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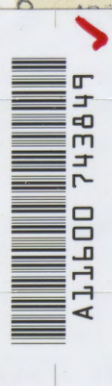
WITHHOLDING FEDERAL EMPLOYEES' TAXES UNDER
CITY ORDINANCES

GOVERNMENT

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THE
KANSAS ST



HEARING
BEFORE THE
SUBCOMMITTEE ON
POWER AND CIVIL SERVICE
OF THE
COMMITTEE ON
POST OFFICE AND CIVIL SERVICE
HOUSE OF REPRESENTATIVES
NINETY-THIRD CONGRESS

FIRST SESSION

ON

H.R. 8660

A BILL TO AMEND TITLE 5 OF THE UNITED STATES CODE
(RELATING TO GOVERNMENT ORGANIZATION AND EM-
PLOYEES) TO ASSIST FEDERAL EMPLOYEES IN MEETING
THEIR TAX OBLIGATIONS UNDER CITY ORDINANCES

NOVEMBER 14, 1973

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— 1871 —

1871

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WITHHOLDING FEDERAL EMPLOYEES' TAXES UNDER CITY ORDINANCES

WEDNESDAY, NOVEMBER 14, 1973

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

The committee met at 9:40 a.m., in room 210, Cannon House Office Building, Hon. David N. Henderson [chairman of the subcommittee] presiding.

Mr. HENDERSON. The subcommittee will come to order.

The Subcommittee on Manpower and Civil Service is today considering H.R. 8660, a bill to amend title 5 of the United States Code, to assist Federal employees in meeting their tax obligations under city ordinances.

The bill provides that where there is a city ordinance providing for tax withholdings from the pay of employees, such withholding will apply to employees of Federal agencies when there is an agreement for withholding between the city and the U.S. Civil Service Commission.

The Civil Service Commission started a 3-year experimental program of voluntary withholding of city income tax in July of this year. The cities of St. Louis, Mo.; Philadelphia, Pa.; and Louisville, Ky. were selected to participate in the experimental program. While it is too early yet to evaluate the effectiveness of that program, I hope this morning we will hear about how this program has worked so far and, particularly how the program has been received by Federal agencies and employees in those selected cities.

I am sure that Congressman Clay will be happy to hear that there is support for his bill from other quarters. Congressman Charles Carney from the 19th District in Ohio forwarded a resolution from the Youngstown, Ohio City Council to Chairman Dulski urging passage of H.R. 8660. Without objection, I would like to insert that resolution into the record at this point.

[The resolution follows:]

A RESOLUTION

COUNCIL OF THE CITY OF YOUNGSTOWN, STATE OF OHIO, URGES THE SUPPORT OF U.S. CONGRESSMEN FOR PASSAGE OF HOUSE BILL No. H.R. 8660, NOW PENDING IN THE HOUSE OF REPRESENTATIVES, PROVIDING FOR THE MANDATORY WITHHOLDING OF LOCAL TAXES FROM THE WAGES OF FEDERAL EMPLOYEES; AND PROVIDING THAT THIS RESOLUTION SHALL BE AN EMERGENCY MEASURE

Whereas, passage of this bill will assist in the necessary and immediate preservation of the public peace, welfare and safety; and

Whereas, to maintain and continue such services, it has become a necessary municipal function to impose an income tax ordinance upon the residents within its jurisdiction by the tax withholding procedure; and

Whereas, such tax withholding procedure applies equally and uniformly to those residing within its jurisdiction, utilizing and enjoying its services; and

Whereas, House Bill HR-8660 provides for Amendment to Title 5, United States Code for withholding City Income Taxes from compensation paid Federal employees furnishing authority that was previously lacking for such withholding from compensation, wages or salary paid federal employees residing or employed within the municipal jurisdiction.

Be it resolved by Council of the city of Youngstown, State of Ohio :

SECTION 1

That the Council of the City of Youngstown, State of Ohio, did, by this resolution, express its will for passage of House Bill H.R.-8660, and forwarded a copy of said resolution to the respective U.S. Congressmen for their record urging passage of said House Bill H.R.-8660 by Congress, which provides for the mandatory withholding of local taxes from wages of federal employees.

SECTION 2

That this resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, welfare and safety of the present tax rate to carry on the necessary governmental functions of the City of Youngstown, and as such, this Ordinance shall take effect and be in force immediately upon its passage by council and approval by the Mayor.

SECTION 3

That the Clerk of Council is hereby directed to forward a copy of this resolution to Representatives Thomas J. Carney, Thomas P. Gilmartin and George Tablack and to State Senate Harry Meshel.

Passed in Council this 19th day of Sept., 1973.

Mr. HENDERSON. I also want to welcome the witnesses who are here this morning. We will do that in just a moment. We will recognize Congressman Clay as the first witness, but I understand the situation of the gentleman from Michigan, Mr. Ford, and I am pleased to recognize him.

Mr. FORD. Thank you, Mr. Chairman.

I am sorry, I have a committee conflict and they are waiting for bodies at the Education and Labor Committee on the Manpower bill, for a quorum. So I have to leave right away.

I did want to have this opportunity to say I support the spirit of Mr. Clay's bill. I talked to him about it for some time, and while I do not in my own congressional district represent any city or any part of a city that imposes a local income tax, I am on the border of the city of Detroit and I know what a vital problem this is and has been for that city.

More importantly, however, I heard over the years from employees who feel that the absence of a withholding system imposes a difficult problem for them when it comes time for payment in a lump sum of their tax. So I would like to compliment the chairman for moving forward on this legislation.

Someone, some place in this Congress, has been talking about this problem ever since I came here 9 years ago. I understand there are witnesses here who have been coming here one way or another for at least 10 years to talk about the problem, and I am really hopeful that Mr. Clay's legislation will be the vehicle that will finally get something done.

Thank you, Mr. Chairman.

Mr. HENDERSON. Thank you very much, Mr. Ford.

It is my pleasure to welcome the other members and we will hear from them after we hear from Mr. Clay.

The other witnesses that we have present this morning are Mr. John Bass, comptroller, and Mr. Jack Travers, collector of revenue from St. Louis; Mr. George S. Forde, revenue commissioner from Philadelphia; Mr. Ray Jacobson, Director, Bureau of Policies and Standards, and Mr. Raymond C. Weissenborn, Chief, Pay Policy Division, from the U.S. Civil Service Commission, and finally, Mr. Lloyd Morgan, Deputy Director, Operations Planning and Research Staff, Fiscal Service, Department of the Treasury.

I am pleased at this time to recognize our first witness, a member of our subcommittee, Congressman Bill Clay.

I certainly would recognize that Mr. Clay has been interested in the subject for some time. I would especially commend him for drafting the bill so that it would come to the subcommittee on which he has a vote and some influence and has a very good chance of getting his legislation reported.

We would be delighted to hear from you, Bill.

Mr. CLAY. Thank you, Mr. Chairman.

First of all, I want to commend you for giving us an opportunity for having a hearing this morning and letting those who are in favor of this legislation come forward to state the reasons why they feel it ought to be enacted.

I would say that I received hundreds of letters from mayors and city officials from around the country who favor this legislation, but more important than that, I have received about 500 letters from Federal employees who are constituents of mine who favor this legislation. In addition to that, several petitions which total about 2,000 to 2,300 names of Federal employees in my district who favor this legislation.

I think primarily it is a question of justice for the employee, of taking some unnecessary burdens off their backs when we permit the cities or the Federal Government to withhold taxes of these local communities. What happens in essence is that unless this is permitted, Federal employees, of course, will pay lump sum amounts once a year to cities that impose earnings taxes.

For that reason I introduced this legislation, and I am hopeful that we are able to get it out of subcommittee and out of full committee and enacted into law. I am sure the testimony this morning will document the case for such action.

Once again, I am grateful to you for allowing us to have our day in court.

Mr. HENDERSON. Thank you very much, Mr. Clay.

I might say that it is going to be necessary for me to be in and out of the hearing room this morning and I will ask you to chair the subcommittee when I do have to leave.

Mr. Mallary, certainly I would recognize you at this time, if you would like to make any opening comments.

Mr. MALLARY. I have no comments.

Mr. HENDERSON. Our first witnesses this morning are Mr. John Bass and Mr. Jack Travers of the city of St. Louis. You gentlemen may be seated.

I do not feel I have to tell you gentlemen of the fine representation you have in the Congress from Congressman Clay. We are delighted to see that he has the support for his legislation from the great city of St. Louis.

You may proceed in any way you like.

STATEMENT OF JOHN TRAVERS, COLLECTOR OF REVENUE, CITY OF ST. LOUIS, ST. LOUIS, MO., ACCOMPANIED BY JOHN BASS, COMPTROLLER, ST. LOUIS, MO.

Mr. TRAVERS. Thank you, Mr. Chairman. Thank you, members of the committee.

I am John Travers, collector of revenue in the city of St. Louis. I have a brief statement that I would like to read into the record.

This office wishes to go on record in support of H.R. 8660 introduced by the Honorable William Clay of St. Louis. We have supported passage of this legislation for over 15 years and believe its passage would be beneficial to the Federal Government, the city government, but most of all to the Federal employees.

Being the office which has the responsibility of collecting the earnings tax, I feel that we have had closer association with the thinking of Federal employees than anyone else. I personally have talked with literally thousands of Federal employees, with their union representatives and the heads of most agencies. Without exception all have favored passage of this legislation, so that they would not be burdened with a lump-sum payment each year. They cannot understand why items such as Blue Cross, union dues, et cetera, can be withheld, but a legitimate tax cannot.

A few statistics covering our difficulties might be enlightening. There are over 30,000 Federal employees in the city of St. Louis who either work or reside in the city of St. Louis. During the past 4 years we have had to initiate 21,534 court cases, resulting in fines and court costs totaling \$167,854. In addition all taxes had to be paid, plus penalties and interests. All could have been avoided if this legislation had been in effect.

Needless to say, this is a time consuming process for this office, Federal offices and for the individuals involved. It necessitates voluminous correspondence between our office and the various federal agencies. It also interrupts their work schedules and takes employees away from work they should be doing, which certainly is more beneficial than to utilize their time appearing in court.

We would like to emphasize that this legislation has the support of the Treasury Department, National League of Cities, Municipal Finance Officers Association, Federal Executive Board in St. Louis and Federal Employees' Unions, including the National Treasury Employees Union, which has approximately 75,000 members.

Almost all large cities local income or earnings tax systems were born out of desperation. Large urban growth forced cities to find other revenue sources. The local income for earnings taxes was an important

factor in helping partially relieve the financial plight of the large cities. Thus you can see that they are vitally concerned in regard to the mandatory withholding of local taxes from the wages of Federal employees.

We submitted a list of cities we have contacted and I believe that is already in the record.

Adoption of mandatory withholding of local taxes from Federal employees would save the city of St. Louis approximately \$175,000 to \$200,000 annually in the cost of preparing, processing, and suit preparation. Instead of working with 30,000 individuals, we would work with less than 100 Federal agencies. In addition to the cost factor, the city would benefit, because it would receive the payments quarterly, and could invest these tax funds for additional revenue.

Many Federal agencies, but particularly the Post Office, have a large turnover in personnel. Once these employees leave an agency it is difficult to catch up with them and the tax they owed is lost. Part-time employees create similar situations. Passage of this legislation would have the tax withheld at the source, the city would receive the amount due and eliminate the necessity for any followup.

Passage of this legislation would also be another example of Federal Government cooperating with local government and helping them to help themselves. Unfavorable publicity of these tax cases would be avoided and everyone would benefit. I urge you to pass this bill as soon as possible to allow sufficient time for the U.S. Senate to act in this session.

Thank you very much.

Mr. HENDERSON. Thank you, Mr. Travers.

Mr. TRAVERS. At the same time, Mr. Chairman, I would like to read into the record a letter I received just yesterday afternoon from Senator Eagleton, and it enclosed a copy of a letter from the Office of the Postmaster General. It reads:

Dear Jack: Enclosed is a copy of the letter I have received from the Postal Service which specifically addresses the question of the proposed pilot program for St. Louis. Apparently the Postal Service has mislead you and the local officials. Yours very truly, Tom.

Here is the letter from the Postmaster General:

Dear Senator Eagleton: This is in response to your letter of October 18, concerning the withholding of local taxes from employee pay checks.

Your letter made reference to the status of our pilot programs in St. Louis, Philadelphia, and Louisville. Our investigation revealed that the only program of this type under review by the Postal Service is the one in Philadelphia.

Postal officials are now reviewing this program to determine the financial impact upon the Postal Service. Initial results indicate that the impact would be quite substantial. Added cost to our payroll system would arise from various areas. There would, of course, be the initial cost in converting the payroll deduction for the numerous local governments involved, as well as the additional ongoing expense of administering the system. Further expense could be foreseen upon a change in the pay status of each employee with respect to the adjustment in his deduction. Likewise, any change in the tax structure of a specific taxing authority would also involve a readjustment on the part of the Postal Service. I might add, that considerable expense would be incurred from the printing of the extra forms for this program.

