purpose in adding that clause; since an employee working overtime is entitled to pay of 150 percent, the Congress did not intend to limit him to 125 percent if his overtime work happened to be on a Sunday. However, since most air traffic controllers do not actually receive 150 percent for overtime, this has had an unintended, harsh result. The normal situation which actually results on a Sunday is that one controller at grade 12 is working on Sunday as a part of his regular 40-hour workweek, and is being paid at the rate of 125 percent. Next to him is a controller of the same grade and in-step pay increment, who has been called back to work overtime and he is being paid about 90 percent of his regular salary. Yet both employees are at the same grade, at the same in-step increment, and working elbow to elbow doing exactly the same job. Our association has had many bitter letters from members who have frequently been caught in this precise situation.

We have previously referred to the recent action of the House in authorizing an additional 1,213 controller positions for fiscal 1969. The House Appropriations Committee, in recommending this increase in its report, added the following paragraph:

The testimony revealed that air traffic controllers who are required to work extra days, under some conditions, do not receive compensation on those extra days equal to the compensation received on a regular work day. It is understandable that this situation is damaging to morale. Mandatory overtime is not pleasant in itself, and when not fairly compensated for becomes onerous. It is understood that a change in existing law will be required to alleviate this situation. The committee hopes that the appropriate legislative committee will study this problem in the near future.

We understand and appreciate that some limitation must be placed on the categories of Federal employees who are entitled to be paid premium compensation for overtime. Certainly, high executives should be expected to work overtime as a normal responsibility of their job.

But an across-the-board limitation to the lowest pay of a GS-10 is not realistic to a class of employees in which the normal nonsupervisory journeyman grade is GS-12, and the crew chiefs and watch supervisors include grades GS-13 and GS-14; all of whom are subject to the overtime work situation in the air traffic control system. These employees should be entitled to true overtime pay.

In most types of Government work overtime is not necessary. Present staffing is adequate, and where there are temporary or seasonal fluctuations, work not done this week can reasonably be left until next week. But this cannot be done in air traffic control. This is a 24-hour-a-day, 7-day-a-week function in which aircraft movements must be handled immediately. An arriving aircraft not handled by 5 p.m. on Friday during the rush period cannot be left hanging until Monday morning. There are undoubtedly other types of Federal employment in which a three-shift, 24-hour-a-day, 7-day-a-week operation is also necessary, but this is an unusual situation. The primary group involved is air traffic controllers. Although the present legislation is limited to that group, we suggest that there is no reasonable cause for apprehension that a similar entitlement will be claimed by any other substantial group of employees.

To repeat, the controller is a highly dedicated professional, who is willing to do far more than his share to solve our present air transportation crisis. But he cannot reasonably be expected to continue to work extra hours each day, including a 6-day week, indefinitely, if the Government refuses the elemental first step in fairness, of premium compensation for his overtime. We respectfully suggest to the committee that this legislation is not only justified, it is not only a necessity, it is an emergency measure which should be enacted by the present Congress. Thank you.

(The article referred to, from the Wall Street Journal, follows:)

[From The Wall Street Journal, July 23, 1968]

AIRLINES FEAR BROAD FLIGHT CANCELLATIONS AS DELAYS EAT UP PILOT'S HOUR QUOTAS

Some airlines say they may be forced into massive flight cancellations as pilots use up monthly flight hour quotas due to mounting takeoff and landing delays at major airports.

The pilot hours squeeze was the latest problem created by an air traffic controllers' "safety campaign" that has caused monumental aircraft traffic jams both on runways and in "holding patterns" aloft.

Scattered flight cancellations and delays ranging up to five hours have become routine. Airline operating men say planes have circled in holding patterns as far west as Denver because of landing delays in New York.

The Federal Aviation Administration called its regional directors to a conference in Washington, D.C., tomorrow to discuss the traffic crisis. A group of airlines executives said they plan to meet in Washington Thursday to discuss ways of spreading out or limiting schedules at peak hours. They aim to relieve the congestion at New York airports, which they blame for much of the spreading pattern of delay.

United Air Lines, the Nation's largest domestic carrier, and Mohawk Airlines both said they may have to cancel large numbers of flights as the end of the month nears because traffic delays are using up their pilots' quotas of air time.

SHUTTLES CANCELED

Most pilots are limited by contract to about 80 hours a month in the cockpit, depending on the type of aircraft they fly. Time on the runway awaiting clearance for takeoff and time spent in pre-landing holding patterns all count toward flight hour totals.

Depending on the severity of congestion during the rest of July, the airline industry could conceivably be thrown into chaos in the final days of the month, George E. Keck, president of United, warned.

Mohawk Airlines might run out of pilot hours by Thursday, Robert E. Peach, chairman and chief executive officer, suggested in a telegram to other airline chiefs. What could he tell the public, Mr. Peach asked rhetorically when Mohawk ran out of pilot time on that date?

A spokesman for Mohawk later toned down Mr. Peach's remarks, saying, "We might make it," with the help of a computer being set up to try to stretch the remaining pilot hours. But he didn't deny the possibility that Mohawk could run out of pilot hours.

Mohawk, with operations centering on New York, has experienced greater delays than most airlines. On July 15, for example, when 300 flight hours were scheduled, including a 20% allowance for delays, Mohawk posted an additional 114 hours of delay.

