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# COMPENSATION OF OVERSEAS TEACHERS

GOVERNMENT

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DOCUMENTS

25 1974

## HEARING

THE KANSAS STATE UNIVERSITY

BEFORE THE

### SUBCOMMITTEE ON

MENT AND EMPLOYEE BENEFITS

OF THE

### COMMITTEE ON

OFFICE AND CIVIL SERVICE

SE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

SECOND SESSION

ON

## H.R. 5619

A BILL TO PROHIBIT DISCRIMINATION AGAINST LOCALLY RECRUITED PERSONNEL IN THE GRANTING OF OVERSEAS DIFFERENTIALS AND ALLOWANCES, EQUALIZE THE COMPENSATION OF OVERSEAS TEACHERS, AND FOR OTHER PURPOSES

APRIL 10, 1974

Serial No. 93-46

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A copy of H. R. 3619, and the administration report thereon, follows.  
(m)



93<sup>d</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 5619

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 1973

Mrs. MINN introduced the following bill; which was referred to the Committee on Post Office and Civil Service

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## A BILL

To prohibit discrimination against locally recruited personnel in the granting of overseas differentials and allowances, equalize the compensation of overseas teachers, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That (a) section 5912 of title 5, United States Code, is  
4       amended—

5               (1) by inserting “(a)” immediately before “Under  
6       regulations”; and

7               (2) by adding at the end thereof the following new  
8       subsection:

I

(1)



1       “(b) An employee recruited outside the United States  
2 for employment at the place of recruitment may be furnished  
3 living quarters, including heat, fuel, and light, authorized  
4 by this section after completing one hundred and fifty work-  
5 days of satisfactory service.”

6       (b) Section 5922 of title 5, United States Code, is  
7 amended by adding at the end thereof the following new  
8 subsection:

9       “(d) An employee recruited outside the United States  
10 for employment at the place of recruitment is entitled to the  
11 allowances and differentials authorized by this subchapter  
12 after completing one hundred and fifty workdays of satisfac-  
13 tory service.”

14       (c) Section 5941 of title 5, United States Code, is  
15 amended by adding at the end thereof the following new  
16 subsection:

17       “(c) An employee who was recruited outside the United  
18 States for employment at the place of recruitment is entitled  
19 to the allowance authorized by this section not later than  
20 the one hundred and fiftieth workday of satisfactory service.”

21       SEC. 2. (a) Section 4(a) (2) of the Defense Depart-  
22 ment Overseas Teachers Pay and Personnel Practices Act  
23 (20 U.S.C. 902 (a) (2) ) is amended to read as follows:

24       “(2) the fixing of basic compensation for teachers  
25 and teaching positions at rates equal to the average of



1 the range of current rates of basic compensation for  
2 similar positions of a comparable level of duties and  
3 responsibilities in urban school jurisdictions in the United  
4 States with a total student enrollment in the school  
5 system of twenty five thousand or more;”.

6 (b) Section 5 (c) of such Act (20 U.S.C. 903 (c).) is  
7 amended to read as follows:

8 “(c) The Secretary of each military department shall  
9 fix the basic compensation for teachers and teaching positions  
10 in his military department at rates equal to the average  
11 of the range of current rates of basic compensation for similar  
12 positions of a comparable level of duties and responsibilities in  
13 urban school jurisdictions in the United States with a total  
14 student enrollment in the school system of twenty five  
15 thousand or more.”.



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

Honorable Thaddeus J. Dulski  
Chairman, Committee on Post Office  
and Civil Service  
House of Representatives  
207 Cannon House Office Building  
Washington, D.C. 20515

APR 3 1974

Dear Mr. Chairman:

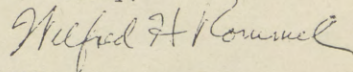
This is in reply to the Committee's request for the views of this Office on H.R. 5619, "To prohibit discrimination against locally recruited personnel in the granting of overseas differentials and allowances, equalize the compensation of overseas teachers, and for other purposes."

The purpose of section 1 of H.R. 5619 is to require agencies to pay certain quarters and other overseas allowances and differentials, now designed for Stateside recruitment purposes, to U.S. citizens recruited locally, i.e., who are already present in an overseas area for personal reasons not related to Federal employment. The principal purpose of section 2 of the bill is to require the Department of Defense to continually update the pay of overseas teachers in dependents' schools, oftener than once a year, to conform their rates with the "current" range of rates paid in urban U.S. school systems with enrollment of 25,000 or more.

The Department of State, in its testimony on the overseas allowance provisions of this bill, as well as the Department of Defense and the Civil Service Commission, in their testimony and reports on this feature, set forth their reasons for opposing payment of incentive benefits to local recruits. Further, the Department of Defense states its reasons for opposing the requirement for continual updating of teachers' pay.

We concur with the views expressed by these agencies and, accordingly, recommend against enactment of H.R. 5619.

Sincerely,



Wilfred H. Rommel  
Assistant Director for  
Legislative Reference





CHAIRMAN

UNITED STATES CIVIL SERVICE COMMISSION  
WASHINGTON, D.C. 20415

April 9, 1974

Honorable Thaddeus J. Dulski  
Chairman  
Committee on Post Office and  
Civil Service  
House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

This is in further response to your request for the Commission's views on H.R. 5619 a bill "To prohibit discrimination against locally recruited personnel in the granting of overseas differentials and allowances, equalize the compensation of overseas teachers, and for other purposes."

The Commission opposes enactment of this proposed legislation.

The bill has two purposes:

The first section would establish the eligibility of persons, recruited outside the United States for duty at the place of recruitment, for free quarters and certain other allowances and differentials authorized by title 5, United States Code, after they had completed 150 days of satisfactory service.

Section 2 of the bill would amend the Department of Defense Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 901, et. seq.) to require that pay for overseas teachers be based on current rates for similar positions in urban school jurisdictions in the United States with a total student enrollment of twenty-five thousand or more.

The Commission has responsibility for only 5 U.S.C. 5941 dealing with allowances and differentials in certain nonforeign areas. Under this law, cost-of-living allowances may be paid to Federal employees in nonforeign areas based on living costs which are higher than in Washington, D.C. These allowances are paid to all Federal, statutory salaried employees in these areas regardless of place of appointment.



The post differentials authorized under this law, however, are based on "conditions of environment which differ substantially from conditions of environment in the continental United States and warrant an allowance as a recruitment incentive." These differentials are authorized in places like Guam and certain other Pacific islands. Our regulations reflect the intent of this law. Eligibility for the differential is limited to those persons recruited from outside the area where the differential is authorized. We believe that there is no justification for paying a differential, which is intended as a recruiting tool, to persons already living, either as long term or permanent residents, in the area in question. We therefore oppose the proposed amendment to 5 U.S.C 5941.

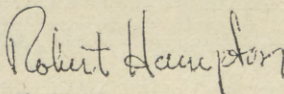
The bill would also similarly amend sections 5912 and 5922 of title 5 relating to quarters allowances in foreign areas and general provisions for foreign allowances respectively. With respect to amendments in these areas, we defer to the views of the Department of Defense and State Department, who have responsibility for administering these sections.

With respect to pay for overseas teachers, the Commission again defers to the Department of Defense who has responsibility in this area.

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

By direction of the Commission:

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Robert Hampton". The signature is written in a cursive, slightly slanted style.

Chairman





GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE  
WASHINGTON, D. C. 20301

April 10, 1974

Honorable Thaddeus J. Dulski  
Chairman, Committee on Post Office  
and Civil Service  
House of Representatives  
Washington, D. C. 20515

Dear Mr. Chairman:

Reference is made to your request for the views of the Department of Defense on H. R. 5619, 93rd Congress, a bill "To prohibit discrimination against locally recruited personnel in the granting of overseas differentials and allowances, equalize the compensation of overseas teachers, and for other purposes."

The purpose of the bill is two-fold. The first section would establish by law the eligibility of persons, recruited outside the United States for duty at the place of recruitment, for free quarters and certain other allowances and differentials authorized by title 5, United States Code, after they had completed 150 days of satisfactory service. Section 2 of the bill would amend the Department of Defense Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 901, et seq.) to require that rates of compensation for teachers be based on the average of the range of current rates being paid for similar positions in urban school jurisdictions in the United States with a total student enrollment in the school system of twenty-five thousand or more.

It appears that the intent of the first section of the bill is to overcome the general restrictions contained in regulations of the Department of Defense and the Department of State on providing free quarters and payment of allowances and differentials to U.S. citizens who are already present in the area at time of employment. Such local residents are ineligible for those benefits unless their presence in the area is fairly attributable to their employment by the United States or is as a result of their having previously established entitlement as an employee or as a spouse or dependent of a person eligible for those benefits.

The basic purpose of the various allowances authorized for U.S. citizen employees in foreign countries is to cover those additional expenses



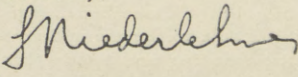
necessarily incurred because of oversea service. As such, they constitute a meaningful recruitment incentive. The need for that incentive does not exist, where for personal reasons, an individual has already taken up residence in a foreign area prior to being employed by the United States. Some individuals travel overseas with the hope of enhancing their employment opportunities, while other locally employed U. S. citizens may have been local residents for a considerable length of time. While these locally available persons are utilized as appropriate in positions in the Dependents Schools and other elements of the Department of Defense, it does not follow that they should thereby become eligible for the recruitment incentive benefits. Accordingly, the Department of Defense is opposed to section 1 of the bill.

We are opposed to the requirement in section 2 that compensation be fixed at the rates equal to "... the average of the range of current rates of basic compensation ...". All salary systems for Federal employees, as well as those in the private sector including teachers' pay systems have some lag between the time of rate survey which forms the basis for development of a salary schedule and the schedule and the effective date of the schedule itself. Section 2 would require that the rates of pay for teachers in the Department of Defense Overseas Dependents Schools be continually up-dated, even during the school year, in order to comply with the statutory requirement that they reflect the current rates of compensation in urban school jurisdictions in the United States with a total student enrollment in the school system of 25,000 or more.

We are not aware of the basis for the proposed change in section 2 which would substitute 25,000 school population for the current criteria of 100,000 total population.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely,

  
for Martin R. Hoffmann



## COMPENSATION OF OVERSEAS TEACHERS

WEDNESDAY, APRIL 10, 1974

U. S. HOUSE OF REPRESENTATIVES,  
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,  
SUBCOMMITTEE ON RETIREMENT AND EMPLOYEE BENEFITS,  
*Washington, D.C.*

The subcommittee met at 10 a.m., in room 210 of the Cannon House Office Building, Hon. Jerome R. Waldie (chairman of the subcommittee) presiding.

Mr. WALDIE. The subcommittee will come to order.

Today the subcommittee will hear testimony on H.R. 5619. The purpose of the bill is twofold. First, it would establish, by law, the eligibility of persons recruited outside the United States for duty at the place of recruitment to certain benefits, including: living quarters or an allowance for living quarters, overseas differentials and allowances, and other miscellaneous allowances authorized by title 5, United States Code, after completion of 150 workdays of satisfactory service. Second, it would amend the Department of Defense Overseas Teachers Pay and Personnel Practices Act to require that rates of compensation for overseas teachers be based on the average of the range of current rates being paid for similar positions in urban school jurisdictions in the United States with a total student enrollment of 25,000 or more.

With respect to the granting of certain overseas allowances and differentials, it is my understanding that employees, who are recruited overseas for employment at the place of recruitment are denied certain allowances solely on the basis that they are recruited outside the United States. Moreover, these allowances are provided to other employees recruited in the United States and those recruited overseas perform the same duties and are subject to the same environmental conditions at their place of employment, but those recruited overseas do not receive many of the allowances that are granted to their colleagues who were recruited in the United States.

Thus, one of the issues we will hear testimony on today is whether all employees should be entitled to the same benefits regardless of their place of recruitment. I hope that the witnesses will provide the subcommittee with their views on this issue and the provisions of H.R. 5619 which are directed toward remedying the present inequities in the granting of benefits.

With reference to the fixing of salary schedules for overseas teachers, I understand that present law requires the Department of Defense to compensate the teachers employed by the Overseas Dependent School System on the basis of comparable salaries received by teachers in the United States in school jurisdictions of 100,000 or



more population. However, the DOD salary schedules for overseas teachers are based, in part, on obsolete data inasmuch as these salary schedules do not reflect many of the salary increases negotiated by teachers in the United States during the late spring and summer months. Thus, the salary schedules of overseas teachers are not truly comparable to the salary schedules of teachers in the United States. This practice by the Department of Defense undermines the principle of comparability mandated by the Congress in the Overseas Teachers Pay and Personnel Practices Act of 1959. I hope that the witnesses today will be able to speak to this situation and the remedy proposed by H.R. 5619.

Our first witness is Hon. Patsy Mink, Representative from the State of Hawaii.

#### STATEMENT OF HON. PATSY T. MINK, REPRESENTATIVE FROM THE STATE OF HAWAII

Mrs. MINK. Thank you very much. I can't tell you how delighted I am that the committee is undertaking these hearings with the view, I hope, to reporting out this bill which it seems I have been working on for nearly 10 years.

My interest in this legislation stems from a visit I made to various overseas schools, both in the Pacific and European theaters, following which I became the recipient of hundreds and hundreds of letters over the years of teachers who have raised a wide variety of problems some of which could be pursued in my own Committee on Education and Labor; but many of them dealt with problems which were outside our jurisdiction. I referred these matters to our Legislative Counsel and as a result, we have the pending bill.

It's been before the Congress for several sessions. So I cannot express enough my gratitude to you for taking the bill up finally and giving it consideration.

The current bill will, of course, affect all employees. It's not simply directed to teachers. My bill would, as the chairman has stated, require the same benefits to be paid to Federal civilian employees hired overseas who are known as locally recruited personnel as to those who are hired in the United States but were then sent to Federal jobs overseas.

It would require payment of all benefits to local hires after the completion of 150 days of satisfactory service. In the case of overseas teachers, we have a section requiring that their base pay be not only made current, but that it would also be based upon not a 100,000 population district, but 25,000 student enrollment districts, which I am told is a much easier statistic to deal with; and, therefore, would result in better comparability figures for the teachers involved.

The central purpose of my bill is to end discriminatory practices which have not only affected the morale of teachers and other personnel in overseas situations, but in my view has jeopardized the quality of education that the children overseas, I feel, are entitled to have.

It is not so much the individuals that are being hired, but the fact that by virtue of having a system like this, you are creating



an incentive for the Defense Department to perpetuate a local hire system because of the cost factor. They can avoid the payment and the guarantee of various requisites which would be entitled to employees hired from the United States.

We have the curious situation where both husband and wife are teachers. One would be recruited from the United States; the other denied a contract until they arrive at their overseas installation whereupon the spouse, wife in almost every instance, would be offered then a local hired contract and denied all the purposes and all the attendant benefits that regular civil servants are entitled to.

I am sure the testimony which this committee will receive by teacher organizations and others, the mail which has come to your committee, I am sure, will outline the various points of discrimination: housing allowances, transportation, health insurance, credit, civil service retirement.

Local hires are probably the only employees under the aegis of the Congress and the Federal Government that are not guaranteed equal pay for equal work in my view. Therefore, this emphasizes the importance of this legislation.

The teacher hired locally, which means at the sight of the overseas base, first serves as an NTE, not to exceed; or a time—given a time limited status which in essence means that he is hired under a contract for employment not to exceed a specified period of time, usually the school year.

At any time during this period, he can be fired without cause, explanation, recourse, on 7-day's notice. On the last day of the school year, he is usually automatically terminated. If he remains in this overseas area over the summer, and resubmits a new application for the next school year, he is then reconsidered for reemployment. Only if rehired, and then complete 150 days of satisfactory teaching is he now converted to accepted or permanent status. Even then he is still ineligible for housing, transportation, and other benefits.

This is because eligibility of benefits is based on an employee's initial status. Once hired overseas, he is forever locked into this second-class status.

One might logically ask why the Department of Defense has chosen to establish such a system.

Mr. WALDIE. May I interrupt?

Mrs. MINK. Yes.

Mr. WALDIE. Is it equally locked into status if he is hired in the United States or she is hired in the United States?

Mrs. MINK. Yes.

That is my understanding. The place of hire is the absolute criteria for determining benefits.

Mr. WALDIE. Even if the person is there for 25 years?

Mrs. MINK. That is correct.

Mr. WALDIE. They are considered, under that theory, as having been employed in the United States?

Mrs. MINK. That is correct.

Mr. WALDIE. Thank you.



Mrs. MINK. In practice, most of the local hires are women. They are wives of servicemen and other Federal employees stationed overseas. Because there is such a large pool of such dependents available to choose from at any time, the Pentagon simply finds it cheaper to hire these teachers locally overseas rather than to recruit qualified teachers who are applying, incidentally, for jobs to serve in these capacities.

According to the Defense Department, the basic purpose of the various benefits and allowances authorized by Federal employees in foreign countries is as an incentive to recruitment. Their theory is since the people are already there, they don't need the incentive; and, therefore, they have felt that these benefits were not necessary. They have perpetuated this concept on point of hire.

Under H.R. 5619 the benefits paid to the U.S. hires would be paid to local hires. One effect of this would be to reduce the economic incentive to the Government to employ local hires. For this reason some of the letters that I have received by dependent wives object to this. Simply, curiously enough, the teachers who have been recruited from the mainland United States have the same reservation concluding that if this bill should pass, perhaps all the preferences will go to local hires. I don't think on balance it makes any difference. What will happen is that qualified teachers, and the qualifications and educational background and experience, will ultimately become the sole criteria of whether an individual gets a job or not and not whether they came from the mainland United States or whether they just happen to be there and walked into the system.

I think that the 150-day provision is something which the committee should look into. I am quite aware that a number of people have suggested that the 150-day delay be totally eliminated; and that permanent status be granted to the individual upon hire for the permanent vacancy, that only permanent status be denied to those individuals who are hired for obviously temporary positions, where there may be a teacher out for sick leave or some other purposes. That individual obviously would not be covered under my concept.

There are many individuals who are arguing that if it is correct that a person hired from the mainland gets immediate permanent status, there should be no distinction because the site of hire happens to be overseas. If the job vacancy is a permanent vacancy, and the position is being offered as a permanent position, then the individual should be entitled to that protection.

This has no bearing on the probationary period. That would cover regardless. Every employee in the Federal Service has a probationary period which must be followed. There are differences as to how long the probationary period should be. Sixty days, 90 days, 150; whatever it might be, that I don't think is the issue here.

But whether the benefits accrued to employment should accrue from the day they are given a contract, I think, is the problem that we are trying to address ourselves to.

Mr. WALDIE. May I interrupt you there?

Mrs. MINK. Yes.

Mr. WALDIE. Do I understand that if the teacher is employed in the United States, there is no 150-day period?



Mrs. MINK. That is correct. They are given permanent civil service status and all the protection that goes with it. They still have a probationary period which they must meet.

Mr. WALDIE. Sure. Now I will ask this of others along the line, but perhaps you can tell me: do you have any idea why that distinction exists?

Mrs. MINK. Simply because they found that use of the 150-day device made it possible for them to almost totally deny permanent status to any local hire, even though they had the 150-day, because the school year terminated before the 150. They could not meet permanent status requirements by completing one year satisfactorily.

Mr. WALDIE. And whose desire would it be to prevent them from attaining permanent status?

Mrs. MINK. The Defense Department's.

Mr. WALDIE. DOD or the administrator of the local school?