This program, as I have stated, is now under review. Although the deductions would greatly assist the local government in their tax collection efforts, it is also

our function to meet the legislative objective of becoming a self-sustaining agency. Thus, the financial aspects of such a program weigh heavily in our final decision in this matter.

Sincerely, David L. Cantor, Congressional Liaison Officer, Government Relations Department, U.S. Postal Service.

Mr. HENDERSON. Very good.

Mr. Bass, do you have any statement you would like to make this morning?

STATEMENT OF JOHN F. BASS, COMPTROLLER, CITY OF ST. LOUIS, MO.

Mr. BASS. Thank you, Mr. Chairman and distinguished members of this committee.

I am the comptroller for the city of St. Louis. It is an elected position and the comptroller has responsibility for the fiscal management of our particular community.

We presently have a budget of \$167 million for this fiscal year; of that budget, we depend heavily on our tax collecting abilities and 23 to 25 percent of our budget is dependent upon the collection of the city earnings tax.

Of our total budget of \$167 million, 85 percent of our budget is for salaries, and I would like to comment that this year we had to use the \$15 million from the revenue sharing just to make the budget balance.

The office of the comptroller for the city of St. Louis enthusiastically endorses H.R. 8660 introduced by the Honorable William Clay of St. Louis.

The city of St. Louis, Mo., as the core city of the St. Louis metropolitan area, is a unique governmental entity, since in its State-authorized structure it is both a city and a county in a static geographical boundary established in 1875. As such, it has been beset with the problems of a core city wherein its affluent citizens and its business and industry have moved to the suburban county and areas surrounding the city, leaving behind the poor and the aged.

We have struggled trying to balance the fiscal imbalance created by deteriorating physical property and its decreasing tax base and the everincreasing service needs of a city of high-cost citizens—the poor and the elderly. We have not shrunk from our governmental responsibility as is evidenced by our litany of the tax levies (including local sales taxes and earnings taxes) which, if further increased, only widens the gap of the burdens between the city and its encircling suburbs.

The 1 percent earnings tax on persons who either live or work in St. Louis is our greatest source of revenue. The unnecessary administrative and collection costs for individually following up with each of the 20,000-plus Federal employees and Post Office employees working in St. Louis can be saved with the adoption of a Federal withholding law applicable to the Federal employee local earnings tax. The burden is also heavy on the Federal employees, individually, who find it difficult to make the earnings tax payment in a lump sum, annually.

We need every bit of fiscal assistance possible in our goals to better serve our citizens and urge you to pass legislation to facilitate the payment of the local earnings tax by Federal employees.

To support that particular statement, I would like to just give a few highlights concerning the fiscal imbalance and some of the problems

that we face. I would like to point out that resources do not match the expenditure demands. We have mass expending pressures by our citizens, and that is for our traditional services and especially services for the poor and those who are left behind.

We also have the expending pressure of some of the new services that are expected of cities. I am talking about environmental protection, court reform, and the pressure for new capital expenditures. We have a lot of obsolete capital facilities and equipment in our particular community and we have a slowdown of growth due to the decrease in the tax base. Our ability to raise taxes has been limited by the legislature and, as you know, our ability to incur debt has also been limited.

Some of the Federal solutions that we think could perhaps assist us: We think that the tax exempt properties that are based in the cities—and I am talking about governmentally owned buildings, quasi-public buildings and charitable properties—that there should be some provision made for incurring some tax. I think that the grant-in-aid programs, or categorical grants, should be given on the basis of merit and this should not be a substitute for revenue sharing.

The high unemployment rates in the core cities, I think that the fiscal and Federal policy should adjust themselves to meet the needs. The rising interest rates limit economic growth in many of the cities and I think the transfer of Federal tax to the local level would be of some assistance to us in improving our capability of generating revenue from municipal budgets.

In essence, I think this is my support for that piece of legislation, because the revenue generated from the earnings tax in St. Louis has been really something that has been a core part of our budget. So I support the legislation, House bill 8660, and I appreciate the opportunity to appear before you this morning.

Mr. HENDERSON. You say in your statement that "one percent earnings tax on persons who either live or work in St. Louis is our greatest source of revenue." Do you have the percentage of city income that comes from the earnings tax? Do you know about what it amounts to?

Mr. BASS. That amounts to about 23 to 25 percent; is that correct?

Mr. TRAVERS. Yes, sir.

Mr. HENDERSON. Mr. Travers, you have provided the subcommittee with the statement entitled "Federal Employees Voluntary Withholding of City Income Taxes Program in the City of St. Louis." If you have no objection, and if the members of the subcommittee have no objection, I ask unanimous consent for that prepared statement to be included in the record at this point.

Mr. TRAVERS. I appreciate that, Mr. Chairman.

[The statement follows:]

FEDERAL EMPLOYEES VOLUNTARY WITHHOLDING OF CITY INCOME TAX TEST PROGRAM

With the enactment of the St. Louis City Earnings Tax Ordinance in 1954, the failure of federal employees to file and pay their city earnings tax has always been a serious problem for this office.

Since 1966 the Federal Executive Board of St. Louis has been concerned with the problem of delinquent city earnings tax on federal employees. In the past four years 21,534 court cases have been filed and fines totaling \$167,854.00 have

been assessed. The majority of these were federal employees and numerous newspaper articles have pointed out the problem. Meetings with the Federal Executive Board and this office have resulted in some improvement. We have published in cooperation with the Federal Executive Board, two pamphlets—the latest of which is enclosed and which deals with a voluntary withholding program.

In January 1973 the St. Louis Federal Executive Board passed a resolution to the Office of Management and Budget favoring mandatory withholding of city earnings tax. Mr. F. Carlucci, then Associate Director of Office Management and Budget, stated that the Administration also supported mandatory withholding.

In July 1973 the Civil Service Commission selected St. Louis along with Philadelphia and Louisville as trial cities for a voluntary withholding program. Contracts between the Federal Government and the City of St. Louis were entered into and contact was made with each Federal Agency operative within the City of St. Louis. The initial program was to commence October 1, 1973 but many problems developed and the initial results have been very disappointing. Most of the Federal offices are paid on a national basis and the personnel officers have stated that they have had difficulty in securing new computer programs at the national level merely to cope with a withholding program for three cities. The time factor of October 1st made it impossible to rewrite these programs by that date. Most, however, are hopeful that the programs can be completed by January 1, 1974.

As of this date only ten Federal Agencies have actually responded and are currently withholding. As we draw closer to the January 1st date, we are again hearing doubts from some of the departments as to whether or not they will be able to meet this deadline. The Post Office department, which is one of the major employers of the City of St. Louis, have not as yet received permission from their Washington Office to participate even on a voluntary program. Past records indicate that the Post Office consistently had the largest number of cases to eventually wind up in court. Failure to have the Post Office included in a voluntary program would therefore reduce the benefits of such a program.

If collection was mandatory it would "require" them to make these deductions. I might add that the Treasury officials and the Civil Service Commission have been most cooperative in their approach. At a meeting called by the Federal Executive Board with management and union officials, at which time I addressed the group, we met with much enthusiasm with all concerned. The fourteen union officials present represented the major agencies covered by their unions. They wholeheartedly endorsed the program and I am sure that I can say with a high degree of certainty that over 95% of all employees desire that withholding be on a pay as you go basis. Management officials of all the Federal Agencies endorsed this as it will solve one of their major disciplinary problems and prove to be a benefit to their employees.

It appears to me the opposition to such a mandatory program boils down to 5% of those that still feel they shouldn't pay their fair share and on the other side we have 95% of the employees, their unions and management. This certainly should be conclusive that not only will the city benefit but will be meeting the desire of the federal employee.

JOHN K. TRAVERS,
Collector of Revenue,
City of St. Louis, Mo.

Mr. HENDERSON. Do you have anything in addition to that prepared statement you would like to say about the test program, as to how it is working in the city of St. Louis?

Mr. TRAVERS. I would certainly like to emphasize, at least at this point the test program does not appear to be going too successfully. It was initially supposed to begin in October. Most of the Federal agencies told us that their computer programs would have to be rewritten on a national basis, and that they could foresee many delays.

By October 1 we actually had no voluntary programs operative. We have since received approximately 10 applications, in only 3 or 4 agencies which are currently withholding. The closer we get to the January 1 date, which was another target date, the more doubtful it

appears that any of these agencies, or most of these agencies, are going to have their programs completed at that time. At least this is what we hear on the local level.

You heard the letter I read into the record from the Postmaster General. It would certainly appear that the Post Office, which is the largest single agency in the city of St. Louis and one, also, we possibly had the most difficulty with, is not going to participate. They say that they are bound by the civil service and the Treasury regulations, and so therefore it is very doubtful that they will participate.

I am going to call on them tomorrow and see if we can discuss the matter, but at the present time, the Postmaster in St. Louis gives me no assurance whatsoever that they will participate.

Mr. HENDERSON. I would conclude from your statement—the statement of both of you this morning—that the bill before us should include the postal employees if we are going to cover the other Federal employees; is that correct?

Mr. TRAVERS. I would say yes, definitely.

I might add that I think most of the local agencies and all of their employees are in favor of this bill. It seems where the problem is being generated is on the national level and not on the local level.

Mr. HENDERSON. Under the test program, the voluntary portion of it, is that voluntary on the part of the agency or are we talking about the voluntary participation of each employee of that agency?

Mr. TRAVERS. As I understand the program, and the contract that we have with the Treasury Department, it is mandatory on the part of the agencies and voluntary on the part of the employees. However, the agencies, quite frankly, are just not cooperating to the degree that we would have anticipated.

There is a brochure that I also presented that we printed for all Federal agencies, and it was passed out to each employee of the Federal Government in St. Louis. I think it answers most of those questions.

Mr. HENDERSON. We will have the testimony of the Civil Service Commission representatives later, but the staff has indicated to me, in response to a question I had to the Commissioners present, that the test system provides the agency may permit the employee to make an allotment for city income taxes.

I believe that is all I have at the present time. Mr. Clay, do you have questions?

Mr. CLAY. Yes. Mr. Chairman.

In regard to the voluntary program, I have a letter here that was sent to Senator Eagleton prior to the letter he sent to the office of the Postmaster General. The letter is dated November 5, 1973, signed by David L. Cantor, the Congressional Liaison Officer.

In the letter he points to reasons why the Postmaster General would be opposed to this piece of legislation. He cites the financial impact upon the Postal Service. He says, and I quote:

Added cost to our payroll system would arise from various areas. There would, of course, be the initial cost in converting the payroll deduction for the numerous local governments involved, as well as the additional ongoing expense of administering the system. Further expense could be foreseen upon a change in the pay status of each employee with respect to the adjustment in his deduction. I might add, that considerable expense would be incurred from the printing of the extra forms for this program.

Would you care to comment on that?

Mr. TRAVERS. The same expenses which Mr. Cantor points out, I think, are also incurred in withholding Blue Cross, union dues, and other items which are withheld by the Post Office.

In addition, while the contract that we have with the Treasury Department does not provide for our picking up any of the cost, we do permit all employers within the city of St. Louis who do withhold this tax, a one and a half percent collection fee to offset their costs.

Now, the contract we have with the Federal Government does not provide for this; in fact it prohibits it, but I think there is an area of negotiation that we could possibly offset some of the costs of the Post Office.

Mr. CLAY. And you have no complaints from local businesses in terms of cost of collecting these taxes?

Mr. TRAVERS. None whatsoever. Once they put this on a computer, quite frankly, there are very few costs other than the initial start up cost. And this would occur with any change in their program.

Mr. CLAY. In fact, at one point, wasn't it realized that some of the businesses were actually making an excessive amount of profit from the collection of these taxes?

Mr. TRAVERS. Yes. Our collection fees were cut in half because the cost factor was not nearly as great as we had anticipated.

Mr. CLAY. And business did not object to the rebate on them because they knew in fact they were receiving more than the actual cost?

Mr. TRAVERS. That is correct.

Mr. CLAY. The same arrangement could be worked out at the Federal level; is that correct?

Mr. TRAVERS. Yes, it could.

Mr. CLAY. In his letter to Senator Eagleton, Mr. Cantor refers to the change in pay status. And I guess the inference here is that you would have to make adjustments every time there was a raise of some type in pay. Do you see any difference between making this adjustment and the kind of things that take place now in terms of adjustments for the United Fund collections, where each employee decides for himself, after considerable pressure has been put on him by management, to contribute something to the United Fund contribution? Some give \$1 a pay period, some give \$2, \$10, and even during the year, some decide to cancel the commitment they have made.

Do you see any basic difference between providing checkoff for withholding earnings taxes that may change occasionally and the way they are collecting now for the United Fund?

Mr. TRAVERS. Actually, if it is a mandatory withholding program, there would not have to be any change, because in the computer it would be placed at a percentage and the computer would do the calculation regardless of what the change in the pay status was. It would still apply only a 1-percent withholding.

So there would be no need to make any changes in their program for our withholding earnings taxes.

Mr. CLAY. One more question here. In your statement, you point to the fact that the past 4 years the city of St. Louis has had to take 21,000 Federal employees to court. And I think you mentioned some figure of \$167,000 in fines and court costs, in addition to the payment of the taxes.