Eastern Air Lines has found pilots for some of its DCS four-engine jets running out of pilot time and has substituted some Boeing 720 aircraft, a smaller jet with pilots having more unused hours, on DCS runs.

CONTRACT LIMITATION

Eastern also conserved some pilot hours last Friday, when it canceled shuttle service to Washington from New York after 7:15 p.m., when departing planes were waiting from two to three hours to take off for the one-hour flight.

Some 15 other Eastern flights were also canceled or consolidated with other flights, serving to save pilot hours.

Northwest Airlines, St. Paul, also has a pilot hour problem, according to Charles Hughes, assistant to the vice president, operations. "As of now, we're right on the borderline; it looks as if it will be nip-and-tuck, with a good possibility that we won't make it through the month," Mr. Hughes said.

American Airlines, which canceled some of its hourly New York-to-Washington flights last Friday, also is worried by the pilot hour shortage, which it is "watching by the hour," according to a spokesman.

A spokesman for National Airlines said the carrier expects to get by without cancellations because of pilot hour shortages, but that some pilot vacations are being canceled because of the tightness of the situation.

Braniff Airways, Dallas; Northeast Airlines, Moston; and Delta Air Lines, Atlanta; all say they have the pilot hours problem in hand. A spokesman for

Braniff Airways, Dallas; Northeast Airlines, Boston; and Delta Air Lines, Kennedy International Airport have been late in recent weeks, they are such a small portion of the carrier's schedule that the effect on overall pilot hours hasn't been serious.

Northeast says it solved the crew time problem by recalling 25 pilots from furlough July 15. A spokesman said, however, that Northeast might be troubled by a lack of stewardesses. Other flight crew members, as well as pilots, have contractual limits on their monthly flight hours.

"LOSS OF GOODWILL"

Whether or not they squeak by with enough pilot hours to keep flying to the end of July, some airlines caught in the traffic jams are estimated to be paying as much as \$1 million a month due to delays. Eastern says that circling over jammed airports could add \$450,000 a month to its fuel bill alone; overtime pay for flight crews is another factor.

Harder to gauge is the loss of goodwill among passengers, whose responses to being trapped in delays range from despair to sputtering rage.

Kaiser Industries Corp.'s travel department this week advised executives planning trips between New York and Washington, D.C., to go by train, at least at peak periods, because of "lengthy delays" on airline flights.

Norman Steen, a San Francisco advertising agency president, says bitterly, "You don't fly by the schedule an airline publishes any more. It only counts for getting 14,000 feet over New York City." The time of landing and deplaning "isn't even remotely related to the time shown in the time table," he says.

Air travel is "the most complete waste of executive time or anybody's time who travels on company business," fumed the president of a Boston electronics firm yesterday after five hours of delay on a Sunday round-trip flight to New York for a business meeting. He and two other company officials waited to land

at New York's La Guardia airport while 23 other planes used the runway to take off.

As a result, the executives were late for their appointments but unable to inform the people waiting for them of the delay. On the return flight, their plane circled for more than an hour waiting for landing instructions while the executives' wives waited for them at Boston's Logan airport.

A Chicago transportation company executive waited three hours to meet his wife, who was delayed on a flight from Phoenix when her plane was forced to make an unscheduled refueling stop in St. Louis. The landing delay was so long in Chicago that the plane didn't have enough fuel to wait it out aloft.

Another Chicago couple who had been waiting for a month to see the Broadway hit musical Cabaret finally got tickets, only to have their plane to New York two hours late causing them to miss most of the show, says the airline involved.

Airlines are reluctant to blame all the delays on the air controllers, who they believe are often made scapegoats for problems beyond their control, such as bad weather or radar malfunctions.

The Federal Aviation Administration, which employs the air controllers and had originally exonerated them from charges of a slowdown, yesterday conceded that some have tried to slow flights. But it insisted that "there is no discernible, sustained slowdown."

WORK-WEEK REDUCTION

The controllers, who seek reduction of a six-day work week and want better radio and radar equipment, announced July 3 that they would begin July 13 rigidly enforcing FAA safety regulations, which they had not always previously followed to the letter.

Most notably, they maintained a strict three-mile separation between planes in the air, and predicted their safety campaign would eventually cut airport operations by 30% to 50% in some major cities. Statistics collected by airlines show that there have indeed been fewer planes landing at New York's Kennedy airport, considered key to the nationwide delays, on and after July 13 than there were before.

The FAA says the situation will probably get worse before it gets better unless the agency is somehow exempted from Federal manpower cutbacks legislated by Congress as part of the recent income tax surcharge bill.

An appropriation bill proposed last week by the Senate Finance Committee calling for an increase in the FAA budget, however, contained a provision to exempt the FAA from the hiring restriction. The appropriation bill is pending.

Mr. UDALL. Mr. Hill, do you favor the legislation and the action on it at the earliest possible time?

Mr. HILL. Yes, sir.

Mr. UDALL. Thank you, sir.

Mr. Von Kann, your statement will appear at this point.