Mrs. MINK. Well, I think that if it is a policy implemented by the administrator, it stems from a policy decision made by the Defense Department, that this is one device that was used to cut costs and to simply make it easier for them to justify their budgets, I assume.

Mr. WALDIE. It would seem if that description is correct that it would clearly be an incentive for local hire. Would you be able to answer this question: Of the total number of teachers contained in the system, do you know how many were recruited in the United States?

Mrs. MINK. Yes. I happen to have those statistics right here which were provided to me by Dr. Rose. I believe it was 1,606 total local hires; and out of that, only about 300 were non-Defense Department dependents. But I could provide those specifics to the committee. There is a letter, I believe, that Dr. Rose submitted.

Mr. WALDIE. We have the Department of Defense—we have their testimony here. They say as of March 29 there were 1,997 locally hired personnel with DOD dependent school system; but that only is partially. I want to know what the total is to determine what percentage are locally hired and what percentage are U.S. hired of the total, if the practices you describe are designed to recruit locally in preference to U.S. because it is cheaper, then that ought to be reflected in a distorted number of locally hired teachers within the system; and I don't have the figure.

Mrs. MINK. I believe it is 8,000 teachers totally in the system.

Mr. WALDIE. Then it would seem that there are a much greater, huge percentage, 41, that were U.S. citizens.

Mrs. MINK. U.S. hired.

Mr. WALDIE. Yes.

If that is so, the incentive to hire locally has not apparently worked as well as I would have suspected, or else the pool locally is so small that they are hiring all there is available in the local pool; and thereafter they have to go to the United States.

Mrs. MINK. Well, I really can't speak to that. I think perhaps the Department may respond to that. I don't know whether the numbers of local hires have increased dramatically or decreased. There are statistics that would be available I assume from the Department.



Mr. WALDIE. We will check that with the Department of Defense. I think it bears upon the purpose of the bill. The purpose of the bill essentially is to, if there is any artificial determination of what—from which pool you go to hire teachers, we ought to eliminate that artificial basis and let them hire teachers as you suggest.

Mrs. MINK. I am not against local hires nor am I against continental U.S. hires. All I am saying is that the criteria, the single criteria which ought to be the sole determinant is the quality of the individual. It should not matter. So that if it swings one way statistically or the other as a result of the enactment of the bill, it would not in my view negate the purposes of this legislation.

Mr. WALDIE. OK.

Mrs. MINK. I would like to make clear, since others have raised the issue, that my bill is not intended at all to affect the status of foreign nationals, that we are only desiring to affect the benefits of U.S. citizens.

Mr. WALDIE. May I stop you there?

Mrs. MINK. Yes.

Mr. WALDIE. Forgive some of these questions. It's only a mark of my lack of understanding of the issue.

Do we hire foreign nationals in the school system?

Mrs. MINK. Yes, we do.

Mr. WALDIE. Do we pay them differently than Americans?

Mrs. MINK. Yes, we do.

Mr. WALDIE. I presume that means we pay them less.

Mrs. MINK. Yes.

Mr. WALDIE. Why do we do that?

Mrs. MINK. Again you will have to ask the Defense Department. In my tour of the installations there were many classes that I visited that were being taught by nationals.

Mr. WALDIE. Then we ought to know clearly how many of the 8,000 teachers are foreign nationals.

Mrs. MINK. I believe none in that category. The 8,000 figure reflected to you is the U.S. citizen fully certificated teachers in the system. It does not include the foreign nationals.

Mr. WALDIE. If we believe equal pay for equal work, I guess we only believe that for Americans.

Mrs. MINK. Well, at this point we don't even believe it for Americans. That's why the bill is before the committee.

Mr. WALDIE. OK.

Mrs. MINK. I am also not trying as one Departmental letter seemed to imply—I am not trying to give duplicate housing benefits to a husband and wife. I am simply trying to create duplicate eligibility, but not to pay a family twice for all the other benefits; and this concept of entitlement, however, is terribly important. Marital status is not a permanent one. We have many cases in which parties have divorced. As a result of the failure to entitle an individual for service to the Federal Government, the divorced individual would be denied benefits: housing, transportation, return home to the United States, and various other things.

So the impact of my bill—I think, from that vantage point,



would be very great, and a very laudatory one, bearing in mind that the people that are most agrieved are women in most instances.

There is no logical reason why any Federal employee in my estimation should be denied entitlement simply because the other spouse is a Federal employee. Yet this is the policy which has been implemented overseas in our school system.

The Federal Government does not withdraw entitlement to civil service retirement to an employee simply because the spouse works for a private industry and is entitled to a pension. So for the same reasons it seems to me that where two individuals, husband and wife, both work for the Federal Government, both should be given the equal opportunity to build up credit in the civil service retirement system and be entitled to all the other benefits, not necessarily receive them, but have the entitlement in case at some future point it would be relevant and important.

As an example of how a spouse supposedly receiving full benefits through the other spouse's employment may not receive equitable treatment let me mention the "environmental and moral program for designated overseas bases."

Under this program an employee, generally the husband, is entitled to space available travel, periodically for rest and vacation. Ostensibly the wife has equal benefits since she too can travel. The catch is she has to accompany her husband, even if she is herself a Federal Government Defense Department employee, since she is local hire. In this illustration she would be local hire. If the wife is a teacher she may want to take her vacation at a different time than the husband may be able to take. He may not be able to go in the summer. The result is the wife is not entitled to travel alone. This is an outright discrimination.

Another subtle type of discrimination is the dual status—

Mr. WALDIE. May I interrupt you there a moment?

Mrs. MINK. Yes.

Mr. WALDIE. Patsy, if the wife in that illustration had been hired in the United States, she would have come then vested with all the entitlements?

Mrs. MINK. Right. But simply because of being local hired she was denied the right to decide she wanted to take a vacation away from her husband.

Another subtle type of discrimination is the dual status employment system. It lies in the fact that local hires are denied effectively promotional opportunities. There are many illustrations in all of these areas, but I just wanted to bring to the attention of this committee two areas that I was particularly outraged about.

In the area of promotional opportunities, we noted that in the European district overseas there are 50 male principals and only 12 female. While in the superintendent staff, there are 10 males and no females. The acting superintendent stated that the lack of females in hired administrative posts was due to the disproportionate number of dependent wives who accompany their spouses, are desirous of teaching but do not want administrative responsibilities. Further inquiry elicited the admission from the same official, however, that non-time-limited employees only were eligible to participate in the merit promotion program.



Thus only permanent employees could qualify for consideration for promotion while dependent wives had no hope whatsoever as local hires of attaining any sort of administrative responsibility.

I think that the only real way to cleanse a school system of this type of discrimination may be not numerous in cases, but severe for the impact that it causes I believe on the morale of the whole system, is by the enactment of this legislation which will give equal status to people who are hired in the system regardless of where their point of hire is. I would hope the committee would favorably act upon this legislation.

Thank you very much.

Mr. WALDIE. I have no further questions. I appreciate your attendance and we appreciate this legislation.

Mrs. MINK. I have a batch of letters I received recently which I would like to leave with the committee. Many of them illustrate the kinds of bizarre results that the current policy has resulted in.

Mr. WALDIE. We will be pleased to receive them.

The next witness is Mr. Leamon Hunt, Deputy Assistant Secretary of State for Operations, U.S. Department of State.

**STATEMENT OF LEAMON R. HUNT, DEPUTY ASSISTANT SECRETARY OF STATE FOR OPERATIONS, U.S. DEPARTMENT OF STATE; ACCOMPANIED BY DOROTHY WEIHRAUCH, DIRECTOR OF ALLOWANCES STAFF, U.S. DEPARTMENT OF STATE**

Mr. HUNT. Mr. Chairman, I appreciate the opportunity to appear before you today to express the views of the Department of State on H.R. 5619. The bill proposes amendments to section 5912 and section 5922 of title 5, United States Code. The President, by Executive Order 10903 dated January 9, 1961, authorized the Secretary of State to administer the latter provision of law on behalf of all U.S. Government civilian employees stationed in foreign areas. The Secretary has prescribed implementing regulations for this purpose. These are contained in the Standardized Regulations, Government Civilians, Foreign Areas.

It should be noted that while H.R. 5619 also proposes other amendments to existing law—specifically, to section 5941 of title 5, United States Code, and to the Defense Department Overseas Teachers Pay and Personnel Practices Act—the State Department is not affected by these proposals.

The Department of State fully supports the principle that employees in like circumstances should receive all benefits and allowances authorized.

Mr. WALDIE. May I interrupt there? That doesn't state the principle that employees in like circumstances were receiving unequal benefits and allowances that would not be in compliance with the principle you support, I presume?

Mr. HUNT. I am sorry?

Mr. WALDIE. Employees in like circumstances should receive equal benefits and allowances, should they not?

Mr. HUNT. Yes, sir.

Mr. WALDIE. The statement they should receive all benefits au-



thorized doesn't really state anything because if the authorization of the benefits is for unequal benefits, would you support that?

Mr. HUNT. If the employee was otherwise qualified for the benefits, by virtue of his employment status, yes, sir.

Mr. WALDIE. You could rephrase that and say the Department of State fully supports the principle that employees in like circumstances should receive like benefits and allowances?

Mr. HUNT. That is correct, sir; yes.

Mr. WALDIE. Would you also amend that to say that foreign nationals doing like work with American citizens should receive like—

Mr. HUNT. No, sir, we would not. The foreign national is paid on a scale in keeping with the economic conditions and the prevailing salary conditions in the country of his nationality.

Mr. WALDIE. And our citizens are paid in accordance with the prevailing salaries and circumstances in our country?

Mr. HUNT. That is right, yes, sir.

Mr. WALDIE. Though they are living in that country?

Mr. HUNT. That is correct, sir.

Mr. WALDIE. Though that citizen does like work with our citizen?

Mr. HUNT. That is correct. The foreign national would be paid on the basis of a like salary for other employment within the country of his nationality.

Mr. WALDIE. Would there not be an incentive on the part of State to hire as many foreign nationals as possible to keep the budget down?

Mr. HUNT. We do employ a large number of foreign nationals.

Mr. WALDIE. Is partly the reason because it is cheaper to employ them than citizens of the United States?

Mr. HUNT. Not in most cases, sir. Most of them are custodial or administrative type employees, or they are foreign nationals who bring expertise, language and other qualifications to the job.

Mr. WALDIE. Okay, please proceed.

Mr. HUNT. We believe that the standardized regulations issued by the Department support this principle within the intent of the law.

With respect to the proposed amendments to sections 5912 and 5922 of title 5, United States Code, it is recognized that the presumed purpose of the legislation is to grant to teachers, employed by the Department of Defense and hired in foreign areas for employment at the location where hired, the same allowances and differentials for which they would be eligible had they been hired in another location and assigned to a location in a foreign area. The State Department is opposed to these proposed amendments.

United States citizens who already live in a foreign country for personal reasons and who are subsequently hired locally by the U.S. Government do not have additional expenses generated by or owing primarily to their Government employment.

Mr. WALDIE. Suppose you hire an individual from the United States and therefore you assume that individual has additional expenses generated by government employment. So they get all the allowances and benefits. Then you keep hiring them every—expiration of their contract. Twenty-five years later, they have married a



national of that country and have eight children; they own a home and a lot of the country. Do you still keep paying them those extra benefits?

Mr. HUNT. In the Department of State, sir, I can speak only to that. In the Department of State when the employee loses her eligibility for worldwide assignment, then they would revert—

Mr. WALDIE. Suppose they keep that eligibility for 25 years but they are never assigned?

Mr. HUNT. Then they continue to draw those allowances.

Mr. WALDIE. Is that justifiable?

Mr. HUNT. No, sir, it is not justifiable and we do not do it unless their status on the basis of a worldwide assignment should change.

Mr. WALDIE. No. I am saying they are subject to worldwide assignment. They are just never assigned. Their living expenses remain the same; they have been in the country 20 years; and each year their contract comes up. They keep getting these additional benefits.

Mr. HUNT. In our system, sir, we do not have contract employees. They are all under career appointment, or in some cases for very temporary periods of time.

Mr. WALDIE. Well, the distinction I am trying to make, some of these people I am sure stay many years in one place, don't they?

Mr. HUNT. No, sir, not in the Department of State.

Mr. WALDIE. How long do they stay?

Mr. HUNT. Our normal policy is for 2 to 3 years. In some cases it is 5 or 6.

Mr. WALDIE. If you hire someone on site, are they subject to worldwide assignment?

Mr. HUNT. That would be in the conditions of employment. I should say that in the Department of State, all recruitment for American employees, is done in Washington. One of the conditions for employment would be to determine whether or not that applicant was available to serve on a worldwide basis, either immediately or upon completion of their tour.

Mr. WALDIE. If they are hired on site and are available for worldwide services, are they then entitled to these benefits?

Mr. HUNT. Yes, sir, they are.

Mr. WALDIE. Is that under the law or regulations? Or interpreting the law?

Mr. HUNT. Both, sir.

Mr. WALDIE. Could you pass these benefits to everyone you hire no matter where you hire them under the law?

Mr. HUNT. Not under the intent of the law I don't believe, sir.

Mr. WALDIE. Well, that's the law. I mean, if it isn't the intent of the law, I presume—

Mr. HUNT. If I could skip ahead, sir, I think I have got the response to that question on page three.

Mr. WALDIE. Okay.

Mr. HUNT. In section 101:

The Congress hereby declares that it is the purpose of this act to improve and strengthen the administration of overseas activities of the government by (1) providing a means for more effectively compensating government employees for the extra costs and hardships incident to their assignments overseas; (2) providing for the uniform treatment of government employees stationed over-



seas to the extent justified by relative conditions of employment; (3) and establishing the basis for the more efficient and equitable administration of the laws compensating government employees for the extra costs and hardships incident to their assignments overseas, and (4) facilitating for the government the recruitment and retention of the best-qualified personnel for civilian service overseas.

We have attempted in drawing up our regulations to use this as a background as the basis on which we would give or grant allowances and benefits.

Mr. WALDIE. Okay, just so I can understand the statistic, you do most of your employment apparently in Washington which would mean most of your employees are entitled to the benefits that we are seeking to extend to other employees?

Mr. HUNT. That is correct, sir.

Mr. WALDIE. Some of your employees are not and you oppose granting to them those benefits. Those employees who are not entitled to it are those that are hired on site?

Mr. HUNT. That is correct, sir.

Mr. WALDIE. They are hired, I gather, as temporary employees because they will not be subject to worldwide assignment?

Mr. HUNT. No, sir, they can be permanent employees. We have about 37 to 40 of these employees.

Mr. WALDIE. What sort of tasks?

Mr. HUNT. They would be consular assistants, they have a full range of duties.

Mr. WALDIE. How long are they employed?

Mr. HUNT. It could be for a full career.

Mr. WALDIE. 20 or 30 years?

Mr. HUNT. That is right.

Mr. WALDIE. For those people they receive none of these benefits?

Mr. HUNT. That is correct. They do receive the cost of living or post allowance but they do not receive the quarters allowance.

Mr. WALDIE. How do they get to receive that?

Mr. HUNT. The cost of living allowance is a salary equalizer.

Mr. WALDIE. Under what authority do you get to give them one benefit but deny them another?

Mr. HUNT. By definition, Mr. Chairman, the purpose of the post allowance is the allowance paid to American employees when the cost—

Mr. WALDIE. Wait a minute. By whose definition?

Ms. WEIHRAUCH. We are defining what the post allowance is.

Mr. WALDIE. I know what it is. By what authority do you select that as one of the allowances that you grant these employees but deny them the other allowances? That is an allowance under the cost of living allowance, section 5924; and I gather you grant them a post allowance, but you deny them a maintenance, separate maintenance allowance; an education allowance; travel expense of dependents; those matters.

Mr. HUNT. All other allowances, sir, unless they are entitled to and eligible to receive a quarters allowance.

Mr. WALDIE. Yes, but the question I have is why do you select one and deny others? What is the rationale and what is the authority? Do you have the authority of granting these partial allowances to employees as you desire?



Ms. WEIHRAUCH. It is the nature of the post allowance, sir, that is a balancing factor in salary.

Mr. WALDIE. I am not sure of the balancing factor. Who are you balancing it with?

Ms. WEIHRAUCH. You are paying an individual overseas on the same salary scale you would pay him if he were employed in Washington. The cost of living may differ overseas between overseas and Washington.

Mr. WALDIE. I would presume it would be less, would it not?

Ms. WEIHRAUCH. Not always by any means.

Mr. WALDIE. Then why are nationals overseas paid less than American citizens, if the cost of living is higher?

Ms. WEIHRAUCH. Well the national overseas is paid both based on the cost of living in his country and also on the salaries paid persons doing the equivalent types of work in that country. We are not hiring nationals to be—to perform functions which senior officers in the foreign service can perform.

Mr. WALDIE. Is the cost of living for Americans less than the cost of living for foreign nationals?

Ms. WEIHRAUCH. In most cases it would be more, sir.

Mr. WALDIE. And it would be more than Washington in some countries?

Ms. WEIHRAUCH. Yes, sir.

Mr. WALDIE. What countries?

Ms. WEIHRAUCH. I am afraid I can't give you a list, but in many European countries at the present time it exceeds the cost in Washington. It certainly does in Africa, also.

Mr. HUNT. There are countries in Western Europe where the cost of living far exceeds the cost in Washington.

To answer your specific question, sir, section 5924 of title 5—

Mr. WALDIE. That's what I have here.

Mr. HUNT. That is the basis on which we grant the post allowance. As Ms. Weihrauch said, that is the salary equalizer.

Mr. WALDIE. Do all employees receive a post allowance regardless of where they are recruited?

Mr. HUNT. Yes, sir. All State Department employees do receive the post allowance.

Mr. WALDIE. Is that the only allowance all of them receive in common?

Mr. HUNT. That is correct.

Mr. WALDIE. From thereon it depends upon where they are recruited?

Mr. HUNT. And whether or not they are available for worldwide assignment.

Mr. WALDIE. The assumption is if they are recruited in the United States it is more costly for them to perform their tasks in the base overseas than if they are recruited overseas?

Mr. HUNT. That is correct, sir. However, it is quite possible—

Mr. WALDIE. You shake your head on that.

Ms. WEIHRAUCH. Could you repeat your question again?

Mr. WALDIE. I said is the reason for the granting of additional allowances to those recruited in the United States rather than on site because it is more expensive for those recruited in the United



States to perform their function overseas than it is for those living overseas?

Ms. WEIHRAUCH. No, sir. To start again with the post allowance which is paid to everyone, this is the cost of living equalizing factor exclusive of the cost of shelter and education allowance. If an employee is recruited in Washington and sent overseas, he then receives the full range of other allowances. The individual employee overseas who is living in that country, for reasons unconnected with his Government employment, receives only the cost of living allowance, not the other range of allowances, quarters and so on.

The assumption is that the purpose of his being there was not Government employment. He therefore does not have the same expenses which the individual sent from Washington would have.

Mr. WALDIE. So he receives less salary as a result?

Ms. WEIHRAUCH. If you are thinking of other allowances as being a portion of salary, that is correct.

Mr. WALDIE. We would have to think of it that way, wouldn't we? It is income, isn't it? In other words, the person that is over there, from the United States, does not have to pay for housing. The person over there and who was recruited over there has to pay for housing? That is less money, take-home, for that teacher than the one recruited over there—not teacher, but State Department employee?