Don't you think that is an unnecessary kind of procedure for the city to participate in, certainly unfair to the public employees, Federal employees, who have to pay not only the taxes but the additional costs of court and fines, and that all of this could be eliminated by the enactment of this bill?

Mr. TRAVERS. Yes; I do. It is also sort of unfair to put an elected official in the position of bringing 21,000 people into court, quite frankly. You don't really make too many friends doing this.

And over and above the cost factor, I think where the Federal Government would benefit, I know that in most of these agencies they have had untold conversations in the offices that have disturbed the office routine, just discussing these court cases. This is all time lost that could be better spent doing their job, the fact they must take off work to go to court. Sometimes they have to come to our office once or twice before their case is called, to get their taxes processed and so forth.

All in all, they are losing a considerable amount of time which is either charged to sick leave time or annual leave time, and I would presume primarily the first type, so the Federal Government is really losing numerous work hours from their employees because of this.

Mr. CLAY. My last question, Mr. Chairman, I would like for both Mr. Bass and Mr. Travers to respond to it.

General Counsel for the Treasury Department has made several recommendations in regard to this bill. One is that rather than the Civil Service Commission being responsible for administering they recommend the Treasury Department be responsible, since the Treasury is responsible for other matters similar to this.

The second is that in computing the cities that would be affected, they say that 18 cities in the country which presently have earnings taxes or income taxes have a thousand or more employees and that these 18 cities represent 92 percent of all of the Federal employees that would be affected by this bill.

In a sense, I think they are recommending that perhaps the bill should eliminate cities of 999 Federal employees or less, which would still cover 92 percent of all affected employees.

Would you have any objections to either one of those recommendations?

Mr. TRAVERS. No. I am not certain—would the Treasury Department be able to issue instructions to the Post Office Department though, to make this mandatory?

Mr. CLAY. We intend to amend the bill to specifically include the Post Office.

Mr. TRAVERS. Well, then, I certainly would have no objection to either of those categories.

Mr. CLAY. Mr. Bass.

Mr. BASS. I certainly would have no objection to the Treasury Department carrying out that mandate. I think they are adequately equipped to do it if it is mandatory on their part.

The other reference to the 92-percent category, and the other municipalities not included, I understand that some of the smaller municipalities are not too seriously affected, in that they are so small that they can make collections themselves or either it is too much of a

burden as far as cost. The 92 percent, I think it is inclusive enough that it can remain as is.

Mr. CLAY. No further questions, Mr. Chairman.

Mr. HENDERSON. Mr. Mallary.

Mr. MALLARY. Thank you, Mr. Chairman.

Let me get a little better understanding first of your tax. I gather that your earnings tax applies to all residents of St. Louis and all people who earn their livelihood within St. Louis; is that correct?

Mr. TRAVERS. That is correct.

Mr. MALLARY. As I understand it, if this bill passed, the withholding would apply to Federal employees who live within St. Louis but earn outside of St. Louis.

Mr. TRAVERS. That is correct.

Mr. MALLARY. Would it also apply to Federal employees who earn their livelihood within St. Louis and live outside the boundaries of St. Louis?

Mr. TRAVERS. Yes.

Mr. MALLARY. Do you have any general estimate of how many employees there might be who are employed within the city and reside outside?

Mr. TRAVERS. This is only a general estimate, but I think that it would run roughly about 35 to 40 percent who live outside the city and work within the city.

Mr. MALLARY. At the present time, do all employers within the city, except for the Federal Government, withhold the earnings tax?

Mr. TRAVERS. Yes, they do, and this includes in the State of Missouri as well.

Mr. MALLARY. And all of them except the Federal Government are eligible to receive the 1½ percent collection fee?

Mr. TRAVERS. Yes, they are.

Mr. MALLARY. Do you get withholding by any employers outside the city of St. Louis within the State of Missouri?

Mr. TRAVERS. Yes, we do. But this is done more or less on a voluntary program, unless they have an office in the city.

For example, McDonnell Aircraft, which is one of our largest employers, has offices within both the city and outside of the city, and they withhold on all of their employees who are subject to the tax.

Mr. MALLARY. Is this voluntary with the employee?

Mr. TRAVERS. Not in that particular instance, because the courts have ruled that inasmuch as McDonnell did have facilities within the city, they also were obligated to withhold on their employees who were subject to the tax who lived outside of the city.

Mr. MALLARY. Roughly—and maybe it is too early to tell—do you have any rough figure as to the percentage of Federal employees who are eligible to have withholding under the voluntary program that have elected to have their earnings tax withheld?

Mr. TRAVERS. We have had so little response, primarily from the agencies who have not yet contacted their employees, frankly. They say they have computer program problems, and until they can get these worked out, they do not want to initiate the early steps in getting this program underway.

Mr. MALLARY. In talking with other employers in the area, are there any particular unusual administrative responsibilities that fall

to the employer withholding this particular tax? In other words, are there any qualifications or provisions in it that make it unduly burdensome from an administrative point of view?

Mr. TRAVERS. It is a very easy tax to collect. First of all, it is a straight 1 percent on the gross wages. If an employee for some reason, say a nonresident employee working within the city, spends a portion of his time outside of the city, he can apply for a refund on the amount that he has been overtaxed.

Mr. BASS. I think it is another mechanical problem in data processing. I think the amount of space that is perhaps on the computer printout card, sometimes with all of the different withholdings that they have used up all of the space and just how traditionally resistant to change the administration does not push for. It is a cost but it is a start up cost as pointed out by Jack, but I do not think that is a reason for them to be so obstinate about it.

Mr. TRAVERS. We have a problem working with it as it is now constituted. Under Circular 838, the Federal Government furnishes us copies of their W-2's of all Federal employees in our area. For many years these copies that we received were like the fifth copy, and you could imagine how poor this copy is. It is blurred; it is difficult to read.

We have all of our returns on computer, so it is necessary to use the social security number to process these. Being unable to read the W-2, many mistakes have occurred, which are unfortunate, and which cause us a lot of trouble. We have to correspond back and forth with the agencies to correct these errors. In the last few years now, from the major agencies we fortunately have been getting tapes rather than W-2's, which have improved our operations considerably and have eliminated most of the errors.

But it has been a long, hard job and most of the employees, frankly, that are burdened, are the low-income employees, the ones that are making \$7,000 a year or less. For them to come in and have to put out \$70 on April 15, they just do not have it. So they put it off and put it off, and the first thing you know, they are penalized 5 percent a month for penalty, 1 percent a month for interest, and they end up in court. It just seems unfair that the lower income employee is the one who is really the one burdened with these court fines and additional costs.

Mr. CLAY. Would the gentleman yield at that point?

Mr. MALLARY. Certainly.

Mr. CLAY. I would like to point out in reference to the 21,000 cases that have gone into court, we are not just talking about maybe \$70 tax plus interest and penalty. These people have gone to court after 4 or 5 years. So sometimes you really are talking about \$400 or \$500 plus court costs, and it really imposes a burden on the people that he is describing.

Mr. MALLARY. Two more simple questions. One is, do you have a reciprocal arrangement with IRS for getting their tapes for compliance purposes?

Mr. TRAVERS. We have reciprocal arrangement with IRS through the State, but, unfortunately, we do not have reciprocal arrangement with the State and they will not furnish us the information. The State has a statute which prohibits it and we are working to get it changed but have been unsuccessful of this date.

Mr. MALLARY. One other question. Would you feel it appropriate and be willing to negotiate if the Federal Government was to undertake this, a similar collection fee for the administrative costs of the Federal Government, similar to the 1½ percent now available to other employers?

Mr. TRAVERS. This is part of our law. I don't think we would have any difficulty in negotiating from our standpoint, whatsoever.

Mr. MALLARY. Thank you.

Mr. HENDERSON. Do you know of any cities that have an earnings tax, that only covers the employees within the city? As I understand, your tax is both on earnings of employees from without and within the city, it also covers residents of St. Louis that work outside. Do you know whether any of the other cities limit it strictly to the employees within the cities?

Mr. TRAVERS. I think there are many cities in Ohio in particular that have a reciprocal agreement with their neighboring communities, whereby they would not pay a tax in both the community in which they live and the community in which they work.

Mr. HENDERSON. In addition to the earnings tax, does St. Louis have income tax on its citizens?

Mr. TRAVERS. It has a state income tax.

Mr. HENDERSON. They do not have in the city?

Mr. TRAVERS. No. The earnings taxes are income taxes.

Mr. HENDERSON. Has the city given consideration recently to increasing the 1-percent earnings tax?

Mr. TRAVERS. We have, but we have grave doubts that the legislature would approve any increase at this time.

Mr. HENDERSON. It would take legislative action rather than city council action to do that?

Mr. TRAVERS. Yes.

Mr. CLAY. Mr. Chairman, it would take an enabling act from the State legislature permitting them to increase the tax, plus a vote of the residents of the city to impose a tax on themselves.

So we feel it would be impossible to get either the enabling act or the vote of the majority of the people of the city.

Mr. HENDERSON. So you presently are operating under an enabling act which limits you to 1 percent.

Mr. TRAVERS. That is correct.

Mr. CLAY. It has increased to the maximum. First it was ½ percent and the voters went out and increased it to its maximum, but there is no effort now to increase it more.

Mr. HENDERSON. If you had such an enabling act, it would be statewide, I assume? Is this a statewide enabling act or—

Mr. TRAVERS. No; it is restricted to the city of St. Louis and the city of Kansas City.

Mr. HENDERSON. Are there any restrictions on the use of the earnings tax revenues or any priorities set within the enabling act?

Mr. TRAVERS. They are used strictly for general revenue purposes.

Mr. HENDERSON. If there are no further questions, I want to thank both of you. Your testimony has been very helpful to us. We appreciate your coming in today.

Mr. TRAVERS. Thank you very much.

Mr. HENDERSON. Our next witness is Mr. George S. Forde, Revenue Commissioner of Philadelphia, Pa. I understand, Mr. Forde, that you are accompanied by the Assistant Revenue Commissioner, Mr. Eugene J. Rogers.

It is a pleasure to welcome both of you. Certainly, I would be remiss if I did not recognize the very distinguished service of our colleague in the Congress, Bob Nix of your city, who has served for the many years that I have been on this committee. Certainly it has been my pleasure not only to work very closely with him in keeping legislation going through this committee, but I have considered him one of the outstanding Members of the Congress.

While Mr. Nix is not on the subcommittee at this time, I will assure you of his interest in any matter affecting the city of Philadelphia and the State of Pennsylvania and our Nation.

It is my pleasure to welcome both of you.

**STATEMENT OF GEORGE S. FORDE, REVENUE COMMISSIONER,
CITY OF PHILADELPHIA, PA., ACCOMPANIED BY EUGENE J.
ROGERS, ASSISTANT REVENUE COMMISSIONER**

Mr. FORDE. Thank you, Mr. Chairman.

I am here this morning, at your kind invitation, on behalf of the city of Philadelphia, to present to your committee what we in Philadelphia believe are some of the major advantages which will accrue to both the Federal employee and the city of Philadelphia from mandatory withholding, by Federal agencies, of Philadelphia's wage tax from the earnings of Federal employees who are required by law to pay it.

The Federal Government now withholds, from the wages of its employees, for Blue Cross-Blue Shield, social security, U.S. savings bonds, union dues, savings accounts, State income tax, and, of course, Federal income tax; yet it does not withhold municipal wage taxes, which are an important source of income for at least 40 cities, in nine States, and the principal source for many, including the city of Philadelphia. Thus, annually, important sums are lost to these cities through delinquencies and increased enforcement costs.

Absence of a withholding requirement works a great hardship on Federal employees who are liable for such taxes, because they must establish individual accounts, file periodic returns (usually quarterly), and accumulate funds to meet this periodic obligation. As a result, many become delinquent and are faced with the additional expense of penalties and interest. Many never pay the tax.

In the more than a quarter of a century that the Philadelphia wage tax has been in force, we in the department of collections have observed, time and time again, that a long-delayed discovery, by the city, of a Federal employee who has failed to file returns, and the legally enforced collection of the accumulated tax, plus the accumulated interest and penalty, can wreak havoc on a family's financial structure. There have been cases where the amount due was so large that a Federal employee had to mortgage his home to pay off the indebtedness. Mandatory withholding would eliminate such tragedies in the future.

Mandatory withholding of the tax would, of course, eliminate completely the added burden of penalty and interest on delayed payments, which total 18 percent of the tax for the first year of delinquency, and an additional 12 percent for each ensuing year. In fiscal 1973, the department collected from Federal employees a total of \$662,00 in interest and penalty. During the past 5 years, Federal employees have paid for these items a total of \$2,615,000. Obviously, this very significant outlay of money by Federal employees would be eliminated through mandatory withholding legislation.

An additional abrasive situation results, when court costs must be levied against employees to enforce payment. The Philadelphia code of ordinances provides for fines of up to \$300, for each failure to file a required tax return and to pay the tax due; failure to pay this fine within 10 days can result in imprisonment for up to 90 days. In addition, when these actions are initiated, there are court costs, which must be borne by the delinquent taxpayer. At the present time, there are on file, with the Common Pleas Court of Philadelphia, 164 complaints in assumpsit, against Federal employees who owe delinquent wage taxes totaling in excess of \$150,000. Simultaneously, complaints have been filed in municipal court requesting fines of \$500 (\$250 for each of 2 years) against each of these same 164 defendants, for failure to file returns and/or to pay the 1971 and 1972 city of Philadelphia wage tax.