TESTIMONY OF CLIFTON F. VON KANN, VICE PRESIDENT, OPERATIONS AND ENGINEERING, AIR TRANSPORT ASSOCIATION OF AMERICA

Mr. VON KANN. My name is Clifton F. von Kann. I am vice president, operations and engineering, of the Air Transport Association of America, the trade and service organization representing virtually all of the scheduled, certificated airlines in the United States.

The scheduled airlines attach great significance to this hearing because it bears on one important facet of the current inadequacy of our air traffic control system. It also bears on the future ability of the airlines to provide the additional air carrier service which the public demands at an ever-increasing rate. I would like to take a few minutes to clarify these relationships as well as to assert the airlines' strong support of H.R. 18630.

As you know the air transport system is currently experiencing the worst delays in its history. This is the result of many developments

over a period of years. Despite our repeated warnings as to future demand for air travel and future numbers of aircraft, Government investment in airway facilities and equipment declined from 1960 until the Congress arrested this trend in the fiscal year 1968 budget.

Similarly the air traffic controllers, the men who make the air traffic control system work, have been neglected as to numbers and working conditions. Now most of the air traffic control centers are experiencing severe shortages of the magnitude of 100 controllers. This means a vicious circle of longer working hours, less time away from the control boards and radar scopes, fewer days off and more overtime. Since the controllers on overtime receive less pay per hour than those on regular shift this is demoralizing.

In this situation the airlines have done all they could legitimately do to support the air traffic controllers. Our testimony of August 28, 1967, before the House Committee on Interstate and Foreign Commerce was one of many occasions upon which we called the attention of the Congress to the problem.

Now the shortage of controllers, coupled with inadequacy of air traffic control facilities and in some cases of runway capacity at airports, has caused excessive delays of up to 3 hours at certain major terminals; this in turn has meant diversion or cancellation of flights and a massive disruption of public air travel. The hardships which the traveling public has suffered have been enormous.

We are working as hard as we know how on airports and airway facilities. For the most part this involves money. Controllers, however, are human beings and money alone will not solve their problems.

First of all we must see to it that there are enough controllers to do the job on a 5-day week and an 8-hour day. This will not only improve the morale and productivity of the controllers, but it will greatly reduce the need for overtime, a clearly desirable objective.

If the Federal Aviation Administration is to obtain sufficient controllers to meet established requirements, the Administration must be exempted from the ceiling recently enacted in connection with the surtax. The Senate has taken action to provide such an exemption and the necessary funds to pay the additional controller personnel. I hope the House will see fit to take similar action. While such legislation will not produce more controllers immediately, it will at least tell the hard pressed men on the firing line today that relief is on the way.

We must recognize, however, that even if sufficient controllers are finally brought on board, there will still be occasions when overtime will be required. Weather may cause delays and equipment failures can do the same. When it is necessary to require controllers to work overtime, they should be properly compensated.

It should be emphasized here that controllers are not seeking more overtime—quite the contrary. Also they do not control their overtime. But when they do work overtime it should be under the same compensation rules as a sound business institution. This means time and one-half, as provided for in H.R. 18630.

While the bill should therefore be passed promptly, it is only one of a number of actions that should be taken on behalf of the controllers. Additionally, the Civil Service Commission study of classification of controllers should be completed at once and its recommendations reviewed and amended as necessary and then adopted promptly. Further,

as we understand it, there is also a study on environment and general working conditions of controllers; we believe the Civil Service Commission is associated with this study. Such matters as providing personnel coverage to permit controllers to be relieved from their control position to eat is understood to be a part of this study. It should be expedited.

To summarize our position :

1. Practices exist in Government relating to the working conditions of controllers which would not be condoned in private industry.

2. We are not only sympathetic with the desires of the controllers to see these practices corrected, we hereby ask this committee to take positive action now.

3. We urge prompt enactment of H.R. 18630 as a first step.

Mr. UDALL. The Air Transport Association thinks it is important to get moving on this?

Mr. VON KANN. Yes, sir.

Mr. UDALL. Mr. Lyons, will you come forward and bring your witnesses with you.

TESTIMONY OF KENNETH T. LYONS, NATIONAL PRESIDENT, NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES, ACCOMPANIED BY STANLEY LYMAN, NATIONAL VICE PRESIDENT; ROBERT SMITH, LOS ANGELES AIR TRAFFIC CONTROL CENTER; PAUL MAGUIRE, BOSTON AIR TRAFFIC CONTROL CENTER; AND THOMAS HAMILL, WASHINGTON NATIONAL AIRPORT CONTROL TOWER

Mr. LYONS. Mr. Chairman, I have with me our national vice president, Mr. Stanley Lyman, a former air traffic controller; Mr. Bob Smith, from the Los Angeles Air Traffic Control Center; Mr. Paul Maguire, from the Boston Air Traffic Control Center; and Mr. Thomas Hamill, from the National Airport control tower.

Mr. UDALL. We are happy to have you gentlemen with us.

Mr. FORD. I want to apologize for being so late. I have been over in Arlington, Va., for a half hour, going around in a circle. If you cannot get airplanes on the ground on a day like this, we are really in serious trouble.

Mr. UDALL. I spent 20 minutes of my time on an airplane 2 days ago spinning around over Dulles waiting to get in, on a clear day, too.

Mr. FORD. It is pretty country out there.

Mr. UDALL. All right, Mr. Lyons. You may proceed.