Mr. HUNT. It might help to clarify, Mr. Chairman, if I gave you for the record a definition of the quarters allowance as we see it in the Department which is that free quarters or quarters allowance in lieu thereof is the financial inducement available to all employees at every post overseas. Other allowances by contrast are available only where warranted by certain conditions of the post, or by the employee's family situation, because eligibility for quarters allowance is so broad-based it is used as the criteria for determining eligibility for all other allowances.

It is quite possible, sir, at least in the Department of State that we can recruit an employee abroad, whether the actual paper transaction is done in Washington or at the post, and if that employee is not in residence in that country, he would be entitled immediately to those quarters allowance as well as other allowances.

Mr. WALDIE. I am stuck by this position. Maybe I am stating it too bluntly. If I understand your position, it is that you think those that are recruited overseas to work for you, Americans living overseas to work for you, can be recruited at a less dollar cost than those recruited in the United States because it is less expensive for them, because they are already overseas? That is bluntly the theme, is it not?

Mr. HUNT. Yes, sir. It is not the motivating factor in the Department.

Mr. WALDIE. But there is nothing wrong with that analysis, is there? That is what your analysis is. The cost of living is less for a person living overseas. Therefore you can pay him or her less than it would be to bring a person from the United States and locate him overseas?

Mr. HUNT. Yes, sir. That is a fact. It is not, as I say, the reason that we recruit Americans abroad, but it does cost less.

Mr. WALDIE. It might have that tendency?



Mr. HUNT. Yes, sir.

Mr. WALDIE. Because you are objecting to paying Americans overseas these additional benefits that you are paying those that come from the United States; and I gather you are objecting because of the extra costs to the State Department to do so? There would be no other reason to your objection, would there?

Mr. HUNT. No, sir. As I think I pointed out earlier, for the Department of State, it is a fairly minor problem. We only have about 35 or 40 employees.

Mr. WALDIE. That cost is not the reason?

Mr. HUNT. That is not the reason in the Department of State.

Mr. WALDIE. What is the reason for you to object?

Mr. HUNT. The intent of title 5, in establishing allowances as a recruitment and assignment incentive to have as many employees as possible who can serve on a worldwide basis and again, I suspect, that for all agencies the cost would be substantial, but our basic reason for opposing it is because we feel that the legislative history for these allowances clearly indicates to us that one of the primary motivating factors should be career employees who are prepared to serve worldwide.

Mr. WALDIE. You mean should get extra pay for doing something?

Mr. HUNT. Yes.

Mr. WALDIE. Why don't you pay them extra instead of giving them allowances?

Mr. HUNT. We are not allowed to under the law.

Mr. WALDIE. It would be better, though, wouldn't it? What you are attempting to do is pay them more by this circuitous route?

The only incentive you are giving people is a money incentive. It is a money incentive paid by the cost of these extra allowances? A much more honest approach would be to say they deserve higher pay?

Mr. HUNT. That is correct, if it could be on a sliding scale so that for assignment—

Mr. WALDIE. I understand your problem, the problem you have. Please permit me to restate it so I understand it.

You are saying if this law passes, and you are not permitted to give these extra benefits to these special employees that you need who are willing to serve anywhere in the world, you will have a difficult time recruiting those employees, because everybody will want to stay in one place, get paid the same, and there is no incentive to be footloose and fancy free or to be willing to undergo the rigors of being moved around the world?

Mr. HUNT. Yes, sir.

Mr. WALDIE. I think that is a legitimate reason to demand a distinction between the employee who is willing and says I am a career person and I am willing to move and shift my life every 2 years to another area. That ought to be compensated directly by salary, not by, I think, a circuitous manner, of saying we are going to give you folks extra benefits because it costs you more.

It doesn't cost them any more to live in Afghanistan than it costs the American citizen who is there for another purpose. The cost



of living remains the same, I presume, for each of them: cost of housing, food, coming back to America, whatever they do.

They ought to reflect, I think, your retention problem by the higher salary scale.

Do your standardized regulations apply to all employees, not just State Department employees?

Mr. HUNT. Yes, sir, they do. They are in the main permissive regulations. By that I mean agency heads do have considerable flexibility in the actual implementation of them. They do apply to all agencies.

Mr. WALDIE. Did you say you only had 40-some employees that would be impacted by this bill?

Mr. HUNT. That is correct, sir, yes.

Mr. WALDIE. It really does have minimal effect, except you are afraid it might have major effect if passed because those employees that are now willing to be transferred around might evince less willingness if there is not some benefit for doing so monetarily?

Mr. HUNT. For the employee that has no tie with any particular country it could be more pleasant to serve in Mexico City than Afghanistan.

This basically concludes my statement, Mr. Chairman. I would be happy to answer questions that you might have.

Mr. WALDIE. I have nothing further. I apologize for my seeming ignorance that must have been betrayed by some of the questions I have asked. I have learned much from you. I appreciate your responses.

Mr. HUNT. Thank you, Mr. Chairman.

Mr. WALDIE. Our next witness is Congressman James M. Hanley, a member of our committee and my former subcommittee chairman.

Mr. Hanley, I have your statement. It will be included in the record. You may proceed as you wish with the understanding that I may subject you to the penetrating interrogation at any moment in time.

#### STATEMENT OF HON. JAMES M. HANLEY, REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. HANLEY. I want to express my appreciation to you for your accommodation this morning and for the purpose of expediting this procedure. As you say, if the entire text can be included in the minutes of the hearing, I would appreciate it.

Very briefly I want to commend the committee for its activity in regard to H.R. 5619. I have some very strong feelings on this subject, having benefited by developing what I feel was a pretty good background in a problem confronting our educational program overseas.

In the countries we visited back in, I believe, 1972, you could only witness the effect of discriminatory practices, which really didn't make much sense at all to me. For instance, you sitting in that chair, and your friends to your left, both actually fulfilling the same function for the United States Government, but the incentive factor for one being greater than it is for the other. At the offset perhaps this is okay, but as it continues to prevail, well, then irritation and friction develop to the jeopardy of the whole program.



Beyond what I have said in my prepared text, my observation back then suggested that it would be far better if our educational program was divorced from the Department of Defense and placed within a truly professional body, whether it be an entity of the Department of Health, Education, and Welfare, or the Office of Education, or whatever, so that this extremely important program would be administered by true professionals.

In many instances, as is within the Department of Defense, where it is implemented in accord with the whim of that particular commander, benefits and whatever. For instance, if you are working in one particular theater, you are eligible for dental or health or whatever else.

In another theater administered by another military commander, you are not. So again you have got, you know, continuing discrimination with regard to entitlement. All of that produces fester, annoyance, and unhappiness. As I say, fundamentally I would like to see the whole ball of wax moved away from its present position into a truly professional body whose thing, period, is education as opposed to, for instance, in defense that military commanders think happens to be exactly that.

The educational program happened to be a spinoff, responsibility to the administration. Unfortunately, I think in many areas as such, the whole program is short-changed.

Having said that, Mr. Chairman, I think that the text of my statement pretty much spells out my attitude, my feeling, and my very strong contentions that you are on the right track with this legislation. I hope very much that your committee can see fit to approve it.

I hope very much that subsequently it can be enacted into law in this 93d Congress. If we can accomplish this, we have indeed provided our overseas educational program with a very significant step forward.

[The complete statement of Congressman Hanley follows:]

PREPARED STATEMENT OF HON. JAMES M. HANLEY

I would first like to commend the Subcommittee for holding hearings on this subject. The issues contained in H.R. 5619 were raised forcibly when I was Chairman of the Employee Benefits Subcommittee during the 92nd Congress. These hearings are a logical extension of the work which we performed in 1972, and I appear here to strongly endorse the principal thrust of H.R. 5619.

In November, 1972, the Employee Benefits Subcommittee travelled to Europe to get a first hand view of the problems of overseas teachers and to study the need for legislation which is embodied in H.R. 5619. We travelled to six different cities and interviewed literally hundreds of teachers.

The results of this investigation, the first which had been conducted by the Committee since the 1950's, are embodied in Committee Print 93-9 entitled "Study of Benefits for Teachers in the Overseas Dependent School System". We made several recommendations and commented on several issues which are not directly related to the legislation pending here. I will concentrate only on those questions which are or can be included in H.R. 5619.

One of the major morale problems surrounds the disparity of benefits granted overseas teachers. Briefly, teachers recruited in the states are granted a range of benefits including travel and quarters allowances while teachers hired while they are living in the area are not. When viewed solely as a recruitment incentive, these differentiations may make some sense. But it is very unclear



whether the original law considered these as recruitment incentives or as part of an overall pay package.

Be that as it may, the teachers regard the distinctions as arbitrary. Those who do not receive the benefits believe quite rightly that they are being paid substantially less to perform the same job as those who do receive the benefits. The perceived unfairness of the system is magnified by the fact that some stateside teachers have lost their benefits through various combinations of circumstances while some local hires have eventually succeeded in obtaining benefits.

Frankly, there is also an element of sex discrimination involved in determining why a local hire is abroad for the purpose of determining whether or not benefits should be given. Women are asked far more searching questions about dependency than are men. The report outlines the case of a woman who lost her right to benefits because her husband had enrolled in a foreign university. It was therefore assumed that she was in the country because of her husband's status, and thereby forfeited her rights. This determination was made even though her husband was totally dependent upon her and in fact registered at a local university because of her employment status. Similar searching questions are not generally asked of men.

The only way to solve these problems is to treat all teachers equally; in essence, to grant them equal pay for equal work. I would emphasize that our studies and conclusions were made only in connection with overseas teachers. We did not study other occupational groups, and H.R. 5619 would prefer equal benefits on *all overseas* employees.

There was also much dissatisfaction among teachers that pay schedules lagged one year behind comparable schedules in the United States which form the basis for overseas teachers' pay schedules. In the opinion of the Subcommittee, the Department of Defense is clearly violating Congressional intent. And the professional associations who develop the data upon which the pay schedules are based told us emphatically that enough data is available in mid-summer to make the schedules current within the intent of the law. The Defense Department can and should take this step by itself, but it has been notably reluctant to do so. Therefore, unfortunately, legislation such as H.R. 5619 is necessary to make Congressional intent crystal clear.

The Subcommittee did not make any direct recommendation on basing salary schedules on those of school jurisdictions with 25,000 students or more, but the proposal in this bill seems to be most reasonable and easier to administer than the current system.

Finally, I would strongly urge that serious consideration be given to granting teachers unlimited accumulation of sick leave. Today, they can accumulate only 75 days. As we stated in the report:

"The situation surrounding unexpected injuries and illnesses can be somewhat more acute abroad than here where a person may be closer to family and friends. Once sick leave is used up; all pay and benefits stop. Thus, a family of a sick teacher may find themselves faced with eviction and worse in a foreign country."

Again Mr. Chairman, I appreciate this opportunity to appear in support of H.R. 5619.

Mr. WALDIE. Thank you, Mr. Hanley. By the way, we have read your report as a result of your inquiry in this program in 1972. It is remarkably well done.

Mr. HANLEY. I appreciate that very much, Mr. Chairman.

Mr. WALDIE. I want to commend you on the substance of this report. We have used it as a good part of preparing for these hearings. It helps us in understanding the problem. It was a significant contribution. I appreciate your having done that.

Mr. HANLEY. We tried hard during the course of that overseas tour to meet with the people, and on a continuing basis, day-in and day-out, sat about the table with the teachers themselves, and then subsequently, the administrators, hearing both sides of the story.

We did this, as I say, on a continuing basis, and our mission was to be totally objective and the end result of it was to—was the report



that you have so kindly referred to. I am delighted you have found it helpful to you in your activity. Again I commend you for having bitten the bullet, so to speak, to get on with this project.

If there is any way I can assist your efforts, I stand available.

Mr. WALDIE. Thank you, Mr. Hanley. I appreciate your appearing before the committee today. Thank you very much.

Mr. HANLEY. Thank you, Mr. Chairman.

Mr. WALDIE. It sounds strange to hear you call me that.

Mr. HANLEY. Incidentally, we have a great champion over here in the young lady from Hawaii who has championed this cause from the beginning. In fact, she was my mentor who pushed me when I occupied your chair to get with it, go over there, and take a look.

I am so much indebted to my good friend and colleague, Patsy.

Mr. WALDIE. She is the one that pushed us to do this.

Mr. HANLEY. For what it is worth, the whole program owes a great deal to this lady.

Mr. WALDIE. Thank you.

Our next witness is Dr. Anthony Cardinale, Director of Dependents Education, Office of the Deputy Assistant Secretary of Defense for Education, Office of the Assistant Secretary of Defense for Manpower and Reserve Affairs, U.S. Department of Defense.

**STATEMENT OF DR. ANTHONY CARDINALE, DIRECTOR OF DEPENDENTS EDUCATION, OFFICE OF THE DEPUTY ASSISTANT SECRETARY OF DEFENSE (EDUCATION); ACCOMPANIED BY WILLIAM F. COAKLEY, PERSONNEL MANAGEMENT SPECIALIST, OFFICE OF CIVILIAN PERSONNEL POLICY, OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE (MANPOWER AND RESERVE AFFAIRS), RONALD G. BECHTEL, CHIEF, EASTERN OPERATIONS DIVISION, TECHNICAL STAFF, DEPARTMENT OF DEFENSE WAGE FIXING AUTHORITY, AND JAMES CARNAHAN, BUDGET ANALYST, OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE (COMPTROLLER)**

Dr. CARDINALE. Thank you. I have with me this morning James Carnahan from our office of the Assistant Secretary for Defense (Comptroller).

On my right is Mr. Ronald Bechtel. He is with the Defense Wage Fixing Authority.

With your permission, I would like to follow my statement here and be happy to answer any questions that you may have.

Mr. Chairman, I appreciate the opportunity to appear before you today to express the Department of Defense's views on H.R. 5619, a bill to prohibit discrimination against locally recruited personnel in the granting of overseas differentials and allowances, equalize the compensation of overseas teachers, and for other purposes.

Accompanying me to assist in answering your questions are Mr. William F. Coakley, Mr. Ronald G. Bechtel, and Mr. James Carnahan.

H.R. 5619 has two basic purposes. The first section would establish by law the eligibility of persons recruited outside the United States for duty at the place of recruitment, for free quarters and certain



other allowances and differentials authorized by title 5, U.S. Code, after they had completed 150 days of satisfactory service. Section 2 of the bill would amend the Department of Defense Overseas Teachers Pay and Personnel Act, 20 U.S.C. 901, et seq., to require that rates of compensation for teachers be based on the average of the range of current rates being paid for similar positions in urban school jurisdictions in the United States of 25,000 or more population.

The Department of Defense is opposed to this bill.

It appears that the intent of the first section of the bill is to overcome the general restrictions contained in regulations of the Department of State on providing free quarters and payment allowances and differentials to U.S. citizens who are already present in the area at the time of employment. The various allowances and differentials provided for in chapter 59 of title 5 pertaining to overseas employment stem from the Overseas Differentials and Allowances Act of 1960, Public Law 86-707. The basic purpose of the various allowances and differentials which, under current law, may be authorized for all U.S. citizen employees in foreign countries is to reimburse them for the extra costs resulting from living in a foreign area and as recruitment and retention incentives.

Mr. WALDIE. I gather the basic purpose under current law for the allowances which may be authorized, now does that mean that you could, you have the authority, to authorize all the enumerated allowances to all employees, U.S. employees overseas?

Dr. CARDINALE. I will ask Mr. Coakley to answer that.

Mr. COAKLEY. The Government does—in other words, the State Department has the authority. It is a permissive thing. They may be authorized for all employees regardless of point of hire under title 5.

Mr. WALDIE. Right. Now you do, too, do you not? You said the State Department. You are not limiting it to the State Department?

Mr. COAKLEY. It is State Department regulations which say at this particular time that we, in Defense, will not do this for local hires.

Mr. WALDIE. How does State—

Mr. COAKLEY. The Department of State Standardized Regulations are the regulations governing the payment of allowances and differentials in foreign areas. We are bound by these regulations.

Mr. WALDIE. You are bound by the ones at State?

Mr. COAKLEY. Yes.

Mr. WALDIE. State could then, were they so inclined, to adopt the new regulations under existing law, extending all the entitlements and emoluments we are seeking by the passage of this act?

Mr. COAKLEY. Yes, sir. This is the way it was up until March 25, 1971.

Mr. WALDIE. What do you mean? That's the way it was?

Mr. COAKLEY. Prior to 1971, all the allowances and differentials could be paid to people who were hired locally.

Mr. WALDIE. They were?

Mr. COAKLEY. Yes, sir.

Mr. WALDIE. You mean all over the Federal Government? Or just in DOD? Or just teachers? What?

Mr. COAKLEY. I believe all the Federal Government.

Mr. WALDIE. And it just changed in 1971?



Mr. COAKLEY. Yes, sir.

Mr. WALDIE. So this policy, the basic purpose to reimburse them, and as recruitment and retention incentives, is a policy that just came into existence since 1971?

Mr. COAKLEY. State the question again, sir.

Mr. WALDIE. Well, there is some disagreement up here as to whether your response to my question is correct. I may not have phrased it correctly. Perhaps I better let the staff ask the question.

I don't understand the disagreement. Maybe they can straighten it out.

Is the State Department still here? Yes.

Would you come on up, both of you, please?

Mr. COAKLEY. I think I understand your question now. There was a provision in the regulations which permitted some local hires, depending on the purpose for them being in the area, to be granted the allowances and differentials.

In other words, there was a matter of judgment involved as to what the purpose for their being in the country was as to whether or not they would—

Mr. WALDIE. Maybe I can get it straight if I ask the State Department.

The first question is under existing law, could you accomplish the purpose of the bill under consideration by regulation, the portion of the bill dealing with allowances?

Mr. HUNT. Mr. Chairman, I believe that we could basically cover the allowance question in regulations under existing law as long as the Government regarded it necessary, and conditions and controls were there to preclude duplicate payments.

Mr. WALDIE. Right. I think no one is advocating or would tolerate duplicate payments.

Now secondly, prior to 1970 or 1971, whatever date we are talking about, were there no distinctions among employees dependent upon where they were hired?

Mr. HUNT. There are restrictions. I believe DOD is referring, Mr. Chairman, to a provision which was dropped in 1971, which stated that the employee who was temporarily in the foreign area for travel or formal study, and immediately prior to such travel or study had resided in the United States, Puerto Rico, or the Canal Zone, could be hired locally and given allowances. That was dropped at the Department of Defense's request in 1971.

Mr. WALDIE. Now would that, had it not been dropped, would that have covered most of on-site employment?

Mr. HUNT. It would not take care of dependents of service people, sir. It would take care of that category of tourists or residents traveling abroad.

Mr. WALDIE. Why was that dropped at DOD's request? Why did DOD request it be dropped?

Mr. COAKLEY. I think it was dropped because of the tremendous problems that we were having in applying the judgmental factors as to the purpose of an individual being in the country. If he was there—in other words, it came down to an interpretation that if he was there looking for work, and not on a passing-through basis as a tourist, he could not be granted the allowances; but if he was just



passing through as a tourist, and happened to drop in, and obtained a job, he could be given the allowances. We were in the same position we appear to be in now; we were having tremendous problems in equating the allowances among the work force.

It was decided that, rather than try to judge who should get it and not get it, it would be better not to give it to anyone hired locally.

Mr. WALDIE. I think I understand it. Would you proceed?

Dr. CARDINALE. The need for these incentives does not exist, where for personal reasons, an individual has already taken up residence in a foreign area prior to being employed by the United States. Since these employees are already living in a foreign area, there are no extra costs involved and there is no need for an incentive to get them to go there.