The regular deduction from each paycheck of $3\frac{5}{16}$ percent of gross earnings, is, of course, not welcomed by any employee, but is certainly the least painful means he can employ to satisfy his legal tax responsibility to the city of his employment. The employee will soon learn to structure his routine financial program around his take-home pay; and, in addition, if the Philadelphia wage tax is withheld, the employee will avoid the chore of filing a tax return with the city each quarter.

In 1972, there were approximately 71,500 Federal employees subject to the Philadelphia wage tax. The total taxable earnings of these employees in that year were in excess of \$645 million. The wage tax on that amount, at the current rate is more than \$21 million, but actual current wage tax collections from Federal employees in 1972 amounted to only \$16 million. Thus, there were delinquencies for that 1 year totaling \$5 million. This amount was owed by approximately 36,000 Federal employees; or about half of all who were liable for the tax. Individual delinquencies ranged from a full year's tax, amounting to several hundred dollars, to small balances of a few dollars. Each one of the 36,000 accounts has to be billed and dealt with individually at great expense. It is obvious that mandatory withholding would not only eliminate the \$5 million tax delinquency, but would also very substantially reduce the cost of tax collections.

The cost of collection of delinquencies is enormous. Of every dollar collected as a result of the withholding of tax by employers, the city of Philadelphia has $99\frac{1}{2}$ cents to use. Of the dollars collected from delinquent individual payers of earnings tax, the city has only 75 cents to use. The embarrassment to the delinquent, attendant to the enforcement process, is frequently great.

As of the close of fiscal year 1973, the city had recorded on its books a total of \$22 million in wage tax receivables due from 84,600 Federal

employees; past and present. Five years earlier, at the close of 1969, accounts receivable from this source were only \$11 million. Thus, in 5 years, tax receivables from Federal employees doubled. These receivables, obviously, do not include city wage tax due from Federal employees who have never filed returns and whom the city has not discovered as of this date.

You know, of course, that the U.S. Treasury Department has entered into agreements with the cities of Louisville, Ky.; St. Louis, Mo.; and Philadelphia, Pa., to permit the withholding of municipal wage taxes by Federal agencies on a voluntary basis for a 3-year trial period. We are currently negotiating with Federal agencies, which will be involved with the Philadelphia wage tax, the procedures necessary to implement this program. It is expected that all such agencies will be withholding the Philadelphia wage tax by January 1974, on a voluntary basis from the earnings of employees required to pay it.

You will be interested to know that the members of the Federal executive board in Philadelphia, have expressed their personal approval of withholding and that the regional director of the Civil Service Commission has stated flatly that the board considers withholding to be an employee benefit, which they are happy to offer. Our own feeling is that while we welcome the voluntary withholding program and will profit from it, we do not expect it to produce any great increase in collections for Philadelphia. Employees who subscribe to voluntary withholding, will be, for the most part we believe, those who are already paying their taxes. Only mandatory withholding will satisfy our urgent need.

In the many years during which we have sought congressional action on this matter, and my involvement goes back 20 years, the support of Federal employees, through their unions and associations, has been essentially unanimous. Opposition has been offered only by a small, but vocal minority of nonresidents, who object to paying the tax of the city of their employment. It is important to note that the Federal court has ruled that nonresident employees have the obligation to pay and the U.S. Supreme Court has refused to hear an appeal. The absence of withholding legislation facilitates defiance of the law by this militant group, to the detriment of the majority interest.

At a time when Congress is making huge grants of Federal funds to solve urban problems, approval of mandatory withholding of municipal wage taxes would seem to us a logical step. I respectfully urge you to recommend bill H.R. 8660 to the Congress for passage at the earliest possible moment. Philadelphia is grateful to you for this opportunity to present our case.

Thank you very much.

Mr. CLAY [presiding]. Thank you, Mr. Forde.

Mr. Rogers, do you have a supplemental statement you might add?

Mr. ROGERS. No, I do not.

Mr. CLAY. Mr. Forde, I am very interested in your statement. First of all, I would like to commend you on your apparent amount of effort that you took in preparing it. On the first page, you speak of the kinds of hardships that are imposed on Federal employees, and you say that because of the lack of the authority of the Government to withhold these taxes, that Federal employees are required to file quarterly reports.

Can you explain that in more detail?

Mr. FORDE. Well, at the inception of the tax, it was assumed that the Federal employee, or any employee from whom the taxes were not withheld, and that includes people who work outside of the city but live in the city, that these people would prefer to pay quarterly rather than annually, because it would be less of a financial hardship for them to get this money together.

The big problem—and, of course, a good many people do this—but the big problem comes in natural human procrastination. People put off this return. They have family obligations to meet, they put the money aside perhaps for the quarter, and then when the time comes, they need that money to buy clothing for their children and that sort of thing, and the bill never gets paid. So some people will wind up for the year with three-quarters paid and will owe for the year.

We have variants of this. Some people will owe us a few dollars and some people won't pay anything.

Mr. CLAY. Those that the taxes are withheld from their income, do they file returns?

Mr. FORDE. Nothing at all.

Mr. CLAY. In other words, you would eliminate the necessity of them sitting down actually computing the income taxes themselves?

Mr. FORDE. We would.

Mr. CLAY. On page 2, you mention something that is very tragic—very tragic. You say because of some of the legal requirements in terms of collecting taxes from Federal employees, that some families have been forced to mortgage their homes in order to pay the obligation. Can you elaborate on some of the kinds of obligations that some of these Federal employees are confronted with?

Mr. FORDE. That is sadly true, Mr. Clay. We feel—and it has been proven time and again—that a person can adjust his mode of living to his take-home pay and if the taxes and his other obligations are taken out of his pay, Blue Cross-Blue Shield and everything else, he lives on that check that he takes home. And even if he puts money aside for a thing like taxes, if an emergency comes up, he will spend it.

Then, of course, there is the improvident person, there are lots of them in the world, some take it to the racetrack and some take it other places.

Mr. CLAY. Some take it to church.

Mr. FORDE. Some take it to church, very few at least relatively. Nothing in big amounts, anyway.

This just snowballs and a fellow finds himself some day with several thousand dollars' worth of tax liability, with interest and penalty and court costs, and there is no place for this to come from.

Mr. FORDE. So he has to mortgage his house to keep from going to jail. We can't—we have to, in order to collect taxes, we have to be realistic. We can't be soft-hearted beyond a certain point. We do offer and do make installment payment arrangements, but we find that about 20 percent of the people come in and make these arrangements—Federal employees—and will adhere to them to the end. The others will make a few payments, and then drop out and you have to find them again. And so on. So all the time, the interest and penalties are mounting up and we take them to court and add the court costs.

Mr. CLAY. The interest for the first year is 18 percent.

Mr. FORDE. Yes, sir.

Mr. CLAY. And the second year is 12 percent?

Mr. FORDE. One percent a month.

Mr. CLAY. You said in your statement that in fiscal 1973 you collected a total of \$662,000 in interest and penalties from Federal employees?

Mr. FORDE. Federal employees alone.

Mr. CLAY. This is really unreasonable and unnecessary, and wouldn't happen if we enact this particular piece of legislation.

Mr. FORDE. The reason we have to do that is to make it interesting to them to pay and cover our collection costs.

Mr. CLAY. Mr. Travers and Mr. Bass talked in terms of the voluntary program that has been initiated in three cities and you touched on it. Can you tell the committee your experiences so far in terms of that voluntary program?

Mr. FORDE. Suppose I ask Mr. Rogers to give you a report on our statistics and the progress to date on that.

Mr. ROGERS. I would be glad to. Just to give you a little background, there are approximately 20 large agencies who have employees subject to Philadelphia wage tax, and as Commissioner Forde mentioned, in 1972 these large agencies, plus about 150 small ones totaled about 71,500 employees subject to the tax. As you know, Mr. Clay, this program is in its very early stages, but at the present time, we have firm allotment forms from 12 agencies totaling some 1,600 individual employees. These are actually accounts which are being withheld in the year 1973.

Some agencies started withholding October 1, some started at the end of October and some started in early November, and we do have firm information from five very large agencies in the city of Philadelphia who said they will start withholding in 1973. However, we have not received any allotment forms from them. So, as you can see from this ratio, at least the start of this program is not nearly as successful as we had hoped for.

Mr. CLAY. This is voluntary on the part of the employee and the employer, which means that if an agency decides that they don't want to implement this program, then there is no requirement for the agency's cooperation?

Mr. FORDE. There is some difference of opinion on that. I think the early release on this subject indicated that the plan would be voluntary for both the agency and the employee. But I made telephone inquiry to Washington, and was told that it was mandatory on the part of the agencies. I think these gentlemen from the Treasury Department—

Mr. CLAY. Washington told you—did George Washington tell you that, or—you say Washington told you?

Mr. FORDE. From the Treasury Department.

Mr. CLAY. OK. I have had various experiences about what they say, and even about what they write. So—thank you. One last question, Mr. Chairman.

You mentioned the lawsuit that the Supreme Court failed to hear, and what I take from that is that the lower courts have decided that

the law is legal, and that those who live outside of the jurisdiction, but work in the jurisdiction are liable for the taxes. What are some of the problems that you have in terms of collecting taxes from people who live in other areas and what are some of the evasive means used to get out of paying the taxes that they legally owe the city of Philadelphia?

Mr. FORDE. The most militant and vocal group we have are the New Jersey citizens. We are right on the Delaware River and we have a couple of big bridges that bring people every day from New Jersey to Philadelphia to work. And indeed, there is a small group of people that come to work by a private ferry that crosses the river from New Jersey to the Philadelphia Naval Base. And these people don't really—many of them don't ever, set foot in the city on their way to work. And they say that they shouldn't have to pay the tax.

Well, they have sued in the Federal courts, and the Federal courts have said that they do. I think this relies on the deed under which the ground was originally ceded to the U.S. Government by the city of Philadelphia when that base was originally established many, many years ago; many generations ago.

So, there have been suits by Federal employees, by New Jersey residents, in the Federal courts over there, the Federal district courts, and there have been others in Philadelphia. And in each case, with one very old one going back into the 1940's, and there have been a couple more recently over in New Jersey. And the Supreme Court in every instance has declined to hear the appeals.

Mr. CLAY. Whether they set foot on the property or whether they drive on the highways or the streets of Philadelphia, the naval base is sitting in Philadelphia and it is a tax free land, which means that the citizens are subsidizing it.

Mr. FORDE. That's right.

Mr. CLAY. We provide the fire protection for that naval base and I assume the police protection.

Mr. FORDE. Much of it.

Mr. CLAY. So in effect, they are still using the facilities of the city of Philadelphia.

Mr. FORDE. Right. The court has so decided.

Mr. HENDERSON. Mr. Mallary?

Mr. MALLARY. Let me ask you specifically with regard to your wage taxes, is this only for those employed within the city of Philadelphia?

Mr. FORDE. No, sir. This applies to anyone who lives in Philadelphia, wherever he works and to anyone who works in Philadelphia, wherever he lives.

Mr. MALLARY. And New Jersey, I believe, has no income tax, but does the State of Pennsylvania and Philadelphia have reciprocity agreements with other States?

Mr. FORDE. There is no arrangement like that at the moment; no, sir. The State of Pennsylvania does have an income tax as well.

Mr. MALLARY. Do all employers other than the Federal Government comply with the withholding provisions?

Mr. FORDE. Yes, sir, unless we don't find them. Occasionally we find one that is hiding out.

Mr. MALLARY. Specifically getting to the question of the armed services, as I look at the text of the bill here, this would not apply to members of the armed services.

Mr. FORDE. We didn't—

Mr. MALLARY. Would you want to comment on that?

Mr. FORDE. We don't tax members of the armed forces on duty in Philadelphia, on their military pay. We do not tax military pay.

Mr. MALLARY. OK. Do you provide for a collection fee, similar to St. Louis, for employers who do the withholding?

Mr. FORDE. No, sir. And if I may volunteer something about the Postal Service, we have been down here and had a very cordial reception from the Postal Service, and negotiated this with them and they say they are quite interested in helping us, but because they are responsible for running a self-sustaining operation, they feel that we should pick up the cost of this voluntary withholding.

Now, this was interesting to us, because the Treasury Department, in its agreement with us, has specifically stated that no agency make any charge for this service. We can't help remembering, that we and a lot of other citizens in the country have been withholding the Federal income tax for a good many years without charging anything. And also that, as Mr. Travers has pointed out, the Government withholds numerous other things, amounts from the Federal employee's pay without any charge.

Mr. MALLARY. Do you have arrangements with any other employers in the general area who withhold city of Philadelphia wage taxes, even though they are employers with a base outside the city of Philadelphia?

Mr. FORDE. Yes, sir. We do, and as a matter of fact, any company that does business in Philadelphia is required by law to withhold that tax from its Philadelphia resident employees who work in any of its plants anywhere else, whether it is—no matter where it is. They are required to do that. And there have been court cases sustaining that. The famous one was called the *Westinghouse* case. Westinghouse refused to do this, and the courts required them to do so.