Mr. LYONS. The National Association of Government Employees represents approximately 80 percent of the employees of the Federal Aviation Agency through exclusive contacts and through membership, both the air route traffic controllers and the air facility employees.

Mr. Chairman and members of your distinguished committee, I want to thank you for this opportunity to appear before you in behalf of the many controllers and technicians of the Federal Aviation Administration, who are members of the National Association of Government Employees.

Unfortunately, I do not have any pat or allwise answer to the problem of air safety in this time of rapidly escalating traffic and diminishing control resources. What's needed can't be achieved overnight.

I think, however—and I believe there is prior support for this belief from earlier testimony before the Congress by our independent union—that FAA human and technological resources have been permitted to lag sadly in the matter of air traffic management.

Our union was first among personnel representatives, I believe, to focus nationwide attention on the sorry state of the Federal Aviation Administration's air control centers.

In a statement to this honorable Congress on March 27, 1967, we said in part:

* * * The Federal Aviation Administration is seriously underequipped, undermanned, undercompensated and underadministered—all to a point of public peril. This agency simply does not have enough funds effectively to do the life-and-death job for which it was intended. Policymaking inadequacies, sad to say, have also developed at various levels within the FAA. With the volume of air traffic in the United States literally soaring from one year to the next, and with the means for the control of this traffic lagging progressively behind—and in some instances even going backward—there is an evident imperative need for action * * *.

We asserted that the Federal Aviation Administration was taking a "horse and buggy" approach to the management of air traffic.

By newspaper, magazine, radio, and television, and in public addresses, we have from the outset sought to arouse public concern over this developing problem of air traffic safety needs. I want to say at this point, Mr. Chairman, that you and members of this distinguished committee, as well as many other Members of the Congress, have done yeoman work in seeking remedies and answers.

I believe that it has been shown that we were not alarmists. I think we can say—and I am not happy to do so—that events have demonstrated that our apprehensions were understated, if anything. The steadily mounting commercial and private air traffic in the Nation has outstripped the FAA's capacity of safe direction to an alarming degree. Unless heroic steps are taken, we are, I believe, reaching a time of crisis when aerial traffic in this Nation will have to be sharply curtailed, with consequent problems for air passenger and cargo transportation, lest there be tragic loss of life from accidents.

There is plenty of airspace; but, regrettably, there have not been adequate planning and implementation by the Federal Aviation Administration. While air traffic has been expanding, the FAA has, in a relative sense, been contracting. Our booming air industry will go the way of the railroads unless something is done immediately in the way of proper traffic control measures. Already the cost of traffic problems has been incalculable to an aviation industry only recently emerging from the cocoon of Government subsidy.

We have been seeing already some of the dire results of the neglect of air traffic control measures. More and more we are seeing planes "stacking up" unable to land at our crowded airports; others are lined up waiting to take off. The slowdown is here.

We have had midair collisions and almost daily near collisions. Lives are at stake. So is the health of a multi-billion-dollar transportation industry.

We see a high incidence of physical collapse from heart and other ailments among our pressure-worn controllers, and at unusually early ages. And other highly trained men are leaving for less strenuous, more remunerative employment. For it is almost as risky to be on a

plane in the vicinity of a swarming airport as it is to be in the controllers' hive. The body and emotions often cannot stand for too long the grave responsibility of making split-second guidance decisions over dots on radar screens—dots that mean hundreds of lives on planes.

Often, too, the men who are called upon to exercise these split-second, life-or-death judgments are physically and nervously drained if not exhausted from long overtime because of a chronic help shortage.

Then, if we may, Mr. Chairman and other members of this distinguished committee of the Congress, let us consider the equally hard-put technician. He, too, has to work inordinately long hours. At busy control centers, he may also have to be on standby—that is to say, he is never finished with his duties, having to be available on call at home or wherever, when he is off duty. And he gets no added compensation for this tension-causing constant “off duty” alert. None whatever, Mr. Chairman.

Is it reasonable and just that a man should never be able to relax fully from his job, without being compensated at all?

The technician, moreover, has the frustrating and worrisome duty of working with equipment that is often of uncertain “model T” electronic caliber. Radar at our FAA control stations is commonly of World War II vintage—and sometimes on loan from the U.S. Navy at that. Apart from the possibility of human error on the part of our overworked controllers, there is, therefore, the very great and ever-present danger of equipment failure at many of our airports.

These facts are not intended to alarm but, rather, to alert the Congress, the aviation industry, and the millions who annually now place their lives trustingly in the hands of others when they board a plane.

There is also, and I think quite understandably, Mr. Chairman and members of this committee, a worsening crisis of confidence among both controllers and technicians. Any man who has a feeling of responsibility and dedication in his work—as do the FAA controllers and technicians in more than average extent—suffers serious morale problems when working conditions and upper echelon wisdom deteriorate. Our ATC and AFS personnel are seriously concerned both about their own welfare and that of the people for whose safety they are responsible.

While it isn't strictly comparable, there is yet some justification for wondering at the disparity of their pay and working hours and burdens versus those of the men who operate the planes. Few industries have a higher hourly pay scale than the airlines have for their pilots. Few industries, on the other hand, pay so little for so much as the FAA grudgingly gives to its controllers and maintenance men. Yet, in many respects, are not FAA controllers and technicians filling the vital role of “ground pilots”? Do they not help guide planes in and out of the tangled traffic buzzing about our large airports? Do they not have to make decisions as certainly and surely and rapidly as any plane pilot or navigator? Altogether, it is a very great, very stressful and very disheartening responsibility.