Mr. WALDIE. You mean the incentive to get them to go there would seem to be travel costs? That would be the only difference? Once they are there, aren't their costs exactly the same as the people living there?

Mr. COAKLEY. Yes, but some of the areas we are talking about are fairly isolated, and the living conditions are fairly bad. You need an incentive to get people to go to these areas.

Mr. WALDIE. I know, but doesn't the American citizen living there incur the identical costs as the American citizen that just flies into the airport? And then establishes residence?

Mr. COAKLEY. Yes.

Mr. WALDIE. So there really are no extra costs involved because you are hired in America except the cost of flying over there?

Are there extra costs?

Mr. COAKLEY. Well, in other words, he has chosen to live in the foreign area. He is already——

Mr. WALDIE. Hasn't the person that has sought employment chosen to live there?

Mr. COAKLEY. We asked him to go there to work for us.

Mr. WALDIE. And he accepted your offer to go there. I presume he has made a choice to live there.

Mr. COAKLEY. Yes.

Mr. WALDIE. Why should you pay him extra once he is there? Does it cost him more to live?

Mr. COAKLEY. I don't believe you can say that it would cost him more to live there than it would cost someone else who has chosen to live there on a permanent basis.

Mr. WALDIE. Is it your belief unless you pay him more or her more they would not come to that country; so you would be restricted to on-site employments?

Mr. COAKLEY. We would not be able to meet our needs from on-site; in other words, we need to hire people from outside the area to meet our requirements and get them to go to the area.

Mr. WALDIE. And is it because of this incentive that you offer, that you are able to get people in the United States to apply for those jobs?

Mr. COAKLEY. Yes.

Mr. WALDIE. Without that incentive, you would not get them to apply?



Mr. COAKLEY. I think that is a true statement. Particularly in some of the very isolated locations. At some of the real favored spots, we might be able to get people to go without the housing incentive. It certainly is helpful to us in our recruitment program, particularly for the hardship areas.

Mr. WALDIE. Can you straighten out my problem on statistics?

What are the total number of teachers hired in this system?

Dr. CARDINALE. I think I can answer that for you, Mr. Chairman. We have today approximately 7,800 personnel covered under Public Law 86-91. These would be classroom teachers, librarians, et cetera.

Mr. WALDIE. These are U.S. citizens?

Dr. CARDINALE. That is right.

Mr. WALDIE. How many nationals?

Dr. CARDINALE. We have less than 300 foreign nationals employed. We have both the professional foreign nationals and clerical foreign nationals.

Mr. WALDIE. Of the 7,800, how many are on-site?

Dr. CARDINALE. As of the 29th of March 1974, we have 1,997 locally hired personnel with the DOD system. Of this number, 1,745, or 85 percent, are dependents of either U.S. military—either the military or U.S. Government personnel, most of whom are already receiving allowances and differentials. So 85 percent of the 1,997 are spouses of either military or civilian personnel.

Mr. WALDIE. Who, if this bill were to be enacted, would not be impacted by any cost?

Dr. CARDINALE. There would be 192 local hires who are not receiving any special type of support in addition to their basic salary. These 192 are some of the people that Mr. Coakley referred to as perhaps a tourist that might be in the area and decides they want to remain in Germany for several more years; the wife or the husband of someone on a sabbatical leave who is studying at the University of London or the University of Heidelberg; and then people who have lived, we would assume, for a number of years in that foreign country; and now they are seeking employment with dependent schools.

Mr. WALDIE. Is it the cost of the bill that discourages you from offering the on-site employees the same as you offer the recruitment in the United States?

Mr. COAKLEY. I would say it's the cost and the intent. What we feel is the intent of the law.

Mr. WALDIE. Well, we can change that intent by passage of this act. That should be of no problem to you. If Congress passes this law, the intent would be no hurdle for you. Your objection is not Congress' intent. We will deal with that. Your objection is the cost; is that right?

Mr. COAKLEY. That is right.

Mr. WALDIE. And that is really the cost that would be involved in your figures of 192?

Mr. COAKLEY. There is another group, I think there are about 60, who are dependents of people working for private industrial concerns, such as the Ford dealer who may be in Frankfurt, Germany.

Mr. WALDIE. I can't really believe your objection is to the cost. The



cost is really minuscule, isn't it, to extend the allowances that are not granted these people?

Dr. CARDINALE. No, sir. The way the bill is prepared, it says employees. On page 4 of the statement we have approximately 12,000 employees who were hired locally, U.S. citizens, hired locally. If you take, for example, just an average, say, of housing costs alone—

Mr. WALDIE. Wait a minute. 12,000 out of how many?

Dr. CARDINALE. As of December 31, Defense had 28,640 U.S. citizens in foreign areas. At least 12,000 of these are dependents of U.S. forces, military and civilian.

Mr. WALDIE. Twelve thousand?

Dr. CARDINALE. Yes.

Mr. WALDIE. They are already receiving one allotment of all these allowances?

Dr. CARDINALE. Most of them do. That is right.

Mr. WALDIE. The other 16,000 of them, how many were employed in the United States so they are getting—

Dr. CARDINALE. I don't have that figure.

Mr. WALDIE. We would have to have that figure to know what it would cost. I imagine the majority of them.

So we are again down to an insignificant figure of these employees, too, aren't we, that would be covered by this bill?

Dr. CARDINALE. Yes.

Mr. COAKLEY. But we are missing one thing here. Many of these 12,000, under the regulations, would get these benefits unless we develop some kind of rule to prohibit dual benefits.

Mr. WALDIE. We all concede that nobody should receive a dual benefit. We all concede that the regulation to be enacted prevented that. We could wipe that out. It would be the distinct intent of Congress and everybody that nobody received a dual allowance.

If there is any real concern about that, omit that. We are going to get rid of that problem.

Mr. COAKLEY. In other words, if we would not be required under this law to pay the spouse of a military person a housing allowance, if they are already getting—

Mr. WALDIE. How about if a divorce occurs? You will obviously pay—dependent upon the status as an employee?

Mr. COAKLEY. That is one point I wanted to clear up. Mrs. Mink was in error in that regard. In Defense, if a divorce occurs, or any kind of a separation occurs, we now authorize the quarters allowance and a transportation agreement to the spouse.

Mr. WALDIE. So they would be treated as if they were hired in the United States?

Mr. COAKLEY. Yes. We recognize the hardship this individual would be facing. I think in 1972 we issued a policy that if a separation occurs, either marital or even if a military man is assigned to Vietnam, and the teacher wanted to remain and teach in Germany, we would authorize the housing allowance.

Mr. WALDIE. That is fair and proper.

Again it indicates to me we are dealing with such a minuscule cost figure here that it can't really be your objection. You are doing much of what we are asking to be done. Your objection has to be more than that. I would like to get at what it is.



If it isn't cost, will it interfere with your recruitment problem somehow or other?

Mr. COAKLEY. No, sir.

Mr. WALDIE. You have got to say something about that.

Ms. WEIHRAUCH. On this question of dual benefits, as our regulations are now written, they do not discriminate between two working spouses, both of whom may be Government employees, both of whom may be employees of the Department of State. They would both be entitled to allowances at the single rate, if they are both working overseas.

Mr. WALDIE. I am not sure what that means.

Ms. WEIHRAUCH. Well, for example, for a quarters allowance, there is a rate for a married employee and a rate for a single employee. If both of the individuals are working overseas at a mission, they would both receive the quarters allowance at the single rate. Similarly, a differential if it is authorized for the post, a post allowance——

Mr. WALDIE. Are you telling me you are paying dual allowances now?

Ms. WEIHRAUCH. Dual allowances in the sense they are both working employees, yes.

Mr. WALDIE. So you have no objection to dual allowances where they are both working?

Ms. WEIHRAUCH. We do not. It becomes a factor for Defense in terms of cost, however. This is the reason I was trying to interrupt your train of thought, sir.

Mr. WALDIE. If one quarters allowance was being paid a family——

Ms. WEIHRAUCH. It is being paid to two single people, sir, at the rate for a single person in each case.

Mr. WALDIE. Even though they are married?

Ms. WEIHRAUCH. That is correct.

Mr. WALDIE. In other words, the same theory that Mrs. Mink was talking about, that the allowances attach to their job—they receive the allowances, despite the fact both of them are working and receiving the same——

Ms. WEIHRAUCH. Working for the same employer becomes irrelevant. They are both working.

Mr. WALDIE. I think that's right. I guess we ought not to be concerned about dual allowances. I strike from the record as if I never even said it consideration of that.

Mr. COAKLEY. Which brings us back to where we were that this is going to cost DOD an awful lot of money.

Mr. WALDIE. Ms. Mink is arguing, and State already apparently follows that to a degree, at least, that your allowances, whatever they might be, if you are hired in the United States, both of you, man and wife, you go on to your job with allowances that attach to you by virtue of your job, having nothing to do with your marital status and neither should it have, any more than your salary should have anything to do with your marital status.

In DOD, if you hire both of the parties in the United States, and they go overseas, do they not individually take all the allowances that U.S. employment entitled them to?



Mr. COAKLEY. No, sir.

Mr. WALDIE. They don't?

Are you aware of that in State? If they do not, do they not violate your regulation?

Ms. WEIHRAUCH. I was led to believe that DOD was not hiring both spouses in the States.

Mr. WALDIE. Just supposing they did. He said if they do, they don't give them equal allowances when they get over there. If they do not, is that a violation of your regulation?

Ms. WEIHRAUCH. Sir, our regulations are permissive in the same way the law is permissive.

Mr. WALDIE. Permissive to whom?

Ms. WEIHRAUCH. You may not exceed what is given in the regulations but you may do less.

Mr. HUNT. The head of the agency has the right to determine these.

Mr. WALDIE. That gives a lot of standardization.

Ms. WEIHRAUCH. The law says "may."

Mr. WALDIE. I know. Your regulation that you follow in State which sounded so equitable and rational and reasonable to me is not followed in DOD, and they are not required to follow it?

Ms. WEIHRAUCH. That is correct.

Mr. WALDIE. Okay. Now back to DOD. Let's get to the man and wife hired in the United States; they go overseas. What is their entitlement to emoluments and allowances?

Mr. COAKLEY. The restriction we have placed on this working couple is that they will be granted the same housing allowance and no more than another family recruited in the United States with only one spouse employed.

Mr. WALDIE. You consider you are hiring a family and not two individual employees?

Mr. COAKLEY. As far as allowances go, yes. We don't feel the employee should get more allowance solely because they have two family members employed.

Mr. WALDIE. Should they get less salary?

Mr. COAKLEY. No, sir.

Mr. WALDIE. Why not? Suppose you have three people employed in that family. Should they get equal salaries? That would mean they would have a lot more money than a family with one person employed; if they are hired as a family why not pay them a family rate?

If you are going to give them allowances at the family rate?

Mr. COAKLEY. Of course, the purpose of the living quarters allowance is to reimburse for the cost of quarters. One family who has only one member of the family working gets, say, \$4,000. The other one may get \$6,000; and be able to live in much better quarters. That is solely because of having two members working they would be able to live in much more elaborate quarters.

Mr. WALDIE. Well, I don't want to press the subject; but if you had a family of four people, and you hired a man and wife at \$4,000 a piece, they had \$8,000 income, and then they had another family of four people, and you hired only the husband at \$4,000, the family



with two people employed would have twice as much income as the family with one.

That seems unfair according to your thinking.

Mr. COAKLEY. The salary is money for services being performed.

Mr. WALDIE. What are the allowances for?

Mr. COAKLEY. They are reimbursement for extra costs or incentives to induce people to go to certain areas and are not related to the job being performed as such.

Mr. WALDIE. OK.

Why don't I go on to another subject? We have them over there. Do they go over on a contract?

Mr. COAKLEY. The family hired in the United States?

Mr. WALDIE. Yes.

Mr. COAKLEY. They go over on a transportation agreement which is similar to a contract.

Mr. WALDIE. At the expiration of their contract, if they renew it, are they entitled to all the allowances again as if they were recruited in the United States?

Mr. COAKLEY. Yes, sir.

Mr. WALDIE. Suppose they renew it for 20 years. Are they still considered—is that an incentive to keep them over there?

Mr. COAKLEY. Yes, sir.

Mr. WALDIE. Is that rational?

Mr. COAKLEY. With regard to teachers, this is true. We have within the Department of Defense placed a 5-year limitation on all other employees. We would never get into that situation. They would be required to rotate out of the foreign area after a period of not more than 5 years.

We have not seen fit to place this kind of a limitation on teachers because we do not have a stateside base to rotate them to. In other words, what we would have to do in the case of a teacher at the end of 5 years is probably separate them; whereas at the end of 5 years for the other employees, we do find them a job in the United States.

Your statement is true in the case of teachers. They can remain forever; and they would continue to draw the allowances and differentials as long as they remained overseas.

Mr. WALDIE. That seems so unfair to me to say the teacher that's been there 20 years because they were hired on the stateside should get a housing allowance; and the person that's been in that country for 2 years, for another purpose, and then is hired, that a teacher doesn't get a housing allowance because they are already there. Therefore, you don't need to give them a housing allowance to hire. I don't understand that rational.

Can anyone on State help me on that?

Ms. WEIHRAUCH. Not really, sir.

Mr. WALDIE. That is a difficult one, isn't it?

Can you folks on Defense help me?

Mr. COAKLEY. No.

Mr. WALDIE. Please continue, Dr. Carinale.

Dr. CARDINALE. To provide these allowances under these circumstances, as this bill would require would seem to be inconsistent with the basic intent and purposes of these benefits. It is for this reason that the Department of Defense and the Department of State have



restricted eligibility for these allowances and differentials to those employees who are recruited in the United States.

This bill seems to be primarily concerned with Department of Defense Overseas Dependents' Schools personnel. As of March 29, 1974, there were 1,997 locally hired personnel employed with the Department of Defense Overseas Dependents' School System. Of this number, 1,745 or over 85 percent are dependents of either military or U.S. Government civilian personnel, most of whom are already receiving allowances and differentials. To provide dual benefits under these circumstances would seem to be inappropriate. An additional 60 of the local hires are dependents whose sponsor works for a private U.S. firm, most of which provide similar benefits to their employees. This would leave only 192 local hires who are not receiving any special type of support in addition to their salaries. This group constitutes less than 10 percent of the local hires. To provide these extremely costly benefits to all local hires in order to provide support to this small group does not seem to be appropriate. We can see no reason, for example, why the dependent of an individual who is in the area to sell U.S. automobiles or to represent an oil company should, by reason of getting a teaching job in a U.S. dependent school, obtain quarters allowance, supplemental post allowance, temporary lodging allowance, and a post differential.

This bill, moreover, would not only pertain to teachers but to all local hires of all Government agencies. We do not have specific information available regarding the total number of employees that would gain benefits from this bill. On December 31, 1973, the Department of Defense employed 28,640 U.S. citizens in foreign areas. At least 12,000 of these employees are dependents of U.S. forces, military and civilian personnel, who were hired locally and who are not currently receiving allowances and differentials in their own right. If the housing allowance was only \$2,000 it would cost over \$24 million to provide this benefit alone. Since housing allowances in most cases exceed \$2,000 and when you add the other allowances and differentials, it can be seen that we are talking about a substantial amount of money. At the present time the Department of Defense is making a significant effort to maximize employment opportunities for dependents of our U.S. forces stationed in foreign areas. Because of devaluation of the dollar and spiraling inflation in most foreign areas, it has become cost effective to hire dependents in lieu of foreign nationals. However, if we would be required to pay locally hired personnel all allowances and differentials, it would no longer be cost effective to hire dependents. Job opportunities for dependents would then become very limited.

Mr. WALDIE. Does that mean that you are trying to increase the number of on-site employments?

Mr. COAKLEY. Yes, sir.

Mr. WALDIE. For the most part in the case of teachers, this would mean you are seeking to employ officers' wives or personnel wives?

Dr. CARDINALE. Qualified teachers who are available locally and who agree to remain at that base for at least 1 full school year.

In other words, if we know that their rotation is going to be in January, then our people are not supposed to employ these teachers.



The teacher employed locally must meet the same requirements as a teacher employed from the States; they must have the degree, 2 years of prior teaching experience, 18 semester hours of professional education, and all other requirements that we impose on selection from the States.

Mr. WALDIE. And that employee is considered by virtue of his or her statistical place in life as being in that country by choice; and, therefore, living costs are less expensive for that person? Is that correct?

Mr. COAKLEY. The first part of it, the person's reason for being there, is not because of the employment situation. She is there primarily because her spouse is there. I don't believe it would cost this family group any more or any less than somebody who is recruited in the United States to live in a foreign area.

Mr. WALDIE. Well, so cost has nothing to do with it then, the cost of living? The distinction between that person and the person recruited in the United States, it costs them just as much to live in that country; right?

Mr. COAKLEY. Yes.

Mr. WALDIE. So the only distinction is literally the travel costs from the United States over to that country? This person has already had those costs paid somehow or other and is there. Right?

Mr. COAKLEY. Yes.

Mr. WALDIE. If you recruit a person overseas, once they get over there, you pay them additional costs to bear the burden of living in that country?

Mr. COAKLEY. Yes.

Mr. WALDIE. Why?

Mr. COAKLEY. Because again we are going back to the intent of the present law, which you say you can change.

Mr. WALDIE. Right.

Mr. COAKLEY. We say the law says today you don't do this.

Mr. WALDIE. The law doesn't say that. The regulations say that.

Mr. COAKLEY. Which are based on the law.

Mr. WALDIE. Well, regulations permit you to go either way, if I understood State.

Mr. COAKLEY. Right.

Mr. WALDIE. So I ought to ask State why the regulations permit that. Would the regulations as they now exist permit DOD in this case to say the wives of—or husbands of personnel over there are really entitled to the same cost allowances as recruitments in the United States?

Mr. HUNT. Mr. Chairman, we make the distinction in State between the career aspects of employment as opposed to the contractual arrangement for a school year; so it would be difficult for me to—

Mr. WALDIE. I mean could DOD make that under your regulations?

Ms. WEIHRAUCH. Well, they really couldn't, sir, if you are talking about dependents of military employed overseas.

Mr. WALDIE. That is what I am talking about.

Ms. WEIHRAUCH. They could not.

Mr. WALDIE. Why not?



Ms. WEIHRAUCH. Because there is a paragraph in our regulations which cannot be waived. This is in the quarters allowance regulations, in terms of quarters being the basic regulation which determines eligibility for other allowances. The paragraph reads, "The employee's actual place of residence in the place to which the quarters allowance applies at the time of receipt thereof shall be fairly attributable to his employment by the United States Government."

Mr. WALDIE. Is that true with post allowance, too?

Ms. WEIHRAUCH. No, sir.

Mr. WALDIE. Could they grant the post allowance under existing regulations?

Ms. WEIHRAUCH. Yes.

Mr. WALDIE. Could they grant travel allowance under existing regulations?

Ms. WEIHRAUCH. What do you mean by travel allowance, sir?

Mr. WALDIE. Transportation.

Mr. HUNT. Are you speaking of home leave?

Mr. WALDIE. Yes, the same thing the U.S. employee would have.

Ms. WEIHRAUCH. They are not covered by this title 5 provision, sir, which these regulations implement.

Mr. WALDIE. Who is not covered?

Ms. WEIHRAUCH. The home leave provisions.

Mr. WALDIE. OK.

Dr. CARDINALE. For the reasons indicated, we do not believe this provision of the bill to be in the best interests of the Department of Defense nor of the Federal Government and we must oppose it.