Mr. MALLARY. Let us assume that there is an employer who does not do business in Philadelphia, but who employs Philadelphia residents. Do some do it voluntarily?

Mr. FORDE. Some do.

Mr. MALLARY. Some do not?

Mr. FORDE. That is usually worked out with the assistance of the unions and also on a voluntary basis, never mandatory.

Mr. MALLARY. Thank you very much.

Mr. HENDERSON. Thank you very much. We appreciate your appearance here this morning.

Our next witness is Mr. Raymond Jacobson, Civil Service Commission, Director, Bureau of Policies and Standards, who is accompanied by Mr. Raymond C. Weissenborn, Chief, Pay Policy Division. It is a pleasure to welcome both of you gentlemen. You have been before the subcommittee before and we are delighted to have you here and to receive your testimony at this time.

STATEMENT OF RAYMOND JACOBSON, CIVIL SERVICE COMMISSION, DIRECTOR, BUREAU OF POLICIES AND STANDARDS, ACCOMPANIED BY RAYMOND C. WEISSENBORN, CHIEF, PAY POLICY DIVISION

Mr. JACOBSON. Mr. Chairman, I appreciate the opportunity to present the views of the Civil Service Commission on H.R. 8660.

Basically, we have no real opposition to the purposes of the bill. We do recommend against its enactment at the present time, however. We are currently engaged in an experimental program of our own in which the withholding of city income taxes is being tested in three selected cities. We believe this program will provide much useful information about the process, and we simply think it would be more prudent for the Congress to have the full benefit of that information before it enacts binding legislation.

Our program was launched on July 1 of this year, when we amended our allotment regulations to permit agencies to allow a Federal employee to have city income taxes withheld from his salary. The program is completely voluntary, of course, because any allotment under our regulations is voluntary. The test is limited to the three cities with the largest Federal employment in the major population categories.

In the over 1 million category that is Philadelphia; in the 500,000 to 1 million category it is St. Louis; and in the under 500,000 category it happens to be Louisville, Ky. The Federal employment figures used to make this selection do not include either the military or the Postal Service, since neither of these are covered by our allotment regulations. Here I refer, not to the civilian employees of the military, but to the members of the Armed Forces.

This experiment was established for a period of up to 3 years. It may not be necessary to extend it that long to provide the information we want. Our purpose basically is to ascertain three things: one, the extent to which the Federal employees will take advantage of the program. Two, the most efficient way to establish detailed procedures to accomplish the purpose, and three, the cost of such a program to the Federal Government.

Depending on the answers we get to these three questions during the trial period, we may well decide to extend the program to all American cities on a permanent basis. It is also conceivable that our experience will be negative and that we would recommend that the program be terminated. But even if our plans are preempted by a legislative proposal, we think the results of our experiment should be carefully considered in the drafting of that legislation. Unfortunately it is too early to be able to provide you with that.

Let me now point up three major differences between our experimental program, and the bill being considered here this morning: one, the bill would establish mandatory withholding. Our trial program is voluntary, and any followup permanent plan would remain voluntary if it were carried out under our allotment regulations. This raises a very touchy issue, and one which has occasioned some fairly heated debate in Congress in the past. The Commission feels that the question should remain at the discretion, and in fact it obviously has to remain at the discretion of the Congress, and takes no position in the matter.

Two, the bill would limit the withholding program to persons employed within the city. Our program is available both to persons employed within the city, and to those who reside within the city. We favor the broader application of our own plan, particularly since a citizen's place of residence has traditionally been the primary determi-

nant of his local tax obligations. We would therefore commend the idea to your consideration.

Three, the bill requires the Civil Service Commission to enter into the necessary agreement with the city. Under our plan, it is the Treasury Department which performs this function. We feel quite strongly, and Treasury agrees, that they are a much more appropriate agency to handle fiscal details of this kind. We would therefore strongly urge that the bill be amended to effect this substitution, if it is in fact to be enacted at the present time.

In summary, Mr. Chairman, the Civil Service Commission believes that H.R. 8660 or any other legislation establishing city income tax withholding for Federal employees, should wait the results of our experimental program, which we expect will be available in about 2½ years, and quite possibly sooner.

I will be glad to answer any questions you may have, but I would like to add to my prepared statement the fact that in clearing this statement, as we normally do within the Government, with the Office of Management and Budget, they specifically asked that we advise the committee that the Office of Management and Budget is of the opinion that there should be enacted general authorizing legislation permitting local tax and permitting jurisdictions to withhold taxes comparable to that now possessed by the States imposing a personal income tax. That statement was put in our official letter to the committee. I wanted to add it also to my prepared testimony to make sure that you were aware that the position of the Office of Management and Budget clearly is that they are in favor of this kind of legislation.

Mr. HENDERSON. Thank you very much. Let me see if I understand the voluntary aspects of the test program. It is voluntary to the agency, as well as the employee?

Mr. JACOBSON. Mr. Chairman, let me speak to that this way: As the law which we are administering, and as our regulations are written, we use the word "my" when we say—and I will read that from our legislation itself. We say, " * * * on an experimental basis beginning July 1, 1973, for a period up to the 3 years, an agency may permit an employee * * * " and then it goes on from there.

Now, I think the Treasury Department is going to testify this morning after me. I believe that they feel it is mandatory on an agency to participate in the program. I am not a lawyer, and I won't—I am not prepared to debate this.

I am reading you the words that we have used in our regulations, and they essentially copy the words of the law. That is, we may permit an agency to allot. So I am sorry to waffle on it, but I am afraid I must. As I read it, it is voluntary both for the agency and the employee to participate. Depending on what the Treasury says, it may be mandatory on the part of the agency. It is clearly voluntary on the part of the employee.

Mr. HENDERSON. Perhaps my question may be answered by the witness from Treasury, but what I was trying to get is, do we need to amend the law to make it mandatory to the agencies? Is there authority now in the Commission or the Treasury or in the Executive order to require the agencies to afford the voluntary program? It seems to me from the testimony of the representatives from St. Louis, that there is some difficulty in getting the agencies to institute the test program.

Mr. JACOBSON. Let me give you the specific statutory citation. It is in title 5, section 5525, and it says,

The head of each agency may establish procedures under which each employee of the agency is permitted to make allotments out of his pay for such purposes as the head of the agency considers appropriate.

This goes further, and goes on to say that the President may regulate and the heads of the agencies will be guided by those regulations. That was delegated to the Civil Service Commission and our regulations use the word may also. That is how we come to the view that our authority under the law only extends to authorizing, but not requiring, even voluntarily.

Now, our general counsel has advised us this way. It may be that this needs to be researched a little more. But certainly we cannot authorize a mandatory program insofar as the employee is concerned; that is for sure.

Mr. HENDERSON. This was leading into the second point I wanted clarified. In view of your position that we ought to wait to see how the test program works, would you comment on amending the bill to provide that it would be mandatory wherever you decided to institute it, leaving the decision for where and when it was to be instituted to the discretion of the Commission or the Treasury Department? Suppose that your present test program was based on a clear mandatory requirement of the agency, also removing the voluntary aspect as to the employee, wouldn't we get a better test of how it is going to work in a test program, if we could say that for the three cities now involved in your test program, it would be a mandatory program on the agencies and employees in those cities? And, it will give you added authority to institute it in other cities without further legislation. This is something of a compromise position from the bill. I am just trying to explore what your views would be toward that type of legislation rather than the bill, of course.

Mr. JACOBSON. I recognize it is too early to draw a conclusion. I would say this, that—

Mr. HENDERSON. Let me ask you this. Do you think we can draw a real conclusion for a voluntary program, especially when there is a question of the agency participation, as compared to a mandatory program?

Mr. JACOBSON. This is what I want to talk to, Mr. Henderson, and I am thinking of the testimony of the gentlemen from the city of St. Louis who just preceded me. I really feel, whether this is mandatory on the Federal agencies or not, it is going to be a very unusual Federal agency that does not participate in the program. Even under the existing provisions, they participate in all of these programs. I really do not believe, and I regret the fact that it has taken some time to move, but I think some of them are waiting for the tax year which frequently begins January 1. Some of them are waiting because they need some lead time for their computer programing.

I am really prophesying, if I may, but I think I am making a fairly safe prophecy, when I say I will be amazed if we don't have 99 percent agency cooperation with the program within the next several months. I really would be amazed. And evidently, in the Philadelphia area we already have some testimony to the effect that the agencies

have all said they want to cooperate, and I just feel they will. So I really don't think this is that crucial a point. And so that is my reaction to your question, as best as I can give it at this time.

Mr. CLAY. Will the gentleman yield on that point?

Mr. HENDERSON. Let me make one more point, and that may be the point that you have in mind. I think with regard to the Postal Service, the testimony this morning would indicate they do have a problem, or they feel they are not covered, and they seem to have a problem of trying to cover their costs. And, of course, it would be the intention of the Chair to get their position, either by way of testimony or in writing to cover this point so that would be speaking for their own position.

I presume that your response to it was related to the other agencies, rather than the Postal Service?

Mr. JACOBSON. Yes. Our regulations don't apply to the Postal Service, and we have no way of making them apply to the Postal Service. We informed the Postal Service at the time they made this decision, so they would be aware of it. And we obviously informed them with the hope that they would be willing to establish programs, but we are in no position to regulate, even on a permissive basis, with them. And I would agree that one significant defect in our program, insofar as the intention, the decided objective goes, is clearly that the Postal Service, in many cities as has been pointed out, is the major employer from the Federal Government, and is not covered by the voluntary program.

Mr. HENDERSON. Further, I would like to add on the Postal Service, and you might want to defer this to the Treasury—I would like for witnesses from one or the other to answer or be sure that the Office of Management and Budget position is clear on whether or not any legislation we may enact would permit the cities and the Postal Service to enter into a reimbursement agreement—should there be a difference in the Postal Service in that respect, as to other Federal agencies.

Personally, if we are going to go into a mandatory program on all Federal agencies, I am inclined to think we ought not to require any reimbursement to any of them, including the Postal Service. I don't know whether you want to comment on that. Feel free to do so, if you feel prepared, or if not defer to someone else.

Mr. JACOBSON. Well, I certainly can't speak for the Civil Service Commissioners on this. They haven't considered it. My own feeling would be much as yours. If there is to be an mandatory program, I would hope that it would apply to the Postal Service in the same way as it would apply to other Federal agencies, both as to the question of participation and the question of the assessment of cost.

Mr. HENDERSON. I think it is a good time, Mr. Clay, for me to put on the record the real concern that I have basically as it relates to this legislation and I am using the Postal Service System in the light of the testimony we have had this morning. I think a good case could be made that if they were doing—and I am talking about the management in the Postal System—doing what they should be doing, they would be seeing that their employees paid their debts, especially to the Government. We are proceeding on the assumption that this is

a lawful tax. Whatever it may be, it would be less expensive to them to use this method of deduction to insure that their employees pay the taxes, than it would be for them to go through problems of grievances, and irritations, and all the things that we know will happen if they do not have a mandatory requirement.

So, I personally would advise the Postal management that they are going to have a tough time getting me to exempt them from the legislation, or the requirement that the cost be assumed; that we are going to legislate for all Federal agencies.

Mr. JACOBSON. I would just comment this way, without regard for the Postal Service particularly, but with regard to Federal Government generally, as an employer. We have always assumed that we have a responsibility as a responsible employer that our employees pay their just debts and we do make every effort to assist. We do not have garnishment. We have opposed garnishment. But in lieu thereof, we feel that we have every obligation to see to it that employees pay their debts. And we will help them to do so. We counsel with them and some of the costs that have been referred to here are undoubtedly incurred by Federal agencies because of the difficulties that employees do have with meeting a substantial obligation which they perhaps could have met by paying it out on a more reasonable basis.

Mr. HENDERSON. I will now yield to Mr. Clay.

Mr. CLAY. Thank you, Mr. Chairman. In terms of the cost factor, what do unions and other organizations that now have their dues and contributions deducted from the Federal Government employees pay? What do they pay in terms of cost?

Mr. JACOBSON. The only one that I am aware of, and correct me if I am wrong, Ray, but the only one that I am aware of is a requirement that they make a collection fee for union dues. Am I correct?

Mr. WEISSENBORN. At one time we had a standard 2 cents per item collection fee. But within about the last year, we have taken it out of the mandatory charge and made it subject to collective bargaining at the local level.

Mr. JACOBSON. That was just for union dues?

Mr. WEISSENBORN. Yes.

Mr. JACOBSON. The other items—charitable contributions, health insurance, life insurance—for these there is no charge. And of course, health insurance and retirement deductions, et cetera. These are statutory requirements. So, I guess the most nearly comparable one is the charitable deductions and the union. As for union dues, the question of what is paid for those deductions is now a negotiable or bargaining item in the union exclusive agreement.

Mr. CLAY. What is the reason for charging for the deduction of union dues and not charging for the deduction of life insurance and health insurance and charitable contributions?