Besides being a very arduous and oftentimes killing duty, becoming a competent controller is of itself a long and demanding process. As, I think, any experienced controller will tell you, Mr. Chairman and members of this committee, it takes years of study and of training to be

a good FAA controller. You have to know what you are doing at all times so that your responses will be accurate and reliable. I want to suggest that the closest thing to having a "human computer" is a controller at an airport or center where planes, large and small, are coming and leaving every minute or so. An important difference is that a controller has nerves and emotions and physical limitations rather than a tireless transistorized circuitry.

What I am trying to say here, Mr. Chairman, is that a crash program for the training of new controllers and technicians, for reasonable overtime and workload provisions, for the improvement of equipment and enlargement and addition of new airports, among other things, is needed urgently. We cannot wait longer because all the evidence points to the fact that air traffic management in the United States is getting out of hand and will become a mess within a year if control measures—human and mechanical—are permitted to drift. The Federal Aviation Administration is, I fear, at sea in an ocean of air.

The so-called "slowdown" in the movement of aircraft in the vicinity of high-density airfields is nothing new but, rather, represents an aggravation of a condition that has existed for months. Plane jamups have been with us for some time, and they are getting worse all the time. But they signify a symptom of a deeper FAA malaise that ranges from dangerous shortages of trained personnel to lack of adequate facilities, even including deferred, undermaintenance of facilities.

Controllers are doing their utmost to follow good safety practices.

Under date of November 14, 1967, according to ATS (Technical Services Bulletin Series No. 3; Reference 1) FAA Administrator General McKee, transmitted a memorandum emphasizing safety to all regional directors. In effect, the Administrator laid down the guidelines for air traffic field personnel at all levels in supervising and controlling the "tremendous volume of air traffic now taxing our resources," said the ATS bulletin.

ATS bulletin further stated:

It is well known that controllers under pressure to expedite traffic sometimes apply minimum separation (or even cut corners) when the use of greater separation (of planes) would normally be applied under similar conditions with less traffic. Further, this is done with the full knowledge and tacit consent of facility supervisors. While this method of operation is understandable, it is not always conducive to maximum safety. On this point, General McKee's statement of policy is very specific. Facility chiefs, supervisors, and controllers must clearly understand that the first priority is safety and traffic is never to be expedited at the expense of safety.

In the application of this principle, we are instructed to institute flow control or increase the separation, or both, any time and anywhere the safe handling capacity of the system would be exceeded. * * *

The Administrator's advisory reminded the Air Traffic Service that the plane separation minimums are just that—the smallest degree of separation which should ever be employed, barring emergencies.

It is clear that tower men, in requiring proper plane separation in flight, are simply following explicit instructions and standard safety procedure.

For as far as it goes, and viewing it as part of a broader program—which hopefully will come soon—the National Association of Government Employees endorses H.R. 18630—"Overtime and standby pay for air traffic control employees—FAA." We congratulate its sponsors,

Vice President Hubert H. Humphrey and House Speaker John W. McCormack. It is, of course, no cure-all; but it is a significant step in the right direction. Among other things, enactment of the bill should help raise the morale of many of our hard-pressed, underpaid FAA controllers and technicians.

Adequate overtime pay is certainly long overdue and much merited. The U.S. Department of Labor Statistics in 1958 conducted an exhaustive survey of labor contracts in the Nation to determine the scope of double time for overtime on Saturdays and Sundays. Entitled "Premium Pay for Night, Weekend, and Overtime Work in Major Union Contracts" (BLS Bulletin No. 1251), the study showed some 109 contracts covering 369,000 employees called for double time pay (a ratio of one out of every nine of 4,564,000 workers) for Saturday work; and double time for 4,039,000 of 5,584,000 employees for Sunday work.

This survey took in construction, trades, manufacturing, utilities, retail, and wholesale trades. Currently, in all areas of the Nation where private firms have contracts with the Government, electricians, plumbers, and the like are given double time for Saturdays, Sundays, holidays, even birthdays. We do not begrudge them this compensation, but it is ironic that these men get double time for repairing a leak or fixing an electrical fixture, while an air traffic controller—who in any given day in high-density areas is responsible for the lives of some 10,000 people, not to mention possibly three-quarters of a billion dollars worth of aircraft—does not.

Some 3,353 pilots, alone, were saved by alert controllers and flight station specialists during 1966. The stations were the busiest, handling 1,745 flight assists, of which 1,654 involved civilian pilots flying single-engine planes. The FAA specialists also helped 76 multiengine pilots, one jet pilot, and 14 military pilots. More than half of the assists were for pilots lost or disoriented. The rest are accounted for as low fuel supply, caught on top of an overcast or trapped by weather, navigational gear, and engine, or other mechanical failures. A stations specialist provides pilots with every kind of information normally necessary to assist them in making safe flights. Surely, such responsibilities are at least as deserving of as much overtime compensation as a man gets for changing a fuse.