Section 2 of the bill would require that basic compensation for teachers be fixed at rates equal to the average of current rates of basic compensation for similar positions of comparable level of duties and responsibilities in urban school jurisdictions in the United States with a total student enrollment in the school system of 25,000 or more.

At the present time, salary schedules are issued in July and become effective at the beginning of each school year. In computing these schedules, the present practice is to include salary adjustments made through March. Since many school systems negotiate salary schedules covering a period of several years, some current data are now being used by the Department of Defense in computing the salary schedule.

To reflect current rates of compensation in order to comply with the proposed statutory requirement in this bill would require that rates of pay for teachers be constantly updated throughout the school year, something that is not done in either the General Schedule or in other Federal salary systems. It is doubtful that information could be obtained in order to meet this requirement. Even if it could be made available, it would be an impossible administrative task to keep the rates current.

Mr. WALDIE. Let me interrupt just a moment here.

If we put—rather than requiring you to constantly update through the school year—and I agree with you the way the bill is worded that is vague and difficult—if we said to move it up from March, because many of these negotiations are concluded subsequent to March, move it up, say, to June 30, any contracts negotiated up to and in-



cluding June 30 must be considered in your comparability figures, would that be an administrative burden that would be difficult?

Dr. CARDINALE. That would not, sir. The problem that would create is that we are now, to date, in the process of hiring teachers. We must, in their transportation agreement, specify what their salary is. We have no alternative. This is one of the requirements in the personnel action that we indicate, and naturally, the person wants to know what his salary is going to be. We must include that.

We have at the moment not issued the salary schedule. We would like to get them out; and the teachers are anxiously awaiting the results of our salary schedule survey. It's been our practice to get the new schedule out about the first week in July, so that all personnel actions that take place will reflect the salary schedule for the new school year in September.

June 30, in my opinion, would be rather late to do that. Right now we are still waiting for—

Mr. WALDIE. You mean to put out this information?

Dr. CARDINALE. That is right, sir.

Mr. WALDIE. If you add a little asterisk that said not less than that, you would cover that, wouldn't you?

Dr. CARDINALE. I will have to refer to our budget specialist here.

Mr. BECHTEL. Well, mechanically this would be very possible. There is no doubt about that. The question of whether—putting an asterisk behind a salary, would be not less than—would somebody be willing to accept that—

Mr. WALDIE. Well, if they are willing to accept \$5,000 flat as sufficient, clearly 5,000, asterisk, not less than 5,000, would be even more desirable, I would think, wouldn't it?

Mr. BECHTEL. True.

Mr. WALDIE. If you put not more than, that would be a little questionable. I would understand someone having reservations.

Mr. BECHTEL. From a purely mechanical standpoint of the salary schedule, obviously it could be done. There is a certain amount of lead time.

Mr. WALDIE. Sure. If you had March rather than June, that gives you additional months to do things that you otherwise are compressed?

Mr. BECHTEL. Right.

Mr. WALDIE. I think that problem of putting out the salary schedule is easily surmountable. The main question is whether if you knew on June 30 what the comparable figures were, if you could then compute the salaries without much difficulty, ready to go at the beginning of the school term.

Mr. BECHTEL. Our data is now gathered for us by the NEA, National Education Association, Research Division. Assuming that they could provide the data to us—

Mr. WALDIE. We shall ask them that question.

Do you have any objection with the change of the formula from 100,000 population to 25,000 school students?

Mr. BECHTEL. I really don't have any basis to evaluate what the change would mean or do.

Mr. WALDIE. I think you should just assume, without knowing, that it means higher salaries. If it means lower, we will take it out.



Mr. BECHTEL. I don't know what the impact would be. We now have 205 jurisdictions which meet the 100,000 population enrollment.

Mr. WALDIE. I doubt if there is much difference.

Mr. BECHTEL. I understand there are approximately 185 jurisdictions that would meet the 25,000 enrollment. Some of the ones we have in would obviously drop out and others would come in.

Mr. WALDIE. Someone has told us we will get testimony of our transcript ultimately—someone has told us the reason for this change probably makes little substantive difference in the comparability figures, but it is statistically more easily accumulated.

This is apparently the manner by which these statistics have been reached.

Mr. BECHTEL. That would obviously be an advantage.

Mr. WALDIE. Yes.

Dr. CARDINALE. All salary systems for Federal employees, including those paid pursuant to the General Schedule Public Law 91-656, as well as those in the private sector, including teachers' pay systems, have some lag between the time of the rate survey which forms the basis for development of a salary schedule and the effective date of the schedule itself.

We are not aware of the basis for the proposed change in the second part of section 2 which would substitute "urban school jurisdictions with a total student enrollment of 25,000 or more" for "urban school jurisdictions of 100,000 or more population" as the basis for fixing compensation, and do not know whether it would have a major impact on the coverage of the surveys or the rates obtained. This is our position on this bill.

Mr. WALDIE. If section 7 of the Overseas Teachers Act, relating to living quarters, or quarters allowances, and section 8 of the Overseas Teachers Pay and Personnel Practices Act were repealed, what effect would that have, if any, on the granting of overseas allowances and differentials to teachers?

Mr. COAKLEY. Section 8 would not give us any problem at all. There is sufficient entitlement now in title 5 to cover teachers as far as the cost of living allowance and post differential is concerned.

Section 7, as far as the quarters allowance itself is concerned, would not give us any problem either. However, section 7 gives us the authority to continue the quarters allowance for teachers for the summer months when they are in a nonpay status.

We might be able to, under title 5, get this same authority. I don't know. The only basis for needing section 7 or section 8 would be to continue payment during the summer months which would not be possible under the current title 5.

Mr. WALDIE. Congressman Hanley brought up a subject I just want a comment for the record on. That was, in his view, he thought there might be wisdom in removing, from under the authority of DOD, this program of overseas schools and placing it in a department that has more professional expertise in the field of education than DOD. Would you care to comment on that proposal?

Dr. CARDINALE. We would prefer not to at this time, Mr. Chairman. I understand that Mrs. Mink has another bill that is going to be heard later on this month; and that the Department of Defense has been requested to testify. We will make our comments then.



Mr. WALDIE. OK. I have no further questions. I appreciate again your appearance and your willingness to respond to my questions. You have been very helpful.

Dr. CARDINALE. Thank you very much.

Mr. WALDIE. I appreciate the representatives from State assisting my confusion.

Our next witness is Mr. Raymond Jacobson, Director of the Bureau of Policies and Standards of the U.S. Civil Service Commission.

**STATEMENT OF RAYMOND JACOBSON, DIRECTOR, BUREAU OF POLICY AND STANDARDS, U.S. CIVIL SERVICE COMMISSION; ACCOMPANIED BY RICHARD CARNEY, PAY POLICY STAFF OFFICER**

Mr. JACOBSON. Thank you.

Mr. WALDIE. You do have a statement, do you not?

Mr. JACOBSON. Yes, I do.

Mr. WALDIE. It will be included in our record in its entirety if that is your desire. You may proceed as you wish.

Mr. JACOBSON. Instead of reading my entire statement, since the issue has been clearly identified here, I think I would like to summarize it if I may and then respond to any questions you may have.

Mr. WALDIE. That would be helpful.

Mr. JACOBSON. The Civil Service Commission's responsibility in the overseas allowances area extends only to employees in Alaska, Hawaii, and the territories and possessions of the United States.

It does not extend to employees in foreign areas. A section of the bill would amend section 5941 of title 5 that we deal with. Section 5941 provides for two different kinds of allowances, and I think part of the problem we get into sometimes is the terminology of allowances, post differential, quarters, travel pay, and things of these sorts that are frequently grouped under the one word, "allowances."

As we read, and have read section 5941, there are two kinds of allowances permitted by law. One is a living-cost allowance that we refer to as COLA.

The other is a post differential, which is an allowance that under the terms of section 5941 is payable based on conditions of environment which differ substantially from conditions of environment in the United States and warrant an allowance as a recruitment incentive. These allowances, that is, COLA and post differential, are two quite different things. In our handling of our regulatory authority, which as I say extends to much smaller number of employees, we clearly distinguish between them.

The cost-of-living allowance is paid on the basis of determination that there is a cost-of-living difference between Washington and the territorial possessions, and therefore we pay the cost-of-living allowance to all people paid under statutory pay systems in the area, regardless of where hired or anything else.

This is similar to, I think, what the State Department referred to in their testimony as a post allowance.

That is one thing. Everybody gets exactly the same thing. It is stated as a percentage of the salary. It is not a dollar amount.



Mr. WALDIE. As a matter of fact, I think the State Department does the same thing with their post allowance.

Mr. JACOBSON. Right. There is no difference here. What they call post allowance, we call the cost-of-living allowance, and it is an enhancement to the salary of the job, based on a difference in the cost of living in that area as compared to Washington.

Mr. WALDIE. That goes to—

Mr. JACOBSON. Every employee.

Mr. WALDIE. Local hires as well as those hired in the United States?

Mr. JACOBSON. Yes. I am not speaking about post differential, though. This other allowance is, as the law indicates, based on conditions of environment which are different from the United States and warrant an allowance as a recruitment incentive. We think the only basis, proper basis under the law, is to consider this as a question of whether it is necessary to authorize a differential in order to fill the job.

Therefore, our regulations, as we have issued them, do have the same effect of insisting that the individual who is going to benefit from that allowance be someone who was not recruited locally.

The question of the wisdom, the rationale behind that, I think really goes to the question of why we have the authority. It goes back to the 1949 law, and it seemed at that time both reasonable to us and obviously reasonable to the Congress that this should be treated differently than the cost-of-living allowance.

It should be treated as an incentive, when needed, in order to fill the jobs and that is how it is used. Now in terms of the numbers of people affected, basically as I indicate in the statement, the post differential affects essentially people employed on Guam. There are maybe another hundred or so employees at locations other than Guam. There are about 1,450 employees on Guam in the general schedule, or Postal Service employees, who are local hires, and if this bill were to become law, these people would be eligible for the post differential who are not now eligible for it.

In addition, we have some 3,400 wage employees under the prevailing rate system who also are local hires, and this bill, if passed, would affect these employees as well. We have indicated the costs in our testimony, but the cost obviously in terms of the total budget in the United States is very small, but we do feel that, at least certainly as we both read the present law and think is reasonable, that it is not appropriate to pay to people in the particular locality what is intended as a recruitment incentive, or a bonus in order to fill the jobs with the skills needed.

That is why we are opposed to the bill. We recommend that it not be approved.

Mr. WALDIE. Can you answer that question that seemed to bog us down about the person that has been employed for 20 years and keeps getting the post differential? Because they were initially hired in the United States?

Mr. JACOBSON. Well, I can answer it in this sense, that yes, they would get it. They would continue to get it. My opinion is that it does not seem reasonable to continue the differential under that situation. I think that the policies of the Defense Department which were



referred to in their testimony of insuring that employees rotate after a reasonable period of time, currently a 5-year period, would deal with that problem.

Certainly the State Department has long dealt with the problem as part of the essential fiber of the foreign service system which is one that requires people to not become so deeply rooted in a country, if they are to represent the United States in foreign countries.

It is difficult to explain why someone should continue receiving a differential after 20 years, when it was intended originally as a recruitment incentive. Perhaps it ought to be based on the question of whether the skills are available in the area and if they are not, and you would simply have to pay someone else to bring them over from the States to fill that kind of job, then it would make sense to continue it. Whereas, the differential should be discontinued if the skills become available locally as, for example, on Guam, many skills have become available by virtue of improvements in the training and education of local residents, much of it by the Defense Department.

Mr. WALDIE. But the post allowance does not have anything to do with the uniqueness of skills, does it?

Mr. JACOBSON. Not the post allowance.

Mr. WALDIE. I am talking about the post allowance, not the cost-of-living allowance. I am sorry.

Mr. JACOBSON. The State Department uses post allowance. I use cost-of-living allowance.

Mr. WALDIE. What did you call it?

Mr. JACOBSON. Post differential.

Mr. WALDIE. The post differential supposedly is a hardship cost which you have to encourage people to come to that country. Is that not what we are talking about?

Mr. JACOBSON. It certainly, though, relates to available skills. For example, if you need a highly skilled machinist and there are no highly skilled machinists in that particular territory, then you have to recruit one from the States. There you do look at both the question of environment and the question of how badly you need this skill and could you get it locally or train people locally.

It becomes a balancing—management balancing of concerns. I think it is a balancing in which the skill shortages are an important consideration. You can't ignore it.

Mr. WALDIE. I want to ask another question here on the blue collar people. I gather they do not get a post allowance or cost-of-living increase because their pay is fixed on the basis of local prevailing rates.

Mr. JACOBSON. Of course we are talking only about U.S. territories and possessions here. The law provides for only the cost-of-living allowance for statutory pay systems.

Mr. WALDIE. Now this bill changes that?

Mr. JACOBSON. Yes. As I understand it it would. It would not? Pardon me. Mr. Carney?

Mr. CARNEY. It does not change the basic eligibility for post differential or COLA.

Mr. JACOBSON. I see.

Mr. WALDIE. I gathered your assumption was all wage employees



would be covered under this bill. Is that right or is that wrong? Does this change the present situation with wage employees at all?

Mr. CARNEY. Not so far as the law is concerned, but by administrative action the post differential is extended to wage employees in areas where a post differential is authorized.

Mr. WALDIE. This bill has nothing to do with that, does it?

Mr. CARNEY. Yes. To the extent that it would authorize the post differential for all local hires covered by the statutory pay systems. By administrative action the post differential would be extended to wage employees.

Mr. WALDIE. By administrative action it could not be so done now?

Mr. CARNEY. Yes.

Mr. WALDIE. How does this bill change that situation?

Mr. CARNEY. No change insofar as wage employees may be affected.

Mr. WALDIE. Does the bill change the situation as far as wage people are concerned?

Mr. CARNEY. It would not by law, no.

Mr. WALDIE. Okay.

Mr. JACOBSON. What we are saying is that if the law were to change so as to apply to local hires covered by the general schedule, then we would really feel it essential for us to extend the differential to the other employees in the interests of equity.

Mr. WALDIE. I have no further questions. I appreciate your appearance before the committee.

Mr. JACOBSON. We appreciate the opportunity to be here.

[The prepared statement follows:]

PREPARED STATEMENT OF RAYMOND JACOBSON, DIRECTOR, BUREAU OF POLICIES AND STANDARDS, U.S. CIVIL SERVICE COMMISSION

Mr. Chairman and members of the committee, I appreciate the opportunity to appear before you today to express the Commission's view on H.R. 5619, a bill to prohibit discrimination against locally recruited personnel in the granting of overseas differentials and allowances, equalize the compensation of overseas teachers, and for other purposes.

Section 5912 and section 5922 of title 5 would be amended by H.R. 5619. These two sections deal with certain allowances and benefits for employees stationed in foreign areas, and as such are governed by regulations and instructions issued by the Department of State and the Department of Defense. Representatives from these two departments testified earlier on the provisions of the bill that would amend these two sections and I have no further comments to offer.

Also, section 2 of H.R. 5619 proposes certain changes in fixing the compensation of overseas teachers, and the views of the Department of Defense were presented to the subcommittee earlier today on this feature of the bill. The Commission has no responsibility for administering the statute dealing with overseas teachers and we defer to the views of the Defense Department.

The Commission has direct responsibility only for section 5941 of title 5, one of the sections that would be amended by H.R. 5619. Section 5941 authorizes the payment of a cost-of-living allowance and a post differential in the states of Alaska and Hawaii and in certain so-called non-foreign areas. These areas include the territories and possessions of the United States, for example, the Virgin Islands, American Samoa, Wake Island, and the Island of Guam.

Let me state at the outset Mr. Chairman, that the Civil Service Commission fully supports the principle that all employees in like circumstances should be equally entitled to receive all benefits and allowances authorized for their geographic area of employment. Moreover, the regulations issued by the Commission to administer section 5941 are fully consistent with that principle and



are also fully consistent with the intent and purpose of the statute. The Commission's regulations do not discriminate or make any distinctions on the basis of sex, marital or family status, or on any other personal basis.

Any cost-of-living allowance that may be authorized by the Commission for a specific geographic area is paid uniformly to all employees, male and female, as well as local hires and those hired from outside the area of employment. This is consistent with the intent of the statute which is designed to equalize the purchasing power of employees in non-foreign areas in relation to the cost of similar consumer goods and services in the Washington, D.C., area.

Eligibility for the cost-of-living allowance however, is restricted by section 5941 to those employees whose pay is fixed by statute, for example, the General Schedule, and under special legislation, to employees of the U.S. Postal Service.

Excluded are employees covered by the Federal Wage System, the so-called blue-collar workers, whose pay is fixed on the basis of local prevailing rates. Wage system employees are excluded because private industry pay rates would reflect local cost-of-living factors and, thus, any living cost factors are included in fixing the wage employees' rate of basic pay.

Since all employees eligible under the statute now receive any authorized cost-of-living allowance, regardless of place of recruitment, H.R. 5619 would have no impact on this provision of section 5941.

However, the Commission is opposed to that feature of H.R. 5619 that would amend section 5941 because it would require the payment of any approved post differential to employees who are hired locally at the place of employment. Post differential payments to local hires would be inconsistent with the intent of the current statute and would represent an unwarranted bonus.

A post differential, under the current statute, is based on conditions of environment which differ substantially from conditions of environment in the continental United States and warrant an allowance as a recruitment incentive. The only purpose, and I might emphasize *only* Mr. Chairman, for a post differential, that has been authorized under present law for about 25 years and even longer under special statutes, is to help management staff positions at duty posts outside the United States. Post differential payments never were intended to be an employee benefit as such. Rather, the program is designed to provide management with essential flexibility to offer a monetary inducement to prospective employees so that they will leave the United States mainland and accept assignments at duty posts with undesirable environmental conditions.

Accordingly, the Commission's regulations are in full accord with the intent and sole purpose of law, and restrict post differential payments to employees recruited from outside the area where a differential is authorized.

We believe that there is no justification for paying a differential, which is intended only as a recruiting tool, to persons already living in the area, either as temporary or permanent residents. There simply is no need to offer a monetary incentive to individuals who already reside in the area to accept Federal employment.

Another factor that must be considered is the significant cost that would result from changing the differential program from a recruiting incentive to a general benefit for all employees. This cost would be in excess of \$11.4 million on an annual basis.

As with the cost-of-living allowance, the post differential is limited by section 5941 to employees paid statutory pay rates, e.g., the General Schedule, and to employees of the U.S. Postal Service. Employees paid under the Federal Wage System are excluded from the statute. However, wage employees are paid the same post differential as is paid to other eligible GS employees in areas where a differential is authorized.

The post differential is paid to wage employees under administrative discretion authorized under the Federal Wage System program. It is paid as a matter of equity and because of the need to offer a recruitment incentive to attract skilled workers to these locations. For these reasons, the differential is paid to this group on the same basis, as it is to others—that is only to those workers recruited from outside the area of employment.

Thus, if section 5941 is amended to require post differential payments for all employees covered by that law, the differential would be extended by administrative action to include all wage workers as well.

The estimated additional \$11.4 million annual cost would be generated primarily because of the effect of H.R. 5619 on Federal employees on the Island of Guam. There is currently in effect a 22.5 percent post differential for Guam.



Under H.R. 5619 about 1450 General Schedule and Postal Service employees who are local hires on the Island would become eligible for the post differential at an estimated annual cost of just over \$3.6 million a year.