Mr. JACOBSON. Well, in terms of life and health insurance and retirement programs, they are statutory programs. There is no basis for a charge. In the case of the—

Mr. CLAY. Aren't the union dues statutory under the Postal Reorganization Act?

Mr. JACOBSON. Maybe as it applies to the Postal Service. I can't speak to that. I assume it is a bargainable item in the Postal Service,

a negotiable item. How it has been negotiated, I don't know, as far as the Postal Service goes. It has been negotiated in different ways in the other places where we have exclusive bargaining units. In other words, we only provide for union dues being collected by payroll deduction in a situation where there is an exclusive unit, where the unions members have secured exclusive bargaining rights under the executive order. And as a part of the agreement, the union and management are supposed to sit down and agree together on a fee, a charge. Certainly as far as the combined Federal campaign is concerned, the Government has not seen fit to institute a charge on it; has not wished in any way to reduce the contribution of the employees to the campaign.

I think the dues situation—you asked for the rationale for the dues situation—I think this is considerably different. The union is getting the benefit by having the checkoff and we feel it is not unreasonable to have some kind of cost reimbursement.

Mr. CLAY. And in deciding on the three cities of Philadelphia, Louisville, and St. Louis, did you do any cost projections in terms of what it would cost if you have 100 percent participation by all employees involved?

Mr. JACOBSON. No, we really haven't. One of the purposes of doing this this way was to try to get some cost information and we really didn't have any that we felt was adequate. So we did not make any cost projections, Mr. Clay. We are just trying to find out—one of the reasons for trying to select different sized cities, or cities from different sized population groupings was to see if it made a difference. I don't know that it will or won't.

Mr. CLAY. Now in your recommendations to the Committee you have asked that we wait approximately two and a half years to see whether or not this pilot program is going to be successful. In view of the fact that two of the cities involved, Louisville and St. Louis, are of such that the majority of their employees are not involved in the pilot program because they work for the Post Office, how are you going to—how do you expect to arrive at conclusive evidence in terms of whether or not the program will be successful?

Mr. JACOBSON. I agree, Mr. Clay, that whatever—and I think I indicated earlier in responding to the chairman—whatever we did with the voluntary program, we can't include the Postal Service. Therefore, there is that inadequacy, even if it were fully successful. I gather from what you had said earlier, the bill as written now, does not include the Postal Service. But then you had intended to so amend it. I was going to point out that as it now stands, the bill would not require the Postal Service to do anything more than our regulations require it to do. But certainly, I was just comparing the bill with our program. And I think the coverage is about the same. You were at the Postal Service and I think it makes quite a difference. From that point—

Mr. CLAY. One of the other points that you mentioned was that the voluntary program now includes those who worked within the city, and those who work outside the city but who live within the city. Of course, my intention is also to amend the bill to cover both aspects of that.

Mr. JACOBSON. I see.

Mr. CLAY. But one thing that really disturbs me a little bit in your statement is the fact that what the alternative would be if your pilot program proves to be negative. And I think that what in effect the Government would be doing is becoming partners to those who are attempting to evade legitimate tax obligations. If we fail to provide some kind of mechanism that allows these cities to collect taxes that the courts have considered legal, would you agree that unless we come up with a mechanism that we are going to be a party to tax evasion?

Mr. JACOBSON. Well, I think certainly the Civil Service Commission's view here and as I have indicated, the view of the Office of Management and Budget—well, let me just talk for the Civil Service Commission. All right? We feel that the likelihood of having a negative decision, frankly, is small. And also, I would like to add that I would hope that we don't have to wait 2½ years. We obviously are not going to be able to get any very good information until about next summer, I would say. Because it is obvious that the agreements are still being worked out, the arrangements are still being made. The tax year starts in January. I would assume by next summer we will have a pretty good idea at least of the amount of participation that is accruing this way. And hopefully, that might enable us to come to some conclusion, even without legislation, to move ahead. The Commission simply put a 3-year limit on the experiment. We didn't mean that we were going to wait 3 years before we decided to look at it. And we are obligated on the staff level of the Commission to report to our Commissioners as soon as possible when we have a reasonable amount of data amassed to answer their questions.

So I would hope we can move forward on this. I don't expect the results to be negative. I just felt we had to say something like that. And of course, they could be. But I would hope not. We do have a concern here, and I think you have to understand that the Commission's position here is really one that if the Congress elects to move forward with this, I don't think we see strenuous objections to it. We are just simply saying we are going to go ahead with ours. And we might have some information which will be useful as a result of that.

Mr. CLAY. Thank you. No further questions.

Mr. HENDERSON. Before I yield to Mr. Mallary, I would like to comment, Mr. Clay, that in the bill I introduced early this year, H.R. 10700 on labor-management relations, I resolved the question with regard to whether the Government should charge for the collection of union dues. I think, even though, at the present time, it is a negotiable item under the executive order, having moved from the requirement under the executive order to being negotiable. I took that as an indication that the philosophies were changing somewhat and we would not have to make the decision in the Congress. But having arrived at that decision in that bill, I think you and the other members would understand that I would take the same position on this collection. It seems to me that the cost would be more of a nuisance than it would be of real value to the Federal Government or the Postal Service.

In view of your prepared statement and testimony, if the bill had been prepared, as announced, by the Treasury, so that the Civil Service Commission would not have been in it, I wonder if we would have

had the official position of the Commission. What I am saying is that your position, your testimony here, going into the record, could be interpreted by some as being in opposition, at least at this time, whereas the bill is giving this function to the Treasury. Is it fair to say you might not be here? Of course, the Commission has a right, inasmuch as the Federal employees are concerned. I comment on this because I anticipate one of the problems we may have is when you look at the official reports. It depends on which view you take; if you take the Commission's view, and use it to vote against the legislation, or what the Treasury Department is going to testify, judging from their report.

It looks like we may be able to amend the bill, along with their recommendations, and we might end up with a favorable report in that instance. And certainly we would be in a position strategically if we didn't have opposition to the bill as it might go out.

Mr. Mallary?

Mr. MALLARY. Just one or two brief questions. You mentioned that one of the purposes of your experimental program was to determine the cost of such a program to the Federal Government. Would it not be possible administratively to get a pretty good handle on what the cost was going to be? It is administrative cost and computer cost largely.

Mr. JACOBSON. I suppose we could have made some kind of estimate; yes.

Mr. HENDERSON. Would the gentleman yield?

Mr. MALLARY. Yes.

Mr. HENDERSON. Wouldn't it be possible for you to use cost data that ought to be available with regard to State withholding for employees?

Mr. JACOBSON. Yes, it probably could have been done.

Mr. MALLARY. Let me ask one other question. Where States have income taxes, is it mandatory that under our present statutes that the State withhold taxes, or that the State income taxes are withheld for Federal employees, or is it voluntary?

Mr. JACOBSON. It is mandatory.

Mr. MALLARY. In every case.

Mr. JACOBSON. Yes.

Mr. MALLARY. One other question for clarification. I gather that it would be your feeling, if legislation was enacted at this time, that it would be important that it be enacted so that withholding occur not only with Federal employees, who were employed within the jurisdiction, but also Federal employees who resided within that basic tax jurisdiction?

Mr. JACOBSON. I would think that it would be important that the legislation be designed so as to assist employees in paying their just debts and if that is the way the tax law of the jurisdiction is written I would think it would be most helpful if we did what other employers in effect have to do.

Mr. MALLARY. Thank you very much. That is all I have.

Mr. HENDERSON. Thank you very much. Your statement has been very helpful.

Our next witnesses are Mr. Lloyd Morgan, Deputy Director, Operations Planning and Research Staff, Fiscal Service, Department of the

Treasury who is accompanied by Mr. James Spahr, Special Assistant to the Commissioner of Accounts. It is my pleasure to welcome both of you here this morning.

**STATEMENT OF LLOYD MORGAN, DEPUTY DIRECTOR, OPERATIONS
PLANNING AND RESEARCH STAFF, FISCAL SERVICE, DEPART-
MENT OF THE TREASURY, ACCOMPANIED BY JAMES SPAHR,
SPECIAL ASSISTANT TO THE COMMISSIONER OF ACCOUNTS**

Mr. MORGAN. Thank you; Mr. Chairman and members of this committee, we welcome this opportunity to appear before you to endorse the concept of providing for the withholding of city income or employment taxes for Federal employees as provided in H.R. 8660.

Over the years, the Department of the Treasury has reported favorably on a number of similar bills. We have done so in recognition of the fact that the absence of a systematic approach to the satisfaction of an employee's city tax liability can and does impose significant financial hardship on individuals holding Federal positions in jurisdictions that levy such taxes. Various associations, including employee organizations, have also supported these proposals as evidenced by requests for empowering legislation addressed to the Congress, to the Civil Service Commission, and to the Treasury. We are also guided by the principle of reciprocity, since, as you know, cities are required by law to withhold Federal income taxes from salaries and wages of their employees.

The Treasury has, however, held to the view that the Department favors such proposals where the administrative costs assumed by Federal agencies bear a reasonable relationship to the amount of tax withheld for a particular taxing jurisdiction. Numerous legislative proposals in the past have acknowledged this view by limiting the withholding authority to cities of 60,000 or more population. We still hold to this view, but with a different criterion.

Statistics which we have developed show that total city population does not correlate closely enough with Federal employee population; therefore, we now recommend that any withholding of city income taxes for Federal employees be subject to a criterion based upon the number of employees regularly employed in the city.

Our report on H.R. 8660 to this committee shows that a total of 196 cities with Federal employees impose an income or employment tax, and that 96 percent of the Federal employees who are subject to such taxes are regularly employed in just 30 of those cities, each of which has at least 500 employees. The report also shows that 89 of those 196 cities have 10 or less employees.

Virtually all Federal employees are now payrolled under centralized computerized systems. Every city that must be added to an automated system places additional demands on the EDP equipment and further complicates the payroll system. A requirement to withhold taxes for a large number of cities would, in some cases, require complete redesign of the payroll system, and perhaps, the purchase of additional EDP equipment.

Because it would be prohibitively inefficient and costly to withhold taxes for cities with few Federal employees, our report to this committee recommends that the definition of a city in this proposed bill be revised to encompass only cities with at least 500 employees.

We suggest that a definition of a city which would limit eligibility in accordance with our recommended criterion might read as follows:

The term "city" means a city which is duly incorporated under the laws of a State, within the political boundaries of which 500 or more persons are regularly employed by all agencies of the Federal Government in that city.

We also hold that the Department of the Treasury, rather than the Civil Service Commission, should enter into withholding agreements with cities, and we understand this view is shared by the Commission. As pointed out in our report to this committee, the Secretary of the Treasury is now charged with the responsibility for entering into agreements with respect to mandatory tax withholdings for the income taxes levied by States (and there are 39 such agreements in effect) and by the District of Columbia.

The Treasury prescribes the fiscal procedures to be observed by Federal agencies for these withholdings and also for Federal income taxes and certain other tax withholdings available to employees, optionally, under Civil Service Commission allotment regulations. We have had substantial experience in this area.

As a concluding and relatively minor point, we believe that the amendments made by the first section of the proposed act should apply only to requests for agreements made after the required regulations are prescribed by the President. Otherwise, the time required to issue such regulations would be part of the 120-day period within which agreements with cities must be consummated.

Present with me today is Mr. James Spahr, Special Assistant to the Commissioner of Accounts. We will be glad to discuss any questions you may have.

Mr. HENDERSON. Thank you, Mr. Morgan. The first question I have is whether or not you think the 120-day period, if the bill were amended so that would apply only after the regulations had been prescribed, would be a sufficient period of time, or would you prefer that some flexibility be given to the Treasury Department in administering the bill, assuming it is enacted, and in that respect, to have some latitude in timing the implementation of the act?

Mr. MORGAN. I believe the 120-day period is entirely ample. Now, what we would do, as a matter of course, the agreement itself would be entered into within that period of time. Also, within the agreement would be a specified date on which withholding would commence, which might not be within the 120-day period.

Mr. HENDERSON. And that flexibility would be sufficient?

Mr. MORGAN. Absolutely.

Mr. HENDERSON. Mr. Clay?

Mr. CLAY. Thank you, Mr. Chairman. I only have a few questions, or perhaps comments. I certainly can agree with you in terms of the costs that would be involved if we included all the cities, and I would be willing to offer an amendment at the appropriate time to use this definition of cities to be 500 employees or more, which if I understand, will cover 92 percent of the employees.

Mr. MORGAN. I think that if you use 500, it would cover 96 percent and if you use 1,000 it would cover 92 percent. Also, this is exclusive of the Postal Service. If the Postal Service is covered by the bill, the criterion which we recommend becomes doubly important because of

the number of Postal Service employees in cities which impose a tax, and in many cases that is only one or two employees in a city.

Mr. CLAY. I can certainly support that concept. I don't see why we should unjustly burden the small communities. The other thing is I see no objection at this time to transferring the responsibility from the Civil Service Commission to the Treasury. So I would just like to thank you and commend you, Mr. Morgan, for this statement.

Mr. HENDERSON. Mr. Mallary?

Mr. MALLARY. I have just one question. That is, are there any counties or metropolitan districts or other regional governmental organizations that have income taxing powers that might be—that might affect the definition of city here that you are aware of?