With respect to overtime provisions of the proposed bill, however, our union urges that Congress authorize the payment of overtime pay for work officially ordered or approved in excess of 30 hours in an administrative work week or in excess of 6 hours in a day. Payment for overtime work be authorized at the rate of $2\frac{1}{2}$ times the hourly rate of basic pay.

With respect to providing overtime "standby pay," we have already drawn attention in this brief to its rigors and to the justification and need for adequate compensation.

The FAA will resume training new air traffic controllers, as urged by the NAGE in testimony before the Congress Aviation Subcommittee (March 1967), in Oklahoma City this fall. This is welcome news, indeed, but estimates are that it will take several years, perhaps up to 10 years or longer, to train the number of new controllers needed.

Acting Transportation Secretary John E. Robson, in a letter to the Vice President and the Speaker of the House, June 27, 1968, indicated

the massive growth to come in the aviation industry in the next few years, with attendant control burdens.

He noted:

In the last 5 years the number of passengers carried by our scheduled airlines has doubled, and the number will double again in the next 5 years. This growth is matched and in some ways exceeded by the growth of general aviation. There are more than 100,000 general aviation aircraft today. In 5 years there will be more than 150,000.

Starting this past June, he said, employees in the New York Air Route Traffic Control Center were to begin working 6 days a week and would continue to do so "until relief is available."

This condition of 6 and 7-day workweeks—often with extra hours beyond 8 each day—is common at many FAA traffic control centers. What will things be like a year from now? Or 2 and 3 years from now? It seems obvious that besides hiring many more controllers and maintenance technicians as soon as possible, the Federal Aviation Agency should seek by proper pay and other incentives to have present personnel stay of good cheer and healthy. What will it gain the Agency if it loses two or three experienced men for every new employee hired?

The rate of turnover all over the Nation at FAA centers is nothing less than alarming. For example, a staff memo at AFS-Aurora, Ill. (reference 3) on November 7, 1967, expressed concern over "staffing problems." During a period of 18 months, said the report, there were 23 outgoing personnel as against 21 incoming. "The turnover rate for this sector has been high," conceded the memorandum.

Beyond suffering long, nerve-racking hours of duty, with insufficient help and compensation, controllers suffer the strain of having to rely upon equipment that is often unreliable. To again quote NAGE testimony before this Congress, we informed the Subcommittee on Transportation and Aeronautics (December 6, 1967; reference 4) that there were not enough electronics technicians to provide adequate maintenance of the equipment needed by the controllers to guide and direct aircraft. Because of this lack of maintenance personnel, it was testified, "it is common policy throughout the Agency to forego preventive maintenance" and "employees are told to not check equipment to prevent its breakdown, but to wait until it fails and then repair it."

In conclusion, I want to express my thanks, Mr. Chairman and members of your committee, for hearing me out and for your interest and concern over what I believe to be an airplane traffic crisis of crescendoing magnitude in the Nation.

Mr. UDALL. Thank you, Mr. Lyons.

We shall have to suspend in about 5 minutes. You have some pretty top-level people with you from various places, and with your permission I would like to use the remaining time for possible questions or comments by your associates.

I think you make a very strong case for this legislation, which is designed to remove the false ceiling on overtime payment for people who have important duties, maybe even more important than the airline pilots, who get overtime and considerably more pay than the key traffic controllers.

What would be your attitude toward the suggestion that I made earlier this morning that we raise this GS-10 ceiling, rather than remove it altogether we adjust it upward to 14 or 15 or some reasonable

place. I fear the precedent-setting effect of whatever we do on this bill. If you take it off one group, there will be other groups in here saying, "We would like to be exempt, too." What would be your comment on this?

Mr. LYONS. I would like to agree with you. I think if you lifted it to the 15 level, that would be adequate.

Mr. UDALL. It certainly would take care of the problem now and for the next few years.

Mr. LYONS. It would. Of course, I hope, too, Mr. Chairman, that you would consider the other provision of our recommendation that air traffic controllers be on a 6-hour day, 30-hour workweek, and double time and a half for time over 6 hours a day or over 30 hours a week.

Mr. UDALL. Have you any questions, Mr. Ford?

Mr. FORD. Mr. Chairman, while I was sitting on the airplane waiting to come down, I happened to have the New York Times in which there is an article that starts on page 1, column 3, "Spacing of Planes Delays Travel but Helps Safety," written by Joseph Novitski. It is a kind of frightening thing to read this article, but more particularly what impressed me were some comments the author made, after sitting through several evenings of watching controllers at work, about his observation of the strain on the people and what happens to them after several hours on the job. He pointed out that only when the traffic is light are they able even to switch jobs so the man does not go absolutely mad from watching the same screen all the time.

He also pointed out some of the things mentioned in the testimony with regard to the condition of equipment, the ancient nature of the backup equipment, and the constant feeling of pressure these people have with the fear their scope is going to go out when they have a lot of traffic mixed up around a busy airport.

It is not at all comforting when you are sitting on an airplane to be reading about this and realizing that these conditions prevail, especially for all the members of this committee who spend a good deal of their working lifetime on airplanes going back and forth.

For that reason, Mr. Chairman, I am very much concerned with what we are going to do, not only with regard to these people, but also with regard to the whole question of compensation.