Additionally, some 3400 wage employees, who also are local hires would be paid the 22.5 percent differential, and the extra cost for this group would be \$7.8 million a year.

Federal employment at all the other locations where a post differential is authorized total only about 100 and therefore would increase the \$11.4 million figure very little.

We therefore oppose the proposed amendment to section 5941 as being unwarranted and unnecessary.

Mr. WALDIE. Our next witness is Mr. Peter Migliaccio, chairman of the Legislative Committee for the Overseas Federation of Teachers of the AFL-CIO.

**STATEMENT OF PETER MIGLIACCIO, CHAIRMAN, LEGISLATIVE COMMITTEE FOR THE OVERSEAS FEDERATION OF TEACHERS, AFL-CIO; AND CARL J. MEGEL, DIRECTOR, DEPARTMENT OF LEGISLATION, AMERICAN FEDERATION OF TEACHERS, AFL-CIO**

Mr. MEGEL. I am Carl Megel, the legislative director for the American Federation of Teachers. I have with me today, fortunately because of spring vacation, Peter Migliaccio from Naples, who is right on the scene, and who is familiar with and is very alert on these issues.

Mr. WALDIE. We welcome you, Mr. Megel. I am sorry I didn't introduce you. You have a statement, I presume?

Mr. MEGEL. Yes, we do.

Mr. WALDIE. Do you mean Mr. Migliaccio has one?

Mr. MEGEL. No, just one statement.

Mr. WALDIE. Is it yours?

Mr. MEGEL. Yes.

Mr. WALDIE. We will accept your statement in its entirety and include it in the record.

You may proceed as you desire.

Mr. MENGEL. Before I do that, I would like to pay special tribute to Hon. Patsy Mink and Mr. Hanley for their fine presentation.

Mr. WALDIE. Do you have a copy of your statement?

Mr. MEGEL. Yes.

We want to commend you Mr. Chairman for your very fine questioning to bring up the issues at stake here. There are, of course, two issues involved in this legislation.

One is the issue of allowances for the people who are locally employed. We see no reason whatever why the individuals should not receive the same treatment as anyone else; and if they are not given the same treatment they are discriminated against.

Peter can give you firsthand information on exactly what this second-class treatment means because his wife also is a teacher.

Peter, would you tell the committee your story.

Mr. WALDIE. Thank you, Mr. Megel.

Mr. Migliaccio?

Mr. MIGLIACCIO. Thank you for the opportunity to speak this morning. I want to make a couple of quick observations.

I know both you and Congressman Hanley refer to Mrs. Mink



as a pusher. I hope those who read the notes understand your reasoning. [Laughter.]

Mr. MIGLIACCIO. I am close to this situation. I live with people who are suffering under what we consider discriminatory practices. I have read various briefs and heard the testimony. Everything seems to be based on facts, legal aspects, regulations, and policies.

I appreciate these views. I fully understand their need and the usefulness. However, I also feel, Mr. Chairman, that there is a question of interpretation and perhaps even some traces of vested interests.

I wonder if we have forgotten that—I do not apologize for talking like a teacher. After all, teachers have made each of you what you are. I wonder if we have lost sight of the fact that our government was founded for the people—

Mr. WALDIE. That may not be reason for pride in the profession. [Laughter.]

Mr. MIGLIACCIO. Very good.

Shouldn't our government, as a sponsor of schools, put up a showcase school system, a system that shows democracy and equality?

Yet our managers seem to be exerting their efforts towards limiting the elements of livelihood for Americans overseas and what I might call the pursuit of happiness.

If these discriminations or limits were the intent of the law, then why is it that there have been so many different interpretations? Why have they granted allowances at one time and not another?

We heard Mrs. Mink outline the system as being locked in. You heard testimony about 150 days. I have here a—documents showing how the Department of Defense, in letters from Mr. Cruley, changing one time a full school year to convert a person; another time 150 days in order to convert a temporary employee to a full timer; one time there was no—in fact recently there was a situation put out where they said, "No, we will not convert employees."

I have a memorandum right here dated March 28, 1972, effective next school year, 1972-73, presently employed teachers will not be converted to accepted appointment.

They have continually changed their conversion policy. Until something is done by law to limit their continuous changes, we are going to have this situation continued.

There was a time when teachers, upon conversion, received allowances and then it was discontinued. In fact, there was a time when local hires were advised by other teachers to say when they walked into their CPO offices, that they were tourists just wandering through and they happened to walk into that CPO office, and, therefore, they would be entitled to housing allowances, et cetera.

In other words, if they said they were just passing through, they got the allowance. If they were looking for a job, they didn't get it.

Then again, Mr. Chairman, each CPO interprets differently. Various CPO's interpret many of the rules differently. Right now there is an ex-GI in Frankfurt, Germany, employed by the dependent schools. He is getting a housing allowance. It was interpreted that since the U.S. Government sent him there as a U.S. Army



personnel, that his break in the service was not made, and therefore, he is entitled to housing allowances, travel agreements, et cetera.

There is a similar situation of an ex-GI hired under the exact same circumstances in Heidelberg. He is not given a housing allowance or a travel agreement. The CPO said, "No, you are now an NTE." Temporary employees do not get these allowances.

Mr. WALDIE. Gentlemen from DOD, would one of you, or all of you, make yourselves available that I might ask a question or two as we proceed?

Please identify yourself when you respond, please, for my convenience and for our transcriber's convenience.

Is the situation just described by Mr. Migliaccio a common situation where from theater to theater, similar cases end up with different status?

Is it possible for that to happen?

Mr. COAKLEY. It is possible.

Mr. WALDIE. Do you have any indication that you could tell me of the frequency of it happening?

It is a bizarre, undesirable result? Or is it a result that nobody particularly worries about?

Mr. COAKLEY. I think it is an infrequent—

Mr. WALDIE. Would you construe it to be undesirable when that happens?

Mr. COAKLEY. Very much so.

Mr. WALDIE. When it is called to your attention, do you take steps to redress it?

Mr. COAKLEY. Yes, sir.

Mr. WALDIE. In the instances Mr. Migliaccio described, what would be the redress there?

Would the fellow receiving the allowances not receive them?

Mr. COAKLEY. Well, you have to look at the circumstances in both cases. It would be decided in accordance with the regulations. If the man was entitled to them under the law, he would get them.

Mr. WALDIE. There would be no reason for one theater to treat similar circumstances—

Mr. COAKLEY. Well, he is talking about the same theater within 40 miles.

Mr. WALDIE. Clearly there would be no reason for similar cases to be treated differently, no matter where from?

Mr. COAKLEY. That is right.

In other words, we have an administrative error here on one party's part.

Mr. WALDIE. Now Mr. Migliaccio, would you find this sort of error occurring frequently, or are these cases that are rather rare and have not been adjudicated properly?

Mr. MIGLIACCIO. Mr. Chairman, by experience from having been the president of the Overseas Federation of Teachers for 3 years, I receive many, many letters from temporary hired people who are complaining that one person received allowances and another person didn't.

Mr. WALDIE. Now do you process those complaints to disposition?

Mr. MIGLIACCIO. Yes; we do.



We attempt all the time to work for the employee to try to straighten things out. On some occasions we have been successful in straightening out what we call wrong experimentation by local CPO's, but some CPO's are more stringent than others. Each Civilian Personnel Office appears to interpret its own—the regulations in its own way.

Mr. WALDIE. Well, I presume there is a great deal of flexibility permitted. I don't imagine these regulations are that concrete.

Mr. MIGLIACCIO. There are other different versions, Mr. Chairman. The fact is that you have Army, Air Force, and Navy personnel. They don't interpret all things the same way.

Mr. WALDIE. Now just for my information, what machinery for appeal of decisions of this nature with which you agree or disagree, exists?

Mr. MIGLIACCIO. Well, an employee can file a grievance, permitted under the Executive order, which follows certain steps; and usually it ends up with the U.S. Army Appellate Review Agency in Heidelberg. We have not been successful with that agency in our appeals.

Mr. WALDIE. The appeals are taken—there is machinery, though, for the appeals to be processed?

Mr. MIGLIACCIO. Yes.

There are times, though, when they say this has to do with money and, therefore, it is not appealable. Then we have to fight the interpretation whether it is appealable or not.

Mr. WALDIE. All right. Please proceed.

Mr. MIGLIACCIO. I heard some mention here, from the State Department, about cost-of-living allowances given to all overseas employees.

Mr. Chairman, I have been overseas for 15 years. In most places there have been military receiving COLA, but I have never received it.

I know of no civilian that has received a cost-of-living allowance—whereas the military has—that has been associated with me.

Mr. WALDIE. Okay. Will you please answer that?

Mr. COAKLEY. We are dealing with two different laws; one for the military and another covering civilian employees.

The law applying to the military permits a cost-of-living allowance to be granted when the cost of living in a particular foreign area exceeds the cost of living on an average basis throughout the United States.

The law covering civilian employees permits a cost-of-living allowance when living costs exceed those in the Washington, D.C., area. The Washington, D.C., area is a much higher cost-of-living area than across the United States and the cost-of-living allowance for the military is triggered off much sooner than it would be for a civilian employee overseas at the same location.

Now, last year, with the devaluation of the dollar and spiraling inflation in many foreign areas, the cost-of-living allowance was granted for many civilian employees for the first time. Within Germany, for instance, there were four or five locations where the cost-of-living allowance was granted for civilians.

Mr. WALDIE. I am not sure I fully understood Mr. Migliaccio's complaint. Is it your position that the military receives a cost-of-



living allowance, and therefore civilian employees ought to receive the same?

Mr. MIGLIACCIO. I don't understand why they have dual standards.

Mr. WALDIE. Let me ask you this: Whenever a civilian employee receives a cost-of-living allowance, have you been denied it?

Mr. MIGLIACCIO. Not to my knowledge.

Mr. WALDIE. There is no dual standard in terms of civilian employment?

Mr. MIGLIACCIO. Not to my knowledge.

Mr. WALDIE. There is also a different standard in terms of salary?

Mr. MIGLIACCIO. Yes.

Mr. WALDIE. Does that trouble you?

Mr. MIGLIACCIO. It may very soon, the way salaries are going.

Mr. WALDIE. There is an entirely different situation with military than with the civilian. You are comparing apples to oranges. If you say they have a cost-of-living increase, and therefore, you should, you should be treated the same as they; you surely should not be treated the same as they in salary.

Mr. MIGLIACCIO. You are right.

Mr. WALDIE. We ought not to be able to select those portions we desire to treat the same and reject those we desire to treat differently. You should be treated similarly to civilian employees.

Mr. MIGLIACCIO. Okay.

Mr. WALDIE. Okay.

Mr. MIGLIACCIO. You were talking about——

Mr. WALDIE. Do you get a post allowance?

Mr. MIGLIACCIO. No; I do not get a post allowance.

Mr. WALDIE. Well, then you get a——

Mr. COAKLEY. Post allowance is the term used for the cost-of-living allowance for civilians. In the area he is in, the Naples area, the cost-of-living allowance has not been authorized by the State Department.

In other words, the cost of living in Naples never got to the point where it exceeded the cost of living in the Washington, D.C., area, which would be necessary in order to trigger a COLA.

Mr. WALDIE. I see.

No civilian employee gets a cost-of-living allowance in Naples?

Mr. COAKLEY. No.

Mr. MIGLIACCIO. They compare us to Washington, D.C., but they don't pay us on the Washington, D.C., salary scale.

I also question, Mr. Chairman, why there are so many NTE's. I question the legality. Is the person a temporary hire, or is the position temporary?

If the position is temporary, is it possible for a school system running for 26 years to have close to some 2,000 temporary employees? I just question the ability to have a good system that works in that manner.

I wonder if the committee understands also that it is only the teachers who are under Public Law 86-91. The administrators are not. They are general schedule employees.

Mr. WALDIE. Now I don't understand that.

What is the distinction of a general schedule and Public Law



86-91 in terms of treatment of the issues we are discussing in this bill?

Mr. MEGEL. All the overseas personnel were under GS salaries until about 1967 or somewhere in that area when there was a law passed, 86-91, which separated the teaching personnel and put them under this special category; but the administrators are not under that law. They are still under the GS schedule.

Mr. WALDIE. What consequence is there by that?

Are the administrators treated more generously than teachers?

Mr. MEGEL. The salary schedule is better.

Mr. WALDIE. It has always been better.

Mr. MEGEL. But the teachers' salaries would have been better under GS than they are now.

Mr. WALDIE. What about in terms of this bill and what it deals with?

Would you be treated any differently? Comparability would seem to be the same under both approaches. How could comparability be different?

Mr. MEGEL. The proposal under this bill setting up 25,000 school population—

Mr. WALDIE. No; before we get to this, I gathered you said when 86-91 was passed, teachers were placed in an inferior position prior to where they were prior to that time.

Wasn't comparability the rule prior to that time?

Mr. MIGLIACCIO. I don't know. That was when I started. I am not aware of it.

Mr. WALDIE. Well, let me get this straight in my mind.

Mr. MIGLIACCIO. You were talking about dual allowances.

Mr. WALDIE. Let me put my understanding into the record.

My understanding is that teachers lobbied to get out of the general schedule because it did not pay well enough, and they wanted a separate pay schedule.

They got the separate pay schedule, and all of a sudden general schedule starts paying better.

Now they want to get back into the general schedule.

Administrators did not lobby to get out of the general schedule, remained there, and have all the advantages of the general schedule. That is the historical process, is that a correct statement?

Mr. MEGEL. Yes.

Mr. WALDIE. OK.

So the point was, we made a bad decision a few years ago, and essentially it should be corrected now.

Mr. MIGLIACCIO. When we came under Public Law 86-91, there was a new set of rules governing us. It appears to the teachers overseas that whenever, for the convenience of management, a regulation applies to them, they use it that way.

In other words, when Public Law 86-91 is to their advantage, it is used.

Let me talk about dual allowances. I notice the State Department said something about dual allowances, and the Defense Department says they don't pay two allowances.



My wife and I are specific cases. I met her overseas. We were married. She lost her allowance. I received a married person's allowance, \$100 more at the time than a single person's allowance.

Now, there are many teachers overseas, single teachers, who live together and they both get single allowances.

The reasoning there is maybe, perhaps, we shouldn't get married, just live together, and just get two single allowances.

The point the Honorable Mrs. Mink was making was that the allowances should be equal to each employee. It is equity we are looking for. It is equity we are looking for in this bill where temporary employees would receive what is needed.

Also, the Defense Department made a comment about dollars being pocketed. They would receive two allowances. This is not true.

You are only paid according to how much you have to pay out in rent. In other words, let's say that it was \$2,000 per teacher; and the husband and wife each got \$2,000, and the rent for the apartment was \$2,500 for the year. You would only get the \$2,500 plus 10 percent.

You would not get the \$4,000 and you couldn't make money.

This may be true with the military, but it is not true with civilians. I think that ought to be clarified for the record.

Mr. MEGEL. I think that I can complete in one sentence, our presentation.

On the salary comparisons, we found that in—taking the 1972-73 comparisons, that on the 100,000 city populations, as compared to 25,000 school enrollment, there were three categories that were lower, and only five that were higher, and not much higher at that.

So the difference was insignificant. The American Federation of Teachers has constantly proposed that the overseas teachers be put under the Washington, D.C., salary schedule.

That is what we are supporting and proposing as far as salaries are concerned.

Mr. WALDIE. It wouldn't make bad sense, since they are under the Washington, D.C. cost of living.

Mr. MIGLIACCIO. It would also save a lot of time.

Mr. WALDIE. And mean higher salaries.

Mr. MIGLIACCIO. Yes. That is not a bad thing.

Mr. MEGEL. We certainly thank you.

Mr. WALDIE. Let me get a question in for the record, of DOD.

Is the 150-day requirement, does that have any bearing on entitlement to overseas allowances?

Mr. COAKLEY. No, sir.

Mr. WALDIE. It does not?

Mr. COAKLEY. No. It is in this particular bill, but it has no bearing at this time.

Mr. WALDIE. I appreciate your presentation.

[The prepared statement follows:]

PREPARED STATEMENT OF CARL J. MEGEL, LEGISLATIVE DIRECTOR FOR THE  
AMERICAN FEDERATION OF TEACHERS

Mr. Chairman and members of the subcommittee, my name is Carl J. Megel. I am the Legislative Director for the American Federation of Teachers, a national organization of more than 400,000 classroom teachers, affiliated with the AFL-CIO.



Our organization embraces nearly 3,000 teacher locals, including locals of overseas teachers, organized into the Overseas Federation of Teachers.

With me this morning is Peter Migliaccio who is Legislative Director of our Overseas Federation of Teachers and a teacher in the Navy Dependent School base in Naples, Italy.

We are testifying in support of certain sections of H.R. 5619. We specifically support Subsection (b) which would provide living quarters, including heat, fuel and light for all employees recruited outside United States by the Department of Defense Overseas Dependents' Schools (DOD-ODS). However, we vigorously oppose the 150 working day requirement for implementation and strongly recommend immediate granting of the above mentioned benefits.

There is no logical reason for withholding these benefits from this particular group of teachers while granting such benefits to take effect at once for regularly recruited teachers. The need to have a roof over your head and a warm place to live is the same for teachers in all categories.

In the same manner, we support the addition of Subsection (d) of Section 5922 of Title V of the U.S. Code and Subsection (c) to Section 5941 of Title V of the U.S. Code as proposed in H.R. 5619. However, as in the previous Subsection, we strongly recommend that this Subsection be amended so that the allowances and differentials become authorized immediately upon employment. Certainly any allowance or differential which is granted to regularly assigned overseas teachers are also in all fairness necessary for locally recruited teachers.

Our recommended amendments would create equality among all teachers employed in the overseas school systems. Withholding benefits from any group of teachers assigned to the overseas schools is certainly a form of discrimination. The differential appears to be a financial expedient which creates an exploited group of employees.

We further recommend an amendment to the bill which would allow the conversion of temporary employees to a permanent status after 90 days of satisfactory service. As stated above, no teacher group in the entire overseas system is more exploited than these temporary teachers. They have no job security, receive no medical benefits, have no housing allowance, no baggage allowance, no transportation agreement and no household goods shipment allowance. Moreover, this issue is of great importance for the reason that in Europe alone there are at least 1400 such temporary teachers.

Of highest ranking importance to us is the criteria for fixing basic compensation for teachers. H.R. 5619 establishes a new formula for determining basic rates of compensation for teachers.

While we support the need for a change in the present system, the proposed change is of little value. The following salary comparison for 1972-73 shows that the salary differences based upon the present criteria using "100,000 city population" as compared to the "25,000 school enrollment" as proposed in the bill are quite insignificant:

SALARY COMPARISONS (72-73)

|             | 100,000 population |          | 25,000 enrollment |          | Washington, D.C. <sup>1</sup> |          |
|-------------|--------------------|----------|-------------------|----------|-------------------------------|----------|
|             | Minimum            | Maximum  | Minimum           | Maximum  | Minimum                       | Maximum  |
| BA .....    | \$7,375            | \$11,095 | \$7,389           | \$11,008 | \$8,350                       | \$13,965 |
| MA .....    | 8,235              | 11,785   | 8,186             | 12,609   | 9,190                         | 16,300   |
| MA+30 ..... | 8,715              | 13,685   | 8,805             | 13,960   | 9,610                         | 16,730   |
| PhD .....   | 9,170              | 14,280   | 9,161             | 14,308   | 10,030                        | 17,270   |

<sup>1</sup> Washington, D.C. teachers also have a BA+15 lane: Minimum=\$8,770, maximum=\$14,800 and the Ph. D. lane is equivalent to MA+60.