Mr. MORGAN. Yes, there are. How they will fit in with the definition of "city" I am not sure. For example, in the State of Pennsylvania, there are many, many boroughs and townships which impose taxes. Now conceivably these instrumentalities could come within the definition of a city.

Mr. MALLARY. Your feeling would be that the criterion should be the number of Federal employees rather than the type of governmental instrumentality?

Mr. MORGAN. Indeed. I would say in any case where the instrumentality has 500 or more Federal employees, it should apply.

Mr. MALLARY. Are there any cases you are aware of in addition to Federal and State income tax where there would be overlapping city and county income taxes where you would have an additional column in your EDP system that would have to be undertaken?

Mr. MORGAN. I am not aware of any such cases. There may well be, sir.

Mr. MALLARY. Thank you very much. I have no further questions.

Mr. HENDERSON. Mr. Morgan, for the record, would you clarify how State income tax withholding works here in the District of Columbia where so many people work and reside in say two tax jurisdictions. For example, the employees that work here in the District and live in Virginia or in Maryland; or those that live in the District and work in Virginia or Maryland?

Mr. MORGAN. Yes. First let me state that withholding State income taxes for Federal employees is mandatory with respect to any State with which we have an agreement, and in which the employee is regularly employed. We have agreements with 39 of the States now. In any case where an employee resides in 1 of those 39 States, but works outside of that State, he has the option for a voluntary allotment under Civil Service Commission regulations. I reside in Maryland and work in the District of Columbia. I am paying Maryland States taxes under a voluntary allotment.

Mr. HENDERSON. What is the status of the Post Office under the Treasury's fiscal requirement manuals? Do you think the Post Office would be included under any regulations you would issue in relation to city tax withholding?

Mr. MORGAN. I think they would not be.

Mr. HENDERSON. It would require specific provisions in the law?

Mr. MORGAN. I believe so.

Mr. MALLARY. Would the gentleman yield briefly?

Mr. HENDERSON. Yes.

Mr. MALLARY. In connection with the voluntary, or possibility of voluntary allotment, where a person is subject to State income taxes and does not work within that State, do you have any general figures as to the percentages of Federal employees having voluntary allotments made?

Mr. MORGAN. No, sir; I do not. I know it is very small, simply because the situation does not arise too frequently.

Mr. MALLARY. But you don't mean a very small percentage of those for whom it may be applicable, but a very small percentage in terms of total numbers?

Mr. MORGAN. Very small in terms of total numbers.

Mr. MALLARY. Thank you.

Mr. HENDERSON. Thank you very much, gentlemen. Your appearance has been very helpful to us this morning. I think you could see from the responses of the author of the bill before us that he indicates—and I certainly would like to join him in assuring you—we will give very serious consideration to the position that the Treasury Department has taken with regard to this bill. I personally don't see any problems with the amendments as you have suggested, and I would invite you to work closely with us as we give further consideration to the legislation. If we have any other problems, we will be calling on you before we take final action with regard to the legislation, because you have been most helpful. You gentlemen may be excused.

I understand Mr. Forde would like to come back and we would be delighted to hear from you again, sir.

Mr. FORDE. Mr. Chairman, thank you. This discussion, of course, and the idea that the voluntary withholding program will develop figures of cost which would be useful in the administration of a mandatory withholding program, I think has to be considered. This has to be considered very carefully for this reason. Under the withholding program, under the voluntary withholding program, there is a provision for payment of taxes by voluntary allotment. And this has been, despite our urging to the contrary, this has been interpreted that the employee can only designate a flat amount, and you see, he would have to estimate in the beginning of the year how much his earnings would be, and therefore how much his taxes would be, and this is an impossible thing for anybody. So this imposes to the payroll people, the job of constantly changing allotments and it imposes on the taxing authorities, in our case the city of Philadelphia, the necessity for a massive program of refunds at the end of the year or a program of billings for balances. Whereas under the mandatory program there would be no allotments. There would be none of this paperwork of allotments being changed, you see, that would be necessary under the so-called voluntary program.

Anybody who works in the city, or had a Philadelphia address would automatically be in the program. There would be a flat percentage taken out of his pay. If he had overtime, the percentage would be applied. If he got a raise, the percentage would be applied. If he lost the pay, through absence or for some other reason, the percentage would be applied. And at the end of the year, there would be no extra

return, no billing, no refunds. So the costs are just not comparable between mandatory and voluntary programs, in our opinion.

Mr. HENDERSON. Thank you very much.

Mr. FORDE. And the cost for the Government is much less for the mandatory than for the voluntary.

Mr. HENDERSON. Can you tell me, Mr. Forde, if the retirement income for Federal employees is taxed?

Mr. FORDE. No, sir; I don't know about the other cities, but no retirement income is taxed under the Philadelphia wage tax law. Only earned income is taxed.

Mr. HENDERSON. Our last witness of this morning is Mr. Carl Sadler, of the American Federation of Government Employees. Mr. Sadler, it is a pleasure to have you before us. I am most appreciative of the very prompt position the AFGE has taken on this legislation. Your prepared statement is before us, and you may proceed in any way you wish.

STATEMENT OF CARL K. SADLER, LEGISLATIVE REPRESENTATIVE, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

Mr. SADLER. Thank you, Mr. Chairman. We are happy to be here as always before your subcommittee.

The American Federation of Government Employees represents over 620,000 employees in exclusive recognition units throughout the executive branch and spread across the country and throughout the world. It follows that we have a major interest in the welfare of Federal employees.

We endorse H.R. 8660. In fact, we consider its enactment long overdue. Passage of H.R. 8660 would benefit hundreds of thousands of Federal employees who live or work in our Nation's cities assuming that participation is voluntary.

As more and more cities impose municipal payroll and income taxes on those who live or are employed within the city's jurisdiction, it is necessary to permit salaried and wage employees to pay these taxes on an installment basis. The denial of this opportunity imposes a real burden on those who must make a lump-sum payment most probably at a time when all other incomes taxes are due. Such an installment program is best achieved by deductions from pay as is done with Federal and State income taxes, U.S. savings bonds and contributions to the Combined Federal Campaign.

The Civil Service Commission has long resisted making deductions for municipal taxes. However, the Commission has finally voluntarily embarked on an experimental program permitting voluntary withholding of city income taxes. This program was spelled out in FPM letter 550-65. The program is to be carried out over a 3-year period which began on July 1, 1973. The program is to be limited in this experimental period to three cities, specifically Philadelphia, Pa.; St. Louis, Mo.; and Louisville, Ky. Under the terms given in the FPM letter, an employee who is eligible to have city income taxes withheld is responsible for determining whether he has any tax liability, and shall determine the specific amount to be deducted regularly from his pay.

The employee will have the option of instituting this allotment of pay any time during the year and will have the right to cancel it at any time. The letter defines a "city income tax" as including a payroll tax, wage tax, or any other levy made by the city on the employee's wages.

It is clear to us that this experiment was announced primarily in reaction to congressional and union pressure for a withholding program. We do not believe that it is necessary to await the end of this experiment to enact legislation. Therefore, we hope that Congress will proceed to early enactment of this bill.

We should like to propose one amendment, however, to make the withholding of the tax conform also to the personal needs of the taxpayers. Many of these people are already required to make payroll deductions for Federal and State income taxes. Consequently, any agreement between the Civil Service Commission and the municipality should state that the withholding shall take place only with the voluntary consent of the Federal employee.

In closing, I should like to assure the subcommittee of AFGE's full support in gaining successful passage of this legislation on the assumption that the program will be voluntary for affected Federal employees.

Mr. HENDERSON. Thank you. Mr. Clay, do you have any questions?

Mr. CLAY. No questions at this point, Mr. Chairman.

Mr. HENDERSON. I don't believe that I have any, Mr. Sadler. I appreciate your appearance here very much, and the first opportunity I have I will tell President Webber how well you performed for him this morning, as you always do.

Before we close the hearing this morning, I would like to state for the record that we have received expressions of interest in this bill from several important organizations and other city officials, who are not before us, and I would like to ask unanimous consent that we might include all or selected views into the record or report.

In addition, so that all of the views may be considered by the subcommittee, I would ask unanimous consent to hold the hearing record open for a period of time so that additional statements might be filed for the record. We have specifically been requested to receive a statement from Mr. John McCart on behalf of the AFL-CIO Government Employees Council.

To all of the witnesses who appeared here this morning, I want to express appreciation of all of us on the subcommittee. I think we have accomplished a great deal more than expected. Your testimony has been very helpful, very much to the point, and we will do our very best to take into consideration the recommendations that all of you have made in connection with the legislation. I commend Mr. Clay for the introduction of a bill bringing the matter to our attention.

If there is no further business, the subcommittee will stand adjourned.

[Whereupon the hearing was adjourned at 11:55 a.m.]

[The statements which follow were received for inclusion in the record.]

January 25, 1974.

STATEMENT OF WILLIAM E. GOULD, PRESIDENT, NON-RESIDENT TAXPAYERS
ASSOCIATION

The Non-Resident Taxpayers Association, representing over 15,000 federal employees in the Philadelphia area, vigorously opposes bill H.R. 8660.

Our organization, founded in 1970, has but one goal; to establish residency as the primary requisite for personal income taxation.

Although the City of Philadelphia is not alone in the imposition of a municipal income tax, it has the longest experience with such a tax, the nation's highest rate, and the most inequitable treatment of non-residents. The wage tax of the City of Philadelphia is currently 3.3125% of gross income and this rate is applicable to residents and non-residents alike. (New Jersey residents working in Philadelphia are subject to an additional 2.3% tax on gross income by the state of Pennsylvania ($2.3 + 3.3125 = 5.6125\%$ total tax on gross income.) Taxing the non-resident at the same rate as the resident is in itself patently unfair, since the non-resident spends only a fraction of his time in the city. The gross inequity, however, is that the non-resident is categorically denied any of the rights, benefits, or services (except those accorded to any transient without charge) which the city provides its residents.

Philadelphia employs a discriminatory double standard with respect to non-resident taxation. Non-residents who work in Philadelphia pay the city wage tax ostensibly for the "services" received while working in the city. However, Philadelphia residents who work outside the city do not pay wage taxes for similar "services" received in the municipalities where they work; rather, they too pay the Philadelphia wage tax! This is due to the unique tax advantage granted to Philadelphia by the state of Pennsylvania, which states that no other municipality may tax a Philadelphia resident even though he works in its jurisdiction. Thus Philadelphia enjoys the best of all possible tax situations.

Philadelphia has a long and notorious record in the field of municipal taxation. This city has never hesitated to initiate tax programs of questionable equity or constitutionality. Oddly enough the only comment from city officials regarding charges of inequity and unconstitutionality, has been that the city needs money. The most recent example was the Airport tax which ignited such angry protests from air travelers and airlines alike that it survived only a few months before the city was forced to discontinue it. However, once such taxes are successfully employed here, the aura of respectability thus gained has often led other municipalities to initiate similar programs. Such has been the case with the Philadelphia Wage Tax.

In order to have an understanding of those factors which motivated Philadelphia to employ such a tax and which now motivates their support of H.R. 8660 we refer to a presentation entitled "The Philadelphia Income Tax" made to the Bureau of Municipal Research and Pennsylvania Economy League, by Lennox L. Moak, present Finance Director of the City of Philadelphia. Commenting on declining receipts from the real estate tax Mr. Moak said:

"The real estate tax for the municipal purposes has been modified only slightly during the past two decades."

However, concerning the wage tax he enthused:

"It has proved to be a lucrative source which has risen . . . with improved earnings" and

" . . . for those who pay the tax on a withholding-at-source basis it tends to become meshed with all of the other deductions and to lose its visibility."

Loss of "visibility" and consequent reduction of taxpayer resistance is Philadelphia's goal and its real reason for urging passage of H.R. 8660. It is understandable that a municipality which reaps tremendous revenue from the non-resident, while depriving him of city services, or participation in its affairs will do everything in its power to retain and strengthen its ability to enforce such confiscatory practice.

We contend, therefore, that Philadelphia's support of bill H.R. 8660 is not due to any sympathy for the taxpayer. Rather, it is intended to seal off any escape for those who firmly believe that "taxation with representation" is more than a Revolutionary War slogan. Altruistic statements of concern for the taxpayers' welfare are so much pap to pacify the Post Office and Civil Service Committee!

To approve H.R. 8660, thereby providing that all municipal wage or income taxes would be mandatorily deducted from the federal workers pay-check, for residents and non-residents alike, would put the Federal Government's stamp of approval on this form of "taxation without representation." There is no doubt that it would also encourage the enactment of similar municipal ordinances across the nation, as city officials recognize a lucrative source of revenue from persons who cannot make any demands for service nor vote the offending officials out of office.

If this committee releases the proposed legislation and it is subsequently enacted into law, it will convey a federal mandate which decrees that a citizen must work and derive all of his income in the same community in which he resides; otherwise the Federal Government will assist in penalizing him by double taxation since he will of course continue to be obligated for taxes to support similar services in the city of his residence.