It is apparent from this article and other things I have heard that we are not able to attract good personnel and retain the people we have. I do not know what the life insurance people might say, but it looks like an ulcer job to me.

I am inclined to think we ought to make the cost to the Government of overtime so expensive that it will become prohibitive and we will get away from it. It frightens me to think that anybody is going to work for longer than regular shifts doing this kind of job. I do not know of any place in private industry where it is ever allowed, because there is no question that efficiency must decrease, even after a relatively short period of time under stress.

In any event, Mr. Chairman, without burdening the record with the whole article, I wanted to make reference to it, and I hope that we can find a way to raise the level of pay for this very skilled job so we can attract and keep the kind of people that will keep these facilities operating.

Mr. UDALL. I think the air traffic controllers and the traveling public are greatly indebted to the author of the book, "Airport," which rather dramatically brought home the problems of controllers.

The gentleman from Michigan, Mr. Ruppe.

Mr. RUPPE. What percentage of the time would you say most of the air controllers at major cities put on actual controlling? They work a 50-hour week, but what percentage of the 50 hours would you suggest probably would be right at the scope or right at the air controlling effort?

Mr. LYONS. One who could answer that is the Los Angeles air route traffic controller, Mr. Bob Smith. It is amazing what is happening just at that center.

Mr. SMITH. Mr. Ruppe, in a normal workday the controller, time permitting, has 20 to 30 minutes off for his lunch hour, and maybe 15 minutes off in the morning and 15 minutes off in the afternoon for a coffee break. This is traffic permitting and personnel permitting. We do not staff for lunch breaks or coffee breaks. In a heavy traffic situation, it is quite common for controllers to have coffee brought to the sectors on a cart and you drink the coffee, traffic permitting, and oftentimes it goes cold because you just don't have time to talk to the airplanes and drink the coffee. At the same time, it is not uncommon to take your lunch home with you.

Mr. RUPPE. You do not really have any substantial percentage of your time available for training or learning suggestions and techniques that are coming down?

Mr. SMITH. None whatever. At the present time the authorized staffing at Los Angeles center, on the June figures, is 208 traffic controllers. These are GS-12 type traffic controllers. Our June staffing was 138 GS-12 controllers out of those authorized.

I would like to direct part of this answer to you, Mr. Udall. You asked Mr. Thomas or made the statement that it would take a couple of months' leadtime. I want you to be well advised that it takes 40 months or 3½ years' leadtime for a controller at any center in the country.

Mr. UDALL. I probably misspoke myself.

Mr. SMITH. You said a couple of months, and I wanted to be sure you understood it is 3½ years.

The passage of this particular bill will not improve the traffic congestion, because you must have airports to land these aircraft, but it will stop controllers from reluctantly working all the time. I do not think there are very many pilots who would be resting in much comfort if they thought the controller who was working with him really wasn't willing to be there.

Mr. Thomas stated controllers are not refusing overtime. We cannot refuse overtime legally. Controllers can lie. They can say they just had a drink, which would preclude their working traffic. Or they have had antihistamines. We cannot take any type of drug. We have a very limited number of drugs that we can take. The controller can say this and he is not coming in.

I started working the day shift yesterday, and a controller came to me and said we are not taking a militant enough stand on this. They want the ability to refuse to work overtime, because it costs them so much money.

As an example, I have an order right now in my pocket telling me to work overtime next Sunday. Next Sunday I will draw something around \$2 an hour less because we get 25 percent additional premium pay for working Sundays.

Mr. UDALL. You draw less than your regular pay?

Mr. SMITH. Certainly, about \$2 less than my regular pay, and I am a controller, not a supervisor.

Mr. RUPPE. Do you differentiate, as did several of the previous witnesses, between a man involved in operational work and particularly under stress and strain as contrasted to perhaps the executive people in the same pay category?

Mr. SMITH. Yes. They are not actually working the radar. They are not separating the aircraft. They may be responsible for my separating the aircraft, but they are not under the gun.

Mr. UDALL. Would some of your other gentlemen who have come from a long distance like to take a couple of minutes before we adjourn?

Mr. HAMILL. I would like to bring out a point about insurance. Lloyds of London dropped us. Usually they will insure just about anything. We had an insurance clause with them that if you get a heart attack or ulcer, if you lose your medical certificate, they would compensate you for it. With so many people losing their medicals, they dropped us. We are not covered by them any more. That was through another organization.

You mentioned that you came in and were holding over northern Virginia to wait to land at Washington on a clear, sunny day. Unfortunately, in the state of the art, no one has found a way to have more than one airplane land at a time. So, the time period you were coming in is the highest time for us with traffic coming down from New York. With the wind condition being what it is, with the various restrictions that are placed upon us, the ultimate number of airplanes would be, say, 35 to 40 airplanes in on one runway. Washington National Airport was designed in 1941. The Federal Aviation Administration said it can safely handle 60 airplanes an hour, of which this would be 30 arriving and 30 departing.

I have personally put 102 airplanes in and out of that airport in a given hour's time. There are other people who have put in over 115 airplanes onto that airport. This is being done with the idea that if one person says, "What did you say?" it is not going to work. This is the type of pressure that you are under. Nobody can make a mistake. You are operating at 99 percent of your efficiency 90 percent of the time.