These comparisons indicate that in only five categories is there a salary gain while three other categories actually show a loss. Accordingly, a transfer from using the present 100,000 city population as a basis to 25,000 school enrollment as a basis is of no consequence.

The Overseas Federation of Teachers supported by the AFT has traditionally maintained that overseas salaries should be based upon the Washington, D.C. salary schedule. Placement of overseas teacher salaries in agreement with Washington, D.C. salaries not only would provide a satisfactory salary increase



but would also provide other benefits which overseas teachers do not now enjoy, such as sabbatical leave, additional salary lanes and prior service credit.

The Overseas Federation of Teachers proposes amendments which would increase salary lanes from 4 to 6; increase prior service credit from 2 years to 8; and establish a satisfactory sabbatical leave program. Adoption of the Washington, D.C. salary schedule for overseas teachers would insure the benefits which we have suggested in our proposed amendment.

Such a salary schedule would eliminate the yearly hassle for determining averages and would expedite implementation of the salary schedules. H.R. 5206 concerns prior service credit and should be appropriately included in H.R. 5619.

The overseas teachers are in a unique situation as far as sick leave is concerned. We propose an amendment which would allow unlimited accrual of sick leave exactly the same as all other Federal employees already enjoy. Overseas teachers should be afforded the opportunity and allowed to transfer their sick leave for their retirement purposes exactly as other Federal employees now do.

The Overseas Federation of Teachers recommends a sick leave which would allow ten days of sick leave and five days of "any purpose" leave during each school year. The "any purpose leave" would be utilized for packing in, packing out, medical examinations, attending professional and employee conventions and workshops and for other personal matters. Unused sick leave should be accumulative in accordance with our previous proposal.

At the present time overseas teachers are afforded medical treatment as provided by their supporting military command. Dental care is usually not provided; in fact, is seldom provided beyond emergency situations. We propose an amendment to H.R. 5619 that would offer overseas teachers medical and dental treatment equal to that given military dependents at overseas bases.

An increase in salaries for overseas teachers of whom there are approximately 7000 is long overdue. The high cost of overseas living, the devaluation of the dollar, the increase in the exchange rate of foreign currencies and the rampant inflation overseas have brought financial distress to many overseas teachers. The present system of determining DOD-ODS salary schedules is unrealistic because many stateside systems are offering fringe benefits in lieu of higher salaries. These fringe benefits have not been taken into account by the DOD-ODS in determining the overseas teachers' salary.

As we conclude our presentation we respectfully call attention to our analysis appearing on the following page.

Mr. Chairman, we appreciate the opportunity to make this presentation. We thank the Committee for giving attention to the critical financial problems of the overseas teachers who are diligently performing their duties in spite of financial difficulties and the many other hardships which they endure.

In order to simplify the differences and proposed changes in H.R. 5619 the following table has been prepared:

ANALYSIS OF H.R. 5619

| Topic                                                                                                                         | H.R. 5619                                   | OFT/AFT proposed changes in H.R. 5619                       |
|-------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|-------------------------------------------------------------|
| <b>Salary:</b>                                                                                                                |                                             |                                                             |
| Using the current salary data.....                                                                                            | Included.....                               | Included.                                                   |
| Using salary data from school districts of 25 000+ enrollment.....                                                            | do.....                                     | Change to the salary paid to the Washington, D.C. teachers. |
| Increase salary lanes from 4 to 6.....                                                                                        | Not included.....                           | Included.                                                   |
| Increase prior service credit to 8 years.....                                                                                 | do.....                                     | Do.                                                         |
| Grant a sabbatical leave.....                                                                                                 | do.....                                     | Do.                                                         |
| Payment for overtime.....                                                                                                     | do.....                                     | Do.                                                         |
| <b>NTES:</b>                                                                                                                  |                                             |                                                             |
| Conversion from temporary to permanent status.....                                                                            | After 150 days of satisfactory service..... | After 90 days of satisfactory service.                      |
| Granting of quarters allowance, transportation agreement, shipment of household goods, all other benefits and allowances..... | do.....                                     | At time of hire.                                            |
| <b>Sick leave:</b>                                                                                                            |                                             |                                                             |
| Unlimited accrual of sick leave.....                                                                                          | Not included.....                           | Included.                                                   |
| Increase amount of sick leave to 15 days—10 for sickness 5 for personal business.....                                         | do.....                                     | Do.                                                         |
| Retroactive accrual of lost sick leave.....                                                                                   | do.....                                     | Do.                                                         |
| <b>Medical and dental care:</b>                                                                                               |                                             |                                                             |
| Full medical and dental for all teachers.....                                                                                 | do.....                                     | Do.                                                         |



Mr. REBER [staff assistant]. Would you state your name for the record?

Mr. OLSON. I am Charles Olson, specialist for the National Education Association. With me is Arthur McLoughlin, who is executive secretary of the Overseas Education Association.

**STATEMENT OF CHARLES OLSON, LEGISLATIVE SPECIALIST FOR THE NATIONAL EDUCATION ASSOCIATION; ACCOMPANIED BY ARTHUR McLOUGHLIN, EXECUTIVE SECRETARY OF THE OVERSEAS EDUCATION ASSOCIATION**

Mr. McLOUGHLIN. In addition to what has already been presented in the written statement, I would like to point out our hard and firm belief in this area. We believe in and advocate the position that, one, all teachers who are employed in the overseas dependent schools must be fully qualified; two, that the recruitment must be done stateside except in emergency situations; and, three, when teachers are recruited, regardless of their place of recruitment, they must be entitled to receive all benefits, whether they need them or not at that particular time.

One of the basic reasons for this hard and fast position on hiring stateside wherever possible, as opposed to local hires, is the continuity of the educational program, something we are primarily concerned with.

Earlier testimony by the Department of Defense indicated that, 1,997 locally hired employees are now in the overseas dependent school system. Of these, 85 percent are dependents.

We support the basic aim of the policy of the United States in providing additional opportunities for the spouses of military personnel to augment salaries that are certainly needed. The problem arises when a number of local dependents transfer with their spouses during the school term. Upon initial employment, they are required to state that they will be available for a full school year. Beyond that time, however, when and if the spouse is transferred, the teacher usually goes along, leaving a vacancy in a classroom.

We have had situations where as many as three and four teachers have taught a single class during the course of a particular school year.

This does not contribute to good educational opportunities.

The Department of Defense specified cost as being one of the considerations. We would hope that this cost factor, because they can give local hires fewer benefits, is not the true determination of educational policy.

Now, I would like to take a moment and pick up on a couple of points that have been made in regard to certain benefits. Some testimony has been taken in regard to differentials at posts.

Now, while not a great number of posts have these differentials, they do exist. Certain benefits are not made available to locally hired teachers. However, as has been pointed out, locally hired teachers, whether they were tourists, dependents of military personnel, or dependents of unattached personnel, have the option, after 150 days of being converted to a full-time position. If they exercise that



option, they must sign a statement to the effect that they are willing to be transferred or reassigned to any position for the benefit of the U.S. Government.

Mr. REBER. That is a mobility agreement?

Mr. McLOUGHLIN. Yes.

Accordingly, these teachers may apply for and receive transfers or they may be directed to a reassignment. If they are reassigned to an area that does have a differential, having come from one where they do not receive it, they are not eligible to receive that differential because they still maintain that status of being a locally hired employee. The conversion factor, today, is not unlike the situation under which they were hired. In certain instances prior to 1971, this was not the case, as the differential was one of the things that they could accrue.

Mr. REBER. Could I ask Dr. Cardinale and the other witnesses from the DOD to come forward?

Mr. McLOUGHLIN. I believe enough has been said about the inequities about locally hired personnel.

I would like to move on to the other provisions in the bill of updating salary schedules and giving credit for prior experience.

An interesting thing to note here is that—like as has been said with the regulations of the State Department, with proper interpretation they could be implemented. The same thing is to be said with the salary schedule. With proper interpretation, these items can be implemented.

Mr. REBER. Excuse me.

One of the questions that was asked by the chairman related to establishing a date at which all negotiated agreements in the U.S. that would be applicable under present law or under 5619 would be incorporated into the computation of salary schedules. Would you be amenable to that sort of a decision, say, to say 30th of June or similarly?

Mr. McLOUGHLIN. Yes. By the 30th of June, we feel could give a close estimate as to salary schedules for the following year.

Mr. REBER. All right.

Mr. McLOUGHLIN. Our history in a great number of the districts is that they are settled at that time and we do have the capability to work up a comparable schedule.

With that particular point, let me just go one step further to indicate that the written submission, which you have, points out clearly the history of congressional intent in passing 86-91 and 89-391 and the history of implementation, or I should say language of implementation by the Department of Defense; and I would call your attention to the arguments contained therein; pointing out the obvious conclusion that all those regulations do allow the granting of benefits, and that the Department of Defense is fully authorized to grant everything that we are seeking in the bill before us, that such has not happened and thus the necessity of this particular bill and its forerunner, H.R. 7818 in a previous session of Congress.

Mr. REBER. Thank you.

There has been a great question of qualifications. Do all the teachers employed in the overseas dependent school system have the same minimum level of qualifications?



Dr. CARDINALE. Yes, sir. Both the local hires and those that we hire from the United States. There is the stipulation, as the gentleman brought out, that in emergency situations the area superintendents may grant a waiver to the educational and/or the experience qualification the same way that we have allowed our recruitment center here to grant a waiver, but there has to be a proven emergency situation when this is done.

Mr. REBER. How difficult would it be—I understand there is a considerable backlog of applicants for overseas teachers' positions. How difficult would it be to recruit from that list of applicants, say, during the school year? If you have a dependent teacher whose spouse is transferred, would you be able to use your backlog applicants to fill that position?

Dr. CARDINALE. Not from recruitment in the United States. We have at the moment about 4,400 applicants. We are not quite sure of the actual vacancies at this point, but it's in the neighborhood of 700 or 800. Later on in the school year, a great many of these people are not going to be available for employment. We have never, to my knowledge, hired someone after school has started from the States, say late January, or February, and transported them overseas.

We ask that they sign a 1-year transportation agreement.

So, here is where we are in the position then if a dependent or stateside recruited teacher, say, becomes ill and has to leave the command in January or February, then we will rely upon the local hires to fill in for the teacher that has to leave.

Mr. REBER. Do you have a record of the number of potential local hires, say, in a particular area or potential base?

Mr. COAKLEY. We can get that.

Dr. CARDINALE. We can get that quite easily. We did this just about 2 years ago to see what the potential was of fully qualified local available teachers. We could get that if you so desire.

Mr. REBER. I just wondered if that information was available in making your employment decision, whether you could go local or stateside.

Dr. CARDINALE. It would be very difficult in January or February of the year to go down our list of applicants and see if they are still available. If they are outstanding teachers, we are positive some school system has already hired them. Again, as I mentioned, we have to rely heavily at this time on our local qualified dependents.

Mr. McLoughlin. If I may, I would like to say from our point of view there is too much reliance on availability of local personnel. It is not always to the advantage of the educational system. That is one of the reasons we say that the teachers should be hired in the States except for these emergency situations that Dr. Cardinale described.

We quite agree with that. However, taking a projection of how many fully qualified dependents or other personnel may or may not be available, at the beginning of a particular school year, and then building your staff assumptions on that basis, then having troop movements, movements of personnel, just prior to the opening of school, you wind up with a situation in a major hiring area, such as Frankfurt, Germany, where within a reasonable 30-mile commuting distance you have basically a thousand teaching positions, many of



which are vacant. Announcements are constantly made on the radio through the second, third, and fourth week of school of vacancies available, begging people to apply. Those slots could have been filled by a better projection and hiring of more people in the States. That is a practice we question.

In the hiring priorities standard currently, the availability of locally hired personnel is a consideration before the numbers of stateside recruits to be hired is determined. There are just too many fluctuations in this. What if a projection in March or April radically changes by the time August rolls around.

Mr. REBER. Do you have any other comments you would like to make?

Mr. McLoughlin. Defense?

Mr. Coakley. I would like to add one thing in conjunction with the statement just made.

Back in September of 1971, an amendment was added to the draft extension bill. I don't know exactly what the law was, but it pretty much directed the Department of Defense to increase the employment opportunities for dependents of the military assigned overseas. In response to this concern of the Congress, we, Defense, developed a policy and issued it in 1972, March, I believe, giving preference in employment overseas to dependents of the military.

If a job becomes available in a foreign area and there is a fully qualified dependent available for that job, the dependent gets it.

We feel this is what Congress had in mind when they put this phrase in the bill; and we think it is in our best interests within Defense to do this. We believe it is a good national policy as well.

Mr. REBER. This is part of the all-volunteer armed forces concept?

Mr. Coakley. Right.

Mr. REBER. Speaking of that, won't many of the dependent teachers, dependents of military in particular, be officers' wives rather than enlisted wives?

Mr. Coakley. Probably as we get further into the volunteer army concept. I don't think we will get too many college graduates volunteering in the enlisted men's ranks any longer. Thus there will be a tendency to hire more wives of officers.

Mr. REBER. As far as that goes, won't you expect that the officer corps are already career motivated individuals, and their dependents are not really in need of teaching positions for their augmentation of their husbands' salaries and benefits?

Mr. Coakley. I think you could say that is more true of the officers than it would be for the enlisted people. The intent of the rider certainly was to aid the low-ranking enlisted men. Our policy is across the board.

Mr. REBER. I understand the intent was most likely directed toward the enlisted; but isn't it, as far as operation goes, the benefit accrues mostly to officers' dependents?

Mr. Coakley. In the schools?

Mr. REBER. In the schools.

Mr. Coakley. Possibly true.

Mr. REBER. So, as far as contributing to the maintenance of an all-volunteer armed force, that particular policy won't have much impact?



Mr. COAKLEY. Not entirely. I mean if you are talking just about schools; yes. We are talking about the entire employment situation overseas.

Mr. REBER. We were speaking to preference being given to the hiring of dependents of military and civilian employees in the granting of preference to these overseas hiring; and I think you have already determined that a lot of those, the majority of those type positions are teaching positions, have we not?

So, what we are saying is that we are——

Mr. COAKLEY. There are only 1,745 dependents in teaching positions versus a total of over 12,000 employed who are dependents.

Mr. REBER. OK.

Mr. McLoughlin. Just so we don't lose sight in this discussion, we are not really discussing the merits per se of hiring people in dependent classifications. What we are concerned about is the preference of hiring dependents over U.S. citizens stateside with the full intent of saving money by not having to grant certain allowances to these people and putting restrictions on them so that they are not eligible to receive those allowances.

Since we are talking about intent of the Government in dealing with its military personnel, I would like to point out by specific example the case of Mr. Mark Scanlon, who was serving in the Armed Forces.

Mark is now a vice president of the Overseas Education Association, serving in Frankfurt, Germany.

Mark got out of the service in Frankfurt. That is where his tour terminated. He was offered a position with the schools because his termination coincided with the beginning of the particular school year. He was hired as a local hire.

Now, due to the fact that he was in another agency of the U.S. Government, he continued to receive all of the allowances that are under discussion here until the end of his first year of employment within the school system.

At this point, because of an action on the part of the Department of Defense to cease conversion of employees after a full year, although Mark had a written commitment for reemployment the following school year, he lost all his entitlements because he ceased to be employed on June 7, I believe it was, or thereabouts, and was not rehired until sometime in August.

Because of his break in service, he lost all the benefits that he had previously been entitled to.

Now the real irony of his situation is the fact that Mark married a school teacher who was recruited stateside, who previously had all these entitlements in her own right, but due to the fact that they were married while Mark was still in the service, she lost those entitlements then and was never able to pick them up, because when Mark transferred from the Far East, where they met and were married, Lucy had to come as his spouse and was picked up locally in Europe under the same terminations.

I think that is the classic example.

Another example of one of our executive officers, who strangely enough teaches in Mr. Migliaccio's school, was affected in a different way. He was employed in a school in Berlin. At the time of his



employment, this was not under the scope of the overseas dependent school system. It was operated by another agency of the U.S. Government. Tom had his entitlements there. He later left Berlin and started to work in the overseas dependents schools, received credit for his previous service, because there was no break in coming over from one to the other.

But he was a local hire; and he, too, at the end of 1972, was caught in the same trap that Mark was. For his break in service, he has lost all entitlements.

I can go on. Patsy Mink this morning indicated she has hundreds of letters; and I have got hundreds of files of similar cases; and they all stem back to probably the most unfair situation that does exist.

The fact that we have a set of regulations from one agency to the other, each one can bounce back and forth and blame the other; and then we have literally hundreds of civilian personnel officers operating in three branches of the service interpreting these regulations and making determinations at the start of employment that are going to be binding for the rest of the person's career.

In my own travels as an employee of the Overseas Education Association, I have talked with civilian personnel offices in a variety of places and find that a year after regulations promulgated by DOD, the local civilian personnel office is not aware of them. There have been occasions where I have had to come and request Dr. Cardinale to please send them an update so they know what is happening.

With all of these inequities, we feel that this bill must be passed to set straight once and for all the equities that should accrue to all teachers.

Mr. REBER. Thank you. The hearings are adjourned.

[Whereupon at 1:25 p.m., the hearing was adjourned, subject to the call of the Chair.]

[The prepared statement of the National Education Association follows:]

PREPARED STATEMENT OF CHARLES OLSON, PRESIDENT OF THE NATIONAL EDUCATION ASSOCIATION, ACCOMPANIED BY ARTHUR McLOUGHLIN, EXECUTIVE SECRETARY FOR OVERSEAS EDUCATION ASSOCIATION

Mr. Chairman and members of the Subcommittee, I am Arthur McLoughlin, Executive Secretary of the Overseas Education Association, an affiliate of the National Education Association. With me today is Mr. Charles Olson, Legislative Specialist from NEA Government Relations. Dr. Wise, President of the National Education Association, has requested that I present the joint statement of our associations. The National Education Association, along with our State and local affiliates, represents the interests of nearly two million teachers throughout the United States and on overseas military bases around the world. The Overseas Education Association represents the interests of nearly 6,000 teachers in both collective bargaining relationships and in national consultations with the Department of Defense.

Approximately 7,200 teachers attend to the educational needs of 150,000 students enrolled in 304 service-operated schools in overseas locations which vary from major metropolitan centers to those in remote and isolated areas that suffer from extremes of environmental factors.

During the period between 27 November, 1972 and 4 December, 1972, Representative James M. Hanley, Chairman of the Subcommittee on Employee Benefits, Representative William Mills, and two staff members conducted an onsite inspection in order to explore complaints about pay and other benefits in the Overseas Dependent Schools.



The Subcommittee found that the teachers and administrators, working against "overwhelming odds," nevertheless provide a high quality educational program to dependent children, even though widespread morale problems were created "by the disparity of benefits among teachers."

I want to speak to this issue of disparity of benefits between teachers and the improper administration of Public Law 89-391 by the Department of Defense. We support H.R. 5619, because it is designed to correct these inequities.

The fair and equitable practice of equal pay for equal work does not exist when employees are discriminated against in receiving certain benefits and allowances on the basis of their place of recruitment or upon their sex.