The federal government should not assume the costs and responsibilities for collecting municipal wage or income taxes through mandatory withholding from employees' paychecks, for with the responsibility of collection go the twin responsibilities of enforcement and settling disputes concerning individual liability for such taxes. It is difficult to comprehend the many varied and complex accountability problems which would arise from payroll deductions of municipal income taxes. Most federal payrolls are processed by computer utilizing certain predetermined payroll adjustments. These procedures would have to somehow accommodate a non-deduction for periods of work outside the taxing jurisdiction and a myriad of tax tables which would be applicable to those many thousands of federal employees who travel to a series of taxing communities in the course of their government business. Recalling that in 1970 there were over 3,500 such taxing jurisdictions in the nation; it may be difficult, to say the least, to apply a local tax rate to the paycheck of an employee who "worked" in the taxing municipality while on travel or temporary duty. (As for example, when President Nixon came to Philadelphia on a working visit to sign the Revenue Sharing Act, he became subject to and failed to pay both the Philadelphia Wage Tax and the Pennsylvania Income Tax.)

The City of Philadelphia has chosen to characterize those who have joined together to demonstrate their objection to the continuance of this injustice as a "militant group." It is ironic, and somehow tragic, that while the nation memorializes our Revolutionary War heroes and plans a Bicentennial celebration of our Declaration of Independence, the City of Philadelphia views those struggling today against similar taxation without representation as "militants." We would hope that the city's greed for revenue has not voided their commitment to our national heritage.

It would appear in the interest of the Federal Government and all federal employees, that the voluntary program now in trial operation should be allowed to run to its conclusion before any decision regarding a more permanent arrangement is considered. Mandatory deductions will certainly not help the federal employee, for he already has the voluntary program in which to enroll if he chooses. Legislation requiring payroll deduction of municipal income or wage taxes has two objectives. They are: to satisfy the interests of the taxing authority, and to silence those who are legitimately organizing to develop the necessary national interest to bring about the demise of this form of injustice.

In summary, our organization is opposed to mandatory deductions of municipal wage and income taxes because:

- (1) Injustice is inherent in the application of these taxes to non-residents.
 - (2) The interest of the federal employee will not be served by this proposed legislation, as a voluntary program is available.
 - (3) The American taxpayer should not bear the onerous burden of municipal tax collection, enforcement, and all the attendant problems associated with the federal government's favoring selected cities with this service.
 - (4) Only selected municipalities would benefit by this legislation while others would bear the expense.
 - (5) Federal approval of unjust tax policies would encourage widespread enactment of similar unjust taxes by unscrupulous cities throughout the nation.
- Finally, we now express our sincere confidence in the final determination of this committee on this subject. As firm believers in our American system, we know that the most common cause of credibility gaps and poor legislation is lack of

information—not lack of concern. This federal committee has now gathered current information from all known sources and is additionally engaged in a voluntary experiment to obtain conclusive evidence. By such processes good government will eliminate poor legislative proposals such as H.R. 8660.

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

Mr. Chairman and members of the subcommittee, the Government Employees Council, consisting of 30 AFL-CIO unions which represent more than 1 million postal, classified, and wage grade employees of the Federal Government, supports the enactment of H.R. 8660.

We commend Representative William L. Clay, a distinguished member of this Subcommittee, for introducing the measure, and you and your colleagues for scheduling this hearing.

In the absence of a regulatory or statutory foundation, municipalities have found it impossible to permit employees of the Federal Government to have city income or wage taxes deducted from their earnings. Particularly for those workers in the lower wage brackets, saving the tax on a weekly or biweekly basis so that full payment can be made at the end of the tax year represents a serious financial hardship. The condition becomes aggravated in periods of inflation, such as they are currently experiencing.

The Council believes that legislation on the subject is actually overdue. As more and more municipalities find it necessary to turn to income taxes as a source of badly needed revenue, the problem for Federal workers becomes more pervasive.

From the point of view of employees, it is difficult to comprehend that Federal and state income taxes can be withheld while city levies of the same type cannot. In addition, this method of collection would be advantageous to the jurisdictions involved because it would enable them to spread the collection work load over an entire year.

In response to a solicitation of our views on regulations proposed by the Civil Service Commission on this subject, the Council extended its general endorsement to the idea in December, 1970.

On May 31 of this year, the Commission announced that it is undertaking an experiment with payroll deductions of municipal income taxes in three cities—Philadelphia, St. Louis, and Louisville. The experiment will be conducted over three years, and participation by Federal workers will be voluntary.

We contend that these employees should not have to wait three years for the results of the project. If it was feasible to install payroll withholding of Federal and state income taxes many years ago, it certainly should be possible to extend it to municipalities now.

The three year experiment will deny employees in municipalities excluded from the test the option of payroll deductions. In addition, these workers will be unable to participate in the payroll withholding program at a time when a continuous rise in prices indicates that the need is greatest.

In reviewing the Federal Personnel Manual—the Civil Service Commission's policies, rules, and regulations—it is interesting to note that Federal employees may make allotments of pay to defray Federal and state income taxes, union and supervisory organization dues, charitable contributions, and for five additional purposes, with an option by the agency to permit payroll deductions in three other instances. We can perceive no good reason for continuing to exclude city income taxes from this roster.

There are two additional observations the Council would like to offer. They may emphasize the need for amending the pending measure.

The bill amends Title 5 of the United States Code, and presumably applies to Federal employees generally. In 1970, Congress enacted the Postal Reorganization Act through amendments to Title 39 of the Code. Since that time, confusion about the applicability of pending Federal employee legislation to workers in the Postal Service has recurred. To avoid the necessity of legal interpretation of H.R. 8660 in its present form, the GEC proposes that the Subcommittee consider addition of language specifically including the Postal Service in its coverage.

Finally, Mr. Chairman, the Council advocates that authority of this type of payroll deduction be made optional with employees. For those who have accus-

tomed themselves to paying the total obligation at the conclusion of the tax year and prefer to retain that method of payment, adoption of the weekly or biweekly pay allotment could prove inconvenient.

With these comments, the GEC reiterates its support of H.R. 8660, and requests the Subcommittee to take favorable action on it at an early date.

STATEMENT OF PATRICK J. NILAN, LEGISLATIVE DIRECTOR, AMERICAN POSTAL WORKERS UNION, AFL-CIO

Mr. Chairman and members of the committee, for the record, I am Patrick J. Nilan, National Legislative Director of the American Postal Workers Union (AFL-CIO) with offices at 817 14th Street, N.W., Washington, D.C. I am very pleased to appear before the Committee this morning with our National Legislative Aide, Edward L. Bowley.

We speak in behalf of more than 350,000 postal employees for whom we are the Exclusive National Representative for labor-management relations and collective bargaining with the U.S. Postal Service. Our membership is employed in post offices in all 50 states, the District of Columbia, Puerto Rico, Virgin Islands, and Guam.

Mr. Chairman, the American Postal Workers Union (AFL-CIO) wishes to take this opportunity to commend you for holding hearings on H.R. 8660 and related bills which will enable federal and postal employees to discharge their tax liabilities conveniently as they earn their income.

Mr. Chairman, for many years, a large number of members of Congress have introduced legislation similar to H.R. 8660 and the House Ways and Means Committee has also held hearings. It would appear that everyone involved supports such legislation and yet today, the problem of paying city income taxes still remains as a hardship for many federal and postal employees as well as an administrative headache for municipal officials.

Tax delinquencies result from the present system and this too often results in an additional tax penalty charge against the employee, or even worse, a potential fine, jail sentence and/or removal from employment.

One of the difficulties in agreeing to legislation such as this in the past was due to the establishment of an arbitrary population figure for such tax deduction purposes. The American Postal Workers Union believes that any city that is large enough to impose an income tax is similarly large enough to be included in any withholding system, and we hope no population size discrimination will be considered by the committee.

Mr. Chairman, recently the U.S. Civil Service Commission, on an experimental basis, amended its allotment regulations to permit federal employees in Philadelphia, St. Louis, and Louisville to have their city income taxes withheld through voluntary payroll deduction. It is anticipated the experiment will be conducted over the next three years. The allotment regulations were amended as of July 1, 1973, and deductions are made in accord with procedures issued by the Treasury Department.

The cities in question were selected on the basis of those which had the largest number of covered federal employees within each of three different population size groupings: Philadelphia because of a population of one million or more; St. Louis for cities in the half to one million population; and Louisville for cities with a population of less than 500,000. The problem with the Civil Service Commission's experiment is twofold—one, participation is optional with federal agencies in the three cities and two, completely voluntary on the part of the employee.

Mr. Chairman, postal employees in Philadelphia and other large cities, because there was no payroll deduction for city wage tax, necessitated employees making a special trip down to city hall to pay this tax. Many disregarded paying it quarterly and now there are some employees who are thousands of dollars in arrears.

The local postal unions set up a special program with banks which had the approval of the Philadelphia city fathers. The U.S. Postal Service provides for two separate deductions for savings from an employee's pay. In Philadelphia, employees now have the opportunity to have current tax, as well as any delinquent tax deducted every two weeks. The bank in turn, submits this amount to the city: on a quarterly, semi-annual, or annual basis.

Any employee who voluntarily participates in this program will not be prosecuted by the city for any delinquent taxes. The program costs the employee nothing and over 80% of the Philadelphia postal employees now belong to the program in that city.

Mr. Chairman, federal workers are presently authorized to have payroll deductions made for bonds, union dues, charity contributions, and allotments to banks or saving institutions. Deductions for federal and state income taxes, retirement or social security are mandatory, as well as life and health insurance premiums when an employee elects coverage under those two government-employee programs.

The American Postal Workers Union requests the inclusion of withholding of city income taxes. We urge the adoption of H.R. 8660.

Thank you, Mr. Chairman, for giving us the opportunity to express our views.

U.S. POSTAL SERVICE,
LAW DEPARTMENT,
Washington, D.C., January 15, 1974.

HON. DAVID N. HENDERSON,
*Chairman, Subcommittee on Manpower and Civil Service of the Committee on
Post Office and Civil Service, House of Representatives, Washington, D.C.*

This responds to your request for the views of the Postal Service with regard to your tentative decision that H.R. 8660, a bill to require the withholding of city income or employment taxes by Federal agencies, should be amended to apply to the Postal Service.

We are essentially in agreement with the position you express in your recent letter. It appears that as a matter of Federal-local government relations, it has been determined by your committee that Federal withholding of city taxes is an appropriate reciprocal responsibility in view of compulsory withholding of Federal taxes by municipal employers. Accordingly, if city tax withholding is to become a universal requirement for the public and private sectors alike, the Postal Service is prepared to assume its share of that responsibility.

While we generally comply with Federal programs of this nature as a matter of policy in the absence of statutory compulsion—as we do, for example, in the case of the withholding program for state income taxes—we would have no objection to an amendment expressly including the Postal Service in this legislation. We have prepared and enclose for your consideration language that would accomplish that result.

Our proposal varies in two respects from the program contemplated by H.R. 8660, as introduced. We would provide for voluntary election by individual employees to participate, since a system geared to employee-initiated application for withholding would be administratively superior to one requiring the Postal Service to implement mandatory coverage for eligible employees. In addition, we agree with the presentation before your subcommittee by the Department of Treasury with regard to the prohibitive cost of a system applicable to all cities, without regard to the size of the employee population, and endorse Treasury's suggested cut-off point of at least 500 employees.

Several additional adjustments will be required to make the program administratively feasible. To the maximum extent practicable, a uniform flat dollar amount should be withheld each withholding period from the paycheck of employees participating in the program. In addition, the time and frequency of withholding should be the same for all participating employees. We believe that these adjustments can be effected, without further amendment to the bill, through the implementing agreements to be required between the Postal Service and the cities eligible to participate in the program.

We appreciate the opportunity to comment on your proposed course of action in this matter. We trust that our recommendations will prove helpful and we hope that the legislation can be written to the mutual satisfaction of all concerned.

Sincerely,

W. ALLEN SANDERS,
Assistant General Counsel,
Legislative Division.

SUGGESTION FOR NEW SECTION TO H.R. 8660 IF BILL IS TO DEAL WITH POSTAL SERVICE

Chapter 10, Title 39, United States Code, is amended by adding the following new section:

§ 1012. Withholding of city income or employment taxes.

"(a) When a city ordinance provides for the collection of a tax by imposing on employers generally the duty of withholding and returning to the city sums from pay earned within the jurisdiction of the city by employees whose regular place of employment is within such jurisdiction, the Postal Service shall enter into an agreement with the city within one hundred and twenty days of a request for agreement by the proper city official. The agreement shall provide that the Postal Service shall comply with the requirement of the city ordinance in the case of Postal Service employees who make application with the Postal Service to participate in the withholding program and whose regular place of employment is within the jurisdiction of the city with which the agreement is made.

"(b) This section does not give the consent of the United States or the Postal Service to the application of an ordinance which imposes more burdensome requirements on the Postal Service than on other employees to a penalty or liability because of this section. The Postal Service may not accept pay from a city for services performed in withholding city income or employment taxes from the pay of Postal Service employees.

"(c) For the purpose of this section, the term 'city' shall be deemed to mean a city which is duly incorporated under the laws of a State and within whose political boundaries 500 or more persons are regularly employed by the Postal Service."



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