Now we are being asked to go to 100-percent efficiency 100 percent of the time. This is where you are getting your slowdowns.

Mr. UDALL. I would like to have another 2 hours of discussion, because I am personally very much interested. In fairness to the full committee, I will have to break it up.

Let me suggest to those of you besides Mr. Lyons, who have come here at some difficulty, that if you would like to write a letter to the subcommittee summarizing what you would have told us if you had another 10 or 15 minutes, I would be delighted to have it for the record. It may be of some help.

Mr. LYONS. We will. We have facility personnel people here, too, and we will present that for the record.

Mr. UDALL. You do that individually to me as chairman of the subcommittee. Write me a letter telling us what you would like to have told us.

Mr. MAGUIRE. I know about the facility in Boston. Relative to staffing the facility, it is getting bad at the present time. If the traffic increases the way it has been increasing in Boston and other facilities, summer leave may possibly be cancelled. This means, of course, the staff being shorthanded and people working overtime; they probably will not be able to give anybody vacations next year.

Mr. UDALL. If anyone should have a vacation, the air traffic controllers should.

I will try to get the subcommittee together on Wednesday if we can find time, to mark up this bill, along with other pending bills.

The statement of Nathan T. Wolkomir, president, National Federation of Federal Employees, will be received at this time.

TESTIMONY OF NATHAN T. WOLKOMIR, PRESIDENT, NATIONAL FEDERATION OF FEDERAL EMPLOYEES

Mr. WOLKOMIR. My name is Nathan T. Wolkomir. I am president of the National Federation of Federal Employees, which has many locals and members in virtually all Federal departments and agencies including the Department of Transportation. The NFFE is the pioneer and the largest of all independent general unions of Federal employees.

The subcommittee is addressing itself at this time to H.R. 18630, a bill to amend title 5, United States Code, to provide for the payment of overtime and standby pay to certain personnel employed in the Department of Transportation. The proposed legislation would revise section 5542 (overtime rates; computation) and section 5545 (night, standby, and irregular duty differential) to include certain personnel in the Department of Transportation. In regard to the overtime pay under H.R. 18630, the duties have to be "critical to the immediate daily operation of the air traffic control system, directly affect aviation safety, and involve physical or mental strain or hardship in which overtime work is therefore unusually taxing; and in which operating requirements cannot be met without substantial overtime work."

We understand that Federal aviation centers resort heavily to overtime. This is because the centers are operated at only 80 percent of authorized personnel strength. Thus an air traffic controller who comes to work on a sixth day on Sunday earns 20 percent less than the controller who works Sunday on a regular basis. According to an article written by Mr. David Hoffman, Washington Post staff writer, which appeared in the Washington Post, Sunday, July 21 1968, "Controllers are pleading sick when asked to work a sixth day. Or they're taking 1 day's sick leave for every day of overtime they work." While the NFFE does not subscribe to such broad and general allegations, it is quite conceivable that some employees may engage in these practices, particularly in a situation as we have here with the air traffic controllers, where the Federal Aviation Administration is taking advantage of the controllers by working them to the point of exhaustion without proper compensation. Under these circumstances it is apparent that legislation such as H.R. 18630 is urgently needed.

Mr. Chairman, the NFFE strongly supports H.R. 18630 which corrects the inequities which now exist for employees in the Department of Transportation insofar as their entitlement to overtime and standby pay is concerned. There is no logical reason for them to be excluded from overtime and standby pay and they should be entitled thereto as provided in H.R. 18630. To exclude these employees from overtime and standby pay is manifestly unfair. This and other grievances have been of long standing in the Department of Transportation.

The recent curtailment of category IV facilities and equipment projects in the Federal Aviation Administration and the reassignment of employees to maintenance positions was brought to our attention by our NFFE locals in FAA. I believe that this curtailment was not only unsound and contrary to the public and national interest but especially inappropriate in view of aviation's constant growth.

The disruption of much needed improvement, indiscriminate realignment of technically qualified personnel, and virtually a complete halt on all new installation needs, all are indefensible on any ground and above all contrary to the highest public interest.

These actions are especially inappropriate in view of aviation's constant growth in sophistication and complexity of equipment used. This policy will place FAA in a retrogressive position while the industry which it is established to survey rapidly surpasses its capability. The impact of moving personnel about just to suit whimsical or immediate budgetary needs, inevitably will result in another typical "crash program" at a later date which will be far more costly and cannot fail to affect morale adversely.

It is our strong contention that the capabilities of FAA should be developed concurrently with the growth of the aviation industry. Personnel should not be shifted from outside into a facility. Cost reduction should be affected agencywide, not only by a selected group.

The NFFE has had much contact with the FAA administrator and members of appropriate committees in both the Senate and House on this subject. It is directly related to the trials and tribulations of air traffic controllers.

I observe that an identical bill, H.R. 18670, was introduced by Congressman Roman C. Pucinski of Illinois. Mr. Chairman and members of the subcommittee, I wish to repeat that the National Federation of Federal Employees supports H.R. 18630 and we thank the subcommittee for the opportunity to present our views.

Mr. UDALL. Thank you. The subcommittee will stand adjourned, subject to the call of the Chair.

(Whereupon, at 11:15 a.m., the subcommittee adjourned, subject to the call of the Chair.)

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