Each year a number of teachers are recruited locally from available dependents, tourists, or spouses of American citizens working for non-government activities. Until 1972, when a new type of classification—dependent hire—was issued, all locally hired teachers were given an appointment "not-to-exceed" the school year. Prior to March 1971, a locally hired teacher could be converted to a regular appointment and receive all benefits after the successful completion of either 150 days or of the entire school year depending upon the area in which he served. Consistency between the services did not exist in converting the locally hired employee from "NTE" to regular status. After conversion, an additional eligibility requirement to receive such benefits as housing allowances was that the teacher had been either a tourist out of the U.S. for less than 6 months, a student in an institution of learning, or a member of the armed forces or another Federal agency.

A woman who had accompanied her husband either as a military dependent or in private employment was not eligible to receive these benefits on her own, even if her husband died or the family separated.

One woman, whose husband was assigned to Germany as an insurance agent, was encouraged to come to Europe to seek employment by an official of the school administration with a promise of benefits that she could receive by being hired locally. She was not, she was told by this same official, eligible to be recruited in the United States where she applied, since she was a married woman. Nonetheless, this woman, who turned out to be an excellent teacher and administrator, worked for the schools for nine years before finally leaving in despair over her failure to achieve equity.

In 1971, the rules were changed and all NTE's were forever denied the opportunity to receive the benefits that their fellow teachers received, even after conversion. This blatant act took place in March 1971, just short of the 150 days, thus denying benefits to those who were hired with the expectation of receiving them upon conversion.

The following year conversions were also cancelled by action of DOD just two days prior to the close of the school year. Immediate action on the part of the Overseas Education Association reversed this policy. But in the interim, teachers who were hired locally from either other Federal agencies or from the armed services who had the benefits all along and who would have been able to maintain them, found their allowances cancelled because of a "break-in service" of a few days as a result of DOD's ill-considered action.

DOD's justification for this action and all similar actions and abuses has been that such things as housing allowances, differentials, and transportation agreements were merely incentives to recruit stateside teachers for overseas assignments. I do not argue against this point by itself, but rather examine it in this light. The incentives are designed to attract a person with particular minimum qualifications for the position and they extract from the person a commitment to the position and a flexibility to meet the needs of the system. The same minimum qualifications are required of locally recruited personnel and upon conversion the same commitments are extracted; indeed, they are a condition of conversion. It would logically follow then that the persons selected for career placement in the Overseas Dependents Schools System are similar and will perform the same services meeting all the same requirements of the position and, as such, *all* should be entitled to receive the same perquisites which are presently denied to some.

As a final comment on this issue, we believe it should be DOD policy to limit the numbers of locally hired teachers to emergency situations only in numbers not exceeding 10% of the teaching staff, as has been the recent history of the ODS.

The second issue that H.R. 5619 deals with is the correction of an inequity



of salary and salary schedule placement which has had a deleterious effect on all ODS teachers for a number of years.

In 1959, the 86th Congress enacted PL 86-91, entitled the "Defense Department Overseas Teachers' Pay and Personnel Practices Act" (73 stat. 214 PL 86-91; 5 U.S.C. 2352(a) (21). This act eliminated DOD teachers from the Civil Service Classification Act of 1949 and set the rate of compensation for DOD teachers "in relation to the rates of basic compensation for similar positions in the United States," but not to exceed those paid in the District of Columbia for comparable duties.

Because a number of difficulties arose in the implementation of PL 86-91, the 89th Congress enacted PL 83-91, which was designed to amend PL 86-91 to provide for "fixing the basic compensation for DOD teachers and teaching positions at rates equal to the average of the range of rates of basic compensation for similar positions of a comparable level of duties and responsibilities in urban school jurisdictions in the United States of 100,000 or more population."

The law further provides that, "The Secretary of each military department shall fix the basic compensation for teachers and teaching positions in his military department at rates equal to the average . . . in urban school jurisdictions in the United States of 100,000 population or more."

Prior to the enactment of PL 89-391, the Honorable Tom Murray, Chairman, Committee on Post Office and Civil Service, raised a question of interpretation of the aforementioned language to the Comptroller General of the United States, Mr. Joseph Campbell.

Mr. Campbell's reply indicated that if the bill (H.R. 6845) were enacted the Secretary of each military department would be required to fix the pay of teachers at rates equal to the average range of rates in the jurisdictions indicated and there would be no authority to do otherwise.

The Department of Defense maintains that in order to comply with the provisions of PL 86-91, they must collect data in December and prepare their budget for the following September. The figures available in December reflect current scales and not what would be in effect the following school year. Thus, the DOD salaries are always one year behind those of the comparable U.S. districts.

NEA has continually offered to provide estimates of salary scale averages for the coming year in the early spring with an adjusted scale in June, which would be fairly accurate in terms of the majority of the 203 school districts of comparable size which contribute to the averages compiled. Only minor adjustments might be necessary in the budget proposal prior to action by the Appropriations Committees in July.

Not only is the basic salary one year behind the comparable stateside school districts, but the schedule itself is deficient in that there is no provision for payment of additional salary credits for additional graduate courses taken between degrees. Table "B" shows that at least 51% of the districts in urban school jurisdictions of 100,000 or more population have intermediate steps between the BA and MA degree "lanes" as an incentive to upgrade the professional competence of the teaching staff when the teacher knows that he will have to wait until completion of 30 hours of graduate work before realizing a return on his investment in terms of compensation.

By arbitrary action, DOD has established a policy whereby any teacher entering the ODS system can get only two years prior service credit, regardless of his experience in other systems.

The table included below indicates the percentage of districts that grant prior service credit for experience. "The average of the range of rates" is certainly higher than two, when 35% of the districts place no limits on experience credit and over 54% of the districts grant 10 years or more. It has been the steady practice of the surveyed school districts of 100,000 population that prior service credit up to 7 or 8 years is the truer reflection of the average.

The language of the law is clear, yet these inequities for overseas teachers exist.

During the 91st Congress, report 91-480, issued by the Compensation Subcommittee of the Committee on Post Office and Civil Service, chaired by the Honorable Morris K. Udall, stated that, "The Subcommittee sees no flaw in the basic legislation, but rather in the failure of the Department of Defense to properly implement it."



Specifically addressing the prior service credit issue, the Subcommittee report stated:

"For the comparable school districts, the average practice is to give teachers up to seven years credit for prior service of seven years or more. In the DOD schools, all teachers, regardless of years of experience, receive credit on the salary schedule for only two years of prior service. This practice discriminates against experienced and more mature teachers and contravenes Public Law 89-391, which provides for basic compensation at rates equal to the average of the range of rates of basic compensation for similar positions of a comparable level of duties and responsibilities."

A recommendation of the committee was that "the Department of Defense should correct these inequities through administrative action."

Additional guidance in this direction has come from the Investigating Committee of the General Subcommittee on Labor of the House of Representatives' Committee on Education and Labor, chaired by the Honorable John Dent. Section VI 3 of this report states that "additional credit for previous experience must be provided."

DOD has stated that only if they receive written instructions from the Congress can they (DOD) implement the salary and other pay benefits on current basis. On September 12, 1969, Chairman Udall wrote a letter to Carl W. Clewlow, Deputy Assistant Secretary of Defense, setting forth the feelings of the Post Office and Civil Service Committee in regard to believing "very strongly in the principal of comparability and its application to all Federal employees." Enclosed with that letter was a copy of report 91-480, previously quoted, and the sections I quoted from were marked to call Mr. Clewlow's attention to them. Yet no changes were made.

The message is clear. These inequities must be corrected, as the intent of Congress is being violated, but DOD will not act without legislation from this Congress forcing them to do so.

In your deliberations concerning the bill before you and any amendments thereof, I would like to call your attention to some additional measures that could be readily included that would truly make the ODS schools one of the best systems to work for.

The first is in the area of extending the sick leave provisions so as to provide an unlimited accumulation of sick leave and not the limit of 75 days now presently in the law. This provision would place teachers on a comparable basis with other government employees. The Department of Defense is supportive of legislation in this area.

A second area would be the development of a sabbatical leave policy similar to that enjoyed by stateside teachers, so that educational fulfillment and enrichment can take place for the career ODS teacher who desires to participate in such activities.

The third provision would be to provide for teachers to have the opportunity to receive dental care on an equitable basis from all three services. In many areas where teachers are stationed, host nation dental facilities and dentists, if they exist, are of such poor quality that permanent injuries can result from seeking dental care. Under the present rules enforced in different degrees by each of the three services, many teachers do not have the opportunity for adequate dental care through the service even though the facilities and personnel are available at their base.

I would offer to the Committee the resources of the NEA and the OEA to work with your staff in finalizing the bill and in developing and incorporating the suggested areas of amendment.

Thank you for the opportunity to testify here today.

[The statements which follow were received for the record:]

STATEMENT OF HON. HENRY B. GONZALEZ, A REPRESENTATIVE IN CONGRESS  
FROM THE STATE OF TEXAS

Mr. Chairman, I do appreciate this opportunity to express my support for H.R. 5619. It is my hope that the committee will give this legislation sincere consideration, for it will prohibit discrimination against locally recruited Federal employees in the granting of overseas differentials and allowances. Since the beginning of this Congress I have received a number of letters from my constituents from San Antonio, who have expressed their thoughts in this regard, and I strongly feel particular attention should be given these views.



We presently find that teachers hired in the U.S. are entitled to allowances for separate maintenance, cost-of-living, and housing, as well as post differential, medical care, and commissary and post exchange privileges. However, what is aggravating the over-all picture is that those hired overseas (locally recruited at the base) receive only commissary and exchange privileges.

The injustice becomes clear when these same two teachers are working in identical positions and yet their basic benefits are found to be vastly different.

Thus, simply because they were hired in two different places, the over-all production may well be reduced due to its subjugation to poor morale and undue friction. The resulting harm can be seen when we take into account that there are several thousand such teachers who are currently affected by the present system; many of whom have complained about these overriding conditions.

This legislation that I am co-sponsoring, and sincerely believe needs to become law, also would correct a pay inequity that will affect all overseas teachers. Although the law presently requires that their pay must be comparable to United States teacher pay, they are actually receiving less. This is due to the fact that the Department of Defense computes their present pay on year-old data. This bill will require that current data be used.

Furthermore, H.R. 5619 will guarantee that teachers will automatically end their probationary status after 150 school days of satisfactory work. The current policy of the Department prevents some teachers from reaching full status and benefits for years. Consequently, the plight of those who want to retain their local hires is heightened even more, because of the difficulties incurred by those regulations preventing their permanent hiring with benefits.

I firmly believe that these inequalities have gone on far too long, and I also feel it is time we realized our commitment to all those teachers employed overseas on the basis of their performance and not on the arbitrary place of hiring. The only solution to guarantee a more just, as well as effective, teaching system is through the adoption of this bill—and the sooner the better.

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

Mr. Chairman and members of the subcommittee, a large number of members of the 30 AFL-CIO union affiliated with the Council are employed at overseas posts. Therefore, we are understandably interested in their pay and conditions of work.

In general, the Council endorses H.R. 5619 and the other pertinent bills. We desire to express our sincere appreciation to Representative Patsy T. Mink for introducing that measure, and to Congressmen Hanley, Lehman, Moakley, Nix, and Charles Wilson for cosponsoring other bills on the same subject. The latter five are members of the Post Office and Civil Service Committee.

It was Mrs. Mink's bill, in the 92nd Congress, H.R. 7818, which prompted the Subcommittee on Employee Benefits to undertake a thorough inquiry into the working conditions of overseas teachers, when it visited various dependent schools in Europe and discussed problems with teachers and administrators in late 1972.

Two of the major findings of the Subcommittee in its report on that study (Committee Print No. 93-9—93rd Congress, 1st Session) were the obvious disparity in benefits for teachers working in the same schools, and the inadequacy of the present system of fixing salaries for overseas teachers.

H.R. 5619 offers solutions to these problems. First, it authorizes benefits for Federal employees recruited in an overseas area for work in an overseas area equal to the benefits accorded those recruited in the United States to work abroad.

Second, it changes from school jurisdictions of 100,000 population or more to urban school jurisdictions with a total student enrollment of 25,000 students or more the basis for establishing salary schedules for overseas teachers. Since this revision of the United States school base could conceivably yield lower salaries for some categories of overseas teachers, the Government Employees Council recommends that the basis of comparability be rates paid to teachers in the District of Columbia. In addition, this provision of the bill requires that the dependent school instructors be paid the salaries currently in effect in the United States jurisdictions.



The report of the Hanley Subcommittee referred to earlier is replete with instances of discriminatory practices between teachers with permanent status and those who are temporary, and between male and female teachers, based upon who is the dependent.

In essence, the bill requires the Department of Defense to make available to all employees, regardless of the location of their recruitment, the same benefits for quarters, quarters allowance, cost of living allowances, and post differentials. However, the allowances would become effective only after the individual has completed 150 days of satisfactory service. We do not believe that such a time limitation is appropriate, because the basis of these benefits should not be performance, but the conditions necessary to attract qualified individuals to government service abroad. If performance is unsatisfactory, appropriate steps can be taken to improve it or to invoke available disciplinary measures.

As a matter of fact, discrimination is not confined to the question of permanent and temporary status. The Employee Benefits Subcommittee report cites sad examples of teachers whose status was changed from permanent to temporary and those who experienced prejudice on the basis of sex or dependency.

It is valid to note here enactment of Public Law 92-187 and the Civil Rights Act and its amendments—which are applicable to Federal employees. The first statute was generated by the House Post Office and Civil Service Committee. It is designated to terminate any discrimination against Federal female employees on "cost-of-living allowances in foreign areas" or sexual prejudices against any Federal worker on any matter.

Salary adjustments for overseas teachers, with few exceptions, are established under Public Law 89-381. This legislation originated in the House Post Office and Civil Service Committee as the result of an investigation by its subcommittees in 1964.

Although the Government Employees Council strongly endorsed the salary principle of the legislation, we expressed reservations about the latitude given the Department of Defense in determining the size of the communities in the United States which would be used for comparing overseas instructors' pay rates and the time lapse between the stateside surveys and effective date for salary adjustments overseas.

The bills under consideration by the Subcommittee address both of these problems. They will terminate the present unsatisfactory arrangements with respect to pay for teachers and availability of allowances and other benefits to all employees, regardless of the location from which persons are recruited for overseas posts.

The Government Employees Council commends the Subcommittee on Retirement and Employee Benefits for exhibiting concern about these problems, and recommends strongly that it report the legislation favorably to the full Committee at an early date.

After the pending bills have received appropriate attention, the Council urges that the Subcommittee continue its inquiry into the entire spectrum of unsatisfactory conditions for all Federal employees assigned to overseas areas. Some of the injustices disclosed by the current bills are experienced by a large number of individuals working for Federal agencies overseas. To cite just one example, the denial of allowances and other benefits to female employees because they are designated as dependent by their employing agencies is widespread.

With the amendments we have recommended, the Council reiterates its endorsement of the bills which are the subject of this hearing.

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STATEMENT OF CLYDE M. WEBBER, NATIONAL PRESIDENT, AMERICAN  
FEDERATION OF GOVERNMENT EMPLOYEES

The American Federation of Government Employees, AFL-CIO, representing over 650,000 Federal employees in exclusive recognition units, appreciates this opportunity to submit its views to your Subcommittee in connection with H.R. 5619. This bill would prohibit discrimination "overseas" against locally recruited personnel in the granting or withholding of differentials and allowances, and will rectify and equalize the compensation of "overseas" teachers.

AFGE endorses the passing of this multipurpose bill with some modifications, and I will briefly discuss our views.



At the outset, I should like to distinguish between two kinds of "overseas" situations. The first is "overseas" in a geographic more than a legal sense, because the U.S. personnel authorities have sole jurisdiction in making these distinctions. The second is "overseas" personnel in a legal sense because the governments of the foreign countries have asserted an interest in the terms of employment and the manner in which salaries and fringe benefits would be taxed. First, I shall describe our position regarding conditions where the term "overseas" is primarily a geographic and not a legal concept.

As you know, if Americans pay their own transportation outside the continental United States or if they are dependents of employees stationed "overseas" and become employed "overseas", the applicants are designated as "locally hired" American employees. Under such a designation, they are not entitled to the same fringe benefits as Americans transported on government orders to these "overseas" posts, including PX and commissary purchases, living quarters, allowances and differentials. This situation is unfairly discriminatory in many respects.

When these American "local hire" employees are at the same classification level and base pay as their counterparts hired in the United States and work in the same offices side-by-side with non "local hire" employees, they should be treated the same way as regards base pay.

This principle was upheld by Comptroller General Warren to the Secretary of War in the CG decision (B-63002), which states housing allowances and differentials in foreign areas should be based on "living conditions" such as isolation, cost of food and shelter, hazard or exposure to abnormal climate or disease, lack of ordinary conveniences," etc. These conditions should be the only criteria used in providing the allowances and differentials to United States Federal employees in foreign areas. Likewise, differential compensation "under the Classification Act, or any other system providing equal pay for equal work, attaches to the duties performed, and not the individual, and once authorized, the percentage differential becomes a part of basic salary which may not be reduced on an individual basis".

Unfortunately, this decision has been subverted in many cases by placing these positions into so-called "excepted status" with the concurrence of the Civil Service Commission. We believe no position in overseas territories under U.S. jurisdiction should be placed into "excepted" status if similar positions in the continental United States are placed under the Classification Act.

Moreover, H.R. 5619 does not propose that both a man and his wife employed by the Federal government overseas receive housing allowances. It simply states: "An employee recruited outside the United States for employment at the place of recruitment is entitled to the allowances and differentials authorized."

All employees, whether spouses or other previously dependent persons, would have this entitlement under their own positions. In the case of married persons, where housing, PX and other privileges were originally obtained on the basis of their married relations, H.R. 5619 would protect the employees in the case of: (1) death of spouse; (2) divorce; (3) legal separation; (4) spouse departs from post or area permanently; and (5) either spouse's work location becomes so separated that daily commuting to a common domicile would not be reasonable.

However, both employees would receive benefits that normally accrue to any Federal employee such as retirement.

#### *Section 2. Teacher's compensation*

Section 2 of H.R. 5619, the portion dealing with teachers, is an amendment to rectify the statistical procedure for determining compensation to teachers overseas. In the United States, compensation for teachers is based on the total population of the district in which they teach. The figure now being used is 100,000 total population.

We agree with H.R. 5619 that a 25,000 student enrollment figure, instead of the 100,000 total population figure used in the United States be used as the basis for compensation in foreign areas because these data are more readily ascertainable.

#### *Modifications in H.R. 5619*

AFGE believes that H.R. 5619 should be modified in two areas.

The phrase "after completing 150 days of satisfactory service" should be deleted from the bill. It seems more equitable for Federal employees to begin receiving their benefits on the day of hire.



Most foreign countries consider Americans who have been already admitted to residence and employment as subject to the same laws as their own citizens. For this reason, special problems have arisen concerning "local hire" American employees who are required to report their earnings and fringe benefits for tax purposes and who must pay import duties on PX and commissary purchases. We suggest, therefore, that this bill be amended requiring the State Department to renegotiate its treaties so that additional benefits be compensated, if possible, as non-taxable by foreign countries.

*Conclusion*

In summary, I would like to state that AFGE feels that all Federal employees hired under the sole jurisdiction of the United States should be treated identically in the payment of pay, allowances, differentials and fringe benefits, such as PX and commissary privileges. In areas where U.S. jurisdiction is limited or is shared by foreign governments, there may be problems which arise in the local employment of American citizens who are already residents in these foreign countries and are subject to the payments of taxes and customs duties. In these cases, the State Department should renegotiate its treaties so that additional benefits be compensated as non-taxable by foreign countries